

# **MINUTES**

## **ORDINARY MEETING OF COUNCIL**

**Held on  
Tuesday, 16<sup>th</sup> October 2007  
7.00pm  
City of Albany Council Chambers**

# City of Albany

## **\*\* Disclaimer \*\***

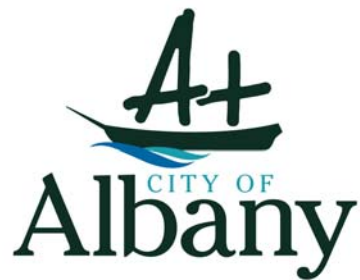
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Signed \_\_\_\_\_

***Peter Madigan***  
Executive Director Corporate  
And Community Services

Date: 18<sup>th</sup> October 2007



## NOTICE OF AN ORDINARY COUNCIL MEETING

Her Worship The Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday, 20<sup>th</sup> November 2007 in the Council Chambers, North Road, Yakamia commencing at 7.00 pm.

(Signed)

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***Peter Madigan***  
EXECUTIVE DIRECTOR  
CORPORATE AND COMMUNITY SERVICES

18<sup>th</sup> October 2007

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**1.0 DECLARATION OF OPENING**

Her worship the Mayor declared the meeting open at 7.00pm and extended a welcome to all present.

**2.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

- |   |                 |
|---|-----------------|
| Mayor   | - A Goode, JP   |
| Councillors                                       | - DW Wellington |
|   | - MJ Evans, JP  |
|   | - JD Williams   |
|   | - SM Bojcun     |
|   | - DJ Wolfe      |
|   | - RH Emery      |
|   | - J Waterman    |
|   | - S Marshall    |
|   | - J Walker      |
|   | - D Wiseman     |
|   | - R Paver       |
|   | - J Jamieson    |
|   | - I West        |
| Executive Director Corporate & Community Services | - WP Madigan    |
| Executive Director Development Services           | - R Fenn        |
| Community Services Manager of City Services       | - I Neil        |
| Minute Secretary                                  | - S Jamieson    |
| Approximately 21 members of the public            |                 |
| 2 media representatives                           |                 |

Apologies / Leave of Absence:

Councillor P Lionetti

**3.0 OPENING PRAYER**

Mayor Goode asked all present to be upstanding and read aloud the opening prayer:

“Heavenly Father, we thank you for the beauty and peace of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

**4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

## 5.0 PUBLIC QUESTION TIME

Council's Standing Orders Local Laws provide that each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of Council, for residents in attendance in the public gallery to address clear and concise questions to Her Worship the Mayor on matters relating to the operation and concerns of the municipality.

Such questions should be submitted to the Chief Executive Officer, **in writing, no later than 10.00am** on the last working day preceding the meeting (the Chief Executive Officer shall make copies of such questions available to Members) but questions may be submitted without notice.

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

- **Mr Noel Grover, Youngs Siding**

Mr Grover addressed Council in regards to Item 11.1.1, Development Application (Junior Motorcycle Riding Training). Mr Grover advised the Council that his research uncovered three declared species of fauna on property; which is inconsistent with Officers report. Mr Grover stated the believed this type of development would cause ground water pollution and noise would effect existing livestock and people.

- **Mrs Dot Price, 70 Spencer Street**

Mrs Price addressed Council in regards to Item 11.3.2, Adoption of Policy relating to Performance Standards Under R Codes. The following was read to Council:

Madam Mayor and Councillors, along with many other residents, I am greatly concerned about the need to rush this policy through as the lasts act of a retiring Council. It is to be the newly formed Council, which will have carriage of this policy, so why rush it through the week before the new Council is to be formed?

If we accept that the objective of town planning is to maximise the benefits of land use in harmony with the ethos of the community, as one submission so clearly articulates, then how is the pressing need to plan for higher rise demonstrated as being in harmony with the ethos of Albany? Where and how has this need been demonstrated by the wider community? What are the anticipated benefits of an increase to four storeys?

Where are the economic pressures to consolidate development in the form of higher density and higher rise developments coming from? How are those implied imperatives making themselves manifest in Albany's community? Higher density housing is a solution for land shortage and for huge service costs. How are these demonstrated in Albany's community? The only beneficiaries at the moment would be some landowners and developers.



