

MINUTES

OF THE

SPECIAL MEETING OF ELECTORS

HELD AT THE

MOUNT PLEASANT BAPTIST COMMUNITY COLLEGE

AT 7.00PM ON

WEDNESDAY

15 MARCH 2017



MINUTES OF THE SPECIAL MEETING OF ELECTORS HELD AT MT PLEASANT BAPTISM COLLEGE, 497 MARMION STREET, BOORAGOON, COMMENCING 7.00PM ON THURSDAY 15 MARCH 2017.

1. OFFICIAL OPENING

His Worship the Mayor, R Aubrey, welcomed Ratepayers and Electors of the City of Melville and opened the meeting at 7.00pm.

His Worship the Mayor advised the meeting had been called to discuss "Recognising the importance of Alfred Cove to the ratepayers of the City of Melville and wishing to ensure that the future use of the Melville Bowling Club land should have widespread community support, to move a motion that the Council should suspend current negotiations and consider alternative proposals for community recreational and leisure use of the Melville Bowling Club site compatible with the Alfred Cove environment".

2. PRESENT

His Worship the Mayor R Aubrey

COUNCILLORS

Deputy Mayor R Aubrey
Cr D Macphail
Cr N Pazolli, Cr C Schuster
Cr J Barton
Cr M Woodall
Cr P Phelan, Cr L O'Malley
Cr N Foxton, Cr T Barling

WARD

City
City
Applecross/Mount Pleasant
Bicton/Attadale
Bull Creek/Leeming
Palmyra/Melville/Willagee
University

IN ATTENDANCE

Dr S Silcox
Mr M Tieleman
Ms C Young
Mr J Christie
Mr S Cope
Mr J Rae
Mr J Clark
Ms C Newman

Mr N Fimmano
Ms J Arbel
Mr W Thornton
Ms S Williams
Ms K Elliss
Ms K Thornton
Ms C Grimalo

Chief Executive Officer
Director Corporate Services
Director Community Development
Director Technical Services
Director Urban Planning
Strategic Property Executive
A/Executive Manager Legal Services
A/Governance and Compliance
Program Manager
Governance and Property Officer
Strategic Communications Advisor
Civic Facilities Coordinator
Administration Specialist
Administration Officer
Administration Officer
Administration Officer

At the commencement of the meeting there were 485 electors of the City, five members of the public and three members of the press in attendance.

3. APOLOGIES

Cr C Robartson	Bull Creek-Leeming Ward
Cr G Wieland	Bicton- Attadale Ward
Cr C Schuster (late arrival 7.10pm)	Mount Pleasant- Applecross Ward
Mr L Hitchcock	Executive Manager Legal Services

4. LEAVE OF ABSENCE

Nil

5. INTRODUCTION OF ELECTED MEMBERS AND OFFICERS

His Worship the Mayor, R Aubrey, introduced Elected Members and Senior Staff to the meeting.

6. DECLARATIONS OF INTEREST

Nil

6.1 FINANCIAL INTERESTS

Nil

6.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Cr L O'Malley Interest under the Code

7. BUSINESS

7.1 NOTICE OF SPECIAL MEETING OF ELECTORS

The following Notice of Meeting was advertised in the West Australian Newspaper on Monday 27 February 2017 and the Melville Times Community Newspaper on Tuesday, 7 March 2017 in addition to being displayed on public notice boards at all the City of Melville libraries and the Civic Centre. The notice read:

“Special Meeting of Electors

Wednesday, 15 March 2017

A Special Meeting of Electors of the City of Melville will be held at the Mount Pleasant Baptist Community College, 497 Marmion Street, Booragoon commencing at 7pm on Wednesday 15 March 2017 to consider a request signed by 261 electors to discuss the following-

Recognising the importance of Alfred Cove to the ratepayers of the City of Melville and wishing to ensure that the future use of the Melville Bowling Club land should have widespread community support, to move a motion that the Council should suspend current negotiations and consider alternative proposals for community recreational and leisure use of the Melville Bowling Club site compatible with the Alfred Cove environment.

