

15.0 ELECTED MEMBERS' REPORT/INFORMATION BULLETIN

Elected Members' Report/Information Bulletin

DRAFT MOTION

THAT the Elected Member's Report/Information Bulletin, as circulated, be received and the contents noted.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR BUEGGE**

**THAT the Elected Member's Report/Information Bulletin, as circulated, be received
and the contents noted.**

MOTION CARRIED 11-0

Councillor Kidman declared an impartiality interest and left the Chamber at 9.06pm.
The nature of Councillor Kidman's interest is that he is a member of the Albany Vintage and Classic Motor Cycle Club.

16.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.1 Additional Financial Assistance for the Albany Classic Motor Event

File/Ward	:	FIN061 (Frederickstown)
Proposal/Issue	:	Define the financial support to the Albany Classic Motor Event
Subject Land/Locality	:	N/A
Proponent	:	Albany Classic Motor Event Organising Committee
Owner	:	N/A
Reporting Officer(s)	:	Andrew Hammond (CEO)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 21/11/06 OCM 17/07/07 OCM 18/03/08 Item 18.1
Summary Recommendation	:	THAT additional funds of \$10,000 (ex gst) be allocated in the 2007/08 budget to enable the delivery of the Albany Classic Motor Event in June 2008
Bulletin Attachment	:	Nil
Locality Plan	:	N/A

BACKGROUND

1. A Notice of Motion has been received from Councillor Williams supported by Councillors Bostock, Matla, Price and Paver.
2. The notice of motion proposes to change the decision made at the Ordinary Council Meeting of 18 March 2008.
3. The Local Government (Administration) Regulations 1996, Regulation 10 provides that motions to change Council decisions must be supported and a notices of motion be signed by at least one third (5) of the number of Offices of Council.
4. A signed Notice of Motion executed by Councillors Williams, Bostock, Matla, Price and Paver has been received by the CEO.
5. The new motion proposes to limit Council's extra financial contribution to \$10,000.00.
6. The original motion provided for Council carrying the entire financial risk of the event.

Item 16.1 continued

ORIGINAL DECISION OF ITEM 18.1 OCM 18 MARCH 2008

MOVED COUNCILLOR WALKER
SECONDED COUNCILLOR STANTON

THAT Council:

- i) increases its contribution to the 2008 Albany Classic Motor Event by \$10,000 (ex GST) plus/minus any deficit/surplus;
- ii) support City staff working with the Committee to ensure budgetary control for the 2008 event and assist strengthening capacity building;
- iii) advise the Albany Classic Motor Event Committee that future funding will be dependant upon the Committee achieving legal status as an Incorporated Association, and;
- iv) support the City auspicing income and expenditure for the event on behalf of the Organising Committee

(Motion Carried 9-2 Absolute Majority)

.....
NOTICE OF MOTION BY COUNCILLOR WILLIAMS

THAT Council change the decision of Ordinary Council Meeting, dated 18 Mar 08, Item 18.1 - Additional Financial Assistance for the Albany Classic Motor Event; by changing clause i) to:

- i) Underwrites the operating deficit of the Albany Classic Motor Event 2008 up to a maximum of \$10,000.00 should the event not generate a profit.

Voting Requirement Absolute Majority

.....
**MOVED COUNCILLOR WILLIAMS
SECONDED COUNCILLOR PRICE**

THAT Council change the decision of Ordinary Council Meeting, dated 18 Mar 08, Item 18.1 - Additional Financial Assistance for the Albany Classic Motor Event; by changing clause i) to:

- i) Underwrites the operating deficit of the Albany Classic Motor Event 2008 up to a maximum of \$10,000.00 should the event not generate a profit.**

**MOTION CARRIED 9-1
ABSOLUTE MAJORITY**

Councillor Kidman returned to the Chamber at 9.09pm.

16.2 Albany Waterfront Memorandum of Agreement between the City of Albany and the State of Western Australia

File/Ward	:	MAN 075/ MAN168 (Frederickstown Ward)
Proposal/Issue	:	Review status of Albany Waterfront Memorandum of Agreement [September 2005 and September 2007 (revised)]
Subject Land/Locality	:	Albany Waterfront Project
Proponent	:	LandCorp
Owner	:	Crown
Reporting Officer(s)	:	Manager Economic Development (J Berry)
Disclosure of Interest	:	Nil
Previous Reference	:	SCM 30/08/2005 OCM 21/11/2006 OCM 18/03/2008 (Item lapsed)
Summary Recommendation	:	Council acknowledge the background and process in formulating the Albany Waterfront Memorandum of Agreement (revised September 2007) and observe its status as a guide to the planning and delivery of the project and to Councils financial commitments to the project.
Bulletin Attachment	:	1. Albany Waterfront Memorandum of Agreement (September 2005). 2. Albany Waterfront Memorandum of Agreement (Revised September 2007).
Locality Plan	:	N/A

BACKGROUND

1. Councillor Bostock has advised that she wishes to submit this notice of motion to ensure Council examine Memorandum of Agreement September 2007 with particular respect to the financial implications of section 9.2 "The State of Western Australia will contribute a maximum of \$46.3 million to the Albany Entertainment Centre Project.

