



City of Belmont
ORDINARY COUNCIL MEETING
MINUTES
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15 AUGUST 2006

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ATTACHMENTS INDEX

- **Council Attachment 1 – Item 6.2 refers**
- **BB Attachment 2 – Item 11.1.2 refers**
- **BEXB Attachment 3 – Item 11.5.1 refers**
- **BEXB Attachment 4 – Item 11.5.2 refers**
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- **BEXB Attachment 6 – Item 11.5.4 refers**
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- **BEXB Attachment 8 – Item 11.5.4 refers**

CONFIDENTIAL ATTACHMENTS INDEX

- Confidential Attachment 1 – Item 13.1 refers**
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- Confidential Attachment 6.1 – Item 13.6 refers**
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- Confidential Attachment 8 – Item 13.8 refers**

**Councillors are reminded to
retain the OCM Attachments for discussion with the Minutes**

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS OF THE CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON TUESDAY, 15 AUGUST 2006, COMMENCING AT 7.06PM.

PRESENT

Cr G Godfrey, Mayor	East Ward
Cr P Marks	East Ward
Cr M Bass (<i>departed 8.36pm</i>)	East Ward
Cr R Rossi	West Ward
Cr B Martin	West Ward
Cr B Whiteley	South Ward
Cr E Teasdale	South Ward
Cr M Blair	Central Ward
Cr G Dornford	Central Ward

IN ATTENDANCE

Dr S Silcox	Chief Executive Officer
Mr N Deague (<i>departed 8.36pm</i>)	Director-Community & Statutory Services
Mr R Lutey (<i>departed 8.36pm</i>)	Director Technical Services
Mr S Cole	Director Corporate & Governance
Mr J Blanchard	Principal Legal & Compliance Adviser
Mr J Olynyk	Manager Governance
Ms S Johnson	Agenda & Minutes Officer
Mr D McLeod (<i>arrived 8.05pm, departed 9.12pm</i>)	McLeods Lawyers

MEMBERS OF THE GALLERY

There were 11 attendees in the gallery and one press representative.

1. OFFICIAL OPENING

The Mayor will cause the Affirmation of Civic Duty and Responsibility to be read aloud by a Councillor.

The Mayor opened the meeting at 7.06pm, welcomed those in attendance, and invited Cr Bass to read aloud the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers. Cr Bass read aloud the affirmation.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Councillors and Officers of the City of Belmont. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability. We will observe the City's Code of Conduct and Standing Orders to ensure the efficient, effective and orderly decision making within this forum.

2. APOLOGIES & LEAVE OF ABSENCE

2.1 APOLOGIES

Cr P Hitt
Cr J Powell

West Ward
South Ward

2.2 LEAVE OF ABSENCE

Record Councillor Leave of Absence where previously endorsed for this meeting.

3. DECLARATIONS OF INTEREST

Councillors / Staff are reminded of the requirements of s5.65 of the Local Government Act 1995, to disclose any interest during the meeting when the matter is discussed, and also of the requirement to disclose an interest affecting impartiality under the City's Code of Conduct.

3.1 FINANCIAL INTERESTS

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

Name	Item No & Name	Nature of Interest (and extent, where appropriate)
Cr E Teasdale	11.5.1 Accounts for Payment	Wife is recipient of Sister City Honorarium
Cr M Bass	13.5 CONFIDENTIAL ITEM – Breach of Code of Conduct	In respect to potential legal proceedings arising from false allegations contained within the report.
Mr D McLeod	13.5 CONFIDENTIAL ITEM – Breach of Code of Conduct	The advice given may lead to further referrals to McLeods that would be paid for.

3.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.

Name	Item No.	Details of Interest
Cr G Dornford	11.4.1 Overflow Parking – Wicca Park	Owner of property in near vicinity of Wicca Park.
Cr P Marks	11.5.6 Australian Mayoral Aviation Council Study Tour – Noise Conference	Concerns me
Cr P Marks	13.5 CONFIDENTIAL ITEM – Breach of Code of Conduct	I am involved in the item.
Cr M Blair	13.5 CONFIDENTIAL ITEM – Breach of Code of Conduct	As an old associate

Cr M Blair	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	As an old associate
Cr M Bass	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	Has a close association with the applicant.
Cr E Teasdale	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	Has a long association with the applicant.
Cr B Martin	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	The applicant was the Councillor's running partner in the 2005 Election.
Cr P Hitt	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	Ran against the applicant in the 2005 Election
Cr B Whiteley	13.6 CONFIDENTIAL ITEM: Request For Funding – Legal Representation Policy	Has an association with the applicant as a former Councillor
Cr R Rossi	13.8 CONFIDENTIAL LATE ITEM – St Columbans – 48 Riversdale road, Rivervale – Consideration of Application for Planning	Councillor is a member of the Belmont Historical Society.

4. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS

4.1 ANNOUNCEMENTS

Written announcements by the Presiding Member or important forthcoming functions to be tabled at this point. The Presiding Member may, at their discretion, wish to make verbal announcements.

4.1.1 Annual Returns

The Mayor reminded Councillors to return their Annual Returns to the Compliance Officer as soon as possible for processing no later than 31/08/06.

4.1.2 Brickworks Approval

The Mayor announced that the BGC Brickworks development on Perth Airport land had been given draft approval by the Federal Government today.

4.1.3 2006 Local Government Week Certificate of Appreciation Dr Shayne Silcox

The Mayor announced that the Chief Executive Officer, Dr Shayne Silcox had received a Certificate of Appreciation Award from the Western Australian Local Government Week Conference.

4.2 DISCLAIMER

****7.13pm The Mayor drew the public gallery's attention to the Disclaimer and the Manager Governance read the Disclaimer aloud.**

Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the City must obtain, and should only rely on, written notice of the City's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the City on the operation of a written law, or the performance of a function by the City, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the City. Any advice on a matter of law, or any thing sought to be relied upon as a representation by the City should be sought in writing and should make clear the purpose of the request.

4.3 DECLARATIONS BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTLY BEFORE THE MEETING

Councillors who have not read the business papers make a declaration at this point.

Nil.

4.4 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ THE 'COUNCILLORS INFORMATION BULLETINS' AS DETAILED IN ITEM 12.1

Councillors who have received and not read the 'Councillor Information Bulletins' as detailed in Item 12.1 of this agenda, to make declarations at this point.

Nil.

5. PUBLIC QUESTION TIME

****7.15pm** The Mayor drew the public gallery's attention to the rules of Public Question Time as written in the Agenda. In accordance with rule (I), the Mayor advised that she had registered two members of the public who had given prior notice to ask questions, this being Mr Harris and Mr Wolff.

The Mayor invited the public gallery members, who had yet to register their interest to ask a question, to do so. No further registration was forthcoming.

5.1 QUESTIONS FROM MEMBERS OF THE PUBLIC

5.1.1 Mr S Wolff, 191 Kew Street, Kewdale

Mr Wolff stated that according to the Minutes of the OCM 04/07/06: Council agreed to:

1. Appoint an independent Advisory Trustee to advise on the management of the Trust Property as outlined in this report;
2. Deal with action CIV 2080/95 in the Supreme Court as outlined in this report;
3. Respond to any action taken in respect of the Belmont Trust as outlined in this report;
4. Authorise the CEO to take all actions necessary to resolve this matter as outlined in this report and
5. Adopt the Recommended course of action specified in this report as conditions for the implementation of this recommendation.

1. What is the 'report' referred to?

The Principal Legal & Compliance Advisor replied that the 'report' referred to the Confidential Report regarding the Trust at that item of the Ordinary Council Meeting minutes of 4 July 2006.

2. What is 'this matter' that the CEO has been authorised to take all actions necessary to resolve?

The Principal Legal & Compliance Advisor replied that the matter was a confidential matter regarding the Trust on which the City had obtained legal advice.

3. What is the 'recommended course of action' specified in the report?

The Principal Legal & Compliance Advisor replied that the recommended course of action were recommendations made to the City by its solicitors, McLeods.

4. What is action CIV 2080/95?

The Principal Legal & Compliance Advisor replied that this action was initiated by the City in 1995 soon after the discovery of the Trust to seek clarity on the creation and effect of the Trust. This action was adjourned indefinitely soon afterwards and has not since been actioned.

5.1.2 Mr R Harris, 481 Abernethy Road, Cloverdale

Mr Harris asked:

1. According to the City's Financial Report, 31 May 2006, the city has budgeted \$21,103 for the Belmont Trust. Yet according to the CEO at the Council Meeting of 25 July 2006, the Belmont Trust has no funds. Could you please explain this?

The Director Corporate & Governance replied that the Municipal Fund budget contains an allocation for the Belmont Trust. This is designed to capture all costs associated with the Belmont Trust so that in future years a clear record of expenditure on the Belmont Trust can be referred to for the event that the Trust gain some liquid funds and recovery is possible, then a record exists. The Chief Executive Officer's statement is therefore correct that the Trust has no funds.

2. In response to the question asked at that meeting, the Minutes note that: "The chief Executive Officer replied that there is a funding issue between the Trust and the city and once this matter has been worked through, then a decision on the fencing can be made". What is the funding issue?

The Director Corporate & Governance replied that the funding issue referred to is the fact that the Belmont Trust has no funds.

5.2 RESPONSES TO QUESTIONS TAKEN ON NOTICE**5.2.1 Mr A Richardson, 141 Kooyong Road, Rivervale**

At the Ordinary Council Meeting of 25 July 2006 Mr Richardson asked the following question, which the Chief Executive Officer took on notice. The Question and answer follows:

1. Mr Richardson asked if Cr Bass has breached the Local Government Act, by not declaring financial and/or impartiality, on matters relating to the subsequent applications for Child Care Centers to be developed in the City of Belmont, by voting against the following applications at Tibbradden, Kew Street Keymer Street, and Belgravia Street? Can the Chief Executive Officer investigate this matter, and if there has been a breach, what action would be taken?

The matters are being addressed by the Chief Executive Officer and it is not appropriate at this time to provide a response. Upon conclusion of the matter by the Chief Executive Officer, an appropriate response will be provided.

****7.20pm As there were no further questions, the Presiding Member declared Public Question Time closed.**

6. CONFIRMATION OF MINUTES / RECEIPT OF INFORMATION MATRIX**6.1 ORDINARY COUNCIL MEETING
HELD 25 JULY 2006**

***WHITELEY MOVED, BLAIR SECONDED*, that the minutes of the Ordinary Council Meeting held on 25 July 2006 as printed and circulated to all Councillors, be confirmed as a true and accurate record.**

CARRIED 9 VOTES TO 0

**6.2 INFORMATION MATRIX FOR THE AGENDA BRIEFING FORUM
HELD 8 AUGUST 2006****

****Council Attachment 1 – Item 6.2 refers**

***MARTIN MOVED, MARKS SECONDED*, that the Information Matrix for the Agenda Briefing Forum held on 8 August 2006 as circulated in the attachment, be received and noted with an alteration to delete the notation that Cr Hitt departed the meeting at 9.08pm.**

CARRIED 9 VOTES TO 0

**6.3 SPECIAL COUNCIL MEETING
HELD 8 AUGUST 2006**

***WHITELEY MOVED, MARKS SECONDED*, that the minutes of the Special Council Meeting held on 8 August 2006 as circulated to all Councillors, be confirmed as a true and accurate record.**

CARRIED 9 VOTES TO 0

**7. QUESTIONS BY MEMBERS ON WHICH DUE NOTICE HAS BEEN GIVEN
(WITHOUT DISCUSSION)**

DISCLAIMER: Where the City's Administration has provided any assistance to a Councillor, with the framing and / or wording of any motion / amendment / question to the Council, who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion / amendment is solely that of the intended mover and not that of the officer / officers providing the assistance. Under no circumstances is it to be expressed to any party that administration or any Council officer holds a view on this motion other than that expressed in an official written or verbal report by the City's administration to the Council meeting considering the motion.

7.1 COMMENTS DIRECTED TO COUNCILLORS FROM THE PUBLIC GALLERY

Cr Bass raised the issue of administration procedures to be instigated to protect Councillors from inappropriate comments made to Councillors from the public gallery.

**8. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON
PRESIDING OR BY DECISION**

Nil.

9. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

10. REPORTS OF COMMITTEES

NOTE: Regulation 11(da) of the Local Government (Administration) Regulations 1996 requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in the Local Government Act 1995 s5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

NOTE: Council in receiving and noting the Minutes of Standing Committee are not adopting or in anyway endorsing the recommendations or comments contained therein. Committee Recommendations will be the subject of separate reports to Council at this or a future Council Meeting, at which time Council will consider the matter.

Nil.

11. REPORTS OF ADMINISTRATION

NOTE: Regulation 11(da) of the Local Government (Administration) Regulations 1996 requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

11.1 BUILT BELMONT

WITHDRAWN ITEMS

Item 11.1.1 was withdrawn at the request of Cr Blair.
Item 11.1.2 was withdrawn at the request of Cr Bass.

11.1.1 Keeping of Excess Numbers of Cats at Lot 951 (228) Epsom Avenue, Belmont

Report by Community & Statutory Services Division

DATE

16 July 2006

PURPOSE OF REPORT

To consider an application to keep more than two (2) cats at Lot 951 (228) Epsom Avenue, Belmont.

COUNCIL ROLE

Quasi-Judicial

The quasi judicial role includes the determination of all matters where Council must decide applications or matters directly affecting a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples include town planning applications, building licences, applications for other permits and licences (eg. under the Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

SUMMARY AND KEY ISSUES

Summary and Key Issues

On 21 March 2006, Council considered an application to keep more than two (2) cats at Lot 951 (228) Epsom Avenue, Belmont. The Council believed the owner was running a cat breeding operation and that the scientific research as indicated was not legitimate or sanctioned by any approving authority.

Item 11.1.1 continued

It was decided that "Council not approve the keeping of more than two cats over the age of three months at 228 Epsom Avenue and that the current number of cats be reduced within 45 days of notification of Council's decision and if this recommendation is not complied with, Council authorise the Manager-Health & Ranger Services to initiate legal proceedings."

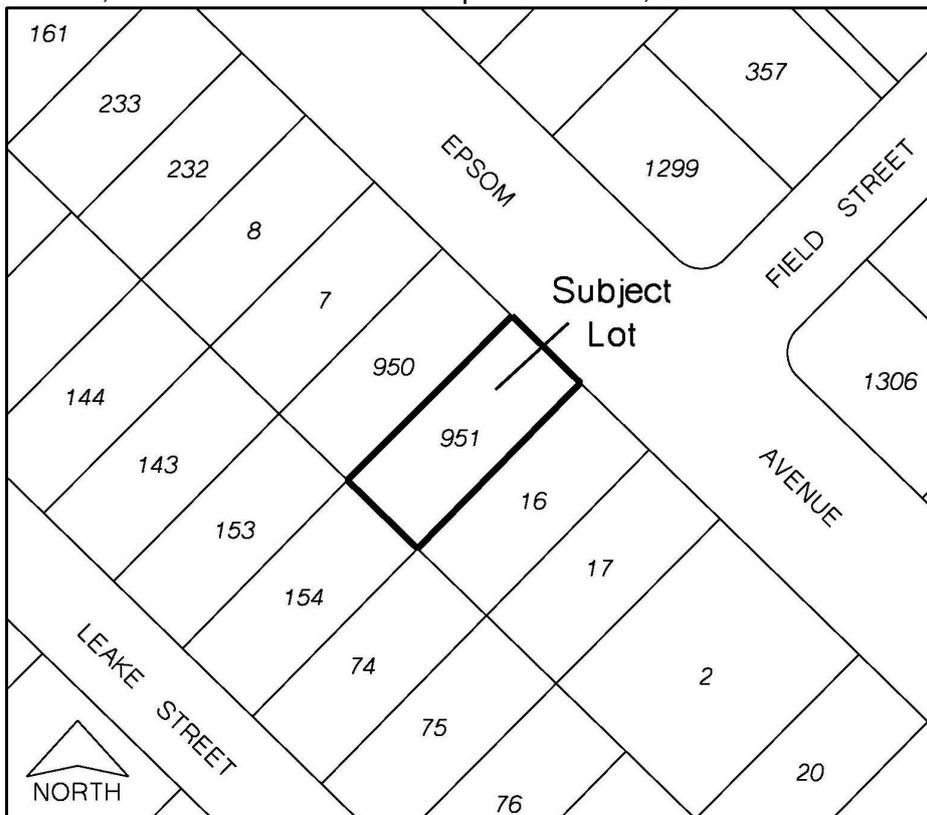
The owner has since reapplied to Council for an exemption under the Health Local Laws 2002 to keep six (6) cats as "pets only" on the basis that the excess numbers of cats will not be a nuisance or injurious or dangerous to health.

