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12/17/11
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1.5: REGIONAL CITIES ALLIANCE- UWA CONTRACT

ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

DATE & TIME RECEIVED: 12:06PM ON WEDNESDAY 6 JULY 2011

ITEM 1.5: ALTERNATE MOTION BY COUNCILLOR D BOSTOCK

THAT COUNCIL DEFERS consideration of the item to SEEK written advice from the Department of local Government as to whether this item can be considered without a rescission motion first being brought before Council.

Reason:

Council has received legal advice to the effect that when a motion has been lost after full consideration at a Council meeting, that does not represent a decision so it can be brought back for further consideration without the need for a rescission motion. I find the reasoning behind this advice to be flawed because, when a motion is rejected a positive decision has been made. In this case Council decided to spend the money on causes which were more in keeping with the best interests of the City.

To argue that to reject a motion is to fail to make a decision cannot be true because, if no decision was made then the usual officer statement under the heading "Alternate options" that Council can agree to the motion without modifications, agree to the motion with modifications or not agree to it becomes meaningless.

To make a decision simply means to make up one's mind or come to a conclusion(Oxford English Dictionary) and it is illogical to suggest that one cannot decide against a certain action in the same way that one can decide to do it. If that were so then if a person said they did not commit a particular crime it could be argued that they may have done so if the circumstances had been different, which, although true, would not be a valid reason for conviction.

Although I do not doubt that our solicitor is an expert in his field, so was the captain of the Titanic and being an expert is not the same as being infallible. I therefore believe that, in view of the potentially far reaching effects of this advice, it would be prudent for us to obtain a second opinion from our own Department before making decisions which could well be in breach of section 10 of the Local Government(Administration) Regulations 1996.