



**AUDIT COMMITTEE
MINUTES**

for the meeting held on Tuesday 12 April 2011
in the Margaret Coates Boardroom

(File Ref: FM.MEE.1 Synergy Ref: AM1117895)

The Chair declared the meeting open at 5.51pm.

1.0 ATTENDANCE:

Mayor	M Evans, JP (Member)
Councillors:	
Cr Wellington	(Chair)
Cr Leavesley	(Member)
Cr Hammond	(Member) (left at 8.15pm)
Cr Matla	(Member)
Cr D Bostock	(Observer)
Cr J Bostock	(Observer)
Cr D Dufty	(Observer)
Cr C Holden	(Observer)
Staff:	
Chief Executive Officer	F James
Executive Director Works & Services	K Ketterer (arrived at 5.59 pm)
Executive Director Planning & Development Services	G Bride
Team Leader Community Services	L Hill
Finance Manager	D Olde
Executive Manager Business Governance	S Jamieson (Secretariat)
Apologies/Leave of Absence:	
Executive Director Corporate & Community Services	WP Madigan
Acting Executive Director Corporate Services	P Wignall

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Councillor Leavesley queried the time detailed at Item 7.0. Note: The Committee meeting time was brought forward for this meeting as the proposed Finance Committee meeting scheduled at 5.30pm was not held.

ITEM 2.0 – COMMITTEE RESOLUTION	
MOVED: MAYOR EVANS	
SECONDED: COUNCILLOR WELLINGTON	
The minutes of the Audit Committee meeting held on 1 March 2011, as previously distributed, be confirmed as a true and accurate record of proceedings (Attachment A).	
MOTION CARRIED 5-0	

Presiding Member	Councillor Wellington
EMT Member Responsible for Committee:	Chief Executive Officer (F James)

3.0 DISCLOSURE OF INTEREST

Name	Item Number	Nature of Interest
Mayor Evans	4.13	Impartiality. Mayor’s wife is a member of the Eisteddfod Committee. Mayor remained in the meeting and participated in the discussion and vote for this item.
Councillor Hammond	4.14	Financial. Direct financial interest as Councillor is the owner of Albany Inbound Pty Ltd. Councillor left the meeting and did not participate in the discussion, debate or vote for this item.
Councillor Leavesley	4.14	Impartiality. Councillor gains income from the Tourist Industry. Councillor remained in the meeting and participated in the discussion and vote for this item.
Councillor D Bostock	5	Financial, Proximity, Impartiality. Plaintiff in the legal action. Councillor left the meeting and did not participate in the discussion, debate or vote for this item.
Councillor J Bostock	5	Proximity. Councillor J Bostock is the wife of plaintiff. Councillor left the meeting and did not participate in the discussion, debate or vote for this item.
Councillor Wellington	5	Proximity. Councillor Wellington is the first defendant to writ. Councillor remained in the meeting and participated in the discussion and vote for this item.

4.0 ITEMS FOR DISCUSSION

4.1 REPORT ON ALAC OPERATIONS

Reporting Officer: Chief Executive Officer

Update:

Chief Executive Officer advised the Committee that the report on the Albany Leisure & Aquatic Centre (ALAC) operations will be presented to the May Ordinary Meeting.

Councillor Leavesley requested the Chief Executive Officer to investigate if his Rescission Motion, being:

“That the restrictions imposed on the Albany Leisure & Aquatic Centre (ALAC) Gymnasium Operations detailed at report item 16.1 which was moved at an ordinary meeting of council held on 16 January 2007 and later detailed in the Memorandum of Understanding (MOU) made between the City of Albany and Local Health & Fitness Centre Operators be reconsidered.”

is still required.

Action: Question taken on Notice by Chief Executive Officer.

4.2 LIQUID WASTE TENDER (CITY OF ALBANY & WATERCORPORATION)

Reporting Officer: ED Works & Services

Background

The Audit Committee on 1 March 2011 considered the verbal feedback on the above matter and requested the Chief Executive Officer to:

- draft a follow up letter to the Water Corporation requesting specific information and documents in support of the appropriateness of the tender process; and
- circulate the Water Corporation response to all Councillors, once received.

Discussion

A Copy of the letter to Water Corporation is detailed in Annexure B.

The Water Corporation response is detailed in Annexure B.

For completeness, copies of previous correspondence with the Water Corporation is attached as Annexure B.