Officer Recommendation Summation

In view of the good conditions the six cats are being kept in, both internally and externally, and that the six cats observed are obviously not being kept for breeding purposes, it is recommended that Mr Dawes and Ms Irvine be permitted to keep the identified six cats. This approval, however, only relates to the six cats described in this report and no additional cats are permitted or permitted to replace any of the existing cats until the number of cats is reduced to two as permitted under the City of Belmont Health Local Laws 2002.

LOCATION

Lot 951, PL 34178 known as 228 Epsom Avenue, Belmont WA 6104

**APPLICANT**

Angela Irvine and Trevor Dawes

Item 11.1.1 Continued

FILE REFERENCE

16/004 Horse/Livestock/Cat Complaints

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

Simple majority required.

CONSULTATION

No further consultation carried out.

STRATEGIC PLAN IMPLICATIONS

There are no strategic plan implications at this time

POLICY IMPLICATIONS

There are no policy implications relating to this item.

STATUTORY ENVIRONMENT

- Health Act 1911 (as amended)
- City of Belmont Health Local Law 2002 (Division 2, Section 63)
- City of Belmont Town Planning Scheme No.14

BACKGROUND

In response to a previous application received by Council on 2 December 2005 to keep excess numbers of cats for scientific purposes at Lot 951 (228) Epsom Avenue, Belmont, Council's decision on 21 March 2006, based on issues of activity and location was that "Council not approve the keeping of more than two cats over the age of three months at 228 Epsom Avenue, Belmont and that the current number of cats be reduced to two adult cats within 45 days of notification of Councils decision. If this recommendation was not complied with, Council authorise the Manager-Health & Ranger Services to initiate legal proceedings."

On 22 March 2006, the applicant submitted a "statement of appeal" detailing twenty reasons why Council should reconsider its decision.

On 24 March 2006, a letter was hand delivered to the applicant confirming Council's decision and informing the applicant of the correct procedure of appeal through the State Administrative Tribunal.

Item 11.1.1 Continued

On 18 April 2006, a letter was received by Council from the applicant requesting an exemption to the Health Local Laws 2002 to allow the keeping of six (6) adult cats as “pets only” as they “...are not a nuisance as they live in enclosures nor are they injurious to anyone or a danger to anyone’s health. (sic).”

On 26 April 2006, the Senior Environmental Health Officer contacted the State Administrative Tribunal and confirmed no appeal had been lodged against Council’s decision within the required 28 days.

Clause 63 (3) of the City of Belmont Health Local Law 2002 states, “the local authority shall not grant an exemption under this clause unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health”. The intent of the exemption within the Local Law is to allow the keeping of more than two cats is to give the City the flexibility to allow the keeping of more than two adult cats in special circumstances. Examples of such circumstances are as follows:

- death of a family member;
- where a person already has two cats and is left with a cat that a family member is no longer able to look after or where a younger cat is acquired to take the place of a family cat that is nearing its life expectancy;
- where an existing resident has two cats and their partner moves in with them bringing their own cat resulting in three cats living on the property.

Favourable consideration would be given to circumstances of a compassionate nature subject to the Manager-Health and Ranger Services being satisfied that the keeping of more than two (2) cats on the property would not be a nuisance or injurious or dangerous to health. Such approvals would be subject to a condition providing that when one or more of the cats dies that it is not replaced, resulting in no more than two cats being kept on the property thereafter.

The applicant on this occasion has requested to keep six (6) cats as “pets only” which departs from the intent of the exemption. In addition, on 14 November 2005, when the Senior Environmental Health Officer (SEHO) was investigating the applicant’s first application to keep excess numbers of cats for scientific purposes, Ms Irvine stated that she wanted to get down to a “workable six”. This appeared to indicate at the time that the cats could be kept for breeding purposes.

The Manager-Health and Ranger Services contacted the animal cruelty section of the RSPCA to enquire whether the RSPCA had any concerns or restrictions on the keeping of cats in cages. The RSPCA Officer advised that there were some concerns as to why people would want to keep pet cats in a cage, however, if the cages were large enough and allowed the cats enough freedom there may not be any problem.

The large cages at 228 Epsom Avenue, seen by the Councillors during an on-site visit, were described to the RSPCA Officer and his comment was that as described they appeared to be satisfactory for two cats. He also stated that keeping cats in cages in this manner raised the question as to the purpose and whether the cat owners were breeders as this seemed to be a typical breeding set up.

The operation of a cattery is also not a permitted use in a residential area as specified in the Town Planning Scheme No.14, whether it is for scientific purposes or for sale and profit.

Item 11.1.1 Continued

A letter from Ms Angela Irvine and Mr Trevor Dawes was received at the Council office by email at 5:56pm, Monday, 12 June 2006. A copy of this letter was circulated to Councillors under memorandum dated 13 June 2006.

The applicants provided additional arguments of a compassionate nature for the consideration of the Council. This was the first time that these reasons were put forward, which begs the question as to why the arguments had not been submitted previously.

The first application gave the impression that the cats were being kept for scientific purposes to assist in the research of Cystic Fibrosis in children. Investigations revealed that breeding for this purpose required specific approvals and licences which neither Ms Irvine or Mr Dawes possessed. It was also discovered that two web sites advertised that Sphynx and Ragdoll cats could be purchased from Angela Irvine in Belmont Western Australia, this information provided evidence that cats were being bred for sale from the said residence.

On the basis of the applicants most recent letter dated 11 June 2006, and if Council were persuaded to favourably consider the application, a new recommendation was provided:

“That the Council grant exemption to Ms Angela Irvine and Mr Trevor Dawes for the keeping of a maximum of six cats at Lot 951 (228) Epsom Avenue, Belmont subject to the following conditions:

1. *The six cats to be kept at the subject premises are those specifically referred to in the applicants’ correspondence dated 11 June 2006 and in this regard detailed identification is required including photographs.*
2. *That no cat be replaced unless there is a maximum of two cats in accordance with Division 2, Clause 63 of the City of Belmont Health Local Law 2002.”*

At the Council meeting of 13 June 2006, the matter was deferred.

OFFICER COMMENT

Council’s Senior Environmental Health Officer has visited the premises with the objective of seeking the following information:

1. The names of the six cats.
2. Estimation of the age and physical condition of the six cats.
3. Photographs of the six cats.
4. Copies of the sterilisation certificates.

Details of the six cats confirmed at the address on 22/06/06.

- | | | |
|----|--------|--|
| 1. | Megs | Desexed Ginger Coloured Male 3 y.o. |
| 2. | Ginger | Desexed Ginger Coloured Male 3 y.o. |
| 3. | Twinks | Sphynx Female- Congenital Middle Ear Problems 2 y.o. |

Item 11.1.1 Continued

4. Lotte Sphynx Female- Allergy Problems 2 y.o.
5. Tai Sphynx Desexed Male 9 y.o.
6. Louis Ragdoll Vasectomized Male 16 y.o.

Three of the cats are kept indoors, two others are kept outside in cages while the sixth cat (Louis) is kept unpened externally but due to his age (16yo) does not leave the property.

It is understood that the two females would not be used for breeding due to medical issues.

On 20/07/06 Mr Trevor Dawes telephoned Council's Senior Environmental Health Officer (SEHO) to inform him that they had recently purchased a property in Gosnells and intended selling their Epsom Avenue property in the near future. The SEHO requested by email that he confirm this in writing. A letter and emails have been received confirming what Mr Dawes had stated to the SEHO.

FINANCIAL IMPLICATIONS

There are no significant financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications evident at this time.

ATTACHMENT DETAILS

Nil.

OFFICER RECOMMENDATION

That Council approve the keeping of six (6) cats as identified in this report in accordance with the City of Belmont Health Local Laws 2002, subject to the following requirements.

1. No additional cats be permitted to replace any of the existing cats until the number of cats is reduced to two (2) as permitted under the City of Belmont Health Local Laws 2002.
2. The six cats be micro-chipped to clearly identify them individually and that certification of this be obtained from a suitably qualified veterinarian.
3. The City undertake random inspections of the premises to ensure there is compliance with the requirements of Council's approval.
4. A breach of any of Council's requirements shall mean the immediate reduction of the six cats to two.

Item 11.1.1 Continued

BLAIR MOVED, WHITELEY SECONDED, that Council

1. **Not approve the keeping of more than two cats as permitted under the City of Belmont Health Local Laws 2002.**
2. **Authorise officers to undertake random inspections of the premises to ensure there is compliance with the City's Health Local Laws 2002.**
3. **Authorise officers to undertake legal action should a breach of Council's decision occur.**

LOST 5 VOTES TO 4

For: Blair, Whiteley, Martin, Rossi

Against: Godfrey, Dornford, Bass, Marks, Teasdale

BASS MOVED, TEASDALE SECONDED, that Council

Approve the keeping of six (6) cats as identified in this report in accordance with the City of Belmont Health Local Laws 2002, subject to the following requirements.

1. **No additional cats be permitted to replace any of the existing cats until the number of cats is reduced to two (2) as permitted under the City of Belmont Health Local Laws 2002.**
2. **The six cats be micro-chipped to clearly identify them individually and that certification of this be obtained from a suitably qualified veterinarian.**
3. **The City undertake random inspections of the premises to ensure there is compliance with the requirements of Council's approval.**
4. **A breach of any of Council's requirements shall mean the immediate reduction of the six cats to two.**

CARRIED 5 VOTES TO 4

For: Godfrey, Dornford, Bass, Marks, Teasdale

Against: Blair, Whiteley, Rossi, Martin

11.1.2 Lot 305 (37) Great Eastern Highway – Office******BB Attachment 2 – Item 11.1.2 refers**

Report by Community & Statutory Services Division

DATE

20 July 2006

PURPOSE OF REPORT

Council to consider an application for an office development at Lot 305 (37) Great Eastern Highway, Rivervale.

COUNCIL ROLE**Quasi-Judicial**

The quasi judicial role includes the determination of all matters where Council must decide applications or matters directly affecting a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples include town planning applications, building licences, applications for other permits and licences (eg. under the Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

SUMMARY AND KEY ISSUES**Summary and Key Issues**

- An application was lodged for a two storey office and shop with undercroft car parking at Lot 305 (37) Great Eastern Highway, Rivervale in May 2005. The application was cancelled in April 2006 as the application had exceeded its deemed refusal timeframe without adequate resolution of several issues.
- A fresh application for a two storey office with undercroft car parking was lodged on 15 June 2006. The applicant is seeking a variation to the Scheme requirements for car parking and street setbacks.
- The proposed setbacks are consistent with those of surrounding developments and are supported.
- Car parking does not comply with the existing scheme requirements, however does comply with the car parking ratio for office as recommended in Part 2 of the Mixed Use Study.
- The proposed office has a high quality elevation addressing both Great Eastern Highway and Norwood Road.
- The application has been referred to Main Roads WA, and cannot be determined until such time as their comments are received.

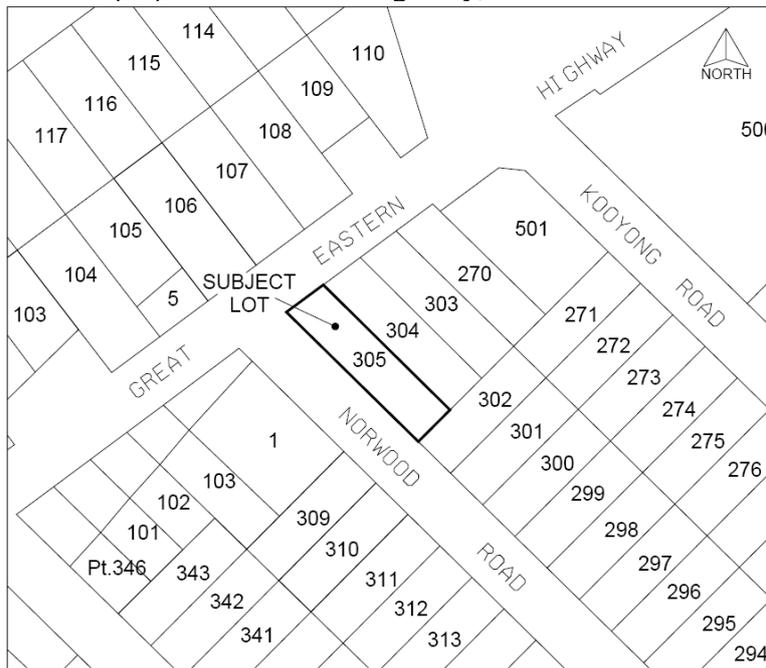
Item 11.1.2 Continued

Officer Recommendation Summation

The application is supported. It is recommended that Council grant delegation to the Director – Community and Statutory Services or Manager – Planning Services to determine the application on receipt of supportive comments from Main Roads Western Australia.

LOCATION

Lot 305 (37) Great Eastern Highway, Rivervale.



APPLICANT

Scatena and Associates

FILE REFERENCE

318/2006/DA application file
 GEH.37 property file
 115/001 subject file

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

Simple majority required.

Item 11.1.2 Continued

CONSULTATION

Category C applications are those that need external referrals from third parties such as the Environmental Protection Authority, Western Australian Planning Commission, Swan River Trust, Heritage Council etc. Category C applications may also require statutory advertising, referral to neighbours or consideration by Council.

Main Roads Western Australia

Great Eastern Highway is classified as a 'Primary Regional Road' under the Metropolitan Region Scheme (MRS) and therefore the application must be referred to Main Roads WA (MRWA) for comment. In respect of the original application lodged in May 2005, MRWA advised that:

- It has no requirements for further road widening;
- Development is supported as close to the Great Eastern Highway boundary as the local Town Planning Scheme allows; and
- Access to GEH will be denied and access shall be via Norwood Rd

The current application has been referred to MRWA for comment. If the Council is prepared to support the application, a formal approval can not be issued until comments from Main Roads have been received.

STRATEGIC PLAN IMPLICATIONS

BUSINESS BELMONT – STRATEGY: “Attract and support high quality high employment businesses to the City of Belmont”

POLICY IMPLICATIONS

Local Planning Policy No. 9 – Building Bulk and Height Along Great Eastern Highway

The proposed development complies with the provisions of Local Planning Policy No. 9.

Local Planning Policy No. 10 - Draft Great Eastern Highway Strategic Access

The site does not fall within the policy area, therefore there is no requirement for an easement in gross to be sought over the property.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 14

Clause 10.4 of Town Planning Scheme No. 14 (TPS14) contains the relevant development requirements for the Town Centre and Commercial Zone.