Electors and Ratepayers of the City are welcome to attend. Registration will be available from 6.15pm. The Council Meeting Schedule, Agendas and Minutes of all meetings are available at www.melvillecity.com.au

**Dr Shayne Silcox
Chief Executive Officer”**

7.2 MANNER OF CONDUCT OF THE MEETING

1. It is a requirement to advise that in the event of an emergency, everyone should take direction from officers who will guide you to the exit points of the building.
2. The Toilets location will be advised.
3. All present are required to sign the attendance register at the entry to the Meeting Room.
4. Each person who participates in a vote or speaks must be an Elector of the City of Melville.
5. The proceedings are being taped for the purpose of production of the minutes and speakers are requested to use the microphones each time they speak.

The Minutes will include a summary of any questions asked and a summary of the response provided.

6. No other audio or visual recording is to be undertaken without the permission of the Presiding Member.
7. Speakers are asked to clearly give their name and address each time they speak.
8. Upon a motion being proposed, each speaker is to address the Chair.
9. Only Electors of the City of Melville may move or second a motion.
10. All addresses are to be limited to a maximum of five (5) minutes. Extension of time is permissible only with the agreement of a simple majority of Electors present (*Local Government (Administration) Regulations 1996 Regulation 17*)
11. No persons are to use offensive or objectionable expressions in reference to any Member, employee of the Council, or any other person (8.3 of Standing Orders).
12. All Elected Members and Directors attend this meeting to observe the proceedings and hear comments from Electors. All questions and comments should be directed to the Mayor who may invite a response from the Chief Executive Officer, Presiding Members of Committees, Directors or Elected Members.

8. PRESENTATIONS

Presentations were received from the following:

8.1 Ms M Matassa, Melville Chairperson Swan Estuary Reserves Action Group (SERAG)

Ms Matassa spoke to the compatibility of SERAG's alternative proposal for the site.

Ms Matassa requested an extension of time to speak.

At 7.12pm moved Mr D Maynier, Attadale, seconded Mr G Gear, Alfred Cove

That Ms Matassa be granted an extension of time and permitted to speak for a further five minutes.

At 7.12pm the Mayor declared the motion

CARRIED

8.2 Mr G Gear, Alfred Cove

Mr Gear expressed his concern at the proposal to develop this facility on the foreshore and the proposal to move the Melville Bowling Club.

Mr Gear requested an extension of time to speak.

At 7.21pm – Moved Mr K Kellers, Alfred Cove, seconded Mr M McLerie, Bicton

That Mr Gear be granted an extension of time and permitted to speak for a further five minutes.

At 7.21pm the Mayor declared the motion

CARRIED

8.3 Mr L Wyatt, Bicton

Mr Wyatt expressed concern at the amount of Public Open Space in the City of Melville and the preference for low or limited commercial development on this site and a preference for the retention of Public Open Space at this site.

8.4 Mr M McLerie, Bicton

Mr McLerie expressed his concern about the negotiations associated with the proposed ground lease over this site.

Mr McLerie requested an extension of time to speak.

At 7.37pm – Moved Mr D Maynier, Attadale, seconded Mr T Earl, Alfred Cove

That Mr McLerie be granted an extension of time and permitted to speak for a further five minutes.

At 7.37pm the Mayor declared the motion

CARRIED

Mr McLerie requested a further extension of time to speak.

At 7.42pm – Moved, Mr T Earl Alfred Cove, seconded Mr D Maynier, Attadale

That Mr McLerie be granted a further extension of time and permitted to speak for a further five minutes.

At 7.42pm the Mayor declared the motion

CARRIED

8.5 Mr M Kalkhoven, Applecross

Mr Kalkhoven expressed concern at proposal and that this is not the best social, environment or financial outcome for this site for future generations.

Mr Kalkhoven requested an extension of time to speak.

At 7.51pm – Moved, Mr L Wyatt, Bicton seconded Mr M McLerie, Bicton

That Mr Kalkhoven be granted an extension of time and permitted to speak for a further five minutes.

At 7.51pm the Mayor declared the motion

CARRIED

8.6 Mr L Rowe, Applecross

Mr Rowe expressed his view that this area should remain Public Open Space and provide open access to the Swan River and that alternative proposals should be considered.

8.7 Mr D Maynier, Attadale

Mr Maynier advised that the Alfred Cove Action Group has put forward a proposal for alternative use, which is similar to the SERAG proposal, which is supported by the Action Group.

Mr Maynier also expressed his concern at the due diligence undertaken.

Mr Maynier requested an extension of time to speak.

At 8.05pm – Moved, Mr T Earl, Alfred Cove, seconded Mr M McLerie, Bicton

That Mr Maynier be granted an extension of time and permitted to speak for a further five minutes.