Item 5.0 continued

If our community is to increase significantly through nearby mining and industrial activities, then younger families will require the infrastructure to meet family needs. Increased density housing puts pressure on existing facilities such as schools, where 300 extra families equate to the need for a new school the size of Little Grove. If the higher density housing is to be built within existing suburbs, how and where are these school children to be catered for?

The community of Albany needs more time to consider the subject of buildings that have the potential to impact negatively on Albany's skyline, views and infrastructure. This impact will be particularly strong in areas such as Big Grove, Frenchman Bay and Emu Point.

The officer report prepared for this agenda item concludes with the following statement: "Failure to put in place a policy could result in a policy void on maximum building heights which developers will exploit upon appeal". This is true, but the answer need not lie in increasing heights for any policy, but in stipulating why we do not need higher rise in Albany, in applying the CAUDG to the whole of Albany's urban area, and in applying any policy consistently. What are the anticipated benefits of an increase to four storeys? Why not three, which is generally accepted height limit on residential development in coastal areas around Australia? Councillors, what information has been given to you to justify this radical change? What reports have been completed which establishes the community's attitude to higher residential development?

Having been a City for over seven years, we do not need this new policy before Saturday night. No developer is going to appeal before then! This proposal has the potential to impact negatively on the character of Albany. Why is this being driven through tonight? If there is justification for the increase in heights and the need to adopt this policy tonight, let this information be put before the Council and the public in writing. Much more thought needs to be given to the proposed policy than is detailed in this report. No reason has been given to justify this policy. It is perfectly reasonable to ask these questions and utterly unreasonable not to supply this information to the Council and the community.

If this policy is adopted tonight without this information any new Council elected on Saturday night would be well within its right to thoroughly re-examine this policy with the community before implementing it.

Dot Price  
Resident and Ratepayer

- **Mr Tony Demarteau, Lorenzo Way, Orana**

Mr Demarteau addressed the Council and thanked them for their efforts during the term of their office and wished all Councillors and Candidates all the best for the future.

Item 5.0 continued

- **Mr Neil Smithson, 364 Middleton Loop, Albany**

Mr Neil Smithson of Smithson Planning, addressed council in regards to Item 11.1.4, Albany's UNESCO World Heritage Nomination – Australian Convict Colonial Settlements and Item 14.3.1 – Albany Anzac Day Dawn Service & Parade. He read and tabled the following document:

Further to my comments in June, July and August 2007 relating to the Commonwealth's 'UNESCO World Heritage Nomination – Australian Convict Colonial Settlements'.

I thank the Director Development Services for listing the item on the October agenda, and for naming myself as the proponent : it is indeed an honour to serve the Nation.

Needless to say, I do not support the officer's recommendation, and I am not alone in that regard. However, I would suggest that there are certain obligations under the Commonwealth Environmental Protection and Biodiversity Conservation Act that the Council should consider in relation to this matter which have not been addressed in the Officer's report.

I do believe in light of the unanimous endorsement of the five Mayoral candidates to champion this cause for Albany, it is entirely appropriate that the outgoing Council's opinion be recorded for posterity.

I trust that the incoming council will also consider the cumulative experience of serving councillors to reach such a conclusion when they too are charged with carrying this project forward.

The Albany Historical Society, and Council Candidate Andrew Eyden have both clearly expressed their support through recent media.

I would expect the Western Australian and Australian Councils of the National Trust to do likewise, but can not confirm that at this time.

Last Friday, an email was circulated to :

- ❖ The Hon. Wilson Tuckey MHR, Federal Member for O'Connor
- ❖ All known other candidates for the federal seat of O'Connor
- ❖ All Western Australian serving Senators
- ❖ All known candidate senators for the federal election
- ❖ Senator the Hon. Alan Ferguson, President of the Senate.

Also last Friday, a facsimile was circulated to :

- ❖ The Hon. Alan Carpenter MLA, Premier of Western Australia
- ❖ The Hon. Michelle Roberts MLA, Minister for Heritage
- ❖ The Hon. Paul Omodei MLA, Leader of the Liberal Party in WA
- ❖ The Hon. Robyn McSweeney MLC, Shadow Minister for Heritage.