Clause 10.9 of TPS 14 discusses car parking and loading requirements. Car parking ratios are set out in Table 2 of the Scheme.

Under Clause 10.15 Council has the ability to vary Scheme requirements such as setbacks and car parking. Council also has the ability to advertise any proposed variation.

*Item 11.1.2 Continued***Deemed Refusal**

Under Clause 5.5.1 of the City of Belmont Town Planning Scheme No. 14 an application is 'deemed to be refused' if it is not determined within a 60 day period.

The only exception to these cases is where there is a written agreement for further time between the applicant and the City of Belmont. In this case, there is no written agreement for the statutory time period to be extended.

The deemed refusal date for this application is 15 August 2006. Should Council defer this item then the deemed refusal rights will arise before the matter is referred back to Council.

Right of Appeal

The applicant / owner may appeal a planning approval / planning refusal to the State Administrative Tribunal (SAT) in accordance with part 14 of the Planning and Development Act 2005. Appeals must be lodged with SAT within 28 days. Further information can be obtained from the SAT website: www.sat.justice.wa.gov.au.

BACKGROUND

Owner:	Icram Holdings P/L	Ward:	West
Lodgement Date:	15 June 2006	Use Class:	Office – P
Lot Area:	911m2	TPS Zoning:	Commercial
Estimated Value:	\$700,000	MRS:	Urban; Abuts Primary Regional Road reserve

History of previous Application

An application was lodged for the redevelopment of Lot 305 (37) Great Eastern Highway, Rivervale on 16 May 2005. The application proposed a shop and undercroft parking at ground level, with office and upper deck car parking above. Access to the undercroft parking was proposed from the Great Eastern Highway side of Norwood Road cul-de-sac, and access to the upper deck parking from the residential side of Norwood Road.

The application was considered by the City's Development Control Group (DCG), and the applicant was requested to address several issues including:

- Location of Great Eastern Highway Primary Regional Road reservation;
- Engineering Department not supportive of access to residential side of the Norwood Road cul-de-sac;
- Submission of traffic report;
- Awning encroachment into Great Eastern Highway road reserve;
- Bin stores and loading areas.

After liaison with the applicant, amended plans were submitted on 8 March 2006 which removed the awnings from the Great Eastern Highway road reserve and removed access to the residential side of Norwood Road. The application was cancelled in April 2006 as it had exceeded its deemed refusal timeframe without adequate resolution of several issues. The applicant was requested to submit a new application.

*Item 11.1.2 Continued***Current Application**

A fresh application for a two storey office with undercroft car parking was lodged on 15 June 2006.

The application proposes:

- Two storey building with façade constructed of glass and concrete tilt-up;
- 150m² office on the ground floor with 657m² on the first floor;
- An undercroft car park with 24 bays and an upper deck car park with 5 bays;
- Two car parking bays within the road reserve;
- Access from the Great Eastern Highway side of Norwood Road cul-de-sac for both car parking areas.

The applicant has advised as follows:

- The office will be used by the owners to operate their family accountancy practice;
- The practice consists of three partners being father, daughter and son. In addition, there would be 14 staff;
- The practice has been operating since 1969 and has been located in Burswood for the last 13 years;
- A number of clients correspond by email and post. The internal audit department, consisting of 7 staff, are off site visiting clients premises for the majority of time;
- It is not anticipated that more than 3 clients will attend the site at any one time, and that would be to visit one of the partners.

The application has been referred to Council for determination as it involves setback and car parking variations to Town Planning Scheme No. 14. The application complies with the requirements of the Commercial zone specified under the Scheme in all other respects.

Plans of the proposed development will be available in a PowerPoint presentation at the Agenda Briefing Forum scheduled for the 8 August 2006.

OFFICER COMMENT**Elevations**

For Commercial zoned sites, Council encourages good urban design by the presentation of buildings and facades that are attractive and inviting, and require the integration of building layout and design with adjoining development.

The proposed elevation includes large expanses of glass and addresses both Great Eastern Highway and Norwood Road. The elevations are considered to be good quality and redevelopment of the site will improve the streetscape.

*Item 11.1.2 Continued***Setbacks**

The subject lot is zoned 'Commercial' under the City of Belmont Town Planning Scheme No 14.

For commercial properties, the Scheme requires that *"no part of any building shall be built upon that area of land between the street alignment and the building setback line drawn parallel thereto a distance of two metres within the site"*.

The applicant seeks a setback variation as it proposes a 1m setback to Great Eastern Highway with 1m awnings extending to the property boundary. The applicant also proposes a nil setback to the Norwood Street cul-de-sac, with awnings extending 1m into the Norwood Road verge.

Under the Scheme, Council has the ability to vary site requirements, such as setbacks.

The proposed setback variations are supported for the following reasons:

- The existing building currently has a nil setback to both Norwood Road and Great Eastern Highway. Approval of setback variations is therefore not inconsistent with the existing building envelope and established setback pattern.
- The new development will significantly improve the existing streetscape and redevelopment of the site with a new office addressing both streets is encouraged.
- The proposal has achieved integration with the pedestrian access along Norwood Road by providing a good quality elevation using a combination of materials and awnings.
- The setback compliments the existing streetscape and minimal setbacks that already exist for nearby properties.

The proposed awnings are supported as they provide articulation to the façade and provide pedestrian cover to the Norwood Road verge. The approval of the Council is required to the awnings under clause 17 of the Local Government (Uniform Local Provisions) Regulations 1996.

Car Parking

The development proposes an office floor area of 807m². Under the current Scheme requirements, 41 carparking bays are required (1 bay per 20m² of floor area).

Parking bays have been proposed for the development as follows:

Undercroft parking	24 bays
Open parking	5 bays
<u>Norwood Road verge</u>	<u>2 bays</u>
Total	31 bays

Item 11.1.2 Continued

This represents a 12 bay shortfall on the actual development site, with an overall shortfall of 10 bays including the two car parking bays proposed to be constructed within the Norwood Road reserve.

Council has consistently required that the full number of car parking bays required under the Scheme be provided for new developments. Council has supported dispensations for specific sites on the basis of either of the following:

- Cash-in-lieu payment of car parking, with funds being utilised to upgrade or provide new public car parking within the vicinity of the development. This was a condition imposed on the approval for the proposed Health Studio and Office at 250 Fulham Street, Belmont (Item 11.1.9, OCM Minutes 02/05/2006 refers); or
- The shortfall of bays being provided within the road reserve adjacent to the property. This option was implemented for the redevelopment of the adjacent property at 33 Great Eastern Highway, Rivervale (Item 10.6.3 OCM 17/11/2003 minutes refers).

It should be noted that there is no room within the Norwood Road reserve for any more than two on-street bays. Car parking within the residential side of the Norwood Road cul-de-sac is not supported as it would have a detrimental impact on the amenity of the adjacent residential properties.

Proposed Changes to Car Parking Standards

Part 2 of the Mixed Use Study has been advertised and proposes a number of changes to the existing Scheme carparking standards. The Mixed Use Study included a comprehensive analysis of the City's car parking standards in comparison with other local governments. The Study concluded that the current office car parking ratio of one bay per every 20m² of floor area is high.

The Study proposes to decrease the car parking requirements for office from 1/20m² to 1/30m². Council's Planning Department will be proposing an amendment to the existing Scheme in the next few months to implement the recommendations of the Mixed Use Study.

Under the proposed new standards with a car parking ratio of 1 bay per 30m² of floor area the development would only require 27 car parking bays to be provided. The current proposal would therefore have a 2 bay surplus on site.

It is recommended that a car parking dispensation be supported for the following reasons:

- The carparking ratio for office as outlined in Schedule 2 of the Scheme has been comprehensively investigated as part of the Mixed Use Study and found to be excessive;
- The Scheme states that "*the number of spaces to be provided for any particular site shall be determined by Council*". The Scheme also outlines that Council should have regard for "*the nature of the use and the known or likely volume of goods, material or people moving to and from the site*". Based on the information provided by the applicant, it is considered that the car parking provided is sufficient to cater for staff and visitors.

Item 11.1.2 Continued

It is noted that the site will be occupied by a long standing family business, and is being purpose built for their family accountancy practice.

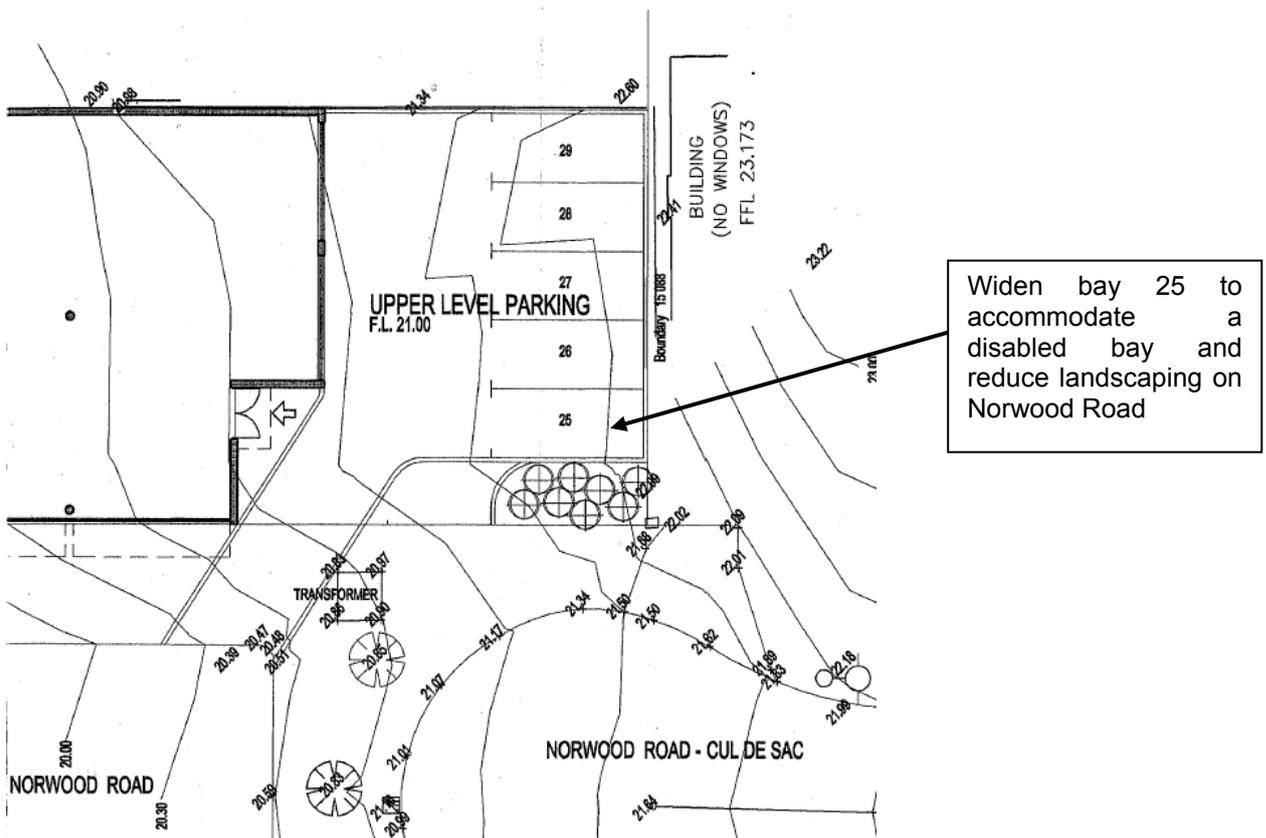
Disabled Bay

One disabled car parking bay has been provided for the undercroft parking area and this meets the requirements of the Building Code of Australia.

As there is a lower and upper deck, Council's Building Department has recommended that one disabled bay be provided for each level. Whilst this is not required by the BCA, it will ensure that disabled access to the upper storey level is not restricted.

In order to accommodate an extra disabled bay, the upper car park deck layout will need to be modified as follows:

- Deletion of some landscaping adjacent to Norwood Road; and
- Widening of bay 25 to a disabled bay.



Above: Extract of upper storey site plan

This is included as an advice note in the Officer Recommendation. It has not been included a condition of development as it is not a planning requirement that stems from the City's Town Planning Scheme.

If the Council is prepared to accept the revised carparking standard, it is proposed that future development applications will be assessed against the new standard.

Item 11.1.2 Continued

Options available to Council

Option 1 - Refuse the application

Council could refuse the application in the event that they are not supportive of a car parking dispensation. A refusal is not recommended for the following reasons:

- The parking ratio for office outlined in Schedule II of the Scheme has been researched and found to be excessively high compared with other local governments;
- The 31 bays provided complies with the recommended car parking standards for office outlined in Part 2 of the Mixed Use Study;
- The 31 bays provided appear to be adequate to meet the needs of the business catering for 17 staff and visitors.

Option 2 – Grant delegation

This option is recommended. The development is considered to be of a high quality and will result in an improved streetscape.

The setback and car parking variations are supported for the reasons outlined in this report. The application is supported but cannot be determined until Main Roads comments are received.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications evident at this time.

ATTACHMENT DETAILS

<u>Attach. No.</u>	<u>Details</u>
BB Attach 2	Development Plans

Item 11.1.2 Continued

OFFICER RECOMMENDATION

That Council:

1. Authorise the Director-Development and/or Manager of Planning Services to determine the application for an office development on Lot 305 (37) Great Eastern Highway, Rivervale pursuant to Clause 9.10 of Town Planning Scheme No. 14, on receipt of favourable comments from Main Roads Western Australia.
2. The applicant be advised that the Council's Building Department encourages the provision of two disabled car parking bays in order to allow full disabled access to both the lower and upper storey car park and associated offices. In order to achieve this, the landscaping area adjacent to Norwood Road would need to be reduced to allow for widening / conversion of bay 25 to a disabled compliant bay. It is recommended that amended plans be lodged prior to the issue of a building licence.
3. Council approve the proposed awnings pursuant to clause 17 of the Local Government (Uniform Local Provisions) Regulations 1996 subject to adequate insurance to cover any claim for damages to property or persons arising from the construction or maintenance of the awnings.

BASS MOVED, DORNFORD SECONDED, that Council:

1. ***Authorise the Director-Development and/or Manager of Planning Services to determine the application for an office development on Lot 305 (37) Great Eastern Highway, Rivervale pursuant to Clause 9.10 of Town Planning Scheme No. 14, on receipt of favourable comments from Main Roads Western Australia.***
2. ***The applicant be advised that the Council's Building Department encourages the provision of two disabled car parking bays in order to allow full disabled access to both the lower and upper storey car park and associated offices. In order to achieve this, the landscaping area adjacent to Norwood Road would need to be reduced to allow for widening / conversion of bay 25 to a disabled compliant bay. It is recommended that amended plans be lodged prior to the issue of a building licence.***
3. ***Council approve the proposed awnings pursuant to clause 17 of the Local Government (Uniform Local Provisions) Regulations 1996 subject to adequate insurance to cover any claim for damages to property or persons arising from the construction or maintenance of the awnings.***
4. ***In accordance with the current Town Planning Scheme, Council not allow dispensation on parking.***

LOST 8 VOTES TO 1

For: Bass

Against: Godfrey, Blair, Whiteley, Teasdale, Rossi, Martin, Marks, Dornford

Item 11.1.2 Continued

MARKS MOVED, TEASDALE SECONDED, that Council:

1. ***Authorise the Director-Development and/or Manager of Planning Services to determine the application for an office development on Lot 305 (37) Great Eastern Highway, Rivervale pursuant to Clause 9.10 of Town Planning Scheme No. 14, on receipt of favourable comments from Main Roads Western Australia.***
4. ***The applicant be advised that the Council's Building Department encourages the provision of two disabled car parking bays in order to allow full disabled access to both the lower and upper storey car park and associated offices. In order to achieve this, the landscaping area adjacent to Norwood Road would need to be reduced to allow for widening / conversion of bay 25 to a disabled compliant bay. It is recommended that amended plans be lodged prior to the issue of a building licence.***
5. ***Council approve the proposed awnings pursuant to clause 17 of the Local Government (Uniform Local Provisions) Regulations 1996 subject to adequate insurance to cover any claim for damages to property or persons arising from the construction or maintenance of the awnings.***

CARRIED 7 VOTES TO 2

For: Martin, Godfrey, Whiteley, Blair, Teasdale, Marks, Dornford

Against: Rossi, Bass

11.2 SOCIAL BELMONT

Nil.

