



## **Council Meeting Minutes**

**Tuesday, 9 August 2011 at 7.05 pm  
Council Chamber, 401 Greenhill Road, Tusmore**

**Members Present:** Mayor, David Parkin  
Councillors Cornish, Davey, Hasenohr, Lemon, Monceaux,  
Osterstock (arr. 8.25 pm), Palk, Piggott, Pocock and Wilkins

### **Opening Prayer**

The Mayor read the Opening Prayer and observed one minute silence.

### **Kaurna Acknowledgement**

The Mayor acknowledged the Kaurna people.

### **Apologies**

Councillor Capogreco

### **Leave of Absence**

Councillor Bills

### **Confirmation of Minutes**

Councillor Lemon moved:

C8370 That the Minutes of the Meeting of Council held on 26 July 2011 be taken as read and confirmed.

Seconded by Councillor Monceaux

CARRIED UNANIMOUSLY

## Mayor's Report

The Mayor provided the following Report.

On Wednesday 27 July I was guest speaker at the monthly Meeting of the Lions Club of Glenside. At the Meeting, the proceeds from the recent art show in the City of Burnside Ballroom, a cheque for \$17,000, was presented to the Cystic Fibrosis Society. This was an excellent outcome from the art show. Although overall revenue was less than recent previous years, expenses were well contained and net earnings were more than comparable with other years.

On Saturday 30 July, I launched our Library's newest initiative; the first of a series of presentations on the theme of Create, Connect and Enjoy – a Wellbeing Exposition. The events of the day were well attended. I congratulate library staff on their vision and commitment to provide new and interesting events for the Burnside community.

The official opening of the Burnside City Uniting Church, located immediately north of these administrative offices, was held on Sunday 31 July. The three tiers of Government were represented by the Hon Chris Pyne, Federal member for Sturt; the Hon Vickie Chapman, State Member for Bragg; and the City of Burnside, represented by me.

On 2 August, I attended the inaugural Meeting of a Committee established by the Minister for Education to consider a proposal to amalgamate Linden Park Junior Primary School and Linden Park Primary School into one primary school catering from Reception to Year 7. I considered Burnside citizens would be represented more effectively on this Committee by either of the two Beaumont Ward Councillors. Councillors Monceaux and Osterstock discussed the matter and I am grateful that Councillor Monceaux has agreed to represent Council on this Committee.

Last Saturday, I attended, along with Councillors Bills, Cornish, Lemon, Monceaux, Palk, Piggott and Wilkins, a briefing session on the new Burnside Village given by the Burnside Village Centre Management. My Elected Member colleagues and I were impressed by the breadth and vision of the new Centre. It will bring an exciting new dynamic to the City of Burnside.

Councillor Palk moved:

C8371 That the Mayor's Report be received.

Seconded by Councillor Monceaux

CARRIED

## Reports of Delegates/Working Parties

Councillor Monceaux attended the Burnside Village Morning Tea and the Pineview Village Board Morning Tea.

Councillor Pocock represented the Mayor at the 90<sup>th</sup> Birthday Party for Shirley Cooper and celebration of her 25 years as a City of Burnside Volunteer.

## Deputations

Nil

## **Petitions and Memorials**

Nil

## **Questions (without debate) on Notice**

Nil

## **Consideration of Motions of which Notice has been Given**

### **Rescission of Resolution C8341 and Note to Resolution C8339 (11.1)**

Councillor Palk moved:

- C8372
1. That such of Resolution C8341 of Council (Meeting held on 12 July 2011) be rescinded as is necessary to enable the Minutes of the said Meeting that were made confidential by virtue of that resolution, to be released; and the entirety of those Minutes (viz C8338, C8339 and C8340) be released forthwith; and
  2. That a note be attached to Resolution C8339 to record that the procedure as set out in that Resolution was not followed to the letter.

Seconded by Councillor Lemon

CARRIED UNANIMOUSLY

## **Questions (without debate) of which Notice has not been Given**

Nil

## **Consideration of Motions of which Notice has not been Given**

Nil

## **Reports of Officers**

### **Annual Report on Section 270 (Local Government Act, 1999) Internal Review Applications (14.1)**

Councillor Davey moved:

- C8373 That the Report be received.

Seconded by Councillor wilkins

CARRIED

**Review of Code of Practice for Access to Meetings and Documents (14.2)**

Councillor Piggott moved:

- C8374 1. That the Report be received.
2. That the revised Code of Practice for Access to Meetings and Documents be adopted.

Seconded by Councillor Lemon

CARRIED UNANIMOUSLY

**Eastern Health Authority Annual Review Of Delegations (14.3)**

Councillor Wilkins moved:

- C8375 1. That the Report be received:
2. That having conducted its annual review of the Council's delegations to the Eastern Health Authority in accordance with Section 44(6) of the Local Government Act, 1999, the Council:

**2.1. Revocations**

- 2.1.1. Hereby revokes its previous delegations to the Eastern Health Authority of those powers and functions under the following:

Environment Protection Act, 1993;

Expiation of Offences Act, 1996;

Housing Improvement Act, 1940;

Local Government Act, 1999;

Public and Environmental Health Act, 1987, Public and Environmental Health (Waste Control) Regulations 1995 and Public and Environmental Health (Legionella) Regulations 2008; and

Supported Residential Facilities Act, 1992

with effect from 26 October 2011.