The response from the Water Corporation in summary:

- Affirms the City's involvement in this process through having a staff member on the panel;
- Maintains that the unsuccessful bidder was provided every opportunity to meet the tender requirements in terms of financial information relating to the pass/fail criteria stated in the tender documentation;
- Confirms that a relationship exists between the preferred bidder and an employee, but states that the Water Corporation has not yet taken a decision regarding the administration of the contract, and this person's possible involvement; and
- Maintains that the information requested by Council is Confidential, and it is inferred that this would not be made available.

Conclusion

The Water Corporation is of the opinion that their tender evaluation has been substantively and procedurally fair in all respects. It is also of the opinion that the minimum financial returns stipulated by Council will be met once the tender has been formally awarded.

Recommendation

That the City not pursue this matter further, but assess its own involvement in the tender process, and implement system improvements to ensure matters do not reach this stage of Council discontent in the future.

The Committee accepted the Recommendation.

Action: The Chief Executive Officer is requested to write a letter to Mr Len Abbott, copying in the Mayor and Ward Councillors, explaining the steps taken by Council and the outcome.

Executive Director Works & Services entered the meeting at 5.59 pm.

4.3 GSDC GRANT (\$200,000 ALLOCATED TO PADRE WHITE LOOKOUT IMPROVEMENTS)

Reporting Officer: ED Works & Services.

Status: At the 15 February 2011 OCM, Council resolved:

“That the Chief Executive Officer undertake further investigation of the Padre White Lookout project, including a detailed budget analysis for project scope and provide further advice to Council at the March 2011 OCM.”

Update:

The Executive Director Works & Services advised the Committee that the City had been verbally requested by the Great Southern Development Commission (GSDC) to provide more information regarding the funding grant application and proposed CoA contribution.

A \$50,000 amendment is included in the Third Quarter Budget Review to support this application. Copies of letters to the GSDC are attached as Annexure C.

The City is awaiting further advice from GSDC.

4.4 BUDGET - STATUS OF THE EBA AGREEMENT NEGOTIATIONS

Reporting Officer: Chief Executive Officer.

Status: On 1 March 2011 the Committee were advised that the Inside Workers Agreement negotiations have recommenced. The Staff Committee and management have now met twice.

Update:

The Chief Executive Officer advised the Committee that salary comparisons and other investigative work in response to the employees' wage claim will be finalised shortly and an initial management proposal will be presented to all affected staff. The proposal includes back pay to the 1 September 2010.

4.5 INTERNATIONAL MONETARY FUND (IMF) LEGAL ACTION

Reporting Officer: Chief Executive Officer

Status: At the 1 February 2011 Audit Committee, the Manager Finance advised information was still being received in regards to the City's Collateralised Debt Obligations (CDOs).

Update:

The Chief Executive Officer advised the Committee that the matter has been heard at trial, and a decision is awaited. A copy of the correspondence from the IMF is attached at Annexure D (Lehman Australia: claims in relation to structured financial products: Update on Court hearing).

4.6 ISO9001 SURVEILLANCE INTERNAL AUDIT & FOUR YEARLY INTERIM AUDIT
 Reporting Officers: EM Business Governance, Acting ED Corporate Services

ISO 9001 Surveillance Internal Audit

Update: At the 1 March 2011 meeting the Committee was advised that the ISO9001 Surveillance Audit Report would be reported to this meeting.

The Executive Director Planning & Development Services advised the Committee that the report was still being finalised at the time of producing this agenda.

Action: On receipt of report that a copy be provided in the Councillors' Work Station.

City of Albany Interim Audit

Update: The Executive Manager Business Governance advised the Committee that the City's appointed Auditor, Grant Thornton Australia, has confirmed that the Four Yearly Interim Audit will start the week commencing 23 May 2011.

The Auditor advised that when a Local Government client requests their four yearly review of the financial management systems this instruction is treated as a separate review and report.

This report will be conducted independently by a separate Grant Thornton Staff team to the work conducted for the interim and yearend audit.

4.7 GREAT SOUTHERN COMMUNITY HOUSING ASSOCIATION (GSCHA) UPDATE
 Reporting Officer: Chief Executive Officer

Status: GSCHA has paid rates in full for recently rated GSCHA owned properties. It states it made the payment under protest and forwarded an objection via lawyers Jackson McDonald.

Update:

As previously reported to the Committee, the City received an objection to the removal of rates exemption from GSCHA in September 2010. In accordance with s. 6.76 (3) of the *Local Government Act 1995*, the City requested that the objection be lodged by the Department of Housing (the owner of the properties). The City has not received an objection from the Department of Housing.

In 2009-10 the GSCHA accessed over \$8 million under a Social Housing Initiative Project Agreement. This initiative was funded by the Federal Department of Families, Housing, Community Services and Indigenous Affairs and enabled the GSCHA to fund the purchase of land and construct dwellings in its own right. The City has not allowed rates exemptions on these properties and received an objection to the rate records from GSCHA in March 2011. The City has recently received legal advice which concludes that the GSCHA land is being used for charitable purposes and is therefore not rateable.

