

## SPECIAL COUNCIL MEETING MINUTES

Minutes of a Special Meeting of the Bunbury City Council held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Thursday, 31 January 2008.

This meeting was advertised in the *South Western Times* on Thursday, 24 January 2008 and in the City Update column of the *Bunbury Mail* on 30 January 2008. Copies of the notice were posted on notice boards in the City's Customer Service Centre, libraries and internet website.

### MINUTES 31 January 2008

#### 1. DECLARATION OF OPENING BY THE MAYOR

His Worship the Mayor, Mr David Smith, declared the meeting open at 6.05pm.

#### 2. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

##### *PRESENT*

<b>Council Committee Members</b>	
Presiding Member:	His Worship the Mayor, Mr D Smith
Deputy Presiding Member:	Deputy Mayor, Councillor S Craddock
Members:	Councillor J Jones
	Councillor T Dillon
	Councillor L Worthington
	Councillor B Kelly
	Councillor W Major - <i>arrived 6.10pm (Item 3)</i>
	Councillor H Punch
	Councillor N Whittle
	Councillor R Slater
	Councillor M Steck - <i>arrived 6.30pm (Item 3)</i>
Councillor A Leigh	
<b>Executive Management Team (Non-Voting)</b>	
Chief Executive Officer:	Mr G Trevaskis
Executive Manager City Services:	Mr M Scott
A/Executive Manager Corporate Services:	Mr J Beaton
A/Executive Manager City Development:	Mr G Fitzgerald
<b>Council Officers (Non-Voting):</b>	
Communications Officer:	Ms D Ambrosius
Administration Officer Corporate Services:	Ms D Ryan

*PRESENT (continued)*

<b>Others (Non-Voting):</b>	
Members of the Public:	50 (approx.)
Members of the Press:	3

*APOLOGIES:*

Councillor S Rooney

**3. PUBLIC QUESTION TIME - AS SPECIFIED UNDER SECTION 5.24 OF THE LOCAL GOVERNMENT ACT 1995**

During public question time, Cr Major arrived at 6.10pm and Cr Steck arrived at 6.30pm.

**Phil Harwood, Dalvellup Resident**

*Question: Mr Harwood queried what portions of land have been set aside for public open space or conservation in the College Grove subdivision and whether the land set aside was a requirement of the subdivision approval? He also questioned the fate of the old landfill site.*

*Response: The Mayor referred to various maps displayed on the wall of the meeting room and invited members of the public to view them carefully. The maps identify the Ocean to Preston River Regional Park (and who has contributed land to it); areas to be preserved as vegetation; the proposed diversion of Somerville Drive to meet up with Washington Avenue, and; a comparison map showing bushland that was to have been retained in the area compared with (now that the Greater Bunbury Region Scheme is approved) the bushland that is now to be retained.*

The Mayor explained that the bushland to be retained as part of the *Ocean to Preston River Regional Park* was to have been a corridor 100 metres wide. This corridor was later increased to 200 metres, then 300 metres before the Minister for Planning & Infrastructure increased it to its present width of 500 metres.

The old landfill site is included in the Structure Plan for the Woodcrest Rise development (although it is not part of the development itself). It is planned to convert the site into public open space as remediation of the site would be too costly.

**Alan Birrell, Bunbury Chamber of Commerce**

*Question: Can the Council provide an estimate of the likely financial cost of terminating this longstanding joint venture agreement including how this would affect future rate levels for residents and the business community, and; how would it affect future works projects in Bunbury?*

**Response:** The Mayor explained the various components to consider such as loss of funding for the project (the City would have been entitled to a 14% share); loss of profits from land sales and costs associated with the other partners seeking damages against the City. By his own estimation the Mayor considers a figure of \$8-9 million would not be unreasonable to expect representing approximately 80% of the rate revenue per year. So substantial rate rises would be inevitable or a significant cut-back on works programmes.

The Mayor also pointed out that if the City substantially increases the area to be preserved beyond that required by the Minister and the Department of Environment and Conservation; then the City cannot count on financial assistance from the State Government in managing the conserved area and this would be an additional cost that the City would need to budget for.

**Peter Moody, Local Tour Operator**

*Question: Mr Moody asked that the Council look beyond paper profits and figures; and consider other costs to the community should this bushland be developed e.g., loss of bio-diversity, indigenous value, loss of carbon credits, possible loss of local species and loss of recreational open space.*

**Response:** The Mayor thanked Mr Moody for his comments and stated that over the past decade the Council has been made fully aware of the value the community places on conservation of bushland and natural eco-systems especially in relation to expansion of College Grove. The Council has contributed over 500 hectares (incorporating both freehold and reserve land) to the 1,000 regional park being created by the State Government - the value of the land foregone by Council for this could be estimated at \$212 million. In addition, a further 60 hectare portion of Hay Park that was to have been developed has now also been set aside for inclusion in the regional park.