Reason: Section 9.2 has the potential to expose the City to an unquantifiable financial liability.

Item 16.2 continued

STATUTORY REQUIREMENTS

2. There are no Statutory Requirements relating to this item.

POLICY IMPLICATIONS

3. There are no Policy Implications relating to this item.

FINANCIAL IMPLICATIONS

4. There are no Financial Implications relating to this item.

STRATEGIC IMPLICATIONS

5. This item directly relates to the following elements from the City of Albany 3D Corporate Plan:

“Community Vision:

A Thriving City: Albany’s community will enjoy economic growth and outstanding opportunities for our youth through ...

- *Excellent community infrastructure and services;*
- *Innovative development complementing Albany’s unique character, natural environment and heritage; and*
- *A unique economically sustainable waterfront facility providing a functional boat harbour and shore based facilities to the community and attractive to investment.*

Mission Statement:

The City of Albany is committed to ...

- *Providing sound governance; and*
- *Promoting our Community’s vision for the future.*

Priority Projects:

27. *Albany Waterfront: Establish working boat harbour and complementary commercial and community based facilities on Princess Royal Harbour foreshore.”*

COMMENT/DISCUSSION

6. At SCM 30/08/2005 Council considered the recommendations of the Albany Waterfront Development Committee and resolved as follows:
- a. Any previous decisions of the Council that are substantially different to the motions set out below in paragraphs (b), (c), (d) and (e) be revoked under regulation 10 of the Local Government (Administration) Regulations 1996;
 - b. Council enters into an agreement with the State of Western Australia known as the Albany Waterfront Memorandum of Agreement based upon the following key principles and commitments;

Item 16.2 continued

PROJECT VISION

To create a sustainable, attractive and exciting world-class waterfront precinct for the Albany community, the Great Southern Region, and visitors to the region.

The Albany Waterfront will provide a protected boat harbour serving the recreational, fishing and tourism industries and a land-based development adjacent to the town jetty providing a range of tourist accommodation, maritime servicing, entertainment, recreational and community based facilities.

COMMITMENTS TO THE COMMUNITY

The State of Western Australia and the City of Albany are committed to the following underlying principles regarding the development and ongoing operation of the Albany Waterfront:

- *Acknowledgement and respect of 24 hour a day, 7 day a week heavy haulage access to the Port of Albany.*
- *Prohibition of residential activity.*
- *Unfettered community access to the foreshore.*
- *Maintenance of the iconic Princess Royal Harbour vista as seen from the York Street Commercial Precinct.*

SCOPE OF AGREEMENT

The Albany Waterfront, Boat Harbour & Pedestrian Bridge

- *Albany Waterfront - The remediation and development of 5.5 hectares of waterfront land into subdivided lots and civic space to accommodate and service the Albany Entertainment Centre, tourism accommodation, retail, commercial, maritime, parking and public facilities.*
- *Boat Harbour - The development of a marina immediately to the East of the town jetty that will accommodate and service approximately 70-80 vessels.*
- *Pedestrian Bridge - The construction of a pedestrian bridge linking the proposed Albany Entertainment Centre and adjacent facilities in the Albany Waterfront Project to Stirling Terrace and the Albany Railway Station Precinct.*

The Albany Entertainment Centre

- *The construction of a 650 to 700 seat entertainment facility, architecturally compatible with, and complementary to, the future development of contiguously located hotel and convention facilities.*

Anzac Peace Park

- *The remediation and development of approximately 1.4 Hectares of waterfront land to the west of York Street and portions of the adjoining reserve to the east of York Street for public parkland purposes.*

Associated Land Transactions

- *The transfer in freehold to the City of Albany a parcel of land, the size to be agreed upon but generally in accordance with diagram 2, excised from the Albany Waterfront project site sufficient in area to construct the Albany Entertainment Centre and curtilage.*
- *The relinquishment of the Management Order over Lot 1512 Emu Point by the City of Albany.*

Item 16.2 continued

ROLES and RESPONSIBILITIES

The Albany Waterfront, Boat Harbour & Pedestrian Bridge

- *LandCorp will be principally responsible for and project manage the urban design, statutory approvals process, construction of infrastructure, and subdivision and release of land.*
- *The City of Albany will be responsible for the care and management of all road reserves, the pedestrian bridge, civic spaces and all fixtures and improvements coming into its control as a result of the subdivision process.*
- *The Department of Planning and Infrastructure will be responsible for the management of the Marina and the care and management of maritime infrastructure and any civic spaces or leasehold land coming into its control as a result of the subdivision process.*

The Albany Entertainment Centre

- *The City of Albany will be principally responsible for and project manage the design, statutory approval processes, construction, commissioning and ongoing care, control and management of the facility.*

Anzac Peace Park

- *The City of Albany will be principally responsible for and project manage the design, statutory approvals process, development, commissioning and ongoing care, control and management of the facility.*
- *LandCorp will collaborate with the City of Albany in undertaking a coordinated environmental assessment of the Anzac Peace Park site and some sections of the Albany Waterfront site.*