At 8.05pm the Mayor declared the motion

CARRIED

Mr Maynier requested a further extension of time to speak.

At 8.12pm – Moved, Mr T Earl, Alfred Cove, seconded Mr M McLerie, Bicton

That Mr Maynier be granted a further extension of time and permitted to speak for a further five minutes.

At 8.12pm the Mayor declared the motion

CARRIED

At 8.13pm the Mayor read out the questions that had been received in writing prior to the meeting.

9. QUESTIONS

9.1 Mr M Norman, Booragoon

Question

If the Wave park proceeds, will the council be ensuring the developer is liable to “make good” the site in the event of the commercial failure or end-of-life of the wave park or will this cost fall to we the ratepayers? If the developer is liable to make good the site, how will the council ensure that the cash (not just a balance sheet liability) is set aside by the developer and available at first call?

Response

The liability for “make good” the site will rest solely with the Lessee and not the City as Lessor. The Lessee will be required to provide a Bank Guarantee in favour of the City, to cover the cost to “make good” the site in the event that the Lessee does not satisfy its obligation under the lease agreement to “make good” the site. The cost of the Bank Guarantee will be borne by the Lessee.

9.2 Mr R Kronberger, Applecross

Question 1

*In relation to the Wave Park Group’s proposal, has the Council taken into account the High Court of Australia’s 1959 decision in *Randwick Corporation v Rutledge* and the many other cases imposing restrictions on commercial development of and rights of free public access to parks and reserves?*

Response

The City has taken into account the decision in *Randwick Corporation v Rutledge* and concluded that it has no bearing on the current proposal.

Question 2

On what date did the Wave Park Group lodge with the City a formal proposal for the project?

Response

The formal proposal from the Wave Park Group was received by the City on 30 June 2016.

9.2 Mr R Kronberger, Applecross continuedQuestion 3

Why is the City prepared to commit legal costs, staff time and ratepayers' time in relation to the Wave Park Group proposal on the basis of an anonymous report titled "Business Case"?

Response

Following the closing of an extended public submission phase whereby the proposal and business case was publically advertised, on the 21 February 2017 the Council resolved for the City's Chief Executive Officer to proceed with negotiating and drafting a ground lease agreement with the Wave Park Group. The phase of the process is now underway.

Question 4

The proponent's web page advises that before the Melbourne Airport Authority agreed to lease land to Urbansurf for a wave pool, the Airport Authority engaged independent experts to assess the project including sound levels and traffic issues. Why has the City not done this in relation to the Tompkins Park proposal?

Response

Prior to commencing the public submission phase of the process, the City undertook and completed detailed due diligence on the proposal and the Council was satisfied with the results of the due diligence and approved the proposal to move to the next phase of the process.

9.3 Mr R Buswell, BictonQuestion 1

Was the purpose of the public advertising process undertaken by the City in accordance with Section 3.59 of the Local Government Act to identify alternative recreational and leisure "future uses" for this site?

Response

The purpose of the public advertising process was for the City to receive public submissions regarding the proposal detailed in the Business Case and to report back to the Council. Submissions may include alternative proposals to lease the site.

Question 2

Did the City consider the popularity and participation rates of surfing as a sport against alternative proposals received through the public advertising process?

Response

The submission results received during the extended public advertising period were considered by the Council before resolving to approve the next phase of the process. All submissions were given consideration as to what sporting and recreational benefits they would provide to the Melville Community and how they would compliment the existing sporting activities at the Tompkins Park Sporting and Recreational Facility.

9.3 Mr R Buswell, Bicton continuedQuestion 3

Does the City believe the results of the Section 3.59 public advertising process demonstrate widespread support for the proposal?

Response

The results of the submissions received during the extended public advertising period were reported to the Council on the 21 February 2017. The Council considered the results in the report before resolving to approve the next phase of the process, which was to authorise the Chief Executive Officer to commence negotiating and drafting the ground lease agreement with the Wave Park Group.

Question 4

Does the City have any specific information on how the surf park proposal is not compatible with the local environment?

Response

The Department of Parks and Wildlife will make a full assessment of the proposal and its impact on the environment when it receives the development application from the Wave Park Group. The assessment process is governed under State Government legislation and not Local Government legislation.

Question 5

More specifically, what sensitive environmental receptors will be affected (either on site or off site) by the proposal, and has the City been provided with any technical reports, data, studies, or opinions of qualified consultants who have reviewed the surf park's operations and development plan that would support the claim the surf park is not compatible with the local environment?