[Note: Cr Kelly clarified that the DPI Establishment Plan calculates the land set aside for the regional park as being 913 hectares and the City's own figures calculate it as 794 hectares.]

**A College Grove Resident**

*Question: Has the City considered putting in another access road to College Grove as at present there is only one escape route for residents in the event of bushfire.*

*Response:* The Mayor explained that should the Woodcrest Rise development be terminated, diversion of Somerville Drive to meet up with Washington Avenue (for installation of traffic lights) and a new access road to Robertson Drive will still be provided. However, without the Joint Venture Agreement these projects will have to be undertaken and paid for in full by the Council so residents could expect some considerable delay in project delivery.

**John Sherwood, Stockley Road Resident**

*Question: Mr Sherwood asked whether any investigation has been undertaken on possible land-swaps between the Council and the State Government that could nullify the cost of Cr Kelly's proposal. He also asked whether the Council would consider developing a policy to ensure that only material that is confidential under the Act, is kept confidential.*

*Response:* The Mayor explained that there are no land parcels substantial enough to interest the State Government and compensate for the costs anticipated with Cr Kelly's proposal except (perhaps) some land set aside for Homeswest development in Glen Iris but this is unlikely as Homeswest has a specific charter to provide public housing and to be financially viable, any land-swap arrangement would be on the basis of private development. Apart from this there is some endowment land remaining around the existing Health Campus, TAFE and university but use of this land would restrict any further development of these institutions. In any event, any land-swap arrangement would be based on non-development of Woodcrest Rise whereas the more costly risk to Council currently is the loss of funding (already held for development) and the likelihood of litigation.

In response to Mr Sherwood's call for a policy on confidential reading material the Mayor stated that this is not necessary as the Local Government Act 1995 is quite specific. Mr Sherwood was advised that in preparation of the Confidential Report, officers encountered great difficulty in separating information of a confidential nature (under the Act) from non-confidential material in a way that would make the report make sense, so it was considered that the entire paper should be kept confidential.

**4. DISCLOSURE OF INTEREST**

Cr Worthington disclosed a financial interest in the item titled *College Grove Subdivision (Woodcrest Rise)* as her partner's employer, TME, could stand to gain or lose (financially) depending on the decision made by the Council.

**5. BUSINESS OF THE MEETING**

**5.1 COLLEGE GROVE SUBDIVISION (WOODCREST RISE)**

<b>File Ref:</b>	A00173
<b>Applicant/Proponent:</b>	Councillor Brendan Kelly
<b>Author:</b>	Greg Trevaskis, Chief Executive Officer
<b>Executive:</b>	Greg Trevaskis, Chief Executive Officer

**Background**

A confidential report has been circulated to members under separate cover in relation to the *Motion on Notice* moved by Cr Kelly at the Council Meeting on 18 December 2007, which read as follows:

- "1. *The Joint Venture involving LandCorp and the City of Bunbury cease further development at the College Grove Subdivision (Woodcrest Rise).*
2. *Council to put this position to the Joint Venture in order for that body to seek approval from the Hon. Minister for Planning & Infrastructure to terminate the project.*
3. *The bushland associated with the Woodcrest Rise development to be included in the proposed 'Ocean to Preston River' Regional Park."*

At that meeting the Council decided to defer Cr Kelly's motion so that Council Members could be provided with a suitable map, full costings and a detailed analysis of the effect on the City should its Joint Venture Agreement with Landcorp be cancelled.

**Recommendation**

1. Council close the meeting to the public to discuss the confidential report on the College Grove Subdivision (Woodcrest Rise) in accordance with Section 5.23(2) of the Local Government Act 1995, on the grounds that the matter deals with the following matters:
  - 1.1 A contract entered into by the City that is of a commercial nature.
  - 1.2 Legal advice received that relates to Council's contractual obligations under the Joint Venture Agreement.
  - 1.3 Information that has commercial value to external parties.
2. The meeting exclude members of the public to permit Confidential Business (as defined by the Local Government Act 1995) to be discussed.

## **AT THE COUNCIL MEETING**

Cr Worthington disclosed a financial interest as her partner's employer, TME, could stand to gain or lose (financially) depending on the decision made by the Council. She left the meeting at 6.50pm for the duration of discussion and the vote on this matter.

Due to the extent of public interest, the Mayor allowed public speakers.