Associated Land Transactions

- *LandCorp will transfer land excised from the Albany Waterfront project site sufficient in area to construct the Albany Entertainment Centre and curtilage to the City of Albany upon the creation of the new lot. LandCorp may consider a development lease to the City of Albany to allow construction of the Albany Entertainment Facility to commence prior to the creation of the new lot.*
- *The City of Albany will advise the Department of Land Administration that it has relinquished the Management Order over Lot 1512 Emu Point upon the execution of this agreement.*

FINANCING

- i) *The State of Western Australia will contribute \$27.8 million to the Albany Waterfront Project and \$14.9 million to the Albany Entertainment Centre Project plus the land necessary to accommodate that facility.*
- ii) *The City of Albany will contribute \$1 million to the Albany Waterfront project and \$1.2 million plus any Federal grant monies obtained to the Albany Entertainment Centre Project.*
- iii) *The City of Albany is responsible for financing and obtaining further funding for the design and development of Anzac Peace Park.*
- iv) *The City of Albany acknowledges that the proceeds of the development of Lots 1512 and 1523 Emu Point are to be applied by the State Government to the Albany Waterfront Project.”*
 - a) *Urban design layout and development guidelines to be determined by way of Structure Plans and Precinct Plans adopted pursuant to the Town Planning Scheme;*

Item 16.2 continued

- b) Architectural and building design to be determined by way of Central Area Design Guidelines (currently under preparation) adopted as a Local Planning Policy; and
 - c) Residential activity to be prohibited by way of:
 - Town Planning Scheme regulation
 - Specific covenants in Lease Documents
 - Restrictive covenants on Freehold Titles.
7. The Memorandum of Agreement (MOA) is not a legal document rather it lays out previous decisions, commitments and responsibilities of the major stakeholder organisations who have a role in bringing the project to fruition. The MOA formalises a partnership between the State of Western Australia and the City of Albany and guides the planning and delivery of the project.
8. A revised version of the original Memorandum of Agreement (dated 6 September 2005) was signed by Her Worship the Mayor Alison Goode (former Mayor) on 8 October 2007 after Council had resolved the following at OCM 21/11/06:
- a. Disband the Albany Entertainment Centre Steering Committee;
 - b. Enter into a Memorandum of Agreement with the Department of Housing and Works and the Great Southern Development Commission that recognises:
 - i) the Minister for Works as the Principal to the Project Architect and the Department of Housing and Works as the Principal's representative
 - ii) the Great Southern Development Commission as the administrator of the project capital works budget.
 - iii) a requirement for Council endorsement of key stages of the project including the appointment of the architect; selection of the design and statutory approvals (as necessary);
 - c. Endorse the establishment of a local Project Planning Group consisting of Council Officers to liaise with the Project Architect (and sub-consultants) to bring recommendations to Council on interior fit-out, landscaping and public art;
 - d. Endorse the establishment of a Steering Committee consisting of representatives from the Department of Housing and Works (DHW), the Great Southern Development Commission (GSDC) and the City of Albany (Chief Executive Officer) to provide strategic direction and leadership in bringing the project to fruition.
 - e. Endorse the establishment of a Design Review Committee lead by DHW and consisting of:
 - Government Architect – Chairman (Prof. Geoffrey London);
 - Director of Urban Design firm Urbanizma (Prof. Patric deVilliers);
 - Manager Economic Development - City of Albany (Mr Jon Berry) (the Mayor and CEO will also attend meetings as observers);
 - Project Manager Department of Housing and Works (Mr Ian Johnston); and
 - CEO Great Southern Development Commission (Mr Bruce Manning).

Item 16.2 continued

9. The revised Memorandum of Agreement captured the contents of Council's resolution and serves to reconfirm the strategic alliance that exists between the key stakeholders and again outlines the roles and responsibilities of each organisation. It introduces the Department of Housing & Works as project manager for the Albany Entertainment Centre and provides updated capital works financing data.
10. The revised MOA states the W.A. Government will contribute \$46.3m and Council's contribution will be \$1.2m plus any Federal grant monies obtained (in the order of \$1.5m). If Federal grant monies are not forthcoming the City has been advised that State Cabinet has previously agreed to fund any deficit.
11. Should the project capital cost exceed \$49m (and the State Government resolves not to contribute any additional funds), then the project may be deemed unviable and Council and the State Government would need to review the current building design and function. Notwithstanding this, the project management regime put in place through the revised MOA transfers all contractual risks to the Minister for Works – not the Council.
12. The City of Albany's funding is limited to \$1.2 million capital contribution to the Albany Entertainment Centre and \$1 million for the purchase of the land.

