

CHIEF EXECUTIVE OFFICER'S REPORT

16 DECEMBER 2013

INDEX

1. REPORTS

- 1.1 2013 ANNUAL GENERAL MEETING OF ELECTORS2
- 1.2 COUNCILLORS' INFORMATION BULLETIN - ISSUE NO. 21/20134

ATTACHMENTS6

CITY OF ARMADALE
Chief Executive Officer's Report

Mayor and Councillors
City of Armadale

Following is my Report for the period
ended 16 December 2013

1.1 - 2013 ANNUAL GENERAL MEETING OF ELECTORS

WARD : ALL
FILE No. : M/1186/13
DATE : 10 December 2013
REF : SD
RESPONSIBLE : Chief Executive Officer
MANAGER

In Brief:

- This report presents the Minutes of the AGM held on 4th December 2013.
- The Report recommendation is to receive the minutes as presented.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

Good Governance and Management

- 4.1 Good governance and leadership
- 4.2 Effective strategic and business planning
- 4.3 An informed and engaged community
 - 4.3.1 Ensure there is effective two way communications with the local community

Legislation Implications

Local Government Act 1995 – Subdivision 4, Section 5.33 states:

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –

- (a) *at the first ordinary council meeting after that meeting; or*
- (b) *at a special meeting called for that purpose,*

whichever happens first.

- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

Nil

Consultation

Nil

BACKGROUND

Council at its meeting on 11th November 2013 accepted the Annual Report and resolved to hold its Annual General Meeting of Electors on Wednesday 4th December 2013.

COMMENT

Minutes of the Annual General Meeting of Electors held on 4th December 2013 are attached to this Report for Council to receive, consider and determine as appropriate.

There were no motions put and carried at the electors meeting which require a decision of Council.

Those items raised at the Electors meeting which require further investigation/action will be referred to the respective Directorates. Responses, where required, will be forwarded to the respective people within two weeks of Council accepting the Minutes.

ATTACHMENTS

1. Minutes of 2013 Annual General Meeting of Electors

RECOMMEND

That Council:

1. **receives the Minutes of the Annual General Meeting of Electors held on 4th December 2013 as presented in the attachment to this Report.**
2. **notes that the responses to the items referred for further investigation/action at the 2012-2013 Annual General Meeting of Electors will be forwarded to the respective enquirers within 2 weeks of Council accepting the Minutes.**

1.2 - COUNCILLORS' INFORMATION BULLETIN - ISSUE NO. 21/2013

WARD : ALL
FILE No. : M/1213/13
DATE : 10 December 2013
REF : CT
RESPONSIBLE : Chief Executive Officer
MANAGER

In Brief:

- Councillors' Information Bulletin – Councillors are advised to take note of the information submitted in Issue No. 21/2013 to be received by Council.

Strategic Implications

Corporate Services

- 2.1 Identify and implement mechanisms to improve communication and achieve common understanding of corporate issues and objectives.

COMMENT

The following general information and memorandums were circulated in Issue No. 21/2013 on 5 December 2013.

Correspondence & Papers

- **Correspondence**
WALGA Economic Briefing – November 2013
- **WA Local Government Association (WALGA) News**
Issue No 46.13 – 25 November 2013
Issue No 47.13 – 2 December 2013
- **Australian Local Government Association (ALGA) News**
29 November 2013
- **Media Releases**

Information from Human Resources

- Employee Movements

Information from City Strategy

Progress Report

Progress Report on Contingency, Operational & Strategic Projects

- **Outstanding Matters & Information Items**
Report on Outstanding Matters – City Strategy Committee
- **Donations/Grants/Contributions**
July/August/September/October/November 2013
Grants
Annual Contributions
Accounting Reports
Rates Report
Report of the Common Seal

Information from Development Services

- **Outstanding Matters & Information Items**
Report on Outstanding Matters - Development Services Committee
- **Health**
Health Services Manager's Report - November 2013
- **Planning**
Planning Applications Report - November 2013
Town Planning Scheme No.4 - Amendment Action Table
Subdivision Applications - WAPC Approvals/Refusals - November 2013
Subdivision Applications - Report on Lots Registered for 2012/2013
PAW Closure Report - Significant Actions during November 2013
Compliance Officer's Report - November 2013
- **Building**
Building Services Manager's Report - November 2013
Building/Health Compliance Report - November 2013
Building Applications Monthly Statistics - November 2013

ATTACHMENTS

There are no attachments for this report.