Response

The Department of Parks and Wildlife will make a full assessment of the proposal and its impact on the environment when it receives the development application from the Wave Park Group. The assessment process is governed under State Government legislation and not Local Government legislation.

9.4 Mr R Williams – WillageeQuestion

Can the council please outline the costs associated with conducting these special meetings including all staff time (both at the meeting, in preparation and follow up), venue hire and other resources?

Response

These costs are incurred for each Special Meeting of Electors, and the cost for this evening's meeting is \$10,150. This does not include a cost for the time of the Chief Executive Officer, Directors and senior staff who attend this meeting.

9.5 Mr D Reynolds, WillageeQuestion 1

What is the estimated cost to ratepayers for this Special Electors Meeting? I assume this includes the staff wages, council member expenses, security, venue hire, recording and reporting minutes, providing responses to questions, documentation and meeting advertising.

Response

The estimated cost is \$10,150 for this meeting.

9.6 Ms T Burns, AttadaleQuestion 1

If you are confident enough in the wave-park idea to sign a lease why are you not prepared to get environmental approvals first before signing lease tying up land preventing other redevelopment opportunities?

Response

The proponent Wave Park Group will be required to submit its development application with the Department of Parks and Wildlife who in turn assess the application and any potential environmental impacts. The City of Melville will not be the party lodging the development application or requesting approval and therefore cannot seek environmental approvals. Further, the ground lease will be "conditional" upon the Lessee, Wave Park Group, receiving development approval for its proposal. If it does not receive development approval, then the ground lease will not commence.

9.6 Ms T Burns, Attadale continuedQuestion 2

If you are prepared to redevelop the land at Tompkins Park, why are you not putting it out for tender to see what other potential development ideas exist? Possibly some more favourable to local residents and park users?

Response

The City has adhered to the process in dealing with the unsolicited proposal from Wave Park Group in accordance with the relevant provisions of the *Local Government Act 1995*. The extended public submission advertising period provided the opportunity for alternative ground lease proposals to be submitted to the City and the Council for consideration.

At 8.26pm the Mayor advised that further questions in writing had been received from the meeting:

9.7 Mr A Pollard, Mt PleasantQuestion

Why can there not be a postal vote sent out to all ratepayers in the community to ensure everyone has had an opportunity to respond to a 'yes' or 'no' on the wave Park, Melville Bowling Club and the redevelopment of Mt Pleasant Bowling Club

Response

The *Local Government Act 1995* specifies the process that needs to be followed, and the City is following that process.

9.8 Ms Melling, Alfred CoveQuestion

The Wave Park Proposal refers in several places to 'requirements'. If the proposal was unsolicited, how did they know what the requirements were and who drew them up?

Response

The City's Corporate Business Plan 2016-2020 details requirements and priorities and this Plan is available to the public on the City of Melville Website.

9.9 Dr G Mahony, AttadaleQuestion

Are any Melville City Councillors attending the function at Tompkins Park this evening? If so, who?

Response

The Mayor advised that Elected Members are either in attendance here tonight or had apologised as they had other commitments that were not associated with that event.

9.10 Mr N Ghani, ApplecrossQuestion

On what basis is the lease of 50 years decided?

Response

The term of the lease was proposed by the Wave Park Group on the basis of financial outlay to construct the facility and the pay-back period required on that financial capital outlaid.

The CEO advised that the Council had resolved that the proposed lease would be for 30 years.

9.11 Ms A Ward, Mt PleasantQuestion

Why is a commercial development so important on this site?

Response

The Council recommendation in June 2016 directed the CEO to investigate alternative recreation uses for this site that could provide a financial return to assist with the provision of recreation/community activities.

9.12 Mr M Simon, ApplecrossQuestion

Do you believe it is a good idea to award a lease to a Group who has never constructed or operated a wave park?

Response

The City has undertaken due diligence on the proponent as part of the Business Case.

9.13 Mr G McCann, ArdrossQuestion

What will happen to all the sporting activities currently using the park grounds should the Wave Park development proceed? Where will they play their sport?

Response

Sporting requirements can still be met. There is no nett loss of playing fields with the redevelopment of Tompkins Park Recreation precinct.

9.14 Ms L Addison,Question

Why is the Mayor and several Councillors supporting a Wave Park when, as our servants (we are ratepayers) they should represent us?