COUNCILLOR BOSTOCK'S MOTION

THAT Council:

- (i) Examines Memorandum of Agreement September 2007 with particular respect to the financial implications of section 9.2 "The State of Western Australia will contribute a maximum of \$46.3 million to the Albany Entertainment Centre Project".
- (ii) Council seek written confirmation from the WA State Government that:
 - a. The City of Albany will pay only the sum specified as its contribution to the Albany Entertainment Centre (AEC) project in the MOA 2007 9.3 and 9.4, being:
 - (1) *"9.3 The City of Albany will contribute \$1.0 million to the Albany Waterfront project in the 2007-2008 financial years as payment for the land necessary to accommodate the Albany Entertainment Centre Project; and*
 - (2) *9.4 The City of Albany will contribute \$1.2 million plus any Federal grant monies obtained in the order of \$1.5 million to the Albany Entertainment Centre Project."*
 - b. All other expenditure to complete the project will be the responsibility of the WA State Government.

Voting Requirement Simple Majority

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Item 16.2 continued

Councillor Williams left the Chamber at 9.18pm.

Reason:

This Notice of Motion aims to provide a greater security and tighter protection to Council's financial risk to this project.

The following details Councillor Bostock's address to Council:

My original motion to examine the 2007MOA was to bring councils attention to the fact that section 9.2 "The State of Westem Australia will contribute a MAXIMUM of \$46.3 million to the Albany Entertainment Project." has the potential to expose the city to an unquantifiable financial liability. I felt this to be an entirely proper way of opening debate and thereby reaching a reasoned decision on how we as a responsible governing body, could ensure that this project will be completed, without burdening our rate payers or having a half finished building due to lack of funds.

The revised2007MOA is materially different from the 2005 agreement in three areas.

- 1)A change in the responsibility to deliver the ABC from City of Albany to The Department of Housing and Works.
- 2)The seating has reduced from 650 or 700 to 620
- 3)The State Government has placed a cap of \$46.3 million on its contribution.

The authorization to sign the new MOA was sited as OCM21.11.06 when it was agreed to transfer responsibility to the Minister of Housing and Works, but there was no mention of the changes to seating or the financial situation. This MOA should therefore have been seen and adopted by full council. The mayor cannot act without the authority of the whole governing body. Had the council viewed this document perhaps the full implication of section 9.2 could have been noted and rectified.

As it stands there is no ambiguity State Government will contribute a MAXIMUM of \$46.3 million. Who then is responsible for meeting any escalation in cost? The building has already more than tripled in cost, starting at\$14.9 and is currently estimated, at around \$47 million. The Building Cost Index even as a conservative estimate will result in an increase of around 6 million per year and it is not unusual for projects of this scale to rocket hugely over budget.

As our CEO stated in his ABC business case to the State Treasurer, "the City's current and medium term financial position, whilst sustainable and viable is unable to tolerate further capital expenditure. "

Mayor and Councillors we need greater assurance from state government; it is our responsibility to protect the people of Albany.
The fact that this has become a contentious issue must not distract us from our responsibility.

The iconic status and the ABC position as the figurehead of the Waterfront Development must not distract us from exercising Common sense.

We must not allow the involvement of State Government to lull us into a false sense of security.

I would like to draw your attention to an article in the Australian 28 February 08
Labour sacks local council for \$34 million cost blow out.

Item 16.2 continued

If we are to protect our ratepayers from further rate rises or the calamity of an unfinished building we must act. We may have a new government in parliament before this project is completed; we cannot rely on a gentleman's agreement and must have proper written safeguards.

**MOVED COUNCILLOR PAVER
SECONDED COUNCILLOR PRICE**

THAT Council Standing Order 6.5, Order of Call in Debate, be suspended.

**MOTION TIED 5-5
MAYOR EXERCISED CASTING VOTE
MOTION LOST**

Record of Vote:

For: Councillors Bostock, Price, Buegge, Stanton and Paver.

Against: Mayor Evans, Councillors: Kidman, Matla, Wolfe, and Wiseman

**MOVED COUNCILLOR BOSTOCK
SECONDED COUNCILLOR PRICE**

THAT Council:

(i) **Examines Memorandum of Agreement September 2007 with particular respect to the financial implications of section 9.2 “The State of Western Australia will contribute a maximum of \$46.3 million to the Albany Entertainment Centre Project”.**

(ii) **Council seek written confirmation from the WA State Government that:**

- a. **The City of Albany will pay only the sum specified as its contribution to the Albany Entertainment Centre (AEC) project in the MOA 2007 9.3 and 9.4, being:**
 - 1) **“9.3 The City of Albany will contribute \$1.0 million to the Albany Waterfront project in the 2007-2008 financial years as payment for the land necessary to accommodate the Albany Entertainment Centre Project; and**
 - (2) **9.4 The City of Albany will contribute \$1.2 million plus any Federal grant monies obtained in the order of \$1.5 million to the Albany Entertainment Centre Project.”**
- b. **All other expenditure to complete the project will be the responsibility of the WA State Government.**

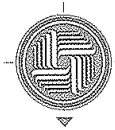
MOTION LOST 4-6

Record of Vote:

For: Councillors Bostock, Price, Buegge and Paver.

Against: Mayor Evans, Councillors: Kidman, Matla, Wolfe, Stanton and Wiseman.