11.3 ECONOMIC BELMONT

Nil.

11.4 NATURAL BELMONT

11.4.1 Overflow Parking – Wicca Park

Report by Technical Services Division / Parks, Leisure & Environment Section

DATE

25 July 2006

PURPOSE OF REPORT

To seek Council's approval to allow Belmont Forum Shopping Centre to use Wicca Park for overflow parking during the lead up to Christmas over the next (4) four years.

COUNCIL ROLE

Executive

The executive role is the substantial direction setting and oversight role of the Council. This is where the Council oversees the day to day operations of the City including accepting tenders, directing operations, setting and amending budgets, adopting plans and reports and all other activities of the Council.

SUMMARY AND KEY ISSUES

Summary and Key Issues

The agreement between Belmont Forum Shopping Centre and the City of Belmont for the use of Wicca Park by Forum staff to park their cars over the Christmas period has expired. Belmont Forum Shopping Centre is seeking Council approval to continue this agreement for a further (4) four years

Officer Recommendation Summation

That Council continue to allow the Belmont Forum Shopping Centre to use Wicca Park for staff parking during the lead up to Christmas for a further (4) four years beginning in 2006 and concluding in 2009.

That Council accept the offer from the Belmont Forum Shopping Centre to contribute \$1,500 a year towards the maintenance of the park during and at the conclusion of the Christmas period.

*Item 11.4.1 Continued***LOCATION**

Wicca Park - 259 Acton Avenue, Kewdale 6105

APPLICANT

Not applicable

FILE REFERENCE

34/001 – Council Buildings & Reserves - Request for Wedding / Free Use of Facilities

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest
Nil			

VOTING REQUIREMENT

Simple majority required.

CONSULTATION

Signage is to be erected by Belmont Forum Shopping Centre two weeks prior to the commencement of the agreed period, advising surrounding residents of the use of Wicca Park as a capark.

STRATEGIC PLAN IMPLICATIONS

Business Belmont – Objective – Achieve and maintain an image of Belmont as a great place for business.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Not applicable.

BACKGROUND

The Belmont Forum Shopping Centre had been granted the use of Wicca Park as an off site staff parking area during the lead up to the Christmas 1999 trading period. Council approved this agreement on 28 September 1999 for a period of (6) six weeks leading up to Christmas. The Forum continued using the park in 2000 as overflow parking during the Christmas period. In the lead up to Christmas 2001 the City received a memorial signed by surrounding residents of Wicca Park complaining about the park being used as a car park for Belmont Forum staff over the Christmas period, this was received by Council on 10 December 2001.

Item 11.4.1 Continued

Issues that were raised included light spill from vehicles leaving after late night shopping, the risk to children using the park and the restricted use of the park. An item was presented to Council on 11 May 2002 discussing the issue of Wicca Park being used as an overflow carpark for Belmont Forum staff.

At this meeting, Council resolved:

- “1. Continue to allow the Belmont Forum Shopping Centre to use Wicca Park for staff parking during the lead up to Christmas (and on other one-off occasions as may occur from time to time) subject to them addressing the light spill and playground/park traffic safety issues to Councils satisfaction and in addition to a possible contribution to the new area of Wicca Park facing Knutsford Avenue and standard turf maintenance and repair conditions; and*
- 2. Advise the initiator of the memorial of what actions have been taken to improve the safety and amenity of Wicca Park and its adjacent area when it is used as a temporary staff car park by the Belmont Forum Shopping Centre.”*

Further discussions were held with the Operations Manager at Belmont Forum Shopping Centre and Council officers regarding the use of Wicca Park for a staff carpark. As a result of these conversations Council at its Ordinary Meeting, 4 June 2002 resolved:

- “1. That Council approve charging Belmont Forum \$6,000 for the use of Wicca Park as an occasional staff carpark for a four year period, on the understanding that this arrangement will be reviewed annually and if for any reason use of the area is refused, Council will refund the \$1,500 charge for that year; and*
- 2. At the conclusion of the four-year period, negotiate annually a charge for the use of Wicca Park”*

Belmont Forum Shopping Centre accepted all terms regarding the above Council resolution and used the park for overflow parking over the next (4) four years.

OFFICER COMMENT

The agreement relating to the use of Wicca Park by Belmont Forum Shopping Centre for overflow parking has concluded at the end of the 2005 Christmas trading period. The Shopping Centre would like to continue on with the agreement for use of the park during the lead up to Christmas.

In the past there have been a few complaints about the park being used as a carpark over the Christmas shopping period. Residents were concerned that the park becomes unavailable to users of the park during this time. The main issue is that children were denied access to the playground while the park was being used as an overflow carpark. Belmont Forum Shopping Centre and Council officers have worked together to ensure the park is available for public use and that all safety measures that are put in place are followed.

Item 11.4.1 Continued

The following conditions have been set out prior to the commencement of parking each year:

- Belmont Forum Shopping Centre to rope off the playground area with star pickets and hessian for the duration.
- Signage is to be erected by Belmont Forum Shopping Centre two weeks prior to the commencement of the agreed period, advising surrounding residents of the use of Wicca Park as a car parking. This is to remain for the duration of the period.
- Any damage to the grounds due to vehicle parking is to be rectified by Belmont Forum Shopping Centre at the conclusion of the above period, in consultation with the City's Parks Co-ordinator.
- Belmont Forum Shopping Centre is responsible for locking and unlocking the gates, with access from Acton Avenue. Parking to be contained to the area south of the playground equipment.
- Intended hours of use for the parking are to be confirmed with the City's Parks Section, to allow the programming of the irrigation system, and to schedule the 3-weekly mowing of the Park.

The Belmont Forum Shopping Centre has adhered to the above requirements on a yearly basis and has been cooperative with any request put forward by Council officers.

The Belmont Forum Shopping Centre has been a good corporate citizen and contributes to number of events through sponsorship which must be taken into consideration. The parking is for a short period of time and will allow the excess cars to be located in a secure area and keep drivers from parking on the surrounding roads. Not only does the Forum benefit from this agreement so do the residents who shop at the Forum over the Christmas period. Any damage caused to the park by the vehicle and pedestrian traffic is repaired through funds provided by the Forum for the use of the park. There has been no significant damage to the park over the past years other than a few broken sprinklers and compacted turf which is rectified at the Forum's cost at the conclusion of the Christmas shopping period.

FINANCIAL IMPLICATIONS

The owners of the Belmont Forum Shopping Centre are prepared to pay \$1,500 per year towards the use and maintenance of Wicca Park during the Christmas trading period. If Council adopt the use of Wicca Park as a temporary carpark for a further (4) four years the City will invoice the Belmont Forum Shopping Centre \$6,000 for the agreement period. The money will be used to renovate the turf and to repair any damage to parks infrastructure as a result of the car parking.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications evident at this time.

ATTACHMENT DETAILS

<u>Attach. No.</u>	<u>Details</u>
Nil	

*Item 11.4.1 Continued***OFFICER RECOMMENDATION**

1. That Council continue to allow the Belmont Forum Shopping Centre to use Wicca Park for staff parking during the lead up to Christmas for a further (4) four years beginning in 2006 and concluding in 2009.
2. That Council accept the offer from the Belmont Forum Shopping Centre to contribute \$1,500 a year towards the maintenance of the park during and at the conclusion of the Christmas period.

WHITELEY MOVED, BLAIR SECONDED, that Council

1. ***Continue to allow the Belmont Forum Shopping Centre to use Wicca Park for staff parking during the lead up to Christmas for a further (4) four years beginning in 2006 and concluding in 2009.***
2. ***That Council accept the offer from the Belmont Forum Shopping Centre to contribute \$1,500 a year towards the maintenance of the park during and at the conclusion of the Christmas period.***

CARRIED 9 VOTES TO 0

11.5 BUSINESS EXCELLENCE**WITHDRAWN ITEMS**

Item 11.5.1 was withdrawn at the request of Cr Whiteley.
Item 11.5.4 was withdrawn at the request of Cr Bass.

MARTIN MOVED, BLAIR SECONDED, that with the exception of Item 11.5.1 and 11.5.4 which are to be considered separately, the Officer Recommendations in the Business Excellence Belmont Key Result Area Reports, specifically Items 11.5.2, 11.5.3, 11.5.5 and 11.5.6 be adopted en bloc.

CARRIED 9 VOTES TO 0

11.5.1 Accounts for Payment**

****BEXB Attachment 3 – Item 11.5.1 refers**

Report by Corporate Services Division

DATE

27 July 2006

PURPOSE OF REPORT

Confirmation of accounts paid and authority to pay unpaid accounts.

COUNCIL ROLE**Executive**

The executive role is the substantial direction setting and oversight role of the Council. This is where the Council oversees the day to day operations of the City including accepting tenders, directing operations, setting and amending budgets, adopting plans and reports and all other activities of the Council.

SUMMARY AND KEY ISSUES**Summary and Key Issues**

A list of cheque payments is presented to Council each month for confirmation and endorsement in accordance with the Local Government Finance regulations.

Officer Recommendation Summation

That the Authorised Cheque Listing as included in the Attachment to this item be confirmed and endorsed.

Item 11.5.1 Continued

LOCATION

Not applicable

APPLICANT

Not applicable

FILE REFERENCE

54/007 – Creditors – Payment Authorisations

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

Simple majority required

CONSULTATION

No public consultation was considered to be required in respect to this matter.

STRATEGIC PLAN IMPLICATIONS

No Strategic Plan implications are evident.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Regulation 13(1) of the Local Government (Financial Management) Regulations 1996 states:

“If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared

- (a) the payee's name;*
- (b) the amount of the payment;*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.”*

Item 11.5.1 Continued

BACKGROUND

Checking and certification of Accounts for Payment required in accordance with Local Government (Financial Management) Regulations 1996, Clause 12.

OFFICER COMMENT

The following payments as detailed in the Authorised Cheque Listing are recommended for confirmation and endorsement.

Municipal Fund Cheques	764782-765393	\$4,008,817.42
Trust Fund Cheques	905195-905197	\$57,186.10
	Total of Cheques for June 2006	\$4,066,003.52

A copy of the Authorised Cheque Listing is included as an Attachment to this item.

FINANCIAL IMPLICATIONS

Provides for the effective and timely payment of Council's contractors and other creditors.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications evident at this time.

ATTACHMENT DETAILS

<u>Attach. No.</u>	<u>Details</u>
BEXB Attach 3	Accounts for payment listing

****7.49pm** Cr Teasdale having previously declared an interest departed the meeting.

OFFICER RECOMMENDATION

That the Authorised Cheque Listing as included in the Attachment to this item be confirmed and endorsed.

WHITELEY MOVED, BLAIR SECONDED, that the Authorised Cheque Listing as included in the Attachment to this item be confirmed and endorsed.

CARRIED 8 VOTES TO 0

****7.50pm** Cr Teasdale returned to the meeting.

11.5.2 Financial Reports as at 30 June 2006******BEXB Attachment 4 – Item 11.5.2 refers**

Report by Corporate Services Division

DATE

28 July 2006

PURPOSE OF REPORT

To provide Council with information relating to accounting reports and statements.

COUNCIL ROLE**Executive**

The executive role is the substantial direction setting and oversight role of the Council. This is where the Council oversees the day to day operations of the City including accepting tenders, directing operations, setting and amending budgets, adopting plans and reports and all other activities of the Council.

SUMMARY AND KEY ISSUES**Summary and Key Issues**

The Local Government Act 1995 and Local (Financial Management) Regulations 1996 as amended requires a monthly financial activity statement to be presented to Council.

Officer Recommendation Summation

That the Monthly Financial Reports as at 30 June 2006 be received.

LOCATION

Not applicable

APPLICANT

Not applicable

FILE REFERENCE

32/009 – Financial Operating Statements

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

Item 11.5.2 Continued

VOTING REQUIREMENT

Simple majority required

CONSULTATION

No public consultation was considered to be required in respect to this matter.

STRATEGIC PLAN IMPLICATIONS

Key Result Area: Business Excellence.

“Improve knowledge management and ensure organisational compliance to statutory record keeping obligations”

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Section 6.4 of the Local Government Act 1995 in conjunction with Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 requires monthly financial reports to be presented to Council.

Regulation 34 was amended as at 1 July 2005 to require a Statement of Financial Activity reporting on the sources and applications of funds for that month. A quarterly or tri-annual statement is no longer required under the amended Regulation.

Regulation 34(5) determines the mechanism required to ascertain the definition of material variances which are required to be reported to Council as a part of the monthly report. It also requires Council to adopt a “percentage or value” for what it will consider to be material variances on an annual basis. Further clarification is provided in the Officer Comment section.

BACKGROUND

The Local Government (Financial Management) Regulations 1996 require that financial statements are presented on a monthly basis to Council. In July this year, Council adopted 10 percent of the budgeted closing balance as the materiality threshold.

OFFICER COMMENT

The statutory monthly financial report is to consist of a Statement of Financial Activity reporting on sources and applications of funds as set out in the Annual Budget. It is required to include:-

- Annual budget estimates
- Budget estimates to the end of the reporting month
- Actual amounts to the end of the reporting month
- Material variances between comparable amounts
- Net current assets as at the end of the reporting month.

Item 11.5.2 Continued

The amendment to the Regulations has fundamentally changed the reporting structure which has been used to 30 June 2005, as it now requires reporting of information consistent with the “cash” component of Council’s budget rather than being “accrual” based. The monthly Statement of Financial Activity now ties in more closely with the Management Report provided to Council quarterly.

The monthly financial report is to be accompanied by:-

- An explanation of the composition of the net current assets, less committed* and restricted** assets
- An explanation of material variances
- Such other information as is considered relevant by the local government.

* Revenue unspent but set aside under the annual budget for a specific purpose.

**Assets which are restricted by way of externally imposed conditions of use eg tied grants.

As identified above, Council is required to adopt a percentage or value to determine material variances in accordance with the requirements of Australian Accounting Standards (AAS) 5.

AAS5 discusses the principles to be applied in determining if a variance is material. AAS5 states that:

“Information is material if its omission, misstatement or non-disclosure has the potential to adversely affect:

(a) decisions about the allocation of scarce resources made by users of the financial report; or

(b) the discharge of accountability by the management or governing body of the entity”.

AAS5’s guidance notes provide for a quantitative determination as to whether an amount is material, this being that if an amount is...

- less than or equal to 5 percent of the appropriate base amount then it is not material
- greater than or equal to 10 percent of the appropriate base amount then it is material.