### 1. Public Speakers Generally in Support of Cr Kelly's Motion

#### Mr John Sherwood, South West Environment Centre

Mr Sherwood urged councillors to have the bushland in the proposed Woodcrest Rise portion of College Grove added to the *Ocean to Preston River* Regional Park. He advised that the bushland is a Tuart Transition Zone where Tuart Trees of the sandy coastal plain give way to Jarrah, Marri and other inland tree species. The bushland is already suffering "edge-effects" as weeds and other exotic plant species are invading its outer fringes. He indicated that nobody yet knows the full extent of the fauna in the area, flora has not been surveyed correctly and once the bushland is bulldozed, it can never be replaced.

#### Lyn Clarke, Bushwalking Tour Operator

Ms Clarke indicated that she has operated a bush-walking tour in this area for the past 20 years and visitors are often amazed at how much flora and fauna exists in an area so close to a residential subdivision - with a little effort, the bushland in this area can be made part of the *Ocean to Preston River* Regional Park and promoted as a major tourist attraction. Ms Clarke listed a number of species that, she claims, exist in the Woodcrest Rise bushland and are endemic to Western Australia. During the time that she has been visiting the area she has noticed that expansion of the College Grove subdivision and Bunbury Health Campus has generated extensive weed growth in the area but this has only affected the edges - the interior of the bushland is still pristine and this, claims Ms Clarke, is why a narrow vegetation corridor (as is currently planned) would be of little use in maintaining bio-diversity and protecting against invasion by weeds.

#### Phil Smith, Bunbury Heritage Group

Mr Smith announced that greenhouse gases and carbon emissions are out of control and that the world is warming. He stated that we in Australia complain often at the destruction of tropical forest in The Amazon but here we are in Bunbury clearing our own little Amazon. Mr Smith indicated that whilst the land is Endowment Land for the purpose of financing major projects, increasing the width of the *Ocean to Preston River* Regional Park is vitally important in order to preserve its bio-diversity of plants and animals. He claimed that if the Council (and its Joint Venture partners) were to forego development of this piece of bushland, little housing would be lost as there are still areas of the Brookwood and Shearwater Estates that are yet to be developed and this will involve old farmland that is of much less value in ecological terms.

Myra Colecliffe, Garvey Place, Bunbury

Ms Colcliff advised that she is 15 years old. Her family recently sold land in Dalyellup for less return than expected. She wondered why when the property market in Bunbury appears to be faltering, the Council would proceed with further residential development and also wondered why the ecological value of the land was not investigated previously.

2. Public Speakers Generally Against Cr Kelly's Motion

Ross Holt, CEO - Landcorp

The Joint Venture has existed for 6 years and already (due to a decision by the Minister) the area of land available for development has shrunk considerably. The Joint Venture is a commercial arrangement and for the partners to disengage will involve considerable costs - Landcorp will take legal action to recover these costs and the cost of any associated financial loss. Added to this will be the cost (to Bunbury) of loss of funding for roads and infrastructure associated with the development as this is directly linked to a sustainable number of residents in the subdivision. Landcorp has invested a large amount of money and made business arrangements with contractors based on the Council's previous decisions to enter into the Joint Venture Agreement to develop College Grove and this cannot be taken lightly.

In response to questions, Mr Holt confirmed that LandCorp is the Project Manager for the Woodcrest Rise project and will be meeting the costs of development of the land. Accordingly, it expects to receive a considerable portion of the profits from sale of the land.

Wayne Winchester, General Manager State Lands (Department of Planning and Infrastructure)

Mr Winchester announced that his Minister had entered into the Joint Venture Agreement in order to ensure an adequate supply of quality housing for residents of Bunbury and the surrounding area. He confirmed that initially the Joint Venture had sought to protect a substantial percentage of the development area as regional public open space and that this has since been increased by the Minister. If the Joint Venture Agreement is terminated the Minister will be taking action to recover the Department's costs.

Michael Schramm, SW Regional Manager (Department of Planning and Infrastructure)

The Greater Bunbury Region Scheme ("GBRS") has just been approved and this protects much regional open space in the Bunbury area. The additional open space being requested tonight would be in excess of that required by the GBRS and it should be noted also, that under the GBRS the land being requested for conservation is zoned for residential development.

Dr Ern Manea (former Mayor of Bunbury)

Dr Manea gave a brief history of Endowment Reserve Lot 670 and advised that initially, the City was told that if it wanted to develop the land it should be for the benefit of the whole of the Bunbury community. He pointed out that the developable portion of Bunbury is relatively small and asked meeting members not to forget that the City of Bunbury has already taken steps to conserve some areas for future generations these being Manea Park, The Maidens Reserve, Big Swamp and other wetlands and creeks.

Before making a decision on this matter, Dr Manea urged councillors to investigate where the wetlands are in Bunbury and to take stock of all the land that the City owns that is not built on.

