

**XIV. MOTIONS WITH NOTICE**

**XV. MOTIONS OF WHICH NOTICE WAS GIVEN AT THE PREVIOUS MEETING**

**ITEM 15.1: NOTICE OF MOTION BY COUNCILLOR BOSTOCK**

**ITEM 15.1: NOTICE OF MOTION FROM COUNCILLOR BOSTOCK**

**MOVED: COUNCILLOR BOSTOCK  
NO SECONDER**

**THAT when the final draft of TPS 1 is endorsed by Council, it shall not include any rezoning of freehold land into a category less advantageous to the owner than already exists in the current TPS1(a) or TPS3, without prior specific written agreement from the owner. Examples include the rezoning of land from the “Rural” to “Conservation” classification, or to “Parks and Recreation” from any other category.**

**ITEM 15.1: PROCEDURAL MOTION BY COUNCILLOR ATTWELL**

**MOVED: COUNCILLOR ATTWELL  
SECONDED: COUNCILLOR BOWLES**

**THAT this item lay on the table to allow further consideration of submissions when they are presented to Council.**

**CARRIED 9-3**

**Councillor’s Reason (Councillor Attwell):**

I do not disagree with Councillor Bostock’s comments, however, this motion is premature and submissions must be considered before Council makes a decision.

**Councillor’s Reason:**

Approximately 92% of the land in WA is vested in the Crown, with only 8% of land alienated.

Private individuals have bought this 8% in good faith, with funds upon which they have already paid tax and the government of the day accepted and spent those funds. The current owners, therefore, have a legitimate expectation that the present government will respect their right to retain the land with the same uses as when it was purchased and any attempt to diminish that use represents a serious breach of contract.

There may be an argument for compulsory purchase of land if an urgent and immediate public benefit can be demonstrated, but even then it should be used only in exceptional circumstances and following fair compensation.

The changing of an existing zone on alienated land to one which restricts its use to a greater extent than the existing category represents a form of compulsory purchase which is underhand,

unfair and against natural justice and should not be allowed to proceed in any state which prides itself on the freedom of its citizens.

**Officer's Comment (Executive Director Planning and Development Services):**

The planning of urban and rural lands in Western Australia has a long and distinguished history both within the Perth metropolitan area and within the State generally. The primary purpose of planning has always been to ensure improvement of the quality of life of residents through improvements to the urban fabric of the community.

Planning, and in particular Planning Schemes, are prepared to coordinate land use and development and balance the often competing aims of economic, social and environment issues. They produce a plan for the physical pattern of development proposed for the area that maximises the opportunities and minimises any potential negative impacts. The imposition of planning controls through the scheme is necessary to provide for the orderly and proper planning of the community and to meet the different needs and aspirations of people living/working together in the modern world.

Whilst individuals have purchased their land, this land is invariably covered by an existing planning scheme which already contains controls on how they may use and enjoy their land. The process of preparing and reviewing these schemes is open to comment and determined through the Local Government (representing their community interests) and the State Minister for Planning (representing the State).

Whilst the comments attached to the Councillor Bostock's Notice of Motion focus on the perceived negative impacts from a new scheme, it should also be remembered that a large number of properties have seen increases in the density code applying to their land (meaning additional dwellings entitlements), changes to commercial zones (enabling previously prohibited uses/development from proceeding) and improved discretionary powers (meaning that the City can now consider uses and development that previously could not be considered).

There is no power in the draft Scheme that purports or attempts to remove any right for a landowner to continue to use their land for the purpose for which it was approved for use or development prior to the coming into operation of the new scheme. This process, of allowing continuation of existing rights of use, has served the State well over its years of service (since the original *Town Planning and Development Act 1928*).

In addition, the purpose of advertising the draft Scheme for public comment is to allow landowners to request Council to consider Staff have already met with a number of landowners and received over 50 submissions to date from landowners requesting a change to the proposals continued in the draft Scheme.