Item 4.7 continued.

Discussion

The City may now:

1. Allow the objection relating to GSCHA owned properties, and
2. Accept all land managed by GSCHA as being rateable, but insist on objection coming from the Department of Housing for land owned by the Department of Housing; or
3. Accept all land managed by GSHA as being rateable and not insist on the objection coming from the Department.

Conclusion

As the ultimate outcome of this process has a significant financial implication. It may be appropriate to approach the Minister for Housing regarding compensation for the loss of revenue resulting from providing rates exemptions, given that the Water Corporation and Western Power are reimbursed for providing concessions made for charitable purposes.

<p>ITEM 4.7: COMMITTEE RECOMMENDATION</p> <p>MOVED: MAYOR EVANS SECONDED: COUNCILLOR WELLINGTON</p> <p>(i) That Council ACCEPT that land owned by the Great Southern Community Housing Association (GSCHA) is being used for a charitable purpose and not rateable in accordance with Section 6.26(2)(g) of the <i>Local Government Act 1995</i>, being land used exclusively for charitable purposes.</p> <p>(ii) That in relation to properties owned by the Department of Housing, Council ENDORSE the application of Section 6.76 (3) of the <i>Local Government Act 1995</i> and only consider objections to the rate record from: "... the person named in the rate record as the owner of land or by the agent or attorney of that person", being the Department of Housing.</p> <p style="text-align: right;">MOTION CARRIED 5-0</p>

4.8 FINANCIAL INVESTMENT OF SURPLUS FUNDS

Reporting Officer: EM Business Governance

Background

The Minister released the below proposal in November 2010, which WALGA sent to all local governments seeking feedback on the Minister's *Local Government Act 1995* amendment proposals:

"...At this stage, the following forms of investment are being considered to be included in this regulation:

1. *a deposit with the Western Australian Treasury Corporation or an investment facility of the Western Australian Treasury Corporation;*
2. *any public funds or securities issued by, or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory; and*
3. *interest bearing deposits with, and/or debentures or bonds issued by, an authorised deposit-taking institution (as defined in the Banking Act 1959 (Cwth)) where the Institution has a Standard & Poor's Rating of A-1+ (short-term) or AA (long term, but excluding subordinated obligations)"*

Item 4.8 continued.

On 28 March 2011, the City was advised that the Minister for Local Government is currently considering drafting legislation to impose restrictions on local government investments.

One option being considered would restrict investments to AAA rated institutions, which pose the lowest risk to local government and community funds. However, this would effectively exclude deposit-taking institutions such as the Bendigo and Adelaide Bank, and others which do not meet the required AAA standard.

The Department of Local Government (LG), in order to gauge an understanding of the level on investment in sub-AAA rated institutions, with specific attention to the Bendigo and Adelaide Bank, sought investment information from regional local governments where a branch of the Bendigo Bank exists.

Clarification of the Minister's position was sought regarding the intent to restrict investments to only AAA rates investments, noting that Lehman Brothers was rated AAA.

The Department of LG (Manager Legislation) advised that there is no intention to:

- *“ restrict local government investments to only those rated as AAA; and*
- *tighten up any further than this suggested. If anything, there appears to be an appetite for other forms of investments to be permitted. However, this is ultimately the decision of the Minister.”*

Discussion

Concern has been expressed by a Councillor in regards to the City's investments with Bendigo Bank.

A summary of the concerns and opinion in regards to that investment is as follows:

- Bendigo Bank is rated a BBB+ investment;
- The business banking model operated by Bendigo in the event of further global financial difficulties is nowhere near as robust as the 'Big 4';
- The local branch according to the published annual report (on the web) has used its seeding capital and has never made a profit since its opening;
- Council should consider restricting ongoing investments to Treasury and the big four banks; and
- Council should consider investment strategy in line with Minister Castrilli's proposed legislation on local government investment.

The following Council policies apply to investment:

Council Policy – Investment of Surplus Funds. extract:

“That, under section 6.10 of the Local Government Act 1995, and as prescribed in regulation 19 of the Local Government (Financial Management) Regulations 1996, the Chief Executive Officer be delegated to administer the Investment of Surplus Funds Policy.”

“...Investments shall be restricted to term deposits or commercial bills offered by the following banks or government institutions:

- *Commonwealth Bank of Australia*
- *Bendigo Bank*
- *BankWest*
- *Australia and New Zealand bank*
- *National Australia Bank*
- *Westpac banking Corporation*
- *WA Treasury Corporation...”*

Item 4.8 continued.