In the application of this method, consideration must be given to what appropriate base amount is to be used. The AAS5 guidance notes provide details discussion on this aspect, however one example would seem to be appropriate to the needs of Council in the consideration of its monthly Statement of Financial Activity. The example provided relates to the interpretation of a statement of financial performance. In this case, the appropriate base amount can be determined as operating result(profit or loss)for the reporting period.

In the case of Council’s Annual Budget (and related monthly Statement of Financial Activity), it is felt that the potential impact on the estimated closing balance should determine if an item is material or not. For this reason, Council adopted 10 percent of the budgeted closing balance as the materiality threshold

It should also be noted that many of the variances listed in the monthly Statement of Financial Activity would not technically fall within the auspices of AAS5 as they are timing differences only, and would not generally have the potential to adversely affect either the decision making or the discharge of accountability for Council. Regardless of this, it is proposed that all variances in excess of the specified percentage will have details reported. All variances calculated are a comparison of year to date actual vs year to date budget.

Item 11.5.2 Continued

In order to provide more details regarding significant variations in the attached report, the following summary is provided.

Report Section	YTD Budget	YTD Actual	Comment
Applications of Funds - Capital			
Computing	891,520	670,396	Variation to anticipated expenditure patterns.
Belmont Oasis	127,000	19,609	Anticipated equipment purchases to June had not occurred to budgeted extent.
Grounds Operations	1,192,683	665,174	Variation to anticipated expenditure patterns.
Road Works	5,344,836	3,919,153	Variation to anticipated expenditure patterns.
Footpath Works	464,000	224,340	Variation to anticipated expenditure patterns.
Drainage Works	708,200	600,850	Variation to anticipated expenditure patterns.
Operations Centre	1,032,723	624,669	Fleet/Plant change overs timing delays (dates vary to comply with usage patterns)
Building Operations	5,518,153	3,309,743	Variation to anticipated expenditure patterns.
Applications of Funds – Operating			
Rates	1,283,549	1,161,535	Variation to anticipated expenditure patterns.
Transfer to Reserve	5,596,573	0	End of year adjustment to take place
Computing	839,434	658,319	Licence payments for business applications yet to be finalised. Equipment maintenance cost varied to anticipated patterns.
Executive Services	1,317,717	1,178,169	Variation to anticipated expenditure patterns.
Governance	2,664,427	2,197,350	Variation to anticipated expenditure patterns.
Health	621,513	509,182	Variation to anticipated expenditure patterns.
Youth Services General	460,823	317,195	Variation to anticipated expenditure patterns.
Public Facilities Operations	119,589	254,133	ABC allocations higher than anticipated.
Ruth Faulkner Library	1,322,092	1,163,024	Variation to anticipated expenditure patterns.
Building – Active Reserves	421,620	228,604	Variation to anticipated expenditure patterns.
Grounds Operations	1,996,961	1,681,166	Variation to anticipated expenditure patterns.
Grounds – Active Reserves	802,369	504,255	Limited activity for wages and turf maintenance. This will vary with maintenance requirements
Streetscapes	1,074,734	960,911	Variation to anticipated expenditure patterns.
Technical Services	1,558,816	1,382,671	Variation to anticipated expenditure patterns.
Sources of Funds – Capital			
General Purpose Income	-3,810,000	-2,303,750	Not all land sale settlements taken

Item 11.5.2 Continued

Report Section	YTD Budget	YTD Actual	Comment
			place to date.
Operations Centre	-473,066	-300,137	Variation to anticipated plant replacement patterns.
Building Operations	-2,379,541	-1,516,364	Loan funds yet to be drawn down.
Technical Services	-99,188	-52,810	End of year process transfer from reserve.
Sources of Funds – Operating			
Finance	-1,343,834	-1,193,258	Variation to anticipated revenue patterns
Computing	-1,103,034	-621,251	End of year process transfer from reserve.
Transfer to Reserve	-150,000	-268,588	Variation to anticipated revenue patterns
Executive Services	-1,318,168	-1,113,595	Variation to anticipated revenue patterns
Ascot Close Housing	-154,979	-51,887	End of year process transfer from reserve.
Grounds Operations	-319,200	-55,750	Variation to anticipated revenue patterns
Grounds Overheads	-1,379,564	-1,170,816	Overheads recovery rate and time spent on jobs.
Road Works	-1,632,400	-996,922	Timing of grant funding varied to anticipated revenue patterns
Footpath Works	-164,500	0	Timing of grant funding varied to anticipated revenue patterns
Operations Centre	-452,780	-13,345	Variation to anticipated revenue patterns
Building Control	-376,091	-538,354	Variation to anticipated revenue patterns
Building Operations	-1,864,218	-220,899	Contributions to building yet to be received.
Public Works Overheads	-1,123,018	-937,089	Contracts overhead allocation to be undertaken.
Plant Operating Costs	-1,106,463	-1,282,494	Variation to anticipated revenue patterns

In accordance with Local Government (Financial Management) Regulations 1996, Regulation 34 (2)(a) the following table explains the composition of the net current assets amount which appears at the end of the attached report.

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 30 June 2006	\$	Comment
Cash and investments	17,350,084	Includes municipal, reserves & deposits
- less non rate setting cash	-7,134,182	Reserves and deposits held
Receivables	1,559,220	Mostly rates levied yet to be received
- less non rate setting receivables	-56,349	ESL levied and GST payable
Stock on hand	183,706	
Total Current Assets	\$11,902,479	
Current Liabilities		
Creditors and provisions	-5,509,304	Includes deposits, GST and ESL payable
- less non rate setting creditors & provisions	3,679,585	ESL, GST and deposits held
- less cash backed provisions	-376,459	Long service leave funded by reserve

Item 11.5.2 Continued

Total Current Liabilities	\$ -2,206,178	
Nett Current Assets 30 June 2006	\$ 9,696,301	
Nett Current Assets as Per Financial Activity Report	9,696,301	
Less Restricted Assets	-745,242	Unspent grants held for specific purposes (Grandstand Road)
Less Committed Assets	-9,541,543	All other budgeted expenditure
Estimated Closing Balance	900,000	

In addition to the statutorily required reports, Council is provided quarterly with a complete copy of the Monthly Management Report utilised by officers for daily budget control over the Municipal Fund. This report is accumulated into cost Centres and reports at a detailed level within each of these cost centres.

FINANCIAL IMPLICATIONS

The presentation of these reports to Council ensures compliance with the Local Government Act 1995 and associated Regulations, and also ensures that Council is regularly informed as to the status of its financial position.

ENVIRONMENTAL IMPLICATIONS

There are no significant environmental implications evident at this time.

ATTACHMENT DETAILS**Attach. No. Details**

BEXB Attach 4 Monthly Financial Activity Statement as at 30 June 2006

OFFICER RECOMMENDATION

That the Monthly Financial Reports as at 30 June 2006 be received.

***OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 11.5***

**11.5.3 Delegation of Power: -
New Delegation - Acquisition of Property;
New Delegation – Appoint Acting Chief Executive Officer;
Amended Delegation – TPS Development Applications
*** ABSOLUTE MAJORITY REQUIRED*****

Report by Corporate & Governance Division

DATE

26 July 2006

PURPOSE OF REPORT

To seek Council's consideration of new Delegations of Authority to deal with Acquisition of Property and Appointing an Acting Chief Executive Officer, and to consider minor amendment of the Delegation – TPS – Development Applications.

COUNCIL ROLE

Executive

The executive role is the substantial direction setting and oversight role of the Council. This is where the Council oversees the day to day operations of the City including accepting tenders, directing operations, setting and amending budgets, adopting plans and reports and all other activities of the Council.

SUMMARY AND KEY ISSUES

Summary and Key Issues

At the Council meeting held 13 June 2006 Council adopted a new approach to delegations. This report highlights some changes which are recommended by officers as a result of the implementation of the new regime.

Seek Council's endorsement of new Delegations to the Chief Executive Officer to provide limited authority to acquire property on behalf of the City and to Appoint an Acting Chief Executive Officer as required from time to time, and to also amend Delegation for TPS – Development Application.

Creation of delegated authority to appoint an Acting Chief Executive Officer, will remove the need for Council Policy C1.1.5 Appointment to Role of Acting Chief Executive Officer During Chief Executive Officer's Absence.

Item 11.5.3 continued

Officer Recommendation Summation

That Council:

1. adopt Delegations of Authority titled Acquisition of Property and Appoint Acting Chief Executive Officer; and
2. amend Delegation - TPS – Development Application

That Council Policy C1.1.5 Appointment to Role of Acting Chief Executive Officer During Chief Executive Officer's Absence be deleted from the Policy Manual.

LOCATION

Not applicable.

APPLICANT

Not applicable.

FILE REFERENCE

11/005 Delegation of Powers

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

*****Absolute Majority Required***** to adopt or amend Delegation of Authority.

Simple Majority required to delete Policy.

CONSULTATION

No public consultation was considered to be required in respect to this matter, as it is an administrative function.

STRATEGIC PLAN IMPLICATIONS

BUSINESS EXCELLENCE - Objective: *Maximise Organisational Effectiveness*
Strategy: *Ensure that the capacity and capability of the organisation meets strategic, customer and operational needs.*

POLICY IMPLICATIONS

Policy C3.7.7 Decision Making is applicable as it sets out how the City ensures that decisions are made by the appropriate level within the organisation. The principles of this policy have been applied in developing the delegations proposed for Council's consideration.

Item 11.5.3 continued

There are a range of Council policies which influence the decisions made under Delegated Authority. Council's decision in making a delegation of authority will have no effect on Council's policies.

Adoption by Council of the new Delegation – Appoint Acting Chief Executive Officer removes the requirement for Policy C1.1.5 Appointment to Role of Acting Chief Executive Officer During Chief Executive Officer's Absence. This policy is therefore recommended for deletion.

STATUTORY ENVIRONMENT

The following sections of the **Local Government Act 1995** are relevant in regard to Delegations:

- s5.42 Delegation of some powers and duties to CEO,
- s5.43 Limits on delegations to CEO's,
- s5.44 CEO may delegate powers and duties to other employees,
- s5.45 Other matters relevant to delegations under this Division; and,
- s5.46 Register of, and records relevant to, delegations to CEO's and employees.

In regard to delegation TPS – Development Applications **Town Planning Scheme No.14** applies.

The definition of 'real property' is extracted from the **Local Government Act 1995 s5.86(3)**:-

“disposition of real property” means any conveyance, transfer, assignment, settlement, payment or other alienation of real property, and includes —

- (a) the creation of a trust in respect of real property;
- (b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of real property;
- (c) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract, chose in action or any other interest in respect of real property;
- (d) the exercise by a person of a general power of appointment over real property in favour of any other person; and
- (e) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his own real property and to increase the value of the property of any other person.

Local Government Act 1995 s5.36. Local government employees places responsibility for appointing a Chief Executive Officer with the Council of the local government and further the local government must ensure that the person appointed is suitably qualified.

Interpretation Act 1984 provides as follows:-

49. Public officer's powers and duties may be exercised by acting officer etc.

Where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

Item 11.5.3 continued

52. Power to appoint includes power to remove, suspend, appoint acting officer, etc.

- (1) *Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such power or duty shall also have the power -*
- (a) *to remove or suspend a person so appointed to an office or position, and to reappoint or reinstate, any person appointed in exercise of such power or duty;*
 - (b) *where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position;*

Appointment of an Acting Chief Executive Officer is therefore governed by s52 of the *Interpretation Act 1984* effectively requiring that the appointment of an Acting Chief Executive Officer is undertaken by the Council in accordance with s5.36 of the *Local Government Act 1995*.

BACKGROUND

Council conducted the annual statutory review of Delegated Authority at the Ordinary Council Meeting held 13 June 2006 (refer Item 11.5.2). This report detailed that changes in a range of the City's management philosophies required a modified approach to delegations therefore replacing the general delegation with specific and defined delegations which support a greater level of control and clearly identify decisions which occur under Delegated Authority.

Also, Council adopted Policy C1.1.5 Appointment to Role of Acting Chief Executive Officer During Chief Executive Officer's Absence at its meeting held 5 July 2005 (refer Item 11.3.1). It replaced previous Council Policy 1.1.5 Deputy CEO To Fulfil CEO Duties In Absence and was designed to adapt the policy to the changed organisational structure arising from the now defunct position of Deputy Chief Executive Officer. The current policy text is as follows:-

C1.1.5 APPOINTMENT TO ROLE OF ACTING CHIEF EXECUTIVE OFFICER DURING CHIEF EXECUTIVE OFFICER'S ABSENCE

Policy Objective:

In cases of absence of the Chief Executive Officer, this policy establishes the protocol for appointing a Director to perform the role of Acting Chief Executive Officer.

Policy Statement:

The Local Government Act does not specifically provide for a deputy to exercise the powers and duties of the Chief Executive Officer in their absence. Accordingly the Council wishes to make the position clear.

Item 11.5.3 continued

The Chief Executive Officer will ensure that either he, or a Director appointed as Acting Chief Executive Officer in any absence of the Chief Executive Officer for whatever reason, is available to make decisions on behalf of the City. The so appointed Acting Chief Executive Officer will exercise all the powers and duties of the Chief Executive Officer, including delegated powers and duties.

OFFICER COMMENT

Operation of the newly adopted delegations has identified a requirement for the following to be placed for Council's consideration.

New Delegation – Acquisition of Property

Provides delegation to allow the Chief Executive Officer to:

- acquire intellectual property, plant or assets where the purchase is less than \$100,000; and,
- acquire 'real property' to a value less than \$500,000,

where the acquisition has previously been endorsed by Council through the Budget process.

Also Delegates authority for the Chief Executive Officer to acquire a leasehold interest in property where the total value over the life of the lease is up to \$500,000 and to exercise all renewal options defined within existing lease agreements.

New Delegation – Appoint Acting Chief Executive Officer

The activity of appointing an Acting Chief Executive Officer has to date been managed by the City through Council Policy. It is considered that the statutory compliance and decision making of the City in this matter will be better supported by management through a specific Delegation of Authority.

Amended Delegation – TPS – Developments

Minor amendments which clarify officer's ability to:

- make recommendations to the WAPC on development applications that have been referred to Council.
- make determinations on applications for retrospective planning approval, for all types of development.

The specific text proposed for amendment is highlighted in the recommendation.

FINANCIAL IMPLICATIONS

There are no financial implications evident.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications evident.

ATTACHMENT DETAILS

Nil.