At this point in proceedings (7.52pm) the Mayor advised that there would be a 5-minute break.

The meeting resumed at 8.03pm. Cr Worthington remained absent from the meeting room as she had disclosed a financial interest in the matter under debate earlier during the meeting.

The meeting attendance list remained unchanged.

Before debate on the issue commenced, the Mayor advised councillors that:

1. He would prefer the matter to be debated in open forum but, as the information contained in the Confidential Report lists details of commercial contracts and legal opinions sought by the City; any in depth discussion of the report's contents will require the meeting to go behind closed doors pursuant to Section 5.23(2) of the Local Government Act 1995.
2. Councillors are to abide by the City's Standing Orders which restricts speaking time to 10 minutes per speaker.

The recommendation listed in the meeting agenda (to close the meeting to the public) was not moved. Instead, the Mayor called on Cr Kelly to move his motion on notice.

Cr Kelly moved, Cr Major seconded (a slightly amended version of the motion) as follows:

- "1 The City of Bunbury resolves to request of the Joint Venture involving LandCorp, the State and the City of Bunbury, to cease further development of the College Grove (Woodcrest Rise) project.*
- 2. Council puts this position to the Joint Venture in order for that body to seek approval from the Hon. Minister for Planning & Infrastructure to terminate the project.*
- 3. The bushland associated with the Woodcrest Rise development to be included in the proposed 'Ocean to Preston River' Regional Park."*



**31 January 2008**  
**Minutes - Special Council Meeting**

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During debate (during which the Council voted several times to extend the speaking times of individual councillors), some major points raised, were:

- To protect what is left of the Swan Coastal Plain (especially the Tuart Transition Zone), Cr Kelly stated that it may be possible to save this bushland without the economic doom and gloom as stated in the Confidential Report.
- A 500 metre wide vegetation strip is not viable - a sufficient area is required to allow fauna to propagate and protect against the edge-effects of weed invasion.
- LandCorp is a valued business partner having previously assisted Council in the development of Marlston Hill and the Bunbury Business Park. LandCorp is also set to be the City's partner in the Bunbury Waterfront development in 2008.
- The City should not be afraid to renege on business deals as ratepayers are a Council's most important commodity.
- In the world of big business legal agreements are not taken lightly and need to be honoured.
- The Council must operate within the confines of responsible government and manage the financial affairs of the City carefully.
- The annual rate could be considerably lower had past Councils taken action to develop all the land that is now comprised within the *Ocean to Preston River* Regional Park. Conversely, rates might increase if the Joint Venture Agreement is terminated.

To dispel disagreement over whether the wording of the motion requires termination of the Joint Venture Agreement or is just asking the Minister to consider it, Cr Slater suggested the words "*In the event that the Joint Venture and the Minister agree to terminate the project*" be added to the beginning of point 3. of the motion. The mover and seconder agreed.

The motion (now amended) was put to the vote as follows:

**Motion:** Moved Cr Kelly, seconded Cr Major

1. The City of Bunbury resolves to request of the Joint Venture involving LandCorp, the State and the City of Bunbury, to cease further development of the College Grove (Woodcrest Rise) project.
2. Council puts this position to the Joint Venture in order for that body to seek approval from the Hon. Minister for Planning & Infrastructure to terminate the project.
3. In the event that the Joint Venture and the Minister agree to terminate the project, the bushland associated with the Woodcrest Rise development to be included in the proposed 'Ocean to Preston River' Regional Park.

**LOST**

**5 Votes "For" / 6 Votes "Against"**

A request was made for the vote to be recorded:

For: Kelly, Whittle, Punch, Slater, Major  
Against: Mayor D Smith; Crs Craddock, Jones, Dillon, Leigh and Steck

A motion that had been foreshadowed by Cr Dillon earlier during debate was put to the vote at this point:

**Motion:** Moved Cr Dillon, seconded Cr Major (pro forma)

The proposed development of College Grove "Woodcrest Rise" to proceed without further deliberation.

**LOST**

**1 Vote "For" / 10 Votes "Against"**

A request was made for the vote to be recorded:

For: Cr Dillon  
Against: Mayor D Smith; Crs Craddock, Jones, Leigh, Steck, Kelly, Whittle, Punch, Slater & Major

Cr Worthington returned to the meeting at 10.09pm.

**6. CLOSE OF MEETING**

The Mayor thanked all those in attendance and declared the meeting closed at 10.10pm.

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CONFIRMED this day 26 February 2008 to be a true and correct record of proceedings of the Bunbury City Council Special Meeting held 31 January 2008.

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**MR DAVID SMITH**  
**MAYOR**