And just yesterday, another separate email was circulated to :

- ❖ The Hon. John Howard MHR, Leader of the Liberal National Coalition
- ❖ The Hon. Malcolm Turnbull MHR, Coalition Spokesperson for Heritage
- ❖ The Hon Kevin Rudd MHR, Leader of the Australian Labor Party
- ❖ Mr Peter Garrett MHR, Labor Spokesperson for Heritage.

Item 5.0 continued

In each case, the proposition of support for Albany's World Heritage nomination was canvassed, and to date, I have received confirmed endorsement, support, or support-in-principle from :

- ❖ O'Connor Liberal Party (Wilson Tuckey)
- ❖ O'Connor National Party (Philip Gardiner)
- ❖ Senate WA Labor Party (Ruth Webber)
- ❖ Senate WA Liberal Party (Judith Adams & Mathias Cormann)
- ❖ Senate WA National Party (Tony Crook)
- ❖ Senate WA Christian Democrats (Gerard Goiran)
- ❖ Senate WA Australian Democrats (Erica Lewin & Rob Olver)
- ❖ South-West MLC Liberal Party (Robyn McSweeney).

Madam Mayor / Councillors – as time permits before the federal election, I am sure that more and more candidates will come forth with their expressed support for Albany's world heritage nomination.

I would encourage the Council of the City of Albany to embrace and support the State & Federal Government's World Heritage nomination, and take-up Senator Webber's proposition of an amendment to include Albany's Residency Museum, the Old Gaol, Eclipse Museum and the Amity Heritage Precinct as a world class example of a convict colonial settlement – Western Australia's first.

Item 14.3.1 – Albany Anzac Day Dawn Service & Parade

I congratulate the Council for extending Icon Heritage status over the next three years to the Anzac tradition, and would encourage the new Council to start putting aside some money and ideas in preparation for Albany Anzac 2014-18 and the Albany Bicentennial 2026-27.

It's never too early to start planning for momentous events.

Thank you for your time Madam Mayor / Councillors.

- **Mr Peter Holmberg, Thomson Road, Youngs Siding**

Mr Holmberg addressed Council against the proposal detailed at Item 11.1.1, Development Application (Junior Motorcycle Riding Training). Mr Holmberg stated that 20 letters of complaint against the proposal represents a high percentage of residents opposed to the development and the fact that operating two stroke engines are very noisy and would upset the natural quite ambience of the rural setting.

- **Ms Kim Stanton, Chipana Drive, Little Grove**

Ms Stanton addressed Council in regards to Item 11.1.1, Development Application (Junior Motorcycle Riding Training). The following was read to Council:

I wish to speak about Agenda Item 11.1.1, Junior Motorcycle Rider Training. I urge the Councillors here tonight, to support the Alternate Motion put forward by Cr Jamieson.

Cr Jamieson's motion asks that the meeting here tonight vote for a Refusal for this proposed Motorcycle Training School.

A number of issues support this recommendation:

Item 5.0 continued

Noise – This application does not differ a great deal from the problem we had in Little Grove in 1999 when a chain-sawing – firewood industry was given Council approval to operate. This resulted in the use of the TPS#3 Right of Third Party Appeal to go to a Tribunal Hearing. This Resident's Appeal as upheld and the Industry stopped.

This appeal was won on the "amenity of the area" but it was noted in the appeal that even though the original conditions put by the City of Albany on the chain-sawing industry did not limit the noise operation to certain hours in the day, it pointed out that by doing so, the nearby residents were basically "waiting " and "aware" of the time of the day, for this noise to commence. Because of this, the residents were more likely to be aware of this noise than if a nearby resident or farmer went out in his normal farm operations doing work with machinery etc. In fact, if this industry is given permission to operate based on certain hours in the day, this finding by the Tribunal would indeed apply. And noise does travel quite a distance on a quiet day or with the right wind.

Noise does at times frighten stock animals, and native fauna and particularly birds, especially if they are nesting and feeding in that locality.