Response

There is no unconditional support for this proposal from the Mayor or any Elected Member.

9.15 Mr C Leman, ApplecrossQuestion 1

Has the Council undertaken financial due diligence on the Wave Park Group Pty Ltd?

Response

The City commissioned a risk assessment study of the proposal which included examination of the financial status of Wave Park Group Pty Ltd.

Question 2

If the business is not successful what will the Council do with no rent and a white elephant site?

Response

The site will be reinstated should the Wave Park Facility cease to operate.

At 8.32pm the Mayor invited questions from the Meeting.

9.16 Mr Kronberger

Question 1

With regard to the business case, why are we spending time on an anonymous report?

Response

The CEO advised that the matter had been presented to the Council. The Council endorsed that matter being advertised for public submissions. There was a business case associated with that.

The Business Case was prepared by the City.

Question 2

How deep with the Wave pool be? Will the Wave pool have high surroundings walls to assist in maintaining wave height or prevent wave spillage or for any other purpose? The response I received was that these are questions for the proponent. Sufficient due diligence has not been done.

Response

The CEO advised that there is a process to be followed. The City is required to determine whether or not it will lease an area of land, and if it determines it will, then the developer is required to submit a Development Application which will contain design and details of the proposal.

9.17 Mr M Simon, Applecross

Question 1

When will due diligence reports referred to by the City be made public?

Response

The CEO advised that at this stage they would not be made available whilst negotiations are underway and they would contain information that would be subject to privacy provisions.

Question 2

Could the document be redacted? Especially as they relate to the questions being asked this evening.

Response

The Mayor advised that aspects of the documents could be redacted and suggested that Mr Simon could follow this up with him.

9.18 Ms Cathy O'Neil, MelvilleQuestion

The reasoning for this proposal is to bring another sport, but the proposal includes shops and other facilities other than the surfing lagoon. If the lagoon aspect is not successful, will the other facilities and shops be closed?

Response

The CEO advised that it would be a decision for the Council at that time, should those events occur.

9.19 Mr T Earl, Clydesdale StreetQuestion 1

The business case for the proposal indicates that the Wave Park proposal is dependent on the sale or ownership of the Crown land at the rear of the Bowling Club. This appears to have changed somehow, or is this still the case? If they cannot obtain the land at the rear of the Bowling Club, where does it leave the proposal?

Response

The Strategic Property Executive advised that it was the intent to acquire the freehold interest in that portion of the site, about 7,500m², but it is not a condition of the lease. It is preference not a pre-condition.

9.19 Mr T Earl, Clydesdale Street ContinuedQuestion 2

In relation to the no loss of sporting facilities, by moving and developing the playing areas at the eastern end of the site. That for 40 years the Council has endeavoured to level the ground in this area and the statement was made that the water being used to irrigate the western end would be saved. That is not the case, the area that is proposed to be developed (eastern end) is considerably larger than the area now that is under irrigation. The eastern end would also require irrigation and fencing to the boundary of Dunkley Avenue. This will be a huge expense to the ratepayers.

Mr Earl advised that he did not believe the City could provide a response to this question.

9.20 Mr K Anderson, ArdrossQuestion 1

How did the City enter into a commercial interest over the community interest?

Response

The Mayor advised that process had not gotten that far, there was still due process to be undertaken before any agreement would be entered into.

MOTION 1 MR D MAYNIER, ATTADALE

At 8.53pm – Moved, Mr T Earl, Alfred Cove, seconded Mr M McLerie, Bicton

That Mr Maynier be granted a further extension of time and permitted to speak for a further five minutes.

At 8.53pm the mayor submitted the motion which was declared

CARRIED

At 8.58pm moved Mr D Maynier, Attadale, seconded Mr M Kalkhoven, Applecross

Motion

That the Council should suspend current negotiations and consider alternative proposals for community recreational and leisure use of the Melville Bowling Club site compatible with the Alfred Cove environment.

At 8.59pm the Mayor submitted the motion, which was declared

CARRIED

9.21 Mr B Wills, ArdrossQuestion 1

Could a count of the vote be undertaken so there is an official record of how many people had voted for the motion?

Response

Everyone was required to register prior to coming into the meeting, we would have accurate records of attendance and therefore the outcome of the vote.

10. CLOSURE

There being no further business, His Worship the Mayor, R Aubrey, declared the Meeting closed at 9.00pm.