

**ORDINARY MEETING OF COUNCIL
7 March 2006**

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CITY OF ARMADALE

MINUTES

OF ORDINARY MEETING OF THE ARMADALE CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 7 MARCH 2006 COMMENCING AT 7.00 PM

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Mayor, Cr Reynolds, declared the meeting open at 7.00 pm.

**2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE
(previously approved)**

PRESENT:

Mayor, Cr L Reynolds JP presided over	Heron Ward
Deputy Mayor, Cr J H Munn JP CMC	Minnawarra Ward
Cr J Knezevich	Minnawarra Ward
Cr A L Cominelli JP	Lake Ward
Cr C J MacDonald	Lake Ward
Cr R J Tizard	Neerigen Ward
Cr G A Best	Neerigen Ward
Cr H A Zelones JP	River Ward
Cr R Butterfield	River Ward
Cr P J Hart	Jarraah Ward
Cr L Scidone	Jarraah Ward
Cr G T Wallace	Palomino 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 W A Bruce	Executive Director Technical Services
Mr I MacRae	Executive Director Development Services
Mrs S D'Souza	CEO's Executive Assistant

Public: 3
Press: Nil

LEAVE OF ABSENCE:

Nil

APOLOGIES:

An apology was received from Cr Everts.

MOVED Cr Knezevich that the apology be received.

39/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

**3 ADVICE OF RESPONSE TO PREVIOUS PUBLIC QUESTIONS
TAKEN ON NOTICE**

The following questions were taken on notice at Council's meeting on 20 February 2006 and a response forwarded in a letter dated 1 March 2006.

Mr P Stewart – 317 Peet Road, Roleystone

Q-1 Further to the response to my question number two at the February 6, 2006 Council meeting, for the purposes of WorkCover and WorkSafe legislation, are sub contractors operating chippers, grinders or mulchers on City contracts, deemed to be employees of the principal for the purposes of compensation?

A-1 The City requires all contractors to provide evidence that they have appropriate workers compensation and public liability cover. They are also required to ensure that staff are adequately resourced and trained.

Employees of contractors are not deemed to be employees of the City. However, they are operating within the City's work-place so there are areas that a Court might seek to examine in the event of an incident.

For purposes of compensation, a workers first claim would be against his or her direct employer; i.e., the contract firm.

Q-2 In response to my question number three, the maximum permissible noise levels were given, however, there was no answer in regard to the question concerning the levels targeted in the City's Noise Strategy Plan. Are there any levels below the maximum levels allowable that the City is targeting to prevent noise induced hearing loss?

A-2 The City complies with the Occupational Safety and Health Act 1984 and Occupational Safety and Health Regulations 1996, including maximum noise exposure levels. It does not have a specific Noise Strategy Plan as the local Government work-place is not deemed a

hazardous noise environment, i.e. noise is one of a range of risks that are managed

Q-3 Most responsible Australian industry has adopted the European “Physical Agents (Noise) Directives” as the target to prevent noise induced hearing loss, will Council please consider adopting the 80 dB(A) constant and 112 Pascal impulsive levels as targets for its Noise Strategy Plan?

A-3 As indicated in the response to Question 2, the City’s employees are not generally exposed to high noise levels and there are no plans at present to alter current practices.

The City strives to represent best-practice in the industry in ensuring its work-place, contractors and suppliers comply with the optimum practical standards of occupational health and safety.

If new levels are introduced as a proposed national or international standard, the City examines the proposal and adopts best-practice.

The following question was taken on notice at Council’s meeting on 20 February 2006 and a response forwarded in a letter dated 1 March 2006.

Mr G Hodge, 148 Holden Road, Roleystone

Q-1 Will the Council please follow the “Best Practice Guidelines” and, rather than simply inform only those residents known to have been affected during the trial 2004, please advise all residents that will be effected by unreasonable noise; that is, those residents, both new and old, who live within a 1000 metre radius of orchards in the City?

A-1 Council does not intend to advise all residents who live within a 1000 metre radius of orchards in the City of the Guidelines, because the main purpose in seeking feedback from residents known to have been affected during 2004 is to determine whether they perceive an improvement (or indeed perhaps a worsening) of their circumstances subsequent to issuing of the Guidelines by the Minister and Council’s adopted position with respect to them.