Item 11.5.3 continued

OFFICER RECOMMENDATION

*****ABSOLUTE MAJORITY REQUIRED*****

1. ***That Council delegate authority for Acquisition of Property and Appoint Acting Chief Executive Officer as outlined below inclusive of the conditions described:-***

ACQUISITION OF PROPERTY

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	Local Government Act 1995 s5.42 Delegation of Some Powers or Duties to CEO s5.43 Limitations on Delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	Local Government Act 1995 s5.43(d) Limitations on Delegations to CEO – Acquiring or Disposing of Property
FUNCTION:	Undertake the function of acquiring of property, including lease and purchase.
CONDITIONS:	Must act in accordance with the City's "Standard Conditions Relating to Delegations". Authorise the acquisition of intellectual property, plant or assets, which are identified within the budget and valued up to \$100,000. Acquire 'real property', which is specifically identified within the Budget with a value of up to \$500,000. Acquire a leasehold interest in property for a cumulative cost over the life of the lease of up to \$500,000. Exercise renewal options defined within existing leasehold of property by the City.
RECORD KEEPING:	Record decision and insert DW-links to relevant evidentiary documents.
REFERENCES:	Decision Making Plan – Decision Level = 1

Item 11.5.3 continued

POWER TO SUBDELEGATE: **Local Government Act 1995:-
s5.44 CEO may delegate powers and duties to
other employees.**

APPOINT ACTING CHIEF EXECUTIVE OFFICER

POWER / DUTY ASSIGNED TO: **Local Government**

POWER TO DELEGATE: **Local Government Act 1995
s5.42 Delegation of Some Powers or Duties to
CEO
s5.43 Limitations on Delegations to CEO**

DELEGATION TO: **Chief Executive Officer**

POWER / DUTY DELEGATED: **Local Government Act 1995s5.36(1)(a) Local
Government Employees**

FUNCTION: **To appoint one of the City's Directors, who is a
suitably qualified person, to perform the role of
Acting Chief Executive Officer during absences of
the Chief Executive Officer.**

CONDITIONS: **Must act in accordance with the City's "Standard
Conditions Relating to Delegations".**

**Appointment to the role of Acting Chief Executive
Officer must be made in writing to the nominee for
a defined period, which does not exceed 3 months
to align with long service leave entitlements.**

RECORD KEEPING: **Retain copy of written advice in Dataworks folio
11/005.**

REFERENCES: **Decision Making Plan – Decision Level = 1**

POWER TO SUBDELEGATE: **Local Government Act 1995:-
s5.44 CEO may delegate powers and duties to
other employees.**

**2. That the following Delegation of Authority TPS – Development Applications is
amended to read:-**

TPS - DEVELOPMENT APPLICATIONS

POWER / DUTY ASSIGNED TO: **The Council**

POWER TO DELEGATE: **Town Planning Scheme No.14
cl.9.10 Delegation**

DELEGATION TO: **Director Community and Statutory Services
Manager Planning
Senior Planning Officer**

Item 11.5.3 continued

POWER / DUTY DELEGATED: **Town Planning Scheme No.14, as amended:-**
Part 4 Zones
Part 5 Use and Development of Land
Part 8 Control of Advertisements
Part 10 General Development Requirements
Clause 9.4 Entry to Premises
Clause 9.5 Agreements
Clause 9.8 Arbitration

FUNCTION: **All powers of the Council contained in the sections and parts of Town Planning Scheme 14, as amended and delegated above.**

To determine applications for development under the City of Belmont's Town Planning Scheme No. 14.

To determine development applications, applications for the amalgamation of lots and all forms of subdivision and survey strata referred to the Council by the Western Australian Planning Commission

To endorse deposited plans after the conditions of subdivision/amalgamation approval for which the Council is responsible have been fulfilled.

To determine variations to the 'deemed to comply' provisions of the Residential Design Codes using the performance criteria

To determine applications for development requiring retrospective Planning Approval.

To determine applications involving minor variations to an adopted Local Planning Policy.

To determine applications involving minor variations to setback and lot coverage requirements of the City of Belmont District Planning Scheme No 14.

CONDITIONS: **Must act in accordance with the City's "Standard Conditions Relating to Delegations".**

This delegation must not be exercised by the delegated officer:

- **Where project costs for a development exceed \$4 million, irrespective of project nature.**

Item 11.5.3 continued

- **Where development is proposed on reserved land, owned or within the care and control of the Council.**
- **Where the development and/or subdivision proposals have a strategic impact and as a result involve issues in which Council has a direct interest.**
- **Where significant variations to the Scheme are evident.**
- **Where the decision requires the exercise of any of the powers of the Council under Town Planning Scheme 14 clauses:**
 - **4.2.3 Uses Not Listed**
 - **5.10 Approval Subject to Later Approval of Details**
 - **5.13 Temporary Uses**
 - **10.11 Protection of Neighbourhood Amenity**
 - **10.13 Tree Preservation Orders and Planting of Trees**

RECORD KEEPING: **Delegation proforma register to DW11/005.**

REFERENCES: **Decision Making Plan – Decision Level 4**

POWER TO SUBDELEGATE: **Nil.**

*****ABSOLUTE MAJORITY REQUIRED*****

3. **That Council Policy C1.1.5 Appointment to Role of Acting Chief Executive Officer during Chief Executive Officer's Absence be deleted from the Council Policy manual as it is superseded by Delegation of Authority – Appoint Acting Chief Executive Officer.**

**OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 11.5**

**11.5.4 State Administrative Tribunal – Public Weighbridge – Lot 801 (13)
Bradford Street, Kewdale********BEXB Attachment 5 – Item 11.5.4 refers******BEXB Attachment 6 – Item 11.5.4 refers******BEXB Attachment 7 – Item 11.5.4 refers******BEXB Attachment 8 – Item 11.5.4 refers**

Report by Corporate and Governance Division

DATE

27 July 2006

PURPOSE OF REPORT

To respond to a direction from the State Administrative Tribunal to reconsider an officer decision to refuse the development of a public weighbridge at lot 801 (13) Bradford Street, Kewdale.

COUNCIL ROLE**Quasi-Judicial**

The quasi judicial role includes the determination of all matters where Council must decide applications or matters directly affecting a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples include town planning applications, building licences, applications for other permits and licences (eg. under the Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

SUMMARY AND KEY ISSUES**Summary and Key Issues**

The City received an application from Sykes Property Pty Ltd on 27 February 2006 for a public weighbridge.

City officers refused the development under delegated authority on 31 May 2006.

The owner of the property appealed the City's decision to the State Administrative Tribunal.

The State Administrative Tribunal has directed the City to reconsider the officer decision to refuse the development.

Item 11.5.4**Officer Recommendation Summation**

That:

1. in respect of the direction from the State Administrative Tribunal to reconsider its decision, Council affirms the officer decision to refuse the development of a public weighbridge at lot 801 (13) Bradford Street, Kewdale for the reasons provided by the officer;
2. in respect of the Appeal before the State Administrative Tribunal, Council authorise the Principal Legal & Compliance Adviser to negotiate a mediated outcome acceptable to the City provided that the public weighbridge is located behind the 15 metre front setback; and
3. if mediation is unsuccessful, Council instruct the Principal Legal & Compliance Adviser to vigorously defend the appeal in the State Administrative Tribunal.

LOCATION

Lot 801 (13) Bradford Street, Kewdale

APPLICANT

Sykes Property Pty Ltd

FILE REFERENCE

115/001 Development Applications

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

Simple majority

CONSULTATION

There is no requirement for public consultation at this time.

STRATEGIC PLAN IMPLICATIONS

No strategic plan implications are evident at this time.

POLICY IMPLICATIONS

No policy implications are evident at this time.

Item 11.5.4 Continued

STATUTORY ENVIRONMENT

This is a class one appeal at the State Administrative Tribunal. The applicant has requested that neither party be represented by a lawyer in this process. As a result, the City is unable to use McLeods to represent the City in this appeal without seeking the special leave of the Tribunal.

Section 31 of the *State Administrative Tribunal Act 2004* is relevant.

State Administrative Tribunal Act 2004
Part 3-Jurisdiction of the Tribunal
Division 3-Review jurisdiction
Subdivision 3-The review

31. Tribunal may invite decision-maker to reconsider

(1) At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision-maker to reconsider the decision.

(2) Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may

(a) affirm the decision;

(b) vary the decision; or

(c) set aside the decision and substitute its new decision.

(3) If the decision-maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.

BACKGROUND

Applications

On 17 May 2005 Sykes Transport applied for approval to develop a public weighbridge at the development site. This application was refused by officers under delegated authority on 25 October 2005.

On 27 February 2006 Sykes Transport made further application for a public weighbridge at the development site.

The proposal

The proposal was to locate the public weighbridge within the front setback immediately adjacent to the street verge fronting the property. The public weighbridge is a steel and concrete structure set into the ground so that it sits at ground level. A fence and landscaping would form part of the development behind the public weighbridge.

Item 11.5.4 Continued

The public weighbridge would be accessible 24 hours a day. An electronic payment machine, similar to an Automatic Teller Machine, would be incorporated into the front fence immediately adjacent to the public weighbridge. As a result the public weighbridge will be unmanned.

The proposal does not provide adequate turning circles for trucks within Bradford Street and it is proposed to manage access to the facility by signs to ensure that trucks only access the facility from the North West. Trucks using the facility will enter the public weighbridge and park on the weighbridge in front of the fence. No provision has been made for trucks queuing to use the facility although the applicant's traffic consultant contends that this might not be a problem.

A plan of the proposed development is shown as **attachment 1**.

The officer decision

A decision on the proposal was made under delegated authority on 31 May 2006. The officer considered the proposal and advised the applicant that the application was refused for the following reasons:

1. *It is considered that the location of the proposed weighbridge would have a detrimental impact on the amenity of the streetscape of Bradford Street.*
2. *It is considered that support for the proposed weighbridge would set an undesirable precedent for development within the front setback of land within the industrial zone*
3. *The proposed weighbridge within the front setback would have a detrimental impact on local traffic movements on Bradford Street.*

FOOTNOTE

- (i) *The applicant is advised that the City would be prepared to consider an application for a weighbridge located within the property boundary, behind the 15 metre front setback, where all vehicle manoeuvrability is contained to the subject site.*

The appeal

Sykes Pty Ltd lodged an appeal of the officer decision with the State Administrative Tribunal dated 13 June 2006.

City officers attended the directions hearing of the Tribunal in an endeavour to determine whether there was any possibility to mediate an outcome on the proposed development.

Discussion occurred around the issues in dispute at the directions hearing. The result of the directions hearing was that the Tribunal made programming orders requiring the City to exchange certain documents with the appellant. The Tribunal also directed that the Council reconsider the decision under section 31 of the *State Administrative Tribunal 2004*.

Council must now reconsider the officer decision and determine whether to affirm, vary or set aside the decision.

Item 11.5.4 Continued

OFFICER COMMENT

Reconsidering the Proposal

The detailed reasons why officers oppose the proposed development are set out in **attachments 2 and 3** being a statement of issues, facts and contentions and a notice of reasons for decision. The reasons that the appellant offers in support of the proposed development are set out in **attachment 4**.

There are two primary concerns held by officers in relation to the present proposal which are the use of the front setback area and the traffic impacts of the development.

The proposed weighbridge facility is an active use of the front setback area that is not ancillary to the primary use of the development site. It is a publicly accessible weighbridge that will see large trucks using the front setback area to park whilst they are using the weighbridge. The development also incorporates a control box facility which is the development of a structure within the front setback which is also not supported. The City's officers contend that such an active use and development of the front setback should be contained on the property behind the 15 metre front setback.

The proposal does not provide any facilities for vehicles that are queuing to use the proposed public weighbridge. Any parking or queuing for the proposed facility will require trucks to be parked in Bradford Street whilst they are waiting to use the public weighbridge. Furthermore, the City's officers are not satisfied that proposals to manage access to the public weighbridge will prevent trucks from attempting to enter the facility from a south-easterly direction. The City's calculations indicate that the road reserve is not wide enough to accommodate the size of vehicles that will use the public weighbridge. Finally, the approach and exit angles to the facility are likely to cause obstructions to crossovers to this and other properties in Bradford Street. For these reasons it is expected that the proposed development will cause unacceptable obstructions to local traffic movements in Bradford Street.

The more detailed consideration of these concerns is outlined in the attachments. For these reasons the officers recommend that Council affirm the original decision.

The Appeal

It is recommended that Council authorise the officers to negotiate a mediated outcome to this appeal on the basis that the facility is provided behind the front property line. The City is not opposed to the development of a public weighbridge but considers that all aspects of the development should be contained on the property and behind the front setback.

It is also recommended that if mediation is unsuccessful that Council instruct officers to vigorously defend the Appeal. The City does not wish to approve development within front setback areas as this detracts from the amenity of the area in the long term.

FINANCIAL IMPLICATIONS

Officers will expend significant time and resources in defending this Appeal.

ENVIRONMENTAL IMPLICATIONS

The recommendation is designed to protect the amenity of the locality.

Item 11.5.4 Continued

ATTACHMENT DETAILS

<u>Attach. No.</u>	<u>Details</u>
BEXB Attach 5	Plan of proposed development
BEXB Attach 6	Statement of issues & facts
BEXB Attach 7	Statement of Reasons for Decision
BEXB Attach 8	Supporting Documentation

OFFICER RECOMMENDATION

That:

1. in respect of the direction from the State Administrative Tribunal to reconsider its decision, Council affirms the officer decision to refuse the development of a public weighbridge at lot 801 (13) Bradford Street, Kewdale for the reasons provided by the officer;
2. in respect of the Appeal before the State Administrative Tribunal, Council authorise the Principal Legal & Compliance Adviser to negotiate a mediated outcome acceptable to the City provided that the public weighbridge is located behind the 15 metre front setback; and
3. if mediation is unsuccessful, Council instruct the Principal Legal & Compliance Adviser to vigorously defend the appeal in the State Administrative Tribunal.

****7.51pm** **Manager Governance departed the meeting.**

****7.53pm** **Manager Governance returned to the meeting.**

BASS MOVED, DORNFORD SECONDED, that Council

1. ***In respect of the direction from the State Administrative Tribunal to reconsider its decision, Council affirms the officer decision to refuse the development of a public weighbridge at lot 801 (13) Bradford Street, Kewdale for the reasons provided by the officer;***
2. ***In respect of the Appeal before the State Administrative Tribunal, Council authorise the Principal Legal & Compliance Adviser to negotiate a mediated outcome acceptable to the City provided that the public weighbridge is located behind the 15 metre front setback; and***
3. ***If mediation is unsuccessful, Council instruct the Principal Legal & Compliance Adviser to vigorously defend the appeal in the State Administrative Tribunal.***

CARRIED 8 VOTES TO 1

For: Whiteley, Blair, Teasdale, Martin, Marks, Rossi, Godfrey, Bass

Against: Dornford

11.5.5 Donations – Financial Assistance – Review of Policy C3.4.1

Report by Corporate and Governance Division

DATE

17 July 2006

PURPOSE OF REPORT

To seek Council's consideration to adopt a reviewed and revised Donations – Financial Assistance Policy.

COUNCIL ROLE**Legislative**

The legislative role includes the adoption of local laws, town planning schemes and policies.

SUMMARY AND KEY ISSUES**Summary and Key Issues**

Following a number of queries regarding the provision of donations to various organisations through Council's Donations – Financial Assistance Policy, the criteria and guidelines for the policy has been reviewed in line with Councillor input and suggestions.

The proposed reviewed policy seeks to further define the guidelines by which donations will be assessed administratively, as well as revisit the list of approved recipients that receive regular funding. Any applications not meeting the guidelines of the policy, but deemed worthy of support, will continue to be referred to Council for further consideration under 'extra-ordinary' circumstances.

Officer Recommendation Summation

Recommends that Council adopt the reviewed Policy C3.4.1 – Donations – Financial Assistance.

LOCATION

Not applicable.

APPLICANT

Not applicable.

Item 11.5.5 continued

FILE REFERENCE

41/001 – Donations – Requests
41/002 – Sponsorship – Miscellaneous
41/003 – Charity Appeals

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest

VOTING REQUIREMENT

Simple majority required.

CONSULTATION

Consultation has been carried out with Councillors through an Information/Strategy Concept Forum where the current policy guidelines were reviewed.

In addition, information has also been sought from a number of other local governments as to how they deal with donations to charitable organisations.

STRATEGIC PLAN IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Adoption of the revised policy will amend the City's Policy Manual.

STATUTORY ENVIRONMENT

Not applicable.

BACKGROUND

In December 1999 (refer REPOL 14 December 1999 Item 8.1.1), a review was undertaken of the Donations Policy C3.4.1, which resulted in an amended policy being drafted and subsequently adopted. The amended Policy had clearer guidelines by which to evaluate requests so that a degree of consistency was maintained when allocating funds.