It is accepted that where a Planning Scheme imposes an undue burden (in the opinion of the landowner), they may seek a review through the SAT or compensation from the Responsible Authority for injurious affection or by virtue of reservation under the Scheme. These powers are enshrined in the *Planning and Development Act 2005*.

In conclusion, the Notice of Motion is unlikely to result in a workable solution to addressing landowner concerns regarding the scheme. To require all changes to be subject to the written consent of the landowner will not improve the planning system and is more likely to produce ad-hoc land use and development in an uncoordinated manner that will add to the overall cost of the development and may create land use conflict with surrounding existing uses. Whilst planning will take an overall long-term view of a properties potential to contribute to the growth of a community over time, a landowner tends to take a much shorter term view which generally

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\*\*REFER DISCLAIMER\*\*

only reflects their aspirations for the property's potential at that time, rather than its potential to the community.

**XVI. URGENT BUSINESS TO BE APPROVED BY DECISION OF THE MEETING**

**XVII. REQUEST FOR REPORTS FOR FUTURE CONSIDERATION.**

**XVIII. ANNOUNCEMENT OF NOTICES OF MOTION TO BE DEALT WITH AT THE NEXT MEETING.**

**ITEM 18.1: NOTICE OF MOTION BY COUNCILLOR BOSTOCK**

**THAT Council ENDORSE the following media statement for submission to the Albany Advertiser Newspaper:**

*“In June 2011, Council agreed to limit rate rises for the 2011-12 financial year to an average of 5%, but following delivery of the rates notices, Councillors received numerous complaints from individual ratepayers that their rates had increased by far greater amounts, up to 25% or more. Accusations that the City had misled residents were frequently expressed and were difficult to refute. More detailed investigations, however, which have only recently been completed, reveal the average increase was indeed 5%, but that individual rises were very unevenly distributed.*

*There was a general review of the gross rental value (GRV), on which all rates are based, by the Valuer General, an official in the State government, in early 2011, when he “rationalised” the GRV in Albany by lumping together large blocks of properties which had previously had a wide range of GRVs and raised them all to the same level.*

*For example, 500 properties whose GRV had ranged from \$6,980 to \$11,492 were all standardised to \$11,960 and there have been many similar instances. The inevitable consequence was that residences which had been at the bottom end of the scale suffered enormous increases while those at the top actually enjoyed a decrease in their rates, a classic example of robbing the poor to pay the rich.*

*Not surprisingly, Council has borne the anger of many residents, through no fault of its own, rejects the imposition of a grossly unfair and arbitrary increase in GRV which discriminates against those in the community least able to afford huge rate increases and calls on the Valuer General to remedy the situation at the earliest opportunity.*

**Councillor’s Reason:**

It is of the utmost importance that the people of Albany retain trust in their Council and understand that Council did not deliberately mislead them. It must also be made clear when unfair charges are imposed by the State government, without consultation with, or approval by, the Local Authority.

**XIX. ITEMS TO BE DEALT WITH WHILE THE MEETING IS CLOSED TO MEMBERS OF THE PUBLIC**

[7:31:05 PM](#) Members of the public and media left the Chamber.

[7:33:37 PM](#)

**ITEM 19.1: RESOLUTION**

**MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR ATTWELL**

**THAT the meeting move behind closed doors to discuss Item 2.12: Settlement of Claim-Rufus Street, Milpara which is Commercial in Confidence.**

**CARRIED 12-0**

[7:35:08 PM](#)

**ITEM 19.1: RESOLUTION**

**MOVED: COUNCILLOR CALLEJA  
SECONDED: COUNCILLOR BOWLES**

**THAT Standing Order 5.7-Order of Call in Debate, be SUSPENDED to allow discussion.**

**CARRIED 12-0**

[7:39:43 PM](#)

**ITEM 19.1: RESOLUTION**

**MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR BOWLES**

**THAT Standing Order 5.7-Order of Call in Debate, be RESUMED.**

**CARRIED 12-0**

[7:43:40 PM](#)

**ITEM 19.1: RESOLUTION**

**MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR CALLEJA**

**THAT the meeting come out from behind closed doors.**

**CARRIED 12-0**

No members of the public or media returned to the Chamber.