RECOMMEND

That Council acknowledge receipt of Issue No 21/2013 of the Information Bulletin.

CHIEF EXECUTIVE OFFICER'S REPORT		
ATTACHMENTS		
16 DECEMBER 2013		
ATT NO.	SUBJECT	PAGE
1.1 2013 ANNUAL GENERAL MEETING OF ELECTORS		
1.1.1	Minutes of 2013 Annual General Meeting of Electors	7



**ANNUAL GENERAL MEETING OF ELECTORS
WEDNESDAY, 4 DECEMBER 2013**

M I N U T E S

**OF THE ANNUAL GENERAL MEETING OF ELECTORS HELD IN THE
COUNCIL CHAMBERS, ADMINISTRATION CENTRE, ORCHARD AVENUE,
ARMADALE ON WEDNESDAY, 4 DECEMBER 2013 COMMENCING AT 7.00PM**

PRESENT:

The Mayor, Cr H A Zelones JP presided:	River Ward
Deputy Mayor, Cr R Butterfield	River Ward
Cr M H Norman	Minnawarra Ward
Cr K Busby	Minnawarra Ward
Cr M Geary	Neerigen Ward
Cr J H Munn JP CMC	Lake Ward
Cr C Frost	Lake Ward
Cr C M Wielinga	Jarraah Ward
Cr G Nixon	Jarraah Ward
Cr C A Campbell JP	Palomino Ward
Cr D M Shaw	Heron Ward
Cr J A Stewart	Heron Ward

IN ATTENDANCE:

Mr R S Tame	Chief Executive Officer
Mr A F Maxwell	Executive Director Corporate Services
Mr I MacRae	Executive Director Development Services
Mr K Ketterer	Executive Director Technical Services
Ms Y Loveland	Executive Director Community Services
Mrs S D'Souza	CEO's Executive Assistant
Ms C Thomson	Secretarial Assistant (CEO's Office)

Public: 7

His Worship the Mayor, Cr Henry Zelones, welcomed those in attendance to the 2012-13 Annual General Meeting of Electors and addressed the meeting as follows:

The Mayor wished everyone present a good evening and welcomed them to the City's Annual Meeting of Electors.

Prior to formally opening the meeting he acknowledged the recent passing of Mr Cam Clay, a dedicated community volunteer who has made a significant contribution to the City in the environment and landcare matters. Mr Clay was a regular attendee at the City's Annual Meeting of Electors.

The Mayor introduced Councillors and officers present and passed on the apologies of Crs Northcott and Best.

The Mayor advised that before dealing with the business of the meeting, there was the need to emphasise that this is not a public meeting, but a meeting of electors as provided by the Local Government Act of 1995. As such, the residents who would normally participate are those who are on the 2012 City of Armadale Electoral Roll. However, this entitlement is also extended to those others who would be entitled to be on the roll, whether they are on it yet or not.

The Local Government Act in allowing Electors Meetings confers on the Mayor the responsibility of chairing the meeting, and for deciding the manner in which the meeting should be run. It is hoped that the meeting procedure that he was about to outline will permit informality, and the widest possible airing of views while retaining normal meeting good manners. If necessary, but only if necessary to retain order, the full range of Council's Standing Orders would be invoked.

The Mayor hoped that he would not have occasion to remind anyone during the meeting that they enjoy any privilege or protection from laws relating to defamation, as everyone will of course, be focusing on the issues. Prefacing remarks with the words "Without Prejudice" as sometimes happens at this type of meeting does not confer any protection to the speaker. The meeting is being taped to assist officers who will be required to provide a detailed report to Council.

When dealing with general business, questions submitted in writing will be dealt with first after which questions will be invited from the floor. The Mayor or members of the Executive will try to answer questions put tonight, but some may require further research in which case the question will be taken on notice and the person asking the question will receive a response in the mail. The minutes of this meeting once adopted by Council will also contain those answers.