Council Policy – Cash/Investment Backing for Reserve Accounts, extract:

“ Although there is no statutory requirement, it is the policy of the City of Albany that where possible, Reserve Accounts will be 100% backed by either cash, or investments made under the “Policy on Investment of Surplus Funds”

Recommendation

In response to the Minister’s proposed legislation and concerns raised by Councillors, Council should review the City of Albany Investment Policies.

ITEM 4.8: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMMOND
SECONDED: MAYOR EVANS

(i) That the Chief Executive Officer **AMEND** the Investment of Surplus Funds Policy to limit the investment of funds to be no more than \$1 million, or 10 percent (which ever is the greater) across the total investment portfolio with the Bendigo Bank, at any one time, and the investment term to be no more than 30 days.

(ii) That Council request the Chief Executive Officer to further review the investment of Surplus Funds Policy through the Finance Strategy Committee, prior to recommendation to Council.

CARRIED 4-1

Record of Vote: Against the Motion: Councillor Leavesley.

4.9 LETTER FROM THE DEPARTMENT OF LOCAL GOVERNMENT (DLG) IN REGARDS TO 2010/11 BUDGET FINANCIAL STATEMENT

Reporting Officer: Chief Executive Officer

Update:

The Chief Executive Officer advised the Committee that as a result of correspondence received from the Department of Local Government the City will liaise with its Auditor to ensure a financial statement is develop which will address the Departments’ concerns and be presented for the next budget. (Annexure E).

The Acting Executive Director Corporate Services will be liaising with the Auditor to ensure the recommendations from the Department of Local Government are implemented.

4.10 UPDATE OF AUDIT COMMITTEE TERMS OF REFERENCE

Reporting Officer: EM Business Governance

Update:

The Executive Manager Business Governance advised the Committee that the Terms of Reference for the Committee has been submitted to the April OCM for adoption.

4.11 REVIEW OF SERVICE DELIVERY

Reporting Officer: Chief Executive Officer

Status: This matter will form part of budget consideration.

4.12 ALBANY LEISURE & AQUATIC CENTRE OPERATIONS REPORT

Reporting Officer: Chief Executive Officer

Update: See Item 4.1.

4.13 EISTEDDFOD AGREEMENT

Reporting Officer: Chief Executive Officer.

Update:

The Chief Executive Officer provided the Committee an update on the proposed Eisteddfod Agreement.

4.14 UPDATE ON ROYALTIES FOR REGIONS – LOCAL GOVERNMENT FUND & CITY OF ALBANY FESA REFUND CLAIM

Reporting Officer: Executive Director Works & Services (EDWS)

Update:

Royalties for Regions (R4R) Funding. The EDWS advised the Committee that the City was successful in security R4R funding for construction of pathways.

FESA Refund Claim. The EDWS advised the Committee that the refund application has been submitted to the Department of Main Roads and the City has budgeted for a \$650,000 refund.

5 URGENT BUSINESS RAISED

5.1 THIRD QUARTERLY REVIEW – 2010/11

Reporting Officer: Manager Finance

Update:

The Chief Executive Officer presented the proposed Third Quarter 2011-11 Budget Review as follows:

	Original Budget	Current Budget	Proposed Q3 Budget	Variance from Current Budget
General Management	1,322,458	1,322,458	1,276,695	(45,763)
Corporate & Community Serv.	7,558,921	7,813,481	9,502,741	1,679,260
Development Services	1,751,112	1,769,612	1,859,119	89,507
Works & Services	13,799,472	13,740,471	13,557,541	(182,930)
General Purpose Income	(27,665,689)	(27,924,548)	(27,959,052)	(34,504)
Loans	3,233,726	3,233,726	1,733,726	(1,500,000)
Total (Surplus)/Deficit	0	(34,800)	(29,230)	5,570

Item 5.1 continued.

The Committee queried the following items in the Third Quarter Budget Review (Annexure F):

- Budget Overrun for Special Projects/Events, page 3
Response: Additional costs associated with provision of fireworks display not anticipated.
- Cost of the ALAC Energy Audit, page 4
Response: Energy Audits have been conducted in the past and will be taken into account. This Audit is looking at all factors associated with energy consumption in the centre (i.e. Airflow, Heating, Cooling, Pumping System, and Lighting).
- Airport Landing Fees, page 4
Response: Airport landing fees have not fully been received from SkyWest for this reporting period.
- Albany Leisure & Aquatic Centre (ALAC) (income down), page 4
Response: ALAC revenue and costs are currently under review. The broken boiler had a significant impact on income.
- Hydrology/land capability study Candyup, page 5
Response: Independent advice was budgeted for to evaluate the claims made by the applicant's professional hydrologist report.
- Work Overheads (increase in sick leave claims), page 6
Response: A number of ongoing claims, in some cases in excess of 12 months, have been finalised in the third quarter.