Item 16.2 continued



GREAT SOUTHERN
DEVELOPMENT COMMISSION

Your Ref: MAN075/MAN168
Our Ref: X1:0015
Enquiries: Bruce Manning

18 March 2008

Mr Andrew Hammond
Chief Executive Officer
City of Albany
PO Box 484
ALBANY WA 6330

ATTENTION: Jon Berry

Dear Andrew

Thank you for your letter received 13/3/08 in regard to the City of Albany's contribution to the Albany Entertainment Centre (AEC)

The financial responsibilities of the various parties are clearly articulated in the most recent Memorandum of Agreement for the Waterfront development, signed by the City of Albany on the 8th of October, 2007. In regard to the AEC, under this MOA the City of Albany (COA) is committed to the following:

- A contribution of \$1m as payment to the State Government for the land necessary to accommodate the AEC
- A contribution of \$1.2m to the AEC plus any Federal grant monies obtained for the project

The Commission accepts your reassurance that the COA remains committed to maintaining its best efforts to secure a minimum of \$1.5m from the Australian Government as a contribution to the project.

However, the Commission acknowledges that the Regional Partnerships Program under which the Australian Government's contribution was anticipated is under review and it is unclear at this stage as to its status within the new Federal Government.



Building partnerships for regional prosperity

Albany Pyrmont House, 110 Serpentine Road, PO Box 280, Albany WA 6331, Phone: (08) 9842 4888 Fax: (08) 9842 4828 Email: gfdc@gfdc.wa.gov.au
Katanning 10 Dore Street, PO Box 729, Katanning WA 6317 Phone: (08) 9821 3211 Fax: (08) 9821 3336 Email: rpritchard@agric.wa.gov.au
Web site: www.gfdc.wa.gov.au

Item 16.2 continued

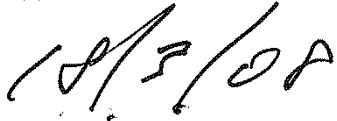
You will be aware that this Commission has a representative on the Australian Government's local Area Consultative Committee (ACC) Board and we are looking forward to seeing the COA vigorously pursue Australian Government financial support when the avenue for such support becomes clear.

Thank you.

Yours faithfully



BRUCE W MANNING
CHIEF EXECUTIVE OFFICER



Councillor Williams returned to the Chamber at 9.24pm.
Councillor Paver left the Chamber at 9.24pm and returned t 9.29pm.

17.0 MAYORS REPORT FOR ORDINARY COUNCIL MEETING – 15th APRIL 2008

Fellow Councillors:

I start my report this month by thanking Deputy Mayor Des Wolfe, Councillors John Walker, Kim Stanton, Dot Price, Nicolette Williams and Robert Buegge, for officiating at civic and community events:

- The City of Albany Harbour Swim
- The Activ Dragonfly Week
- The Hawaiian Ride for Youth – Youth Focus fundraising initiative
- The Seniors Advisory Committee – Launch of the Dinosaur Project
- The Official Opening of the Emu Point Bowling Club new complex
- The Great Southern TAFE Annual Awards Ceremony
- The Annual Inspection of the TS Vancouver Cadets
- The Youth CARE Commissioning Service
- A visit from the Mayor, CEO and 3 Councillors of the Glenelg Shire Council (Vic)
- The Albany Surf Life Saving Annual Presentation Night.

These events personify just a small proportion of the activities that take place each month in Albany, the majority of which rely on the work of volunteers to occur. To reflect on it in this way serves as a reminder of how lucky we are to live in such a vibrant, cooperative and community-minded City.

As community leaders I encourage all Councillors to become more involved in a Civic capacity, both at City of Albany functions and at functions hosted by the community. Such opportunities not only enable the community to get to know the elected members who represent them on Council, it also enables Councillors to get to know the thoughts and visions of the diverse community we represent.

Also over the past month, I met with Western Power Regional Board members at a stakeholder function held at the Albany Golf Club, to discuss regional issues. Western Power are very supportive of wave and biomass initiatives on the South Coast.

Item 17.0 continued

On the 7th April I had great pleasure in hosting a Civic Morning Tea to thank the Albany Visitor Ambassadors for volunteering their time to welcome approximately 12,000 passengers off the visiting Cruise Ships over the 2007/2008 Cruise Ship season. So successful were the Ambassadors in achieving their aim to provide a unique welcome to our Cruise Ship visitors, that it has been commented that the welcome received in Albany surpassed anything passengers had received anywhere else in the world. Through the efforts of the AVA's, Albany was portrayed in a very positive and friendly manner, which I'm sure will generate return visits and result in recommendations to friends and family to visit Albany. I thank the AVAs sincerely for volunteering their time.

I have been following with interest the regular updates from Fedor Konyukhov, the Russian adventurer undertaking a solo circumnavigation of Antarctica to set the inaugural record for the Antarctica Cup Racetrack. Last week Fedor passed the Cape of Good Hope and is now past what they refer to as "iceberg alley". Over the weeks I have been fascinated by the ordeal this man has set for himself; the demands, the danger, the isolation and the monotony of such a voyage is something we can barely imagine from the comfort of our own homes. And yet in each report Fedor focuses on something positive. I was particularly inspired by his last report in which he states; "down here in the Southern Ocean, every albatross is different, every wave is different and every sunrise unrepeatabe. We must keep our uniqueness." Fedor refers to a quote from Australian solo circumnavigator Jon Sanders: "Why live an ordinary life - be original".