In accordance with section 5.23 (2)(c) of the *Local Government Act 1995*:

*If a meeting is to be held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or part of the meeting deals with any of the following:*

*(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

Item 2.12: Settlement of Claim-Rufus Street, Milpara is Commercial in Confidence and as such the report item is not available to the public.

**ITEM 2.12: RESOLUTION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR HORTIN**

**With reference to Report Item 2.12: Settlement of Claim-Rufus Street, Milpara**

**THAT Council ENDORSES the AGREEMENT with Moss Enterprises as determined between the parties, in full and final settlement of their claim for compensation.**

**CARRIED 12-0  
ABSOLUTE MAJORITY**

**XX. NEXT ORDINARY MEETING DATE**

Tuesday 18 September 2012.

**XXI. CLOSURE OF MEETING**

**ITEM 21.0: RESOLUTION**

**MOVED: COUNCILLOR ATTWELL  
SECONDED: COUNCILLOR HOLDEN**

**THAT Standing Order 3.1 be RESUMED to stop recording of proceedings.**

**CARRIED 12-0**

[7:44:28 PM](#) there being no further business, the Presiding Member declared the meeting closed.

*(Unconfirmed Minutes)*

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**Dennis W Wellington  
MAYOR**

**STATUS REPORT ON DEFERRED ITEMS  
 FROM PREVIOUS MEETINGS**

<b>Meeting Date</b>	<b>Item Number</b>	<b>Details/Status</b>
16/11/2010	2.6	Surrender Lease over Hangar Site 2 at Albany Airport. <b>REQUIRES FURTHER CONSIDERATION BY COUNCIL PENDING THE COMPLETION OF THE AIRPORT MASTERPLAN/BUSINESS PLAN.</b>
19/04/2011	4.7	Audit Committee Recommendations. 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. <b>PENDING - AWAITING DEVELOPMENT OF FIVE YEAR (FINANCE) PLAN.</b>
17/07/2012	1.4	Annual Review of Delegations <b>LAI D ON THE TABLE TO ALLOW MORE TIME FOR CONSIDERATION BY COUNCIL.</b>
17/07/2012	2.5	Development Application-Demolition (Single House Listed on Municipal Heritage Inventory)-Lot 49 (45) Seymour Street, Mira Mar <b>LAI D ON THE TABLE</b>
21/08/2012	2.11	Consideration of Amendments to Local Planning Scheme 1A and 3 Policy Manual for Policy 2A-Outbuildings. <b>LAI D ON THE TABLE FOR FURTHER CONSIDERATION BY COUNCIL AT COMMITTEE LEVEL.</b>
21/08/2012	15.1	Notice of Motion by Councillor Bostock. <b>LAI D ON THE TABLE TO ALLOW FURTHER CONSIDERATION OF SUBMISSIONS.</b>



**TABLED DOCUMENTS**

<b>NAME</b>	<b>REFERENCE</b>	<b>FILE</b>
Mr Tony Stanton	Item 3.1	GO.COM.3
Mr Joop van Kooten	Item 3.1	GO.COM.3
Mr Paul Higginson	Item 3.1	GO.COM.3

**TABLED DOCUMENTS BY ELECTED MEMBERS**

<b>NAME</b>	<b>REFERENCE</b>	<b>FILE</b>
Mayor Wellington	Mayor's Report	GO.COM.3
Councillor Bostock	Item 15.1	GO.COM.3

**TABLED DOCUMENTS BY STAFF**

Nil

**TABLED ADDRESS BY MR TONY STANTON**

Speech to Council  
21<sup>st</sup> August 2012

Harbour Swim Funding Application

Tony Stanton, Little Grove.

Mr Mayor, Councillors I refer to Item 3.1 Funding Applications.

I ask that you reconsider the rejection of AUSSI Masters application for \$2000, on the last page of the Attachment, Community Funding Guidelines, 6 up from the bottom.

It has been rejected by a Committee of 3 as a "Recurrent sporting carnival, meet or competition".