Council also agreed at that time, to give authority to officers to evaluate and process all donation requests in accordance with the policy guidelines. A report was then to be submitted to Council each month giving details of donations that have been approved as well as donations that have been rejected.

Item 11.5.5 Continued

The whole matter of reviewing the Donations Policy came about by the difficulty experienced in administering the policy especially in the area of “extra-ordinary” circumstances, given that there were no clearly defined guidelines set, by which to operate. Council had the task of trying to ensure that all applications were treated fairly and equitably, a difficult feat given the diverse range of applications that were received.

When the policy was initially reviewed, research was undertaken on the number of ‘extra-ordinary’ donations that Council had made since 1997/1998. From information gleaned from this research, it was determined that in order to simplify the whole process, the donation categories needed to be expanded to encompass most of the “extra-ordinary” type of donations that were made.

Consequently, the following four (4) specific categories were created in the Donations Policy:

1. **Sporting/Cultural Donations** – this section addressed requests for travel expenses, subsidies to clubs/organisations, waiver of hall hire fees, Belmont City Band, etc.
2. **Donations to Charitable Organisations** – these included all the various charities that request funding as well as the Ruby Benjamin Animal Foundation and the Cat Haven.
3. **Assistance to Local Schools** – funding that was provided towards scholarships, schools concert, ticket purchases for the Festival of Perth and the chaplaincy fund were included in this area along with requests received from Constable Care and the Safety House Program.
4. **Disaster Relief Assistance** – this category catered for the natural disaster appeals that Council received from time to time.

As a result of an organisational restructure which saw a dedicated Leisure Services section created, the policy was subsequently amended to reflect this change. The Sporting/Cultural Donations section of the policy was extracted and a separate policy which is administered by Leisure Services was created.

The current Donations Policy has been in operation for a number of years and has been relatively simple to administer. Council is provided with a regular report on all donation matters through Information Reports.

Recently, Councillors have raised a number of queries whether or not Council should continue to fund some organisations that have been receiving donations for many years. This has provided an opportunity to review and update our policy.

In a recent meeting with Councillors, the following suggestions were made regarding donations that have been included in the 2006/2007 Budget:

- ◆ Delete funding to the following organisations:
 - Festival of Perth
 - Lions Club – annual Film Festival
 - Rotary Club – World Festival of Magic
 - Special Needs Children’s Christmas Party
- ◆ Continue to fund the following programmes:
 - Chaplaincy
 - Scholarships – High Schools (if programmes still operational)

Item 11.5.5 Continued

- Ruby Benjamin Animal Foundation
- Cat Haven
- Constable Care
- Disaster Relief
- Miscellaneous requests
- Charitable organisations
- Belmont City Band – subject to a number of questions raised by Councillors regarding the band being answered.

As a result of the meeting, officers undertook to review the policy, conduct research and to recommend an amended policy to Council for adoption.

OFFICER COMMENT

In an effort to maintain the ease of operation of the donations policy and to keep the process relatively simple, the following suggestions have been incorporated into the revised policy:

- ◆ The creation of two main donation categories – specific and non-specific, to bring it into line with budget allocations. These categories would be broken down further to reflect the types of donations within each category.
- ◆ Council's support to charitable organisations (other than those that have a specific allocation) be restricted to those organisations that are based in the City of Belmont and where it can be demonstrated that a direct benefit is provided to the Belmont community.

This has come about from research conducted with various other local authorities who have indicated that they have moved away from funding the 'regular' charitable organisations, in favour of locally based ones. Apparently, funds donated to a number of these charities are used more for administrative and promotional purposes rather than a direct benefit to those in need.

In addition, many charities receive donations direct from our residents and as well as that, Council staff also provide support to a number of charities through regular free dress days and fund raisers.

- ◆ That a Reserve Account be created for Disaster Relief Assistance and the balance of funds remaining in the disaster relief section of the donations budget at the end of each financial year, be transferred to this account.
- ◆ In relation to the Belmont City Band, where a number of questions were raised, the following information is provided:
 - Council has for a number of years provided a donation of \$3,000 to the Belmont City Band for the purchase of instruments and uniforms, etc. The balance of unspent funds is transferred to a reserve account each year.
 - The band equipment that is funded by Council, is 'owned' by Council and regular inventories are conducted on a cyclical basis within Council's asset review processes.

Item 11.5.5 Continued

- In August 1991, the band requested increased funding from Council and following their submission at a meeting, Council resolved on 9th September 1991 to donate an amount of \$150 to the band for each performance at Council's Citizenship Ceremonies. This amount has not been increased since that time.
- It would appear that in November 1989, Council raised concerns with the band regarding the quality of their performance, however, reports since that time indicate an improvement with Council sending letters of thanks and congratulations.
- The Band Master, Mr Bill Brown has advised that currently there are around 22 members in the band of which 4 are City of Belmont residents.

FINANCIAL IMPLICATIONS

An amount of \$22,819 has been allocated in the 2006/2007 Budget for general non-statutory donations with a further \$3,000 budgeted for Council's support of the Belmont City Band. If the revised policy is adopted, a saving of around \$1,250 would occur in the current budget.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

ATTACHMENT DETAILS**Attach. No. Details**

Nil.

OFFICER RECOMMENDATION

That Council adopt the following revised Policy C3.4.1 – Donations – Financial Assistance:

C3.4.1 DONATIONS - FINANCIAL ASSISTANCE***Policy objective:***

To set criteria for the provision of specific and non-specific donations and financial assistance for charitable organisations, assistance to local schools, and disaster relief appeals.

Policy statement:

The City of Belmont will consider applications for donations under one of the following two categories:

- 1. Specific Donations – as outlined in the annual budget process***
- 2. Non-Specific Donations – where ad hoc requests are received***

In considering all of the applications for funding, it needs to be clearly demonstrated that there is a direct benefit to the City of Belmont community.

Item 11.5.5 Continued

The Chief Executive Officer is authorised to assess and refuse applications for donations and financial assistance where they do not meet the requirements set down in this policy.

Any applications not meeting the requirements of this policy are to be referred to Council for consideration if deemed to be worthy of Council's support under "extraordinary" circumstances.

SPECIFIC DONATIONS

The City of Belmont will continue to honour its commitment to the following organisations/programs by ensuring an appropriate budget allocation is made in the annual budget (subject to a request for funding being received):

- ***Scholarships – High Schools (includes apprenticeship programs and awards for recognition of excellence, etc)***
- ***Belmont City College – Memorandum of Understanding – Educational Programs***
- ***Chaplaincy Program***
- ***Ruby Benjamin Animal Foundation***
- ***Cat Haven***
- ***Constable Care Program***
- ***Belmont City Band***

NON-SPECIFIC DONATIONS

Applications for donations will be considered from the following areas where it is clearly demonstrated that there is a direct benefit to the Belmont community.

Donations to charitable organisations

- a) ***All donations will only be considered on receipt of a formal written application.***
- b) ***Donations will only be considered from charitable organisations that are located within the City of Belmont who can clearly demonstrate that there will be a direct benefit provided to the Belmont community.***
- c) ***Contributions are limited to a maximum of \$200 per organisation per year.***

Assistance to local schools

- a) ***All donations will only be considered on receipt of a formal written application.***
- b) ***Donations to be considered on the benefit that it provides to the school.***

Item 11.5.5 Continued

- c) **Contributions are limited to one request every three years to a maximum of \$500.**

Disaster relief assistance

- a) **Council to consider the provision of funds towards appeals where natural disasters have occurred.**
- b) **Contributions in this area to be set at a maximum of \$1,000 to be determined by the extent of damage suffered.**
- c) **That the balance of funds available in the disaster relief section of the donations budget each year, be transferred to a Disaster Relief Reserve Account for the purpose of funding larger contributions should the need arise.**

Promotional opportunities

Promotional opportunities for Council are to be considered in conjunction with all donations where appropriate maximising exposure for Council's support. This will be by the use of:

- **Logos (on stickers, etc.)**
- **Banners**
- **Signage**
- **Merchandise**
- **Press releases**
- **Public relations opportunities for Mayor and Councillors**

**OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 11.5**

11.5.6 Australian Mayoral Aviation Council Study Tour – Noise Conference

Report by Corporate and Governance Division

DATE

10 August 2006

PURPOSE OF REPORT

To consider an expression of interest request from the Australian Mayoral Aviation Council (AMAC) on whether the City of Belmont would want to be involved in a study tour to America including an inspection of the Boeing aircraft assembly plant in Seattle and attendance at the Aviation Noise Conference in San Francisco.

COUNCIL ROLE

Executive

The executive role is the substantial direction setting and oversight role of the Council. This is where the Council oversees the day to day operations of the City including accepting tenders, directing operations, setting and amending budgets, adopting plans and reports and all other activities of the Council.

SUMMARY AND KEY ISSUES

Summary and Key Issues

The Australian Mayoral Aviation Council has asked members to express an interest in participating in a planned overseas study tour for September 2006 on airport related issues.

In line with Council Policy C1.6.6 Council must approve any conference/study tour attended by Councillors or staff which are deemed, as per the policy, to be overseas. This report recommends that Council participates in the Study Tour by authorising a Councillor and Senior Officer to attend.

Officer Recommendation Summation

1. The City of Belmont advises the Australian Mayoral Council that it would like to participate in the Study Tour on airport related issues.
2. That Deputy Mayor Phil Marks and a relevant Senior Officer be registered to take part in the Australian Mayoral Aviation Study Tour and that costs associated with their participation being allocated to the Governance and the Executive Services budget.

Item 11.5.6 continued

3. That the City of Belmont representatives undertake to research as part of the Noise Conference attendance the issue of placement of memorials upon titles of land within the noise contour zones with the object of reducing the potential risk exposure for municipalities in regard to development and possible compensation claims.

FILE REFERENCE

29/015 AMAC – Australian Mayoral Aviation Council

DISCLOSURE OF INTEREST

Name	Position	Type of Interest	Nature / Extent of Interest
Nil			

VOTING REQUIREMENT

Simple majority required

CONSULTATION

No community consultation has occurred, however regular meetings occur with AMAC and Perth Airports Municipalities Group (PAMG) members who discuss airport related matters on behalf of their Councils.

STRATEGIC PLAN IMPLICATIONS

The implications on Council of airport related matters are significant. It directly relates to the City's Vision, Mission and the Social Belmont KRA.

POLICY IMPLICATIONS

Policy C1.6.6 – Councillor and Officer attendance at conferences requires that all overseas travel associated with Council business, as per the policy must go to the full Council for approval.

STATUTORY ENVIRONMENT

There are no specific policy implications evident.

Item 11.5.6 continued

BACKGROUND

The Australian Mayoral Aviation Council (AMAC) was formed in 1982 and its primary objective is to ensure that all reasonable measures are taken by relevant authorities to minimise the deleterious effect aircraft and airport operations have on local communities. Its membership comprises the Mayors, or an appropriate Council nominee, of municipalities throughout Australia which have major airports within their boundaries or are likely to be impacted upon by operations associated with major airports.

Belmont, Bassendean, Gosnells, Melville, Kalamunda, Mundaring, South Perth, Swan and Bayswater City Councils are members of the Perth Airport Municipalities Group (PAMG) who are the state representatives on airport related matters. PAMG elect an executive member who represents the state at a national level at AMAC. Mayor Glenys Godfrey is the Chairperson for PAMG and the elected WA executive member for AMAC with the Deputy Mayor, Phil Marks, deputising for the Mayor when required. The Chief Executive, Dr. Shayne Silcox is the Secretary of the PAMG group and also attends AMAC meetings.

American Study Tour September 2006

The AMAC is currently organising an American Study Tour for September 2006 and is seeking expressions of interest prior to finalising the Study Tour.

It is proposed that the Study Tour group will convene on Sunday evening 17 September 2006 in Seattle USA. Members will make their own bookings and arrangements for airfares and accommodation. This will allow all members maximum flexibility to suit their requirements.

The group will be collected from the Central Hotel in Seattle, for a tour inspection of the Boeing Aircraft Assembly Plant where the 737 is currently built and where the new 787 is proposed to be built. Preliminary arrangements are being made with Boeing but as yet no firm details are available. The 737 is the back bone of the Qantas and Virgin Fleets in the Australian market and it is possible that the 787 will form an important part of the future, domestic, Australian Fleet.

The study tour will then travel, independently on Tuesday 19 September to San Francisco where the Noise Conference will be held. The Conference agenda includes the following speakers:

Ashraf Jan is a Special Assistant for the FAA, Airport Community Environmental Needs Division in Washington, DC. Mr. Jan also served as Airports Advisor for the Civil Aviation Authority of Spain from 1990-1999.

K.L. (Dan) Wong chairs the American Planning Association-Transportation Planning Division, Airport Committee. Mr. Wong has been a transportation planner for over 20 years.

Item 11.5.6 continued

Mary Frederick is Chief of the California Department of Transportation, Division of Aeronautics. Frederick has a Master of Science degree in Transportation Management from the Norman Y. Mineta International Institute for Surface Transportation Policy Studies at San Jose State University.

Anthony Atchley is a Professor and Chairman at Penn State University's Graduate Program in Acoustics. Professor Atchley represents Penn State University on the PARTNER advisory board. He has written extensively on noise issues and concentrates his research on acoustics.

Ron Hoenig has held the position of Mayor of Botany Bay, Australia since 1981. The community adjoins the Sydney International Airport, and Mayor Hoenig also serves as President of the Australian Mayoral Aviation Council(AMAC), representing the interests of local Councils throughout Australia affected by the operations of major airports.

Michael McClintock, currently a Senior Airport Project Manager for Mead & Hunt, Inc., has over 35 years experience in all aspects of airport planning. Mr. McClintock also coordinates the Oakland Airport–Community Noise Management Forum, an organization focused on addressing noise concerns of several communities in Alameda and Marin Counties and advising the Oakland Airport on noise issues.

Michael McCarron has worked for the San Francisco International Airport since 1991, holding several positions including Director of the Noise Abatement Office. Mr. McCarron currently serves as the Director of the Bureau of Community Affairs.

Steve Vecchi is the Director of Sound Insulation Services for THC, Inc, a national leader in land acquisition and noise mitigation services. Mr. Vecchi was formerly the manager of the Part 150 residential sound insulation program at Minneapolis/St. Paul International Airport.

Mark Johnson is an associate director in the environmental practice at Leigh Fisher Associates. He has worked as a consultant specializing in airport environmental assessment and noise compatibility planning for the past 19 years.

David Carbone has over 29 years experience as a professional planner, including 23 years in airport land use planning and aircraft noise abatement. His current positions with San Mateo County, California, include Coordinator of the San Francisco International Airport/Community Roundtable and project manager for the County Aircraft Noise Insulation Project.

OFFICER COMMENT

This is the second opportunity for the City of Belmont to attend such a study tour for 2006. Council will be aware of a recent study tour undertaken by the Mayor and the CEO in June of 2006. Given recent advances in aircraft technology and the experience being gained by local governments around the world in relation to airport noise management, it is highly desirable that those currently involved in managing the impact of Australian airports on local communities keep abreast of developments in this highly specialised field.

Item 11.5.6 continued

Inspecting aircraft assembly facilities and meeting with their noise omission experts and learning from the experience of other noise affected communities will provide delegates with first hand knowledge of international best practise.