It is not necessary to sail around the world to be original or to find uniqueness. Each of us is unique and none of us has prior claim on knowledge. That is why it is important to build teamwork, trust and respect for each other. Like Fedor, we should all learn to take positives out of the challenges we face in life and in Council.

Albany is renowned for its uniqueness and purity and it is our responsibility as Councillors not to be coerced by what is universal, but to protect that uniqueness. I believe that positivity, originality and the desire to strive to protect Albany's uniqueness is a very important message for us to adopt as the Elected Members of this Council.

Thank you.

Item 17.0 continued

DRAFT MOTION

THAT the Mayor's Report dated 15th April 2008 be received.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT the Mayor's Report dated 15th April 2008 be received.

MOTION CARRIED 11-0

Councillor Buegge left the Chamber at 9.35pm.
The CEO, Mr Hammond left the Chamber at 9.35pm and returned at 9.36pm.

18.0 URGENT BUSINESS APPROVED BY MAYOR OR BY DECISION OF THE MEETING

18.1 Contract C08010 – Sale of Land – 55 Francis Street, Lower King, Albany

File/Ward	:	C08010 (All Wards)
Proposal/Issue	:	Sale of Council Land
Subject Land/Locality	:	55 Francis St, Lower King, Albany (Lot No 74)
Proponent	:	Nil
Owner	:	City of Albany
Reporting Officer(s)	:	Purchasing Officer (W Male)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 19/02/08 Item 12.1.3
Summary Recommendation	:	That Council not accept the tender for the sale of land at 55 Francis Street, Lower King, Albany and make arrangements to sell the property by private treaty.
Bulletin Attachment	:	Nil
Locality Plan	:	



Item 18.1 continued

BACKGROUND

1. At the ordinary Council meeting 19th February 2008, Council agreed to tender for the outright sale of the property at 55 Francis Street (Lot No 74).

STATUTORY REQUIREMENTS

2. Regulation 18 of the Local Government (Functions and General) Regulations 1996 outlines a number of requirements relating to choice of tenderer. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
3. Regulation 19 requires the CEO to advise each tenderer in writing the result of Council's decision.
4. Regulation 30 (2) of the Local Government (Functions and General) Regulations 1996 allows six months for a local government to use private treaty to sell a tendered property which failed to meet the reserve price.
5. Section 5.42 of the Local Government Act allows Council to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of its duties under the Local Government Act. The Chief Executive Officer can then administratively arrange, pursuant to Section 5.44 of the Local Government Act, to allow another person to perform the required function.

POLICY IMPLICATIONS

6. The City of Albany policy on Disposal of Land requires that land not be sold for less than a value provided by a licensed professional valuer undertaken within six months of the resolution by Council to sell the land.

FINANCIAL IMPLICATIONS

7. The successful sale of the land would provide funding for the ALAC Redevelopment costs.

STRATEGIC IMPLICATIONS

8. This item directly relates to sound governance under the City of Albany 3D Corporate Plan:

“Community Vision:

A Healthy City, Albany Community will enjoy healthy, fulfilling lifestyles, and a flourishing natural environment through.

- *Diverse and affordable cultural, recreational and sporting opportunities.*

A Thriving City, Albany's community will enjoy economic growth and outstanding opportunities for our youth through.

- *Excellent community infrastructure and services.*

Mission Statement:

The City of Albany is committed to..

- *Sustainably Managing Albany's municipal assets,*
- *Delivering excellent community services,*

Item 18.1 continued

- *Respect the Communities aspirations and resources.*

Priority Projects:

Nil”

COMMENT/DISCUSSION

9. A request for tenders was published in the West Australian on 27th February 2008 and the Albany Advertiser on 4th March and 6th March 2008. A total of twenty one documents were issued with one submission received at the close of tenders.
10. The one tender received from Achillies Pty Ltd and Corrib Investments Pty Ltd provided an offer price of \$990,000.
11. The price offered was considerably lower than the reserve price set by the sworn valuation of a licensed professional valuer (\$3,350,000). In accordance with Council’s Policy on Land Disposal, the tender must be rejected.
12. It is proposed to appoint a local real estate agent to offer the land for sale by private treaty, and delegate authority to the Chief Executive Officer to finalise a sale if possible.

RECOMMENDATION

THAT:

- a. Council not accept the tender from Achillies Pty Ltd / Corrib Investments Pty Ltd, for the purchase of land at 55 Francis Street, Lower King, Albany.
- b. The Chief Executive Officer be authorised to appoint a local real estate agent based on competitive expressions of interest from agents, and be authorised to negotiate the sale of the land at a price equal to or greater than the current valuation provided by a licensed professional valuer.

Voting Requirement Simple Majority

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WISEMAN**

THAT:

- a. Council not accept the tender from Achillies Pty Ltd / Corrib Investments Pty Ltd, for the purchase of land at 55 Francis Street, Lower King, Albany.**
- b. The Chief Executive Officer be authorised to appoint a local real estate agent based on competitive expressions of interest from agents, and be authorised to negotiate the sale of the land at a price equal to or greater than the current valuation provided by a licensed professional valuer.**

MOTION CARRIED 8-2

Record of Vote:

For: Mayor Evans, Councillors Kidman, Matla, Williams, Wolfe, Stanton, Price and Wiseman.