This is a change from the usual applications closing in May, to a new way of handling things, not made known until June, after a restricted Budget allocation of \$35,000.

On page 2 of Item 3.1 Community Financial Assistance – Overview, Nos. 6 & 7, it states a moratorium was placed on funding but Iconic Events were excluded.

The City of Albany 4km Harbour Swim has been classed as an Icon event since its inception in 1999 to mark the elevation of Albany to City status.

Applying this change, without discussion, by a new Committee who were not around at the beginning, is rather dictatorial.

Would they reject Stalwell Gift funding without consultation, if the race were held here?

Our swim is part of WA's Open Water Swim Championships. It involves Albany Harbour Authority approval, Dept Transport protection of the course, Sea Rescue, Surf Club's boats, paddlers & swimmers, Albany Canoe Club, St John's Ambulance, Albany Maritime Foundation & Boatshed Markets, Princess Royal Sailing Club, volunteer yacht owners & the Mayor.

Swimmers come from round the State with families & supporters. Since inception we estimate it has drawn over 2,000 visitors. It includes sections for wetsuits & relays with 1 & 2 km legs, both not available in normal open water events. It includes swimmers from 13 up, in 5 year age groups & usually has over 80 yo's. There are prizes for each age group as well as the overall fastest male & female. It is a State Championship event, not just for the members of a small Albany organisation.

It has other Sponsors in Water Corp, Dept of Sport & Recreation, The Weekender, Woolworths & some 20 local businesses, who see value in being acknowledged as part of the event.

There is a warning, at the bottom of the attachment's 3rd last page

PLEASE NOTE THAT CANVASSING OF ELECTED MEMBERS WILL  
DISQUALIFY YOUR APPLICATION.

Will my address, here, be used to stifle the application?

Over the past 18 months, my experience has been that contact with Councillors has been restricted in different ways, private email addresses removed from City information, communication only through the Office, a reluctance to speak about Council business affairs at public meetings & no replies to general emails.

I thought this was democracy where Councillors were happy to listen to residents concerns.

I ask Council to reconsider funding the event, which by agreement, carries the City's brand & attracts tourists.

**TABLED ADDRESS BY MR JOOP VAN KOOTEN**

Speech to Council

21 August 2012

Harbour Swim Funding Application Item 3.1 funding applications  
Joop van Kooten  
Middleton Beach

Mr. Mayor, Councillors.

I am here to ask you to reconsider your rejection of our Aussi Masters application for \$2000 funding for the next Harbour Swim.

It is not clear to me why it was rejected but I am aware of your new guidelines which state that Recurring Sporting Carnivals, Meet or competition were ineligible. If that is the reason, WHY?

Surely bringing sporting people to this city should be applauded not discouraged.

Some of you will be aware that I have been involved with the Harbour Swim as Event Coordinator or some other capacity for the last 12 years. I have seen it grow to an event which qualified as an ICONIC event some 5 or 6 years ago. It was certainly referred to as an Iconic Event by past councillors. Accordingly if this is the case then surely we qualify for the \$2000 funding.

Not only have we brought business to the city, we have through our Statewide advertising put the City out there to all sporting organizations and their families.

You will be aware this event caters for a large diversified group of swimmers.

Local Volunteer groups and some 20 businesses support us each year.

Why, because they want to promote Albany as a place to visit and in turn help promote the Harbour Swim as we do, and so should you Mr Mayor and Councillors.


We are not just small swim club that have a swim now and then.

I would like to quickly tell we also have in motion a membership drive targeting the medical profession to promote the benefits of swimming as a healthy exercise option.

We sent them all a letter explaining our ideas and a business card the practitioner can hand out to any suitable patient. This will bring us new members and the Leisure Center some extra income. I trust you can see the benefit of this unique idea and of course as stated before we would also welcome your support by including the Harbour Swim event in the funding.

Thank you!!

TABLED ADDRESS BY MR -ATTACHMENT



Albany Masters Swimming

Swimming Regularly is a Healthy way to Fitness  
**Check us out;**  
We can show you how it can be fun to swim  
and make new friends at the same time.