Aircraft noise management is currently administered through the Noise Management Strategy Committee (co-ordinated by the Westralia Airports Corporation), which meets quarterly to implement and monitor the airport noise management strategy. The Noise Management Strategy Committee includes representatives from the Perth Airport, State and Local Governments, State and Commonwealth Government departments, Federal Members of Parliament, airlines and community groups. The Deputy Mayor, Councillor Marks, is the City of Belmont representative upon this committee. It is considered that the City's participation, by Councillor Marks attendance at the Noise Conference will only continue to assist the future development and implementation of noise control measures in the interest of the Community.

The PAMG have also recently discussed the impact of noise contours upon development approvals and subsequent compensation claims lodged on the east coast of Australia. The potential use for memorials upon titles to reduce the risk of compensation payable is an avenue to be explored and one for which the City of Belmont delegation would be able to undertake further research with other participants at the Noise Conference.

By participating in the Study Tour, Council will be well positioned to engage other stakeholders and continue to actively contribute to future debates regarding airport matters, and in particular will be able to draw on international experience and apply it on behalf of the Perth community. The opportunity to interact with the Mayors and CEO's of AMAC also offers an extremely important opportunity to galvanise support for on going airport management issues that will invariably face all local governments that have major airports within their boundaries.

FINANCIAL IMPLICATIONS

The AMAC have provided indicative costs associated with the study tour which would see a per person cost of approximately \$6,000. This would include return airfares, accommodation (six nights) and sustenance and incidental expenses.

ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications, the study tour will support the continued gaining of on ground knowledge and there by the implementation of the City's environmental plan in relation to airport related issues

Item 11.5.6 continued

OFFICER RECOMMENDATION

1. ***The City of Belmont advises the Australian Mayoral Council that it would like to participate in the study tour of airport related issues.***
2. ***That Deputy Mayor Phil Marks and a relevant Senior Officer be registered to take part in the Australian Mayoral Aviation study tour of America and that costs associated with their participation being allocated to the Governance and Executive Services budget.***
3. ***That the City of Belmont representatives undertake to research as part of the Noise Conference attendance the issue of placement of memorials upon titles of land within the noise contour zones with the object of reducing the potential risk exposure for municipalities in regard to development and possible compensation claims.***

***OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 11.5***

12. REPORTS BY THE CHIEF EXECUTIVE OFFICER**12.1 INFORMATION BULLETINS**

The following Elected Members Bulletin was distributed to Councillors:

Elected Members Bulletin 28 July 2006.

BASS MOVED, MARTIN SECONDED, that the information provided to all Councillors and listed in the following Elected Members Bulletin be noted and received:

Elected Members Bulletin 28 July 2006.

CARRIED 9 VOTES TO 0

12.2 REQUESTS FOR LEAVE OF ABSENCE

Cr Teasdale (05/09/06)

13. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

NOTE: Section 5.23(2) of the Local Government Act 1995, details a number of matters upon which Council may discuss and make decisions without members of the public being present. These matters include: - matters affecting employees; personal affairs of any person; contractual matters; legal advice; commercial-in-confidence matters, security matters, among others.

NOTE: Section 5.93 of the Local Government Act 1995, details that an elected member or employee may not make improper use of any information acquired in the performance of their function under this Act or any written law. Penalty \$10,000. The City of Belmont Standing Orders Local Law Clause 4.2(2) details that an elected member or employee in receipt of Confidential Information may not disclose such information to any person other than another City of Belmont elected member or employee. Penalty \$5,000.

(The correct part of the LG Act needs to be stated after the heading - dependant on what the matter relates to, explaining why the meeting needs to go behind closed doors).

e.g. Confidential Matter in accordance with Section 5.23(2)(a)

e.g. Confidential Matter in accordance with Section 5.23(2)(c)&(e)(ii)

NOTE: The Chief Executive Officer announced that in reference to Confidential Item 13.5 on the Agenda tonight that he had requested Mr Denis McLeod from McLeods Lawyers to offer further clarification to Councillors.

The Mayor referred to the Confidential Items for consideration and requested the meeting go behind closed doors.

****8.04pm** **MARKS MOVED, MARTIN SECONDED, that in accordance with section 5.23(2) of the Local Government Act, Council proceed behind closed doors to discuss the Confidential Items and allow Mr Denis McLeod to be present.**

CARRIED 9 VOTES TO 0

****8.05pm** Mr D McLeod joined the meeting.

****8.05pm** The Director Corporate & Governance and Crs Whiteley and Dornford departed the meeting.

****8.07pm** Crs Whiteley and Dornford returned to the meeting.

****8.07pm** The meeting reconvened in the absence of the public gallery.

13.1 CONFIDENTIAL ITEM – EMPLOYEE GRATUITY PAYMENT
Confidential Attachment 1 – Refers 13.1
(Circulated under separate cover)

13.2 CONFIDENTIAL ITEM – EMPLOYEE GRATUITY PAYMENT

**Confidential Attachment 2 – Refers 13.2
(Circulated under separate cover)**

13.3 CONFIDENTIAL ITEM – PRESENTATION OF OPPORTUNITY AWARDS

**Confidential Attachment 3 – Refers 13.3
(Circulated under separate cover)**

13.4 CONFIDENTIAL ITEM – AIRPORT RATING

**Confidential Attachment 4 – Refers 13.4
(Circulated under separate cover)**

13.5 CONFIDENTIAL ITEM – BREACH OF CODE OF CONDUCT

**Confidential Attachment 5 – Refers 13.5
(Circulated under separate cover)**

NOTE: CONFIDENTIAL ITEM 13.5 – Breach of Code of Conduct – For the convenience of the meeting this item was deferred until after the last Confidential Item 13.8.

13.6 CONFIDENTIAL ITEM: REQUEST FOR FUNDING– LEGAL REPRESENTATION POLICY**

****Confidential Attachment 6 – Item 13.6 refers**

****Confidential Attachment 6.1 – Item 13.6 refers**

(Circulated under separate cover)

It was noted by the Chief Executive Officer that Confidential Item 13.7 was classed as confidential when it should have only been the attachment which was confidential. For the convenience of the meeting it was dealt with as it appeared in the agenda and the resolution would be read aloud by the Manager Governance.

13.7 LATE ITEM - CONFIDENTIAL - TENDER 23/2006 – PROVISION OF CARDIOVASCULAR GYMNASIUM EQUIPMENT TO THE BELMONT OASIS LEISURE CENTRE**

****Confidential Attachment 7 – Item 13.7 refers**

****Confidential Attachment 7.1 – Item 13.7 refers**

(Circulated under separate cover)

13.8 LATE ITEM – CONFIDENTIAL - LOT 29 (48) RIVERSDALE STREET, RIVERVALE – PROPOSED DEMOLITION OF RESIDENCE (FORMERLY ST COLUMBANS MISSION)**

****Confidential Attachment 8 – Refers 13.8**

(Circulated under separate cover)

NOTE: CONFIDENTIAL ITEM 13.5 – Breach of Code of Conduct – For the convenience of the meeting this item was deferred until after the last Confidential Item 13.8.

**13.5 CONFIDENTIAL ITEM – Breach of Code of Conduct
Confidential Attachment 5 – Refers 13.5
(Circulated under separate cover)**

****8.36pm Cr Bass having earlier declared an interest departed the meeting.**

****8.36pm The Director Community & Statutory Services and the Director Technical Services departed the meeting.**

****8.37pm MARKS MOVED, ROSSI SECONDED, that the City of Belmont Standing Orders be suspended.**

CARRIED 8 VOTES TO 0

Mr Denis McLeod answered Councillor questions and provided advice on the Confidential Item 13.5 to the meeting.

****9.12pm MARKS MOVED, ROSSI SECONDED, that the City of Belmont Standing Orders be reinstated and the public be invited to return to the meeting and that the resolutions passed behind closed doors be read.**

CARRIED 8 VOTES TO 0

****9.12pm Mr Denis McLeod and the Principal Governance & Legal Advisor departed the meeting.**

****9.12pm The public were asked to return to the meeting, of which there were none except one member of the press and the Manager – Governance read aloud the resolutions passed behind closed doors, namely –**

**13.1 CONFIDENTIAL ITEM – Employee Gratuity Payment
Confidential Attachment 1 – Refers 13.1
(Circulated under separate cover)**

TEASDALE MOVED, MARKS SECONDED,

- 1. That as Council's gratuity policy C2.1.3 gives Council discretion to approve gratuity payments to staff, Council approve the payment of a gratuity (of one week's pay for each year of service) to Mr Wayne Clatworthy.**

2. *Further, that Council congratulate Wayne on his service and wish him well in his retirement.*

CARRIED 9 VOTES TO 0

- 13.2 *CONFIDENTIAL ITEM – Employee Gratuity Payment
Confidential Attachment 2 – Refers 13.2
(Circulated under separate cover)*

ROSSI MOVED, WHITELEY SECONDED,

1. *That as Council's gratuity policy C2.1.3 gives Council discretion to approve gratuity payments to staff, Council approve the payment of a gratuity (of one week's pay for each year of service) to Mrs Margot Bunter.*
2. *That Council congratulate Margot on her service and wish her well in her retirement.*

CARRIED 9 VOTES TO 0

- 13.3 *CONFIDENTIAL ITEM – Presentation of Opportunity Awards
Confidential Attachment 3 – Refers 13.3
(Circulated under separate cover)*

WHITELEY MOVED, ROSSI SECONDED, that Council endorses

*Lotterywest
Strategic Leadership Consulting Pty Ltd
St John Ambulance*

as recipients of the 2006 Opportunity Awards to be presented at the 2006 Mayoral Dinner on 16 September 2006.

CARRIED 9 VOTES TO 0

- 13.4 *CONFIDENTIAL ITEM – Airport Rating
Confidential Attachment 4 – Refers 13.4
(Circulated under separate cover)*

BASS MOVED, TEASDALE SECONDED, that Council, as a gesture of good faith, agree not to require the payment of penalty interest on outstanding rates equivalent payments for Perth Airport for the 2005/6 Financial Year.

CARRIED 8 VOTES TO 1

*For: Bass, Teasdale, Blair, Whiteley, Martin Marks, Dornford, Godfrey
Against: Rossi*

- 13.5 *CONFIDENTIAL ITEM – Breach of Code of Conduct*
Confidential Attachment 5 – Refers 13.5
(Circulated under separate cover)

WHITELEY MOVED, MARKS SECONDED, that in accordance with clause 5.2(a) of the City of Belmont Code of Conduct (as modified March 2005), Council –

1. *Determine that the Councillor has breached clause 3.1(a)(iv) and clause 3.6(b)(ii) of the City of Belmont Code of Conduct (as modified March 2005); and*
2. *Instruct the Mayor to issue a warning to Councillor in respect to the above breaches in accordance with clause 5.3(a)(ii) of the City of Belmont Code of Conduct (as modified March 2005).*
3. *The Mayor request the Councillor write a letter of apology to Mr Passeri and his wife to be forwarded to the Mayor.*

CARRIED 5 VOTES TO 3

For: Blair, Whiteley, Martin, Godfrey, Marks

Against :Rossi, Teasdale, Dornford

- 13.6 *CONFIDENTIAL ITEM: Request for Funding– Legal Representation Policy***
***Confidential Attachment 6 – Item 13.6 refers*
***Confidential Attachment 6.1 – Item 13.6 refers*
(Circulated under separate cover)

MARKS MOVED, ROSSI SECONDED,

1. *That the item be deferred pending the outcome of Motion 2.*
2. *That Council request the Mayor, Deputy Mayor and the Chief Executive Officer to communicate with the Department of Local Government and Regional Development, McLeods Lawyers and the President of the Western Australian Local Government Association detailing the financial and legislative aspects of this request and asking for advice.*

CARRIED 7 VOTES TO 2

For: Teasdale, Whiteley, Blair, Martin, Marks, Godfrey, Rossi

Against: Bass, Dornford

It was noted by the Chief Executive Officer that Confidential Item 13.7 was classed as confidential when it should have only been the attachment which was confidential. For the convenience of the meeting it was dealt with as it appeared in the agenda and the resolution would be read aloud by the Manager Governance.

- 13.7 *LATE ITEM - CONFIDENTIAL - Tender 23/2006 – Provision of Cardiovascular Gymnasium Equipment to the Belmont Oasis Leisure Centre***
***Confidential Attachment 7 – Item 13.7 refers*
***Confidential Attachment 7.1 – Item 13.7 refers*
(Circulated under separate cover)

BLAIR MOVED, TEASDALE SECONDED, that

1. Tender 23/2006 from "The Fitness Generation Pty Ltd" of Osborne Park WA for the Provision of Cardiovascular Gymnasium Equipment to the Belmont Oasis Leisure Centre at a cost of \$151,850.00 ex GST be accepted.
2. That the quantity of each piece of equipment to be supplied be negotiated with the successful supplier as per the following list to the tender value of \$151,850.00 ex GST.

Description	Quantity Sought	Quantity To Be Purchased	Cost Each	Extension
Treadmill	17	15	\$8,200.00	\$123,000.00
Recumbent Bike	6	5	\$3,850.00	\$19,250.00
Elliptical	2	1	\$6,200.00	\$6,200.00
Uprightbike	1	1	\$3,400.00	\$3,400.00
Rowing Machine	1	none	0	0
Total				\$151,850.00 ex GST

CARRIED 8 VOTES TO 0

- 13.8 LATE ITEM – CONFIDENTIAL - Lot 29 (48) Riversdale Street, Rivervale – Proposed Demolition of Residence (Formerly St Columbans Mission)**
 **Confidential Attachment 8 – Refers 13.8
 (Circulated under separate cover)

TEASDALE MOVED, WHITELEY SECONDED,

1. That the deemed refusal of the application for the demolition of the residence at Lot 29 (48) Riversdale Road, Rivervale (formerly known as St Columbans) be set aside and the City substitute the deemed refusal with a new decision to approve the development subject to:

The landowner permitting Council officers or their agents access to the residence prior to demolition to permit further photographic recording.

All waste materials from the development to be completely removed from the site upon completion of the development. Final clean up shall be to the satisfaction of the General Manager, Swan River Trust on advice from the Chief Executive Officer, City of Belmont.

The applicant shall decommission any existing on-site effluent disposal system to the satisfaction of the General Manager, Swan River Trust on advice from the Department of Health.

2. That the City advise the owner of the land that in gaining Council's support for the demolition, any redevelopment of the site should have regard for the history associated with the site and should incorporate elements (these could take the form of public art, displays, design elements and so forth) that reflect some elements of the site's history.

3. *That the State Administrative Tribunal, Heritage Council of Western Australia, Swan River Trust and Department for Planning and Infrastructure be advised of Council's decision.*
4. *That the CEO write to the Heritage Council of Western Australia about the manner in which this matter has proceeded and suggesting improvements to the Heritage Council's processes and legislation which would address these concerns.*
5. *That the CEO write to the State Administrative Tribunal about the manner in which the matter has progressed through the Tribunal.*

CARRIED 8 VOTES TO 1

For: Teasdale, Blair, Whiteley, Dornford, Martin, Marks, Godfrey, Bass

Against: Rossi

- **9.13pm** **The Principal Governance & Legal Advisor returned to the meeting.**
- **9.15pm** **Cr Rossi departed the meeting.**
- **9.16pm** **Cr Rossi returned to the meeting.**
- **9.22pm** **The Director Corporate & Statutory Services returned to the meeting.**

14. CLOSURE

The Mayor announced before closing the meeting that she had received Cr Blair's resignation from Council.

The Mayor and the Chief Executive Officer extended their thanks on behalf of Councillors and officers at the City for the almost 20 years of service that Councillor Blair had dedicated to the City.

There being no further business to discuss, the Mayor thanked all those in attendance and declared the meeting closed a 9.23pm.