Some of the submissions put in by residents against the industry, point out that red and white tailed black cockatoos frequent the areas and do nest in the locality. I rang fire different experts on cockatoos and a Mr Tony Kirby from the WA Museum is at the moment doing a survey for South coast Natural Resource Management (the old script) to put together a map just where the different cockatoos go , feed and nest in this southern area of the state. He told me that noise can be upsetting to nesting birds, that contrary to what the Agenda Item says re the species not being fully protected, they are in fact for the red-tailed listed as vulnerable and the other white tailed like the Carnaby and Baudin species are listed as endangered Schedule 1, and if this industry was to be given permission, a formal Environmental Review WOULD have to be done by the Dept of Envir & Conservation to find out hose many were nesting in the area etc bore C/A approval was given. The nest over the next 3 months. In fact all the Black Cockatoos are on the Threatened List and Western Power has put a grew deal of money into a recovery programme to save these birds.

Amenity – this industry does not preserve the amenity of the area and the reason the residents brought here in the first place. It is not a compatible use of the land compared with resident's passive use, cattle breeding or farming.

The problems of starting bush – fires though fuel or hot exhausts must be considered.

The problems of no mobile phone coverage in this areas if an emergency occurs.

The problems for the City of Albany being forced to upgrade a winding gravel road to cope with all this extra traffic. And what about children that exercise their horses along these roads and the safety issues with it?

This proposed industry will seriously impact on the lives of all who live here and I believe their rights MUST be considered. I ask the Councillors to refuse this Industry.

Item 5.0 continued

- **Mr Mark Parre, Piggot Martin Road, Youngs Siding**

Mr Parre addressed Council against the proposal detailed at Item 11.1.1, Development Application (Junior Motorcycle Riding Training). Mr Parree stated that this proposed business would impact on the peace and tranquillity of the area, by exposing the existing community to persistent noise and limit future tourism ventures such as Home Stays and Chalet developments by existing residents.

- **Ms Jill Bostock, Rainbows End, Little Grove**

Ms Bostock addressed council in regards to Items: 11.1.2, Development Application – Biomass Fuel Pellet Plant, 11.1.3 Development Application, Alfresco Area, 125 York Street, Albany, and 11.3.2, Adoption of Draft Policy (Final), Residential Design Code Policy.

Ms Bostock raised concern that the council had delegated authority in relation to Items 11.1.2 and 11.1.3.

Ms Bostock requested that more detailed environmental reports be sourced in relation to Item 11.1.2, Development Application – Biomass Fuel Pellet Plant.

Ms Bostock emphasised to Council that the following issues need to be resolved or addressed in relation to Item 11.3.2, Adoption of Draft Policy (Final), Residential Design Code Policy before it is adopted:

- Council has an obligation to get more public comment and believes that the inception of this policy without further public review and consultation is undemocratic and unlawful; and
- The majority of the electorate are unaware of the implication of the Draft Policy

Ms Bostock also raised concern that she believes there are definitely more than 19 submissions against the policy as stated in Agenda Item 11.3.2 and that it appears that the City and this Council is rushing through Urban Design Policy, prior to the election.

- **Mr Phillip Morgan, Forestville**

Mr Morgan addressed the Council as the proposer of the development detailed in Item 11.1.1, Development Application (Junior Motorcycle Riding Training).

Mr Morgan read from the recommendation from the Town Planning Officer, detailing the strict compliance issues that have to be met, such as compliance to the City of Albany's, Acoustic Engineering Report standard.

Mr Morgan addressed the issues raised by Mr Parre of Youngs Siding and stated that few people in the community have an understanding of what is being proposed.

Mr Morgan reiterated that his proposed business would be limited to:

- A two hour session in the morning and afternoon; and

Item 5.0 continued

- Maximum of eight participants (noting that on average there will be a maximum of three);
- That four stroke motorbikes limited to 80cc will be utilised (not two stroke engines) as stated by Mr Parre, and are similar to the motor bikes used by Australia Post and Golf Karts.

Councillor Paver retired from the Chambers at 7.30pm.

The Mayor requested Council to extend question time. By show of hands Councillors supported the extension.