Like to find out more? Look us up on  
[www.albanymastersswimming.org.au](http://www.albanymastersswimming.org.au)  
Help yourself to a  
healthier body in a fun way.  
or contact: Tony Kaye  
9844 4080 9844 9401

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To Whom it May Concern,

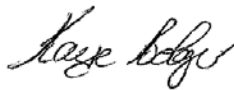
Masters Swimming is an organisation to promote the benefits of swimming to mature age people in a fun and supportive environment.

The Albany Masters Swimming Club would like your help to promote Swimming as a healthy exercise option to people of all ages – our target group being those aged 18 and over. There is no minimum standard or swimming ability required to join the Club and we work with members to achieve to their desired level while assisting in stroke work to make this easier.

Enclosed are our Cards with contact information that we ask you to make available to your patients/clients so they may contact us to find out how we can help them.

We thank you in anticipation for your assistance and trust we can also assist you.

Kind Regards



Kaye Bolger  
PRESIDENT

**TABLED ADDRESS BY MR PAUL HIGGINSON**

Your Worship Mayor Wellington and Councillors

Paul Higginson

I represent on this occasion, funding applicant Mr Greg Brockway, co-ordinator of the Great Southern District Display for Group 3 Agricultural Societies which encompass 20 Shires and this City, it being the largest of all.

May I refer to Agenda Item 3.1 before you and its attached recommendations for Community Funding, wherein Item 1268560 (5) recommends that Great Southern District Display Committee not be granted any funding from the City of Albany. Comments from the assessment committee are threefold, they being that:

- 1 “the event is not held in Albany”
2. “Majority of funding asked from the City”
3. “No supporting materials, low quality application, not clear what other LGA’s are supporting”.

With respect to the first comment, the District Display is exhibited at the Perth Royal Show annually to promote awareness of the agricultural and industrial produce from each Group’s Region. The diversity can be seen in the photograph of last year’s display provided to you. A wide variety of our produce is represented here. It provides a conduit for Shires and the City of Albany to inform and encourage tourism.

With respect to majority funding; Albany is the largest LGA in the region with most to gain.

With respect to the third comment; the applicant (an Albany ratepayer) is filling the role of recently departed stalwart Frances Crowley, a great driving force of the District Display for many years prior to her passing. He undertakes, with assistance of other people of like interest; the significant task of managing the project from start to finish along with seeking financial support from those who will ultimately benefit. This group of volunteers does all the work and so there are no quotations available. 16 Shires within this Group, along with Albany gave financial assistance in 2011 with volunteers recovering out of pocket expenses from funding provided. They collect and return the display items from across the region along with many visits to hardware stores.

Albany was granted Guest Town status in 2011 by the RAS with an outstanding opportunity for the promotion of Albany in particular. A banner hangs prominently in your foyer in recognition for “Design and Presentation” of your own display in 2011. Your CEO, Mayor and a Councillor were in attendance, recognising the importance of promotion of Albany at the Perth Royal Show.

The theme of the Display this year is “From Paddock to Port and Beyond”. With only two ports in the Region; the District Display provides the 70 to 100 thousand visitors to the Centennial Pavilion access to vision and material encouraging them to tour this region and Albany in particular.

It is incumbent on our City, on behalf of its population to support the promotion of local attributes to the largest face to face audience available in Western Australia.

Your ongoing support is essential to the District Display and its objective of promoting the value of Albany to a vast audience.

The District Display team asks that you review the recommendation prior to adoption and consider granting a sum up to \$2000 for this great promotional opportunity. It may be that your contribution can be alternatively sourced from the City's promotional budget, thus continuing the interest generated by the City with its 2011 Royal Show promotion.

Thank you for your indulgence. I seek to table this document.

**MAYOR'S REPORT**

**TUESDAY, 21 August 2012**

Councillors, Staff, members of the public.....

Below is a brief summary of Mayoral Office activities since the last Ordinary Council Meeting held on 17 July 2012.