Against: Councillors Paver and Bostock

18.2 Wave Energy Feasibility Study

File/Ward	: STR257/ALL WARDS
Proposal/Issue	: Wave Energy Feasibility study
Subject Land/Locality	: Sand Patch Reserve (Crown Reserve 13773)
Proponent	: Carnegie Corporation Ltd
Owner	: N/A
Reporting Officer(s)	: Chief Executive Officer (A Hammond)
Disclosure of Interest	: Nil
Previous Reference	: Nil
Summary Recommendation	: THAT Council proceed with the disposition process.
Bulletin Attachment	: Nil
Locality Plan	: Nil

BACKGROUND

1. A briefing session was provided by a representative of Carnegie Corporation Ltd on Thursday 20 March explaining “CETO” Wave Energy Technology.
2. CETO technology harnesses wave energy via a series of submerged buoys and pumps, generating high pressure sea water that can be used to either drive turbines to generate base load electricity or create desalinated water via osmosis.
3. Carnegie Corporation Ltd are currently evaluating suitable sites throughout Australia for a large scale wave energy facility and Albany has presented as one of the preferred site options.
4. CETO wave energy technology has the potential to make Albany a net exporter of zero emission electricity. Potential also exists for desalinated water supply solutions for the region.

STATUTORY REQUIREMENTS

5. Legal advice has been obtained that provides that any proposal to provide the proponents with security whilst it undertakes a feasibility study is a disposition of property. The provisions of Section 3.58(3) therefore apply which include obtaining a valuation for the consideration of the option, local public notice and the matter being brought back to Council for final agreement.

Item 18.2 continued

POLICY IMPLICATIONS

6. The draft Council Policy on Property Management (Leases) provides that:
“Commercial leases will be offered at a rental determined by an independent valuer taking into account the current value of the business and rental structure in a way which provides maximum return to Council.”

FINANCIAL IMPLICATIONS

7. Revenues from the lease of land would be received if the proponents decide to proceed with the project.

STRATEGIC IMPLICATIONS

8. This item directly relates to the following elements from the City of Albany 3D Corporate Plan...

“Community Vision:

Albany’s community will enjoy economic growth and outstanding opportunities for our youth...

- *Innovative development complementing Albany’s unique character, natural environment and heritage.*

COMMENT/DISCUSSION

9. Carnegie Corporation Ltd is considering the conduct of a feasibility study for the establishment of the project in Albany and wishes to obtain some form of security over the land whilst undertaking the study.
10. Carnegie Corporation Ltd seeks assurance that the land would be available should they wish to proceed with the project and that the City would not make land available to one of their competitors wishing to apply similar technology for the duration of the feasibility study.
11. Any agreement to lease land at the end of the option period of completion of the feasibility would be contingent upon:
 - i. The lease being of a term to accommodate the life of the project, typically 20 years.
 - ii. Sufficient land being made available to reasonably accommodate the land based functions of the project.
 - iii. The proponents obtaining all statutory approvals including but not limited to a Planning Scheme Consent, environmental approval and access to the seabed by way of license or other instrument.
 - iv. The payment of lease rental in line with Council Policy on Property Management (Leases).

Item 18.2 continued

12. Carnegie Corporation Ltd seek a three (3) year period in which to conduct the feasibility study and come to a decision on whether to proceed or not.
13. The option required to secure the land for three years is not a request to lease land, but a request for an option to lease at a later time with an agreement to restrict competition activities on the reserve. The valuation will therefore be based on the restriction of that competition.
14. Given the nature of the proposal, the minimal impact it will have on the subject land and the significant strategic environmental benefits this project may bring to the City, it is proposed to limit the consideration of the option to \$1.00 per year notwithstanding the results of the valuation to be undertaken. Any future lease would be subject to normal commercial considerations.

RECOMMENDATION

THAT Council enter into an exclusive option agreement with Carnegie Corporation Ltd for a period of three (3) years at a fee of \$1.00 per year to enable the conduct of a Feasibility Study on the establishment of a wave energy power generation facility on Crown Reserve 13773 subject to:

- i) The Minister for Lands agreeing to an appropriate change to the purpose of the reserve and consenting to a grant of interest in the reserve to Carnegie Corporation Ltd.
- ii) The disposition provisions of Section 3.58(3) of the Local Government act 1995 being implemented and submissions being considered by Council before final agreement.
- iii) Any proposal to lease at the finalisation of the feasibility study or end of option term being subject to:
 - a. The lease being of a term to accommodate the commercial life of the project.
 - b. Sufficient land being made available to reasonably accommodate land based functions of the project.
 - c. The proponents obtaining all statutory approvals including, but not limited to:
 1. A planning scheme consent pursuant to the Town Planning and Development Act 2005.
 2. Environmental approvals pursuant to the Environmental Protection Act 1986.
 3. Authority to use the seabed by way of license or other instrument.
- iv) The payment of commercial lease rentals in line with Council Policy on Property management (Leases).