The City of Armadale is a large metropolitan Council with a population of over 70,000 residents and an operating budget of approximately 100 million dollars. It may not be possible for the Mayor or the Executive to be able to reply to all questions instantly as, in order, to provide accurate and current information may require follow up with other

officers from the City of Armadale, other government agencies and/or sub-contractors who carry out a large amount of the works required.

A roving microphone is being used, so people are asked to remain in their places and staff will bring the microphone to you. As mentioned earlier, the meeting is being recorded so people are asked to begin by stating their name and address. To share the order of questions being asked one question from each person will be dealt with first, and then go on to a second and so on.

In terms of voting tonight, should that be necessary, those present will have already been asked to register on entry to the meeting. If any member of the public present isn't entitled to be an elector in the City of Armadale, given the Mayor's earlier explanation of who is eligible, he asked that they simply refrain from voting.

The Mayor reminded members of the public that he and his fellow Councillors are also electors of the City of Armadale and retain the right to vote for or against, or abstain from voting, on any motion that may be put from the floor. Should a member of the public wish to put a motion before the meeting the procedure that he will adopt will be similar to that which is used at Council meetings and Council's standing orders will apply during the debate on the motion. All motions put before the meeting will require a seconder before debate on the motion proceeds.

The Mayor advised that any vote taken on any matter at the meeting was not binding on the Council but would be considered in light of all relevant information provided to Council in due course. The Minutes and any formal motions of this meeting will be presented to Council for consideration.

1 APOLOGIES AND LEAVE OF ABSENCE

Apology received from Cr M S Northcott and Cr G A Best

2 BUSINESS OF MEETING

2.1 PRESENTING & RECEIVING THE 2012-2013 ANNUAL FINANCIAL REPORT

2.1.1 2012-2013 Annual Financial Report
--

MOVED Mr Grimwood that the 2012-2013 Annual Financial Report be received.
SECONDED Mr Christmass

CARRIED

2.1.2 Auditor's Report

The Chief Executive Officer, Mr R S Tame, read aloud the Auditor's Report.

MOVED Cr Munn that the Auditor's Report on the 2012-2013 Annual Financial Report be received.
SECONDED Cr Nixon

CARRIED

2.1.3 2012-13 Annual Report (Remaining Parts)

Mayor Zelones referred the meeting to his Report as printed on Page 6 in the Annual Report.

MOVED Cr Munn that the 2012-2013 Annual Report be received.
SECONDED Cr Frost

CARRIED

2.2 GENERAL BUSINESS

Mr D Grimwood – 7 Sapphire Court, Mt Richon

Question 1: (Prior notice had been given)

The City of Armadale owns vacant land located on the corner of Carrawatha Avenue and Albany Highway, Mt. Nasura.

This land was the subject of a Special Meeting of Electors held on 23 March 2000.

Q1A: Council, since Lot 60 Carawatha Avenue no longer exists because the City of Armadale subdivided it, gave it new lot number 103 to change its identification and built a road upon it, what is the legal status of TPS4 amendments in relation to it?

Lot 60 Carawatha Avenue was subdivided in 2011 to create a new road reserve (Benson Court) to provide vehicle access to Lot 100 to the north. The road was constructed by the owners of Lot 100.

There is no change to the legal status of this land in Town Planning Scheme (TPS) No.4 or any amendments

Q1B: Council, given TPS4 now allows residential development up to R40 density on the residential portion and having regard to that portion being bisected by a subterranean major stormwater drain, a planned 5 metre reduction to its Albany Highway frontage depth being set aside for MRWA, and TPS4 requirements for building envelopes, setback and on-site parking ratios, what possible practical uses do you now envisage for this site?

The portion of Lot 103 west of Benson Court can accommodate a range of uses under its current TPS zoning, including Residential uses up to R40, a Medical Centre, etc.

Q1C: Council, given parking will not be permitted adjacent to the site in either Carawatha Avenue or Benson Court – ie on-site parking will be mandatory - what will be the final useable building floor area available to a prospective purchaser/developer of the site ?

The location of parking will be determined when the land is developed. There are numerous different approaches to how the land could be developed for the abovementioned uses.