*The question as put seems predicated upon the assumption that **all** residents living within a 1000 metre radius of orchards **will** be affected by unreasonable noise. That clearly is not the case - indeed, the Guidelines call for orchardists who intend to use such devices to notify neighbours who may be affected. Given the very clear written advice that has been forwarded to all known orchardists within the City, it would be an act of foolhardiness for any grower to fail to consult with his neighbours and attempt to reach a satisfactory position with them before contemplating use of audible bird scaring devices.*

If it seems that the use of these devices is becoming more widespread than the very few growers known to have used them in 2004, the City

will use the local press to publicise its position and to invite affected persons to make comment or lodge complaints.

4 PUBLIC QUESTION TIME

Mr P Stewart – 317 Peet Road, Roleystone

Q-1 With the answers provided to my questions put to the January 20, 2006 Council meeting, I now understand that the City relies on legislative compliance with Worksafe maximum noise levels, rather than setting a lower target level, more particularly the City does not have a Noise Strategy Plan. Would Council please consider a more pro-active approach to Noise Induced Hearing Loss by creating a Plan and adopting the US Government agency standard on hearing protection being worn by agency workers when exposed to impulsive noise that equals or exceeds 100dB linear peak?

A-1 The Mayor advised that the question would be taken on notice. It was also advised that any councillor may wish to refer the matter to officers for consideration of such a Plan if they considered it appropriate.

Mr G Hodge - 148 Holden Road Roleystone

The nature of the question is that a short answer tonight is not possible; and I am happy to have the questions referred for formal written reply – if that is the preference of Council. I also request that this paper form part of any future submission in regard to the Guidelines I may make prior to 31 July 2006.

*The Mayor advised Mr Hodge that questions from the public cannot be “tabled” during public question time. **Only those read** to the meeting are to be addressed by Council and recorded in the minutes. Councillors in attendance required to hear the question and if a response was not possible then it would be taken on notice for a response at a later date.*

Mr Hodge

My questions relates to the Black Cockatoo/Fruit Protection Technical Advisory Committee and the committee’s Best Practice Guidelines for Bird Scaring in Orchards – a matter that was before council 20 February 2006.

Q-1 Given that the Technical Advisory Committee (TAC) did not include representation from specific affected parties, Worksafe and (an appointed public servant from) the Public Health Department I ask whether or not Council accepts the committee as being properly or improperly constituted and whether or not Council is comfortable in acknowledging and (ultimately) applying the guidelines.

A-1 *The Mayor advised that Council is aware that a group of people has put a set of guidelines together and has only acknowledged that these exist. Council has not endorsed these guidelines and neither has it indicated that these will be used exclusively to manage noise relating to black cockatoos. It should be noted that these guidelines do not override current state legislation.*

Q-2 **Given that the Guidelines impact directly upon public health with significant work safe implications I believe the constitution of the TAC is at best flawed and therefore not likely to be capable of delivering a fully considered response in regard to establishing guidelines of this nature. I therefore ask whether or not Council considers this contention valid and whether or not Council will go beyond acknowledging receipt of the TAC Guidelines.**

A-2 *The Mayor advised that there is no intention that Council will go beyond acknowledging and noting that these guidelines exist. The Mayor suggested that it would be more appropriate that these questions be put to the State agency rather than Council.*

Q-3 **I have read that the Guidelines do not attempt to define or have a bearing on determination of when an offence has been committed but rather impact on discretion as to whether or not to prosecute after the event. I am unsure that Council officers have discretionary power, given that they carry delegated authority from DOE; and I am equally unsure that the Guidelines (having been described earlier as having no legal status) can fetter or impede lawful regulation in this way.**

It seems to me that if there is discretionary power it amounts to being the same as definition and bearing of when an offence has occurred because the end result is the same – no prosecution? And this discretionary power also questions what happens after the event if the fruit grower continues to use the gas cannon? It also concerns me that there is no specified period for the trial – save for reference to the current season. I therefore ask whether or not Council supports this notion of discretionary power and whether this discretionary power will be used if the fruit grower is not able to obtain immediate and near neighbour support to use the gas cannon when clearly, if the cannon is used there will be violation of lawful regulation and a complainant.

A-3 *A hypothetical question – There is a law and if there is an infringement then a case needs to be made for prosecution.*

Q-4 **It has been reported in the (March 2006) Roleystone Courier that “It was reasonable and appropriate for the City to adopt the Guidelines...” Could Council please advise me how unlawful use of a device designed to make loud noise can be reasonable and appropriate in an urban area such as Roleystone. In fact, as an aside, I question the morality behind any attempt to use any device that generates such high level noise in any locality that has any residential land use within the prescribed or required buffer distances.**

A-4 *The Mayor advised that he had not read the article being referred to and reiterated that Council has not formed an opinion as to the Committee composition and has only noted that a set of guidelines exist. Council has no influence or control over media articles.*

Q-5 In terms of the noise management strategy within the Guidelines, I question the practicality of enlisting effective noise management when the device is designed to make loud noise. I do not believe there is any appropriate time to use the gas canon in anything other than a dedicated fruit growing area. Essentially, any neighbour within 1 kilometre of the device and without topographical interference will be assaulted by the force of the blast each time the gas canon is used. I therefore ask Council to provide me with scenarios that Council believe will dampen the noise of the gas canon that would reduce the noise level to legal limits and at the same time, be effective in scaring birds.

A-5 *Council is not in a position to provide such a scenario as it is not an expert in that area. Fundamentally Council's position is that if there are noises that exceed the limits it will consider taking action.*

Mr Hodge explained that the rest of his questions are based on the assumption that the guidelines have been adopted by Council.

Again, the Mayor reiterated that he was not aware of how Council's decision had been reflected in the Roleystone Courier article and assured Mr Hodge that Council has not adopted or endorsed the TAC Guidelines. However, officers in applying any action against a fruit grower will take these guidelines into account in determining what action the fruit grower has taken in minimising noise. Council is clear in that even if the guidelines are followed officers will still determine as to whether the noise level was high enough to warrant further action.

Mr Hodge submitted the rest of his questions which were referred to the CEO to be dealt with as normal correspondence.

Mr P Stewart – 317 Peet Road, Roleystone

Q-2 In response to my question to the January 10, 2006 Development Services Committee, I understand that Council did not delegate it's authority to the Manager Health Services to act on the Minister for Environment's Black Cockatoo Fruit Protection (Noise) Committee. I now ask, has the Chief Executive Officer for the Department of Environment extended his power of discretion to the Director Development Services, the Health Services Manager or any City employee authorised under the Environmental Protection Act?

A-2 *The Mayor advised that the question will be taken on notice.*

Q-3 Residents of Roleystone have been given to believe that Council has adopted the Noise Guidelines issued by the Black Cockatoo

Fruit Protection Committee via the publication of an article appearing on page 11 of the March 2006 edition of the Roleystone Courier. The article states that, and I quote: “It was reasonable and appropriate for the City to adopt the Guidelines...” What action will Council take to ensure that Roleystone residents are properly informed of Council resolutions?

A-3 *The Mayor advised that he had not read the article. The question will be taken on notice.*

Q-4 The article on page 11 of the March 2006 Roleystone Courier fails to provide the most informative measure stated in the Noise Guidelines, that being: “Depending on the device, its orientation and surrounding topography, gas guns or other acoustic methods could comply with noise regulations if noise sensitive receivers (that is homes) are at least one kilometre away from the device”. How will Council ensure that the public are correctly informed of the range of gas cannon according to the Noise Guidelines?

A-4 *The Mayor advised that again, given he was not familiar with the article, the question would be taken on notice.*

Public Question Time closed at 7.15 pm.

5 APPLICATIONS FOR LEAVE OF ABSENCE

5.1 Request for Leave of Absence – Cr Reynolds

Request for Leave of Absence received from Cr Reynolds for the period 9th to 26th May 2006 inclusive.

MOVED Cr Stewart:

Request for leave of absence received from Cr Reynolds for the period 9th to 26th May inclusive be received and granted. [Includes 1 Council meeting – 15th May]

40/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

6 PETITIONS

Nil

7 CONFIRMATION OF MINUTES

7.1 PREVIOUS ORDINARY MEETING OF COUNCIL
HELD ON 20 FEBRUARY 2006

MOVED Cr Stewart that the Minutes of the Ordinary Meeting of Council held on 20 February 2006 be confirmed as a true and accurate record.

41/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

8 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Councillor Workshop-1 – 15 Year Financial Plan

On Tuesday 21st February, Councillors and senior staff attended the first workshop for the review of Council's 15 Year Financial Plan. As might be expected, current demand for services significantly exceeds Council's ability to fund for a number of years to come. The need to find funding sources other than residential rates continues to be a high priority for Council. Discussions will continue at the second workshop.

Tour of Stockland Estates

On Thursday 23rd February, the Mayor along with Councillors Tizard, Wallace, Zelones, MacDonald, Hart, Butterfield joined with key staff members to participate in a tour of the Stockland land holdings at The Boardwalk, Vertu and Newhaven Estates. The rate of development of these new western estates is quite remarkable, but they still don't provide other than a very short term benefit to the City's cash flow position, with major longer term costs associated with high quality developments.

Meeting with Irymple Road Residents

The same evening the Mayor along with Councillors Hart and Scidone, and the Executive Directors of Development Services and Technical Services attended a preliminary meeting of Irymple Road residents at Roleystone Hall to discuss WAPC plans for an alternative entry to Araluen Botanic Park.

"Active in Armadale" Community Conference

On 1st and 2nd March the very successful "Active in Armadale" Community Conference was held at Araluen. Funded by Council and Lotterywest, and supported by a number of local small sponsorships, it provided local community service providers and volunteers an opportunity to hear a high standard of speakers at no cost to their organisations. It is understood that this

may be the first time that such a conference has been held by a local authority in Western Australia, or even Australia. The Community Development staff are to be commended for their initiative in arranging the conference and the hard work that went into its preparation and delivery.

We thank Armadale Shopping City for assisting Council to provide shopping vouchers for the winners of the individual and group awards presented at the associated dinner.

9 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN - WITHOUT DISCUSSION

Nil

10 REPORTS

10.1 TECHNICAL SERVICES COMMITTEE

Report of the Technical Services Committee held on 27 February 2006.

MOVED Cr Knezevich that the Report be received.

42/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

BUSINESS ARISING FROM REPORT

Recommendation T9/2/06 – Future Funding of South East Regional Centre for Urban Landcare

Cr Hart disclosed that she is the Chair of the South East Regional Centre for Urban Landcare. As a consequence, there may be a perception that her impartiality in the matter may be affected but declared that she would set aside this association, consider the matter on its merits and vote accordingly.

MOVED Cr Knezevich that Recommendation T9/2/06 be adopted.

43/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

MOVED Cr Knezevich that Recommendations T8/02/06 to T14/02/06, except those already dealt with, be adopted.

44/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

10.2 CITY AUDIT COMMITTEE

Report of the City Audit Committee held on 28 February 2006.

MOVED Cr Scidone that the Report be received.

45/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

BUSINESS ARISING FROM REPORT

Recommendation CA1/02/06 – Compliance Audit Return – 1 January to 31 December 2005

MOVED Cr Scidone that Recommendation CA1/02/06 be adopted.

46/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

10.3 COMMUNITY SERVICES COMMITTEE

Report of the Community Services Committee held on 28 February 2006.

MOVED Cr Cominelli that the Report be received.

47/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

BUSINESS ARISING FROM REPORT

Recommendation C8/02/06 – Aboriginal Family Support Service Transition to Indigenous Children's Programme

MOVED Cr Cominelli that Recommendation C8/02/06 be adopted.
SECONDED Cr Munn.

48/3/2006 MOTION DECLARED CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL (13-0)

MOVED Cr Cominelli that Recommendations C8/02/06 to C11/02/06, except those already dealt with, be adopted.

49/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

10.4 CHIEF EXECUTIVE OFFICER'S REPORT

Report of the Chief Executive Officer as at 2 March 2006.

MOVED Cr Wallace that the Report be received.

50/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

10.4.1 Councillors' Information Bulletin – Issue No. 5/2006

MOVED Cr Knezevich:

That Council acknowledge receipt of Issue No.5/2006 of the Information Bulletin.

51/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

12.1 Armadale Community Conference

MOVED Cr Munn:

That individual letters of commendation be sent to all officers involved in the Community Conference reflecting their achievement on behalf of the City.

52/3/2006 MOTION not opposed, DECLARED CARRIED (13-0)

Crs Hart and MacDonald who had also attended the Conference expressed their congratulations and appreciation to the officers for the great effort in putting together a very successful conference. Everyone who participated had a lot of positive comments about the organisation and the outstanding range of inspiring speakers.

13 MATTERS FOR REFERRAL TO STANDING COMMITTEES - WITHOUT DISCUSSION

Cr Butterfield That the matter of vegetation screening along the fence line of the River Road Caravan Park and Rushton Park be referred to the Technical Services Committee.

Cr Butterfield That the matter of investigating opportunities for opening the Birtwistle Library on Saturday morning so that 9 to 5 workers may use this wonderful resource be referred to the Community Services Committee.

14 MATTERS REQUIRING CONFIDENTIAL CONSIDERATION

Nil

15 CLOSURE

The Mayor, Cr Reynolds, declared the meeting closed at 7.28 pm.

MINUTES CONFIRMED THIS 20TH DAY OF MARCH 2006

MAYOR