Item 18.2 continued

- v) Carnegie Corporation Ltd acknowledging the City of Albany's function as a planning authority pursuant to the Town Planning and Development Act 2005 and its role in considering an application for planning scheme consent on the basis of the principles of sound and orderly planning independent of any decision made past, present or future of the disposition of the subject land.
- vi) Carnegie Corporation Ltd being responsible for the costs associated with the preparation of documentation.

Voting Requirement Absolute Majority

**MOVED COUNCILLOR MATLA
SECONDED COUNCILLOR PAVER**

THAT Council enter into an exclusive option agreement with Carnegie Corporation Ltd for a period of three (3) years at a fee of \$1.00 per year to enable the conduct of a Feasibility Study on the establishment of a wave energy power generation facility on Crown Reserve 13773 subject to:

- i) **The Minister for Lands agreeing to an appropriate change to the purpose of the reserve and consenting to a grant of interest in the reserve to Carnegie Corporation Ltd.**
- ii) **The disposition provisions of Section 3.58(3) of the Local Government act 1995 being implemented and submissions being considered by Council before final agreement.**
- iii) **Any proposal to lease at the finalisation of the feasibility study or end of option term being subject to:**
 - a. **The lease being of a term to accommodate the commercial life of the project.**
 - b. **Sufficient land being made available to reasonably accommodate land based functions of the project.**
 - c. **The proponents obtaining all statutory approvals including, but not limited to:**
 - 1. **A planning scheme consent pursuant to the Town Planning and Development Act 2005.**
 - 2. **Environmental approvals pursuant to the Environmental Protection Act 1986.**
 - 3. **Authority to use the seabed by way of license or other instrument.**
- iv) **The payment of commercial lease rentals in line with Council Policy on Property management (Leases).**
- v) **Carnegie Corporation Ltd acknowledging the City of Albany's function as a planning authority pursuant to the Town Planning and Development Act 2005 and its role in considering an application for planning scheme consent on the basis of the principles of sound and orderly planning independent of any decision made past, present or future of the disposition of the subject land.**
- vi) **Carnegie Corporation Ltd being responsible for the costs associated with the preparation of documentation.**

**MOTION CARRIED 10-0
ABSOLUTE MAJORITY**

19.0 CLOSED DOORS

CEO requested Council to go behind closed doors to brief Council on a matter in accordance with Section 5.23(2) (a) (b) of the Local Government Act 1995 – matters affecting staff.

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR MATLA**

THAT Council meet behind closed doors to receive a Confidential briefing in accordance with Section 5.23(2)(a)(b) of the Local Government Act 1995 – matters affecting staff.

MOTION CARRIED 10-0

Members of the public, media, staff (less CEO) and media vacated the Council Chambers at 9.40pm.

Councillor Buegge returned to the Chamber at 9.52pm

Record of decisions made behind closed doors.

Nil

**MOVED COUNCILLOR WOLFE
SECONDED COUNCILLOR WISEMAN**

THAT Council open the meeting to the public.

MOTION CARRIED 11-0

The meeting was re-opened to the public and media at 10.05 pm.

20.0 NEXT ORDINARY MEETING DATE

Tuesday 20th May 2008, 7.00pm

21.0 CLOSURE OF MEETING

There being no further business the meeting closed at 10.07pm.

Confirmed as a true and correct record of proceedings.

MAYOR
(M Evans, JP)

APPENDIX A

WRITTEN NOTICE OF DISCLOSURE

Nil

APPENDIX B

INTEREST DISCLOSED DURING THE COURSE OF THE MEETING

Name	Item Number	Nature of Interest
Councillor Kidman	16.1	<u>Impartiality.</u> Councillor is a member of the Albany Vintage and Classic Motorcycle Club. Cr abstained from the debate, discussion and voting on this item.

INTEREST DISCLOSED BY OFFICERS

Nil

[Agenda Item 12.1 refers]

[Council – 31st March 2008]

SUMMARY OF ACCOUNTS

Municipal Fund			
Cheques	Totalling		\$343,458.87
Electronic Fund transfer	Totalling		\$3,442,223.95
Credit Cards	Totalling		\$10,542.82
Payroll	Totalling		\$640,485.00
Total			<u>\$4,436,710.64</u>

CERTIFICATE OF THE CHIEF EXECUTIVE OFFICER

This schedule of accounts to be passed for payment totalling **\$4,436,710.64**, which was submitted to each member of the Council, dated 31st March 2008, has been checked and is fully supported by vouchers and invoices which are submitted to herewith and which have been fully certified as the receipt of goods and the rendition of services and as to prices, computations and costings and the amounts shown are due for payment.



CHIEF EXECUTIVE OFFICER
(A Hammond)

MAYOR

I hereby certify that this schedule of accounts covering municipal and trust fund payments totalling **\$4,436,710.64**, dated 31st March 2008, was submitted to the Council, and that the amounts are recommended to the Council for payment.



MAYOR
(M Evans, JP)