- **Mr Tony Harrison, Little Grove**

Mr Harrison addressed the Council in regards to Item 11.1.1, Development Application (Junior Motorcycle Riding Training).

Mr Harrison reminded Council of a previous residents proposal to establish a motorcycle track, and stated that support might be achieved if this operation was located in a different location.

- **Mr Don Dufty, McKail**

Mr Dufty addressed Council and thank the current Council for their efforts and wished them all the best for the forth coming election and will accept the result, whatever it may be.

Councillor Paver returned to the meeting at 7.32pm.

- **Ms Sharon Pearson, Piggot Martin Road, Youngs Siding**

Ms Pearson addressed Council against the proposal detailed at Item 11.1.1, Development Application (Junior Motorcycle Riding Training) and tabled a signed petition from 20 residents opposed to the development.

- **Ms Vera Torr, Sussex Street**

Ms Torr addressed Council and raised concern over the Residential Design Code Policy detailed at Item 11.3.2. Ms Torr stated that she cannot see the City of Albany's point of view.

Ms Torr also raised the issue that there are more than 3 submissions related to this item and queried why they were not referenced in the subject item.

EDDS (Mr Fenn) responded to Ms Torr advising that additional comment maybe contained on these issues in the submissions received on the York St Master Plan and that staff have not analysed these submissions.

Ms Torr thanked Mr Fenn for his response.

Public questioned time closed at 7.38pm.

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

6.1 Ordinary & Special Council Meeting Minutes (as previously distributed).

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 18<sup>th</sup> September 2007;

as previously distributed be confirmed as a true and accurate record of proceedings.

**AMMENDED RECOMMENDATION**

6.1 Ordinary & Special Council Meeting Minutes (as previously distributed).

DRAFT MOTION:

THAT the following minutes:

- Ordinary Council meeting held on 18<sup>th</sup> September 2007;

as previously distributed be confirmed as a true and accurate record of proceedings, noting that Cllr Evans Impartiality Interest in Item 19.1 is due to his role of Chairman of Albany (WA) Community Financial Services Ltd.

Voting Requirement Simple Majority

.....

**MOVED COUNCILLOR EMERY  
SECONDED COUNCILLOR BOJCUN**

**THAT the following minutes:**

- **Ordinary Council meeting held on 18<sup>th</sup> September 2007;**

**as previously distributed be confirmed as a true and accurate record of proceedings, noting that Cllr Evans Impartiality Interest in Item 19.1 is due to his role of Chairman of Albany (WA) Community Financial Services Ltd.**

**CARRIED 14-0**

**7.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## 8.0 DISCLOSURE OF FINANCIAL INTERESTS

<b>Name</b>	<b>Item</b>	<b>Nature of Interest</b>
Cr MJ Evans, JP	11.3.6	Impartiality - Councillor declared Impartiality as his wife is a member of Albany Sinfonia (Inc); and Councillor is a patron of the City of Albany Band (Inc).
Cr J Walker	11.1.2	Impartiality – Councillor has leased land to a tree company. Councillor does not know if the company will be involved with this Pellet Plant.
	11.3.2	Impartiality – Councillor lives at Middleton Beach.
Cr S Marshall	12.6.2	Impartiality – Councillor is an Administrator of the Albany Basketball Association, Major user of ALAC.
	13.4.1	Financial – Councillor employed as a Traffic Controller for Albany Traffic Control who are currently supplying Traffic Management to AD Contractors and Palmer & Rayner.
Cr Wiseman	11.1.3	Financial – Councillor supplies goods and services to business involved.

## 9.0 MATTERS FOR WHICH MEETING MAY BE CLOSED

Item 19.1 - Collective Agreements for General, Outside and Day Care Employees in accordance with Section 5.23 (2) (a) of the Local Government Act 1995 – a matter affecting an employee or employees. The report and recommendations have been issued under separate, confidential cover.

Item 19.2 - Internal Review Committee meeting minutes – 11<sup>th</sup> September 2007 in accordance with Section 5.23 (2) (a) of the Local Government Act 1995 – a matter affecting an employee or employees. The report and recommendations have been issued under separate, confidential cover.

## 10.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil