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Shire of Kalamunda

# Ordinary Council Meeting Agenda

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Monday 17 May 2010

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### **Separate Document**

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Report of General Services Committee Meeting 3 May 2010

Report of Planning Services Committee Meeting 10 May 2010





## **NOTICE OF MEETING ORDINARY MEETING OF COUNCIL**

Councillors,

Notice is hereby given that the next meeting of the Ordinary Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on:

**Monday 17 May 2010, commencing at 7.00pm.**

For the benefit of members of the public, attention is drawn to the following requirements as adopted by Council.

### **Open Council Meetings – Procedures**

1. All Council Meetings are open to the public, except for matters raised by Council under Item No. 15.0 of the Agenda.
2. Members of the public may ask a question at an Ordinary Council Meeting under Item 3.0 of the Agenda.
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceedings, just raise your hand when the Shire President opens '*question time*' under Item 3.0 of the Agenda.
4. All other arrangements are in accordance with Council's Standing Orders, Policies and decision of the Shire or Council.

James Trail  
**Chief Executive Officer**

12 May 2010

## AGENDA

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**1.0 OFFICIAL OPENING**

**2.0 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE PREVIOUSLY APPROVED**

Cr Robinson (Leave Of Absence)

**3.0 PUBLIC QUESTION TIME**

A period of not less than 15 minutes is provided to allow questions from the Public Gallery on matters relating to the functions of this meeting.

**4.0 PETITIONS/DEPUTATIONS**

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**6.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Confirmation of Minutes of Ordinary Council Meeting 19 April 2010**

**MOTION**

That the Minutes of the Ordinary Council Meeting of the Shire of Kalamunda held in the Council Chambers on 19 April 2010 be confirmed.

Moved: (Cr)

Seconded: (Cr)

Statement by Presiding Member

**“On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 19 April 2010.”**

**6.2 Confirmation of Minutes of Special Council Meeting 27 April 2010**

**MOTION**

That the Minutes of the Special Council Meeting of the Shire of Kalamunda held in the Council Chambers on 27 April 2010 be confirmed.

Moved: (Cr)

Seconded: (Cr)

Statement by Presiding Member

**“On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 27 April 2010.”**

6.3 **Confirmation of Minutes of Special Council Meeting 3 May 2010**

**MOTION**

That the Minutes of the Special Council Meeting of the Shire of Kalamunda held in the Council Chambers on 3 May 2010 be confirmed.

Moved: (Cr)

Seconded: (Cr)

Statement by Presiding Member

**“On the basis of the above motion I now sign the minutes as a true and accurate record of the meeting of 3 May 2010.”**

7.0 **ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

8.0 **MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

9.0 **DISCLOSURE OF INTERESTS**

Disclosure of Financial and Proximity Interests

- (a) Members must disclose the nature of their interest in matters to be discussed at the meeting. (Sections 5.60B and 5.65 of the Local Government Act 1995).
- (b) Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the Local Government Act 1995)

Disclosure of Interest Affecting Impartiality

- (a) Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee has given or will give advice.

**10.0 REPORT TO COUNCIL**

*Declaration of Financial/Conflict of interests to be recorded prior to dealing with each item.*

**10.1 General Services Committee Report**

**10.1.1 Adoption of Recommendations of the General Services Committee of 3 May 2010**

That the recommendations contained in the General Services Committee Report of 3 May 2010 be adopted.

Moved: (Cr)

Seconded: (Cr)

**GS40. Creditors Accounts Paid during the period 31 March to 15 April 2010**

COMMITTEE RECOMMENDATION TO COUNCIL GS-40/2010

That the list of Creditors' paid during the period 31 March to 15 April 2010 attached (***GSC Item 40 Attachment 1***) be received by Council in accordance with the requirements of Regulation 12 of the Local Government (Financial Management) Regulations 1996.

**GS41. Financial Activity Statements for the Period 31 March 2010**

COMMITTEE RECOMMENDATION TO COUNCIL GS-41/2010

That the Financial Activity Statement reports for the period ending 31 March 2010 (***GSC Item 41 Attachment 1***) be received.

**GS42 Debtors and Creditors Report**

COMMITTEE RECOMMENDATION TO COUNCIL GS-42/2010

That the outstanding debtors and creditors report as at 31 March 2010 (***GSC Item 42 Attachment 1***) be received.

**GS43 Rates Debtors Report**

COMMITTEE RECOMMENDATION TO COUNCIL GS-43/2010

That the rates debtors report as at 31 March 2010 (***GSC Item 43 Attachment 1***) be received.

**GS44 Summary of Council Meetings and Committee Meetings June 2010 to May 2011**

COMMITTEE RECOMMENDATION TO COUNCIL GS-44/2010

That the Schedule of Council and Committee meetings for 2010/2011 as detailed below be endorsed. Meetings to commence at 6.30 pm.

<b>June</b>	<b>2010</b>	
Monday	7.....	General Services Committee
Monday	14.....	Planning Services Committee
Monday	21.....	Ordinary Council Meeting

<b>July</b>		
Monday	5.....	General Services Committee
Monday	12.....	Planning Services Committee
Monday	19.....	Ordinary Council Meeting
<b>August</b>		
Monday	2.....	General Services Committee
Monday	9.....	Planning Services Committee
Monday	16.....	Ordinary Council Meeting
<b>September</b>		
Monday	6.....	General Services Committee
Monday	13.....	Planning Services Committee
Monday	20.....	Ordinary Council Meeting
<b>October</b>		
Monday	4 .....	General Services Committee
Monday	11 .....	Planning Services Committee
Monday	18 .....	Ordinary Council Meeting
<b>November</b>		
Monday	1 .....	General Services Committee
Monday	8 .....	Planning Services Committee
Monday	15 .....	Ordinary Council Meeting
<b>December</b>		
Monday	6 .....	General Services Committee
Monday	13 .....	Planning Services Committee
Monday	20 .....	Ordinary Council Meeting
<b>February 2011</b>		
Monday	7 .....	General Services Committee
Monday	14 .....	Planning Services Committee
Monday	21 .....	Ordinary Council Meeting
<b>March</b>		
Tuesday	8 .....	General Services Committee
Monday	14 .....	Planning Services Committee
Monday	21 .....	Ordinary Council Meeting
<b>April</b>		
Monday	4 .....	General Services Committee
Monday	11 .....	Planning Services Committee
Monday	18 .....	Ordinary Council Meeting
<b>May</b>		
Monday	2 .....	General Services Committee
Monday	9 .....	Planning Services Committee
Monday	16 .....	Ordinary Council Meeting

**GS45 Rates Exemption – 159 Canning Road Kalamunda**

COMMITTEE RECOMMENDATION TO COUNCIL GS-45/2010

That Haladhar Holdings Pty Ltd as registered owners of 159 Canning Road, Kalamunda be granted an exemption from rates, commencing 1 July 2010.

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**GS46 Proposed Amendments to Policy FAC12 – Lease and Licence Terms & Conditions of Council Owned Controlled Properties**

COMMITTEE RECOMMENDATION TO COUNCIL GS-46/2010

That this item be deferred to the June 2010 General Services Meeting.

**GS47 Kalamunda Performing Arts Centre Appraisal Report Outcomes**

COMMITTEE RECOMMENDATION TO COUNCIL GS-47/2010

That Council accepts and receives the Kalamunda Performing Arts Centre Appraisal Report (*GSC Item 47 Attachment 1.*).

**GS48 Proposed Active Reserves Sports Lighting Policy**

COMMITTEE RECOMMENDATION TO COUNCIL GS-48/2010

That Council adopts the Proposed Active Reserves Sports Lighting Policy as per (*GS Item 48, Attachment 1.*) as per attachment.

**GS49 Draft Hartfield Park Masterplan**

COMMITTEE RECOMMENDATION TO COUNCIL GS-49/2010

That Council:

1. Receives the Draft Hartfield Park Masterplan as (*GS Item 49, Attachment 1.*) and;
2. Advertises the attached Draft Hartfield Park Masterplan for a period of 42 days.
3. A Community Workshop be held as part of the advertising process.
4. That all affected groups and stakeholders be provided with a copy of the Draft Hartfield Park Masterplan.

**GS11.1 Removal of Graffiti from Council Property**

COMMITTEE RECOMMENDATION TO COUNCIL GS-50/2010

That the Motion "Removal of Graffiti from Council Property" be deferred to the June General Services Meeting.

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## 10.2 Planning Services Committee Report

### 10.2.1 Adoption of Recommendations of the Planning Services Committee of 10 May 2010

That the recommendations contained in the Planning Services Committee Report of 10 May 2010 excluding Items 31 and 32 be adopted.

Moved: (Cr)

Seconded: (Cr)

#### **PS26. Lot 1 (100) Wittenoom Road, High Wycombe - Scheme Amendment Initiation (Rezoning from Special Use - Business to Residential R30)**

##### COMMITTEE RECOMMENDATION TO COUNCIL PS-26/2010

That Council in pursuance of Part 5 of the *Planning and Development Act 2005*, amends Local Planning Scheme No. 3 by:

1. Rezoning the north-west portion of Lot 1 (100) Wittenoom Road, High Wycombe from Special Use (Business) to Residential R30.

In accordance with the Scheme Amendment Map.

Subject to amendment documents and the required administration fee being submitted, the documents being adopted by Council and the Amendment being formally advertised for 42 days in accordance with the provisions of the *Town Planning Regulations 1967*, without reference to the Western Australian Planning Commission.

#### **PS 27. Lot 23 (131) Milner Road and 551 (371) Dundas Road, High Wycombe – Scheme Amendment No. 22 – Final Adoption**

##### COMMITTEE RECOMMENDATION TO COUNCIL PS-27/2010

That Council:

- a) Notes the submission received in respect to Amendment No. 22 to Local Planning Scheme No. 3.
- b) Adopts Scheme Amendment No. 22 relating to Lots 23 (131) Milner Road & 551 (371) Dundas Road, High Wycombe.
- c) Duly executes the Amendment documents and forwards them with submissions received to the Minister for Planning requesting that final approval be granted.

**PS 28. Local Planning Scheme No. 3 Amendment No. 20 - Provision Relating to Unkempt Land - Final Adoption**

COMMITTEE RECOMMENDATION TO COUNCIL PS-28/2010

That Council:

- a) Adopts Scheme Amendment No. 20 without modification, to insert the following provision into the Scheme:

*"5.23 Unkempt Land*

- i) For any land within the district, where in the opinion of the Council, any refuse, rubbish, derelict vehicles or disused material is likely to adversely affect the amenity of an area, or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring within a specified time the removal from the land of such refuse, rubbish, derelict vehicles or disused materials.*
- ii) Every owner or occupier of land to whom a notice is served shall comply with it within the time period specified; and*
- iii) Any person who fails to comply with any notice served commits an offence and is liable to action under clause 11.4 of the Scheme."*

- b) Duly executes the Amendment documents and forwards them to the Minister for Planning requesting that final approval be granted.

**PS 29 Lot 244 (53) Chisholm Crescent, Kewdale - Warehouse**

COMMITTEE RECOMMENDATION TO COUNCIL PS-29/2010

That Council approves the application for a warehouse on Lot 244 (53) Chisholm Crescent, Kewdale, dated 22 March 2010, subject to the following conditions:

*The provision and maintenance of a total of 13 car spaces including a minimum of one (1) disabled bay.*

*No storage or carrying out of industrial activities is permitted in open yard areas visible from any adjoining street or within the proposed covered area.*

*No loading or unloading of vehicles is to occur that interferes with the parking of vehicles in the car park by visitors and employees. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.*

**PS 30 Annual Caravan Parks Licence Renewals**COMMITTEE RECOMMENDATION TO COUNCIL PS-30/2010

That Council approves the renewal of caravan park licences, subject to the receipt of the required licence fees, for:

- a. Discovery Holiday Park 186 Hale Road Forrestfield
- b. Forrestfield Caravan N Park Home Village 351 Hawtin Road Forrestfield
- c. Springvale Village 161 Maida Vale Road High Wycombe
- d. Hillview Lifestyle Village 597 Kalamunda Road High Wycombe
- e. Advent Park 345 Kalamunda Road Maida Vale

**PS 33 Quarterly Progress Report**COMMITTEE RECOMMENDATION TO COUNCIL PS-33/2010

That the Quarterly Progress Report for January – March 2010 be received.

**10.2.2 ABSOLUTE MAJORITY REQUIRED****PS 31 Shire of Kalamunda Health Local Laws 2001 Review**COMMITTEE RECOMMENDATION TO COUNCIL PS-31/2010

That Officers amend the draft Control of Animals and Nuisance Local Law 2010 for the Ordinary Council Meeting of 17 May 2010 and provided advice of any consequential impacts on the intent of the Local Law.

**Officers have reviewed the recommended changes and provide the following comments**

1. Definition of nuisance – removal of the word 'mental' from paragraph one.

The preference is to retain this word in the definition as it provides for a wider scope of the effect of a nuisance on a person. By removing the word mental may reduce the ability of Officers to assist in resolving some nuisances. Note that this applies to the state of a reasonable person of normal susceptibility

2. Definition of nuisance – removal of the second paragraph

The preference is to retain this paragraph as it provides for a broader scope of a nuisance - it refers to something a person does or permits to be done that **interferes** with or is **likely** to impact on the enjoyment or safe use **of land** by another person (not necessarily their land). Potential to deal with the nuisance before it affects people eg a person burning off resulting in smoke drifting onto a park which may be used later by people while the smoke is present.

The second paragraph is marginally different in that it relates to a person doing something on land that interferes with the enjoyment of land owned by another person. A person who permits sand to drift from their building site to the adjacent property.

The definition of nuisance should be read in context of the actual nuisances listed as per Part 3 clauses 7 -10.

3. Definition of poultry – include the words ‘over the age of three (3) months.

Support change.

This would have the effect of allowing a greater number of poultry than permitted under these regulations – however as the basis of these local laws are to prevent nuisance then a higher number of chickens for a short period should not be an issue.

### **OFFICER RECOMMENDATION (ORIGINAL)**

That Council:

1. Resolves to give state-wide public notice of its intention to amend the Shire of Kalamunda Health Local Laws 2001 and to create the Shire of Kalamunda keeping and Control of Animals and Nuisance Local Law 2010, and invite comment pursuant to Section 3.12 of the Local Government Act 1995.
2. Notes in relation to the Shire of Kalamunda Health Local laws that:
  - (1) the purpose is to provide for the regulation control and management of sanitation, housing, waste food, nuisances, lodging houses and offensive trades as part of the function of local governments to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its residents and the community and;
  - (2) the effect is to establish requirements relating to the matters referred to in subsection one on land within the district.
3. Notes in relation to the Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Laws that:
  - (1) the purpose is to provide for the regulation, control and management of –
    - (i) the keeping of animals;
    - (ii) sand drift, rubbish and litter control on building and construction sites; and
    - (iii) nuisances;part of the Local Governments function to provide good governance of persons within its district and in order to enhance the amenity and quality of life of its citizens and;
  - (2) the effect is to establish requirements relating to the matters referred to in subsection one on land within the district.

**10.2.3 ABSOLUTE MAJORITY REQUIRED****PS 32 Nominations for Membership to the Shire of Kalamunda  
Community Sustainability Advisory Committee****COMMITTEE RECOMMENDATION TO COUNCIL PS-32/2010**

That Council endorses the following list of nominees as members of the Community Sustainability Advisory Committee.

Mr Steve Gates  
Mr Wes Bancroft  
Mr Barry Goldspink  
Mrs Aileen Reid  
Mrs Sharon Arasi  
Mr Annie Mitchell  
Mrs May Carter  
Mr Max Jones  
Mr Brendan McKenzie  
Mrs Elise Clegg

**ABSOLUTE MAJORITY REQUIRED****10.3 Chief Executive Officers' Report**

Not Applicable

**11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****11.1 Proposal by WALGA and the ALGA to seek Commonwealth Constitutional Recognition of Local Government****MOTION**

1. That this Council, recognising the:
  - constitutional recognition already afforded local government under sections 2, 52, 53 and 57 of WA's Constitution Act 1889;
  - the undesirability of having overlapping state and commonwealth constitutional jurisdiction of local government; and
  - the existing ability of the Commonwealth Government to provide funding to local government by way of tied grants via the states; holds that the proposal by WALGA and the ALGA to seek Commonwealth Constitutional recognition for local government is both unnecessary and undesirable.
  
  - the implied constitutional recognition of local government afforded by sections 106, 107 and 108 of the Commonwealth of Australia Constitution Act 1900.
  
2. That Council convey its views on the proposed Commonwealth Constitutional recognition of local government to the WA Minister for Local Government;

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the Prime Minister; Leader of Federal Opposition; President of WALGA and the President of the ALGA.

Moved: Cr Lindsey

**12.0 QUESTIONS BY MEMBERS WITHOUT NOTICE**

**13.0 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

13.1 Questions relating to General Services Committee Item 46 – Leases and Licenses Terms and Conditions (Cr Frank Lindsey)

1. How many License Holders are there in Group 2, 3 and 4 respectively
2. What is the annual income foregone to the Shire for the subsidization of rates to License Holders in Group 2.
3. The Annual Income foregone to the Shire for the subsidization of rates, the ESL, rental and building insurance respectively to the License Holders in Group 3.
4. The Annual Income foregone to the Shire for the subsidization of rates, the ESL, rental and building insurance respectively to the License Holders in Group 4.

Answers to these questions will be provided at the Ordinary Council Meeting to be held on 21 June 2010.

**14.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

**15.0 MEETING CLOSED TO THE PUBLIC**

**16.0 CLOSURE**