Item 5.2 was dealt with after Item 6 to allow Councillor Hammond to remain in the meeting for the discussion and vote on Item 6.

6 CLOSED MEETING SESSION – LEGAL CLAIM AGAINST THE CITY

Reporting Officer: Chief Executive Officer

7.48pm. Councillor D Bostock declared a Financial, Proximity and Impartiality Interest in item 6 and left the meeting.

7.48pm. Councillor J Bostock declared a Proximity Interest in item 6 and left the meeting.

Councillor Wellington declared a Proximity Interest, remained in the meeting and participated in the discussion and vote for this item.

Update:

A confidential update was provided by the Chief Executive Officer.

The Committee requested the CEO to finalise the wording of the Committee recommendation to ensure all necessary steps are taken to protect the interest of the City in respect to legal claims against the City.

ITEM 6.0: COMMITTEE RECOMMENDATION

MOVED: MAYOR EVANS
SECONDED: COUNCILLOR WELLINGTON

That Council delegate the power to the Chief Executive Officer to take all steps necessary to protect the interests of the City in respect of the legal claim against the City.

MOTION CARRIED 4-1

Record of Vote: Against: Cr Leavesley.

8.15pm. Councillors D Bostock and J Bostock returned to the meeting as observers.

5.2 UPDATE ON ALBANY VISTORS CENTRE

Reporting Officer: Chief Executive Officer.

Councillor Hammond having declared a Financial Interest left the meeting and did not return.

Update:

The Chief Executive Officer advised the Committee of recent negotiations with Albany Inbound.

The Committee agreed with the Chief Executive Officer that her negotiations conducted on behalf of the City with Albany Inbound (AI) and Tayson Pty Ltd (under previous delegated authority) should include:

- The transfer date of operations to the City to be 1 June 2011 (with transitional support to be negotiated between AI and the Chief Executive Officer);
- A Staff member verifying the saleability of the stock;
- Existing AI Staff become City Staff with no liability to the City (Leave entitlements: Sick Leave, Long Service Leave, Recreational Leave etc are to be paid out by AI/Tayson Pty Ltd); and
- Negotiations on forward bookings held in trust account.

The Committee supported the Chief Executive Officer's negotiations and conditions of transfer (conducted under previous delegated authority) and put to the support to the vote. (Moved by Councillor Wellington, Seconded by Mayor Evans, Carried 4-0)

7 ITEMS TO BE DISCUSSED AT NEXT MEETING

8 DATE OF NEXT MEETING: In accordance with the City of Albany Meeting, Briefing and Key Date Calendar Tuesday 10 May 2011 at 7.00 pm.

9 CLOSURE OF MEETING: The Chair declared the meeting closed at 8.48pm.

ACTION LIST

Item	Actions
4.1	<p>REPORT ON ALAC OPERATIONS Councillor Leavesley requested the Chief Executive Officer to investigate if his Rescission Motion, being: <i>“That the restrictions imposed on the Albany Leisure & Aquatic Centre (ALAC) Gymnasium Operations detailed at report item 16.1 which was moved at an ordinary meeting of council held on 16 January 2007 and later detailed in the Memorandum of Understanding (MOU) made between the City of Albany and Local Health & Fitness Centre Operators be reconsidered.”</i> is still required.</p>
4.2	<p>LIQUID WASTE TENDER (CITY OF ALBANY & WATERCORPORATION) The Chief Executive Officer is requested to write a letter to Mr Len Abbott, copying in the Mayor and Ward Councillors.</p>
4.6	<p>ISO9001 SURVEILLANCE INTERNAL AUDIT & FOUR YEARLY INTERIM AUDIT On receipt of the ISO9001 Internal Audit Report a copy be made available in the Councillor's Workstation.</p>

Annexure:

- A. Minutes of the 01 February 2011 Audit Committee
- B. Correspondence – RE: Liquid Waste Tender (**Confidential**)
- C. Correspondence – RE: Mount Clarence Infrastructure Improvements (Padre White)
- D. Correspondence – RE: IMF Fund Legal Action (**Confidential**)
- E. Correspondence – RE: Annual Statement, Auditors Report and Management Report
- F. Third Quarter Budget Review 10-11 (OCM 19 April 2011 Item 2.5 refers)