Q1D: Council, given there has been no sale of land as proposed to support development of the “park” portion, what is your plan for the future of this site – ie both the residential portion and the park portion ?

The City will be progressing the sale of the portion of Lot 103 west of Benson Court over the next few years. The City will continue to maintain the portion of Lot 103 east of Benson Court and will consider park development in the light of the revenue received from the land sale.

Q1E: Council, having regard to the current availability of the land and its greenfield state, do you think it would be prudent to develop the residential portion either as an extension of the park portion, or as an entry statement to the Mt Nasura precinct, or as the Pioneer Park proposed by residents long ago ?

The City will be progressing the sale of the land over the next few years.

Ms Nola Thornelt – 20 John Street, Armadale

The entry statement to Armadale from the various directions, the surrounds of the Neerigen Brook and the parks and gardens around Armadale is a delight to see. It's encouraging to see that the rates and the monies are used wisely and prudently and trust that this will continue into the future. Thank you for the upgrade to Alderson Reserve in particular. I live nearby and was pleased to see recently that some trees have been cut down as the roots of this particular species do encroach into people's gardens. We are fortunate to benefit from such a skillful Council. May god bless you this festive season as you pause to reflect on 2013 and its events and best wishes for the New Year ahead.

The Mayor thanked Ms Thornelt for her kind words.

Mr J Christmass – 14 Wandoo Street, Kelmscott

Delighted to see the improvements in Armadale and Kelmscott. Pleasing to see that over the years these meetings have gone from criticism to one of praise which reflects what people in the Council are doing.

Q1: In regard to the City Views before the election I asked if Council could include information about the candidates to encourage people to vote. When the question was asked about publicising the date of the AGM I was informed that the date had not been confirmed when the publication was confirmed. Did the council not know 2-3 months ahead as to when the AGM was to be held and could city views be used to much greater effect for the COA and the public?

The Mayor advised that the City Views being a Council publication could not be used to promote particular candidates or even a range of candidates for elections. Publication of official election information is governed by the Local Government Act and Election Regulations. In regard to the date of the AGM, this date is confirmed only after the Auditor's report is finalised. This was only able to be confirmed recently in November and after allowing the statutory requirement of 21 days' public notice the date of the AGM was set for 4th December. Unfortunately this fell out of the timeframe for the City Views but the statutory advertisements were placed in both local newspapers.

Q2: Could PR include an item in city views to get more publicity in getting people to attend the AGM and use it to their advantage?

The Mayor advised the suggestion would be taken on board.

Q3: I am concerned with the amount of shopping trolleys left lying around areas by residents and maybe the Council needs to fine owners if these trolleys are not removed daily. Can we implement a system that would ensure trolleys are returned and stop these being left anywhere, one example is a coin system?

The Mayor advised that this matter was the subject of discussion at the recent Local Government State Council Meeting where he had referred the issue to the WA Local Government Association to lobby the State Government to get involved.

Q4: With summer almost here the fire risk is a worrying problem and I have observed a number of properties that pose a fire risk. Can we bring back fining people who haven't cleared their blocks within the time frame set by the Council?

The Mayor advised that any sites or properties that are a fire risk should be reported to the City for investigation by the Chief BushFire Control Officer. Inspections of both public and private property are well underway in accordance with the City's inspection

regime prior to full summer. Council views the issue of fire risk very seriously in particular after the Roleystone/Kelmscott bushfires in 2011.

Q5: The matter of litter around the Dan Murphy's store was discussed with the Manager and this situation has since improved. However during these discussions he indicated that this problem of bottles and cans being thrown around does not exist in Adelaide because they have container deposit legislation. Why is there a problem here?

The Mayor advised that here again the WA Local Government Association has been lobbying the State Government for many years to introduce a container deposit scheme. By putting a deposit on containers it gives people a financial incentive to do the right thing and also reduces littering and increases recycling. The City has earnestly supported the Association in lobbying the Government on the introduction of this legislation in WA.

Mr D Grimwood – 7 Sapphire Court, Mt Richon

Question 2: (Prior Notice had been given)

The City of Armadale charged a resident of Kelmscott that “on 21 July 2011 at Hopkinson Road, Hilbert he did deposit or cause litter to be deposited on land or on waters of Western Australia, contrary to the Act s23” - said land being the Hopkins Road Landfill and Waste Recycling Centre Facility – ie the “Armadale Tip”.