- Citizenship Ceremony – 38 conferees
- Private Citizenship Ceremony – 3 conferees
- Numerous radio interview commitments on the topics – Deregulated Trading – Anzac Centenary – Announcement at Mt Clarence – Anzac Funding , Premier
- RAC Board Presentation and Lunch
- Open Find Cancer Early Public Lecture
- Deregulation Forum – Civic Rooms
- Meetings and workshops – Gary Hunt
- Attend WALGA Conference – Perth
- Attend Special State & Local Government Forum – Perth
- Attend WA Regional Capitals Alliance – Perth
- Council attendee at reception Government House Ballroom – Perth
- Council attendee – AEC performance of 2012 winner of Judges Sydney International Piano Competition
- Meeting with Professor Paul Johnson, Vice Chancellor UWA – Great Southern Development Committee
- Council attendee – Albany Apex Club AGM/Dinner
- Official Opening MEGT Australian Apprenticeships Centre
- Attend “Announcement” Premier Colin Barnett – “Lunchtime Meeting” with Premier
- Council attendee AEC – Youth on Health Festival
- Mayors Christian Businessmen’s Association Breakfast
- Council attendee - Vietnam Veterans Day Memorial Service
- Tourism WA Regional Road Show 2012 Meeting – COA

**TABLED ADDRESS BY COUNCILLOR BOSTOCK**

Speech in support of agenda item 15.1, presented at the August, 2012 OCM by David Bostock.

Draft town planning scheme 1 includes a number of rezoning suggestions which will, if adopted, have the effect of devaluing the privately owned land to which they apply. Specific examples include rezoning rural land to 'conservation' or 'parks and recreation', resulting in significant restrictions on the uses to which the land can be put and, in some cases, the owner being deprived of his control entirely.

When the land was initially alienated from the Crown, the purchaser and Crown agents signed a legally binding agreement, the purchaser paying a fair and reasonable price for a defined use of the land, so attempting to move the goal posts now represents a clear breach of faith, which would be unlawful if both parties were private individuals.

Although I have sometimes been accused of communistic tendencies, that is far from the truth and I cannot accept that the benefit to society as a whole should over ride the welfare of individuals, except in the case of dire emergency. Although a passionate believer in democratic government, I am also aware of its disadvantages, one of which is the danger that the rights of minority groups can be lost sight of and one way of judging the legitimacy of a democratic system is by examining its treatment of minorities.

The simple test for ethical behaviour, and one which has been recognised for at least the past 3,000 years, is to ask whether a course of action you are proposing towards another person would be acceptable were it being done to you, and if the answer is no then it is not justified.

In the present circumstances the rezoning of land from rural to conservation will result in a significant restriction in its use, if not to the present owner then to any person who subsequently takes control. There are many activities on conservation land that are not permitted, including farming activity, the keeping of some pets, including horses, grazing of farm animals and silviculture, all of which are permitted in the current zoning class. Rezoning to parks and recreation is even more restrictive and will ultimately lead to complete loss of control of the land purchased from the Crown in good faith.

In addition, future rezoning of land to a more advantageous category is unlikely to be allowed. It is, therefore, inevitable that these owners will be financially penalised, in addition to having the quiet enjoyment of their property affected, which I cannot believe any individual would welcome or consider acceptable in a supposedly democratic country, although it would no doubt be perfectly normal in China.

Although we have been informed that the current owners may be able to continue with their present use of the land, Mr. Putland has confirmed that new uses which are permitted now, will not be allowed if the zoning is changed and although some compensation MAY eventually be forthcoming my experience of Government is that it would be like trying to get blood out of a stone and would, in any case, be minimal.

Further more, I have seen no rationale for suggesting these unfair rezoning proposals and find it difficult to comprehend why we are even considering such blatantly discriminatory actions. We ignore the legitimate concerns of individuals at our peril and I implore you to support this motion,



**TABLED ADDRESS BY COUNCILLOR BOSTOCK**

out of self interest if for no more worthy reason. In this regard it is worth considering the motto of the WA land rights group; " If they can do it to others ,don't assume they won't do it to you".

Thank you.