The charge was heard in the Armadale Magistrates Court 12 September 2012 and the accused was convicted with a fine of \$150 plus \$1,200 costs – ie a total cost of \$1500.

The resident successfully appealed to the WA Supreme Court [2013] WASC 175 and on 10 May 2013 the Supreme Court allowed the appeal and set aside the conviction.

This case has raised numerous issues regarding the terminologies used in Council's Local Laws and its Tip signage, and to powers and authorities delegated to tip attendants over citizens.

Consequently the following questions arise:

Q2A: What was the total monetary cost of this prosecution by the City – including proceedings in the Magistrates Court, Supreme Court and the City's witness salaries and expenses?

The total cost to date is over \$30,000.

Q2B: Where is that cost identified in the Annual Report?

The cost is part of the waste management operating cost and is not itemised as such.

Q2C: If the City believes such a trivial matter deserves such disproportionate expenditure, why was this matter not widely publicised in the local press and the City Views magazine to deter other residents from repeating similar prospective breaches and avoid incurring the wrath of the local government?

This is not a trivial matter as the interpretation by the courts placed on the definition of litter affects many of the Council waste collection and disposal operations. If the case was not challenged

- *Control of disposal of hazardous waste during the verge collections, the landfill and in public litter bins would not be possible.*
- *Volume limits and illegal dumping during the verge collection could not be regulated.*
- *Greenwaste placed on the verge and deposited at the landfill could be contaminated. It would have to be landfilled*
- *The volume of material recycled at the landfill would be significantly smaller (currently about 30%) shortening the life of the landfill by several years. Each year lost is worth approximately \$2.6 million to the Residents of Armadale.*
- *Not to pursue would mean that the Litter Act would need to be amended*

Q2D: Why is it the case that a search of the City of Armadale website produces no information about this matter in any document including Committee and Council Minutes?

The case is not complete. A report will be prepared on the final outcome.

Q2E: Is it the case that Council is blissfully ignorant of this matter and the expenditure so incurred?

The Councillors have been briefed on the case.

Q2F: Given that upon payment of a fee upon entry to the Tip legal title in the "litter" as defined passes to the City of Armadale, how is it possible for the City to prosecute a person for depositing material itself owns upon its own land, being a place set aside for the depositing of litter?

*This question would have to be referred to the City solicitors for an opinion. The judge however determined that on paying the fee the rubbish could not be deposited on the weighbridge ie. that the **whole** site is not a place set aside for the depositing of litter*

Q2G: Given 32 (2) of City Of Armadale Health Local Laws 2002 prescribes: "A person shall not deposit rubbish or refuse in or on a refuse disposal site except at such place on the site as may be directed by the person in charge of the site", how does a user of the site know if the person he or she is dealing with is in fact "in charge"?

The staff on site have City of Armadale uniforms and are readily identified.

Q2H: Given the City claims certain materials intended to be recycled are not classed as “litter”, what measures are taken by Tip personnel and/or signage to inform users of the distinctions made by application of their discretion?

All areas are clearly signed, and staff are on site to assist any person who requires advice.

Q2J: Given State Law takes precedence over the City’s duplicitous and ambiguous Local Laws, and the City’s demonstrated zeal in prosecuting alleged breaches, in relation to “litter” will the Local Government commit to reviewing;

City of Armadale Local Laws Relating to the Removal of Refuse, Rubbish and Disused Material 1997

City Of Armadale Health Local Laws 2002.

City Of Armadale Environment, Animals And Nuisance Local Laws 2002

to ensure those citizens subject to them have some idea what, when and where said laws apply or do not ?

*The City’s local laws are **not** duplicitous and ambiguous. They are crafted usually following “model” local laws within existing statutes. From time to time, State and Federal authorities change existing (or apply new) statutes. Occasionally, Courts disagree with the legislation. Our local laws are reviewed regularly to address these anomalies.*

Q2K: Given the City’s Waste and Recycling website defines under “Litter and illegal dumping” - “the City’s Rangers are authorised to issue fines to offenders” – ie does not mention Tip Attendants - will Council commit to improving its communication standards to say what it actually means?

The Litter Act authorises Local Government Employees to issue infringements. Council has resolved that several landfill officers be authorised to issue infringements.

Q2L: Given the penalty and costs imposed by the Magistrate’s Court on the alleged offender in this case, what incentive is there for a citizen to risk prosecution by going to the Tip instead of dumping litter anywhere convenient, when the fine will be the same in either situation but the risk is lesser when discretely dumping elsewhere ?

The greater majority of the visitors to the landfill place their waste in the allocated areas and litter infringements are rarely issued. Only 2 infringements were issued at the landfill in the last year. There were approximately 40,000 visitors over the same period who recycled correctly.

Mr J Christmass – 14 Wandoo Street, Kelmscott

Q6: Did this person refuse to pay the fine that then resulted in legal action or was this legal action taken regardless?

The Mayor advised the person was found guilty in the Local Magistrates Court. He then appealed that conviction and took it to the Supreme Court. The CEO advised earlier that there are still some outstanding matters that are being dealt with and when those are finalised a final report will be presented to Council on the outcomes.

Mr D Grimwood – 7 Sapphire Court, Mt Richon

Q3: The purpose of the questions raised earlier was to stimulate discussion and actions. Having visited the landfill site I think the signage is inadequate and ask that more appropriate signage be provided at the tip clearly instructing tip users of how to dispose of their items to avoid the risk of situations developing where fines are being issued.

The Mayor advised that the issue of signage at the landfill site would be investigated and if required appropriate action will be undertaken. He advised that there is a very low risk of fines with only 2 out of 40,000 visitors being fined.

Mrs P Hart – 160 Croyden Road, Roleystone

On behalf of the environment groups i.e. the Armadale Gosnells LandCare Group (AGLG) and SE Regional Centre for Urban Landcare (SERCUL) Mrs Hart thanked Council for its cooperation and support this year. She advised of their appreciation and thanked everyone involved.

Q1: Will councillors advise ratepayers of the financial implications on the proposed boundary/amalgamation with SJ?

The Mayor advised that Council's submission to the Local Government Advisory Board stated that a merger with the Shire of Serpentine-Jarrahdale would have negative financial implications and was not one that was supported by this Council. Rather than being opposed to any amalgamation, a reasonable compromise was made that only the urban areas be included in any boundary adjustment between the Shire and the City. Council will make every endeavour to ensure that any impact is kept to the minimum.

Q2: Can Council ensure ratepayers that the high standard of service we are currently receiving will continue under the proposed amalgamation/boundary changes

The Mayor advised that the City of Armadale will make every endeavour to ensure that any impact of the boundary adjustment will be minimal. At the annual civic dinner the

previous Saturday the Mayor reminded the Minister of the State Government's promise to cover all costs associated with the reform process.

**Q3: What if any benefits does the city see in the proposed amalgamation/
boundary changes?**

The Mayor advised that in terms of benefits, this is hard to assess particularly in the short-term. Initially, there will be roughly 18,000 additional ratepayers demanding services and contributing rates to the City of Armadale. The City's forward plans, projects and asset renewal programs will need reassessing. The urban area of SJ that will be included within the City's southern boundary already access Armadale's transport and shopping services and benefit from access to our Strategic Regional Centre. Due to this commonality the two communities will come together quite easily and the benefits this City offers will be continuous for the new Serpentine-Jarrahdale residents.

Ms Nola Thornelt – 20 John Street, Armadale

**Q1: Could the trees in the areas adjacent to the roundabouts on Church Avenue
at William Street and Fourth Road be thinned out to create clearer vision for
cars approaching?**

The Mayor advised that the Executive Director Technical Services will investigate and take any appropriate action.

The Mayor thanked his fellow councillors for their attendance tonight and thanked the public. The Mayor reminded those present that there are over 70 meetings per year (Committee and Council) that the public are welcome to attend, and all include public question time.

MEETING DECLARED CLOSED AT 8.05 PM

MINUTES CONFIRMED THIS 16TH DAY OF DECEMBER 2013

MAYOR