**2.2. Delegations made under Local Government Act, 1999**

- 2.2.1. In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Appendices B, C and D of the Report dated 9 August 2011 and entitled Eastern Health Authority Annual Review of Delegations (each of which is individually identified as indicated below) are hereby delegated this 9th day of August 2011 to the Eastern Health Authority ("the Authority") with effect from 26 October 2011 subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.

Environment Protection Act, 1993 (Appendix B);

Expiation of Offences Act, 1996 (Appendix C); and

Housing Improvement Act, 1940 (Appendix D)

2.2.2. Such powers and functions may be further delegated by the Authority in accordance with Section 44(4) of the Local Government Act 1999 as the Authority sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

2.2.3. Where those powers and functions are further delegated by the Authority to the person for the time being holding the office of Chief Executive Officer of the Authority, those powers and functions may be further delegated in accordance with Section 44(3)(b) of the Local Government Act 1999 as that person sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each proposed Instrument of Sub-delegation, provided that such powers and functions cannot be further delegated by the person to whom those powers and functions are so delegated by the Chief Executive Officer.

### **2.3. Delegations made under Public and Environmental Health Act 1987**

2.3.1. In exercise of the power contained in Section 6 of the Public and Environmental Health Act 1987, the powers and functions under the Public and Environmental Health Act 1987, the Public and Environmental Health (Waste Control) Regulations 2010 and the Public and Environmental Health (Legionella) Regulations 2008 specified in the proposed Instrument of Delegation contained in Appendix E to the Report dated 9 August 2011 and entitled Eastern Health Authority Annual Review of Delegations are hereby delegated this 9th day of August 2011 to the Eastern Health Authority ("the Authority") with effect from 26 October 2011 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Public and Environmental Health Act 1987.

2.3.2. Such powers and functions may be further delegated by the Authority as the Authority sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Public and Environmental Health Act 1987.

2.3.3. Where those powers and functions are further delegated by the Authority to the person for the time being holding the office of Chief Executive Officer of the Authority, those powers and functions may be further delegated in accordance with the relevant legislation as that person sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each proposed Instrument of Sub-delegation, provided that such powers and functions cannot be further delegated by the person to whom those powers and functions are so delegated by the Chief Executive Officer.

## **2.4. Delegations under Supported Residential Facilities Act 1992**

- 2.4.1. In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Residential Facilities Act 1992 specified in the proposed Instrument of Delegation contained in Appendix F to the Report dated 9 August 2011 and entitled Eastern Health Authority Annual Review of Delegations are hereby delegated this 9th day of August 2011 to the Eastern Health Authority ("the Authority") with effect from 26 October 2011 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 2.4.2. Such powers and functions may be further delegated by the Authority as the Authority sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 2.4.3. Where those powers and functions are further delegated by the Authority to the person for the time being holding the office of Chief Executive Officer of the Authority, those powers and functions may be further delegated in accordance with the relevant legislation as that person sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each proposed Instrument of Subdelegation, provided that such powers and functions cannot be further delegated by the person to whom those powers and functions are so delegated by the Chief Executive Officer.

## **2.5. Enforcement Agency under the Food Act, 2001**

- 2.5.1. The Council acknowledges that:
- 2.5.1.1. The Eastern Health Authority ("the Authority") has been established as a regulatory subsidiary and is thereby prescribed, pursuant to Section 4 of the Food Act 2001 and in accordance with Regulation 4(1) of the Food Regulations 2002, as an enforcement agency for the purposes of the Food Act 2001; and
- 2.5.1.2. The Authority is completely responsible for the operation and enforcement of the Food Act 2001 within the area of Burnside Council;
- 2.5.1.3. The Chief Executive Officer of the Authority, as the person designated by the Constituent Councils of the Authority as the principal officer of the Authority, is, pursuant to Regulation 5 of the Food Regulations 2002, prescribed as the head of an enforcement agency for the purposes of the Food Act 2001.

## 2.6. Prosecutions

- 2.6.1. In exercise of the powers contained in Section 44 of the Local Government Act 1999 the Council delegates this 9th day of August 2011 the powers under Sections 6 and 36(1) of the Local Government Act 1999 to the Eastern Health Authority to commence a prosecution for a breach of the Housing Improvement Act 1940 where the Housing Improvement Act 1940 empowers the Council to commence prosecution for a breach and to do anything necessary, expedient or incidental to performing or discharging the Council's power with effect from 26 October 2011, and such power may be further delegated by the Eastern Health Authority as the Eastern Health Authority sees fit.
- 2.6.2. In exercise of the powers contained in Section 6 of the Public and Environmental Health Act 1987 the Council delegates this 9th day of August 2011 the powers under Sections 6 and 36(1) of the Local Government Act 1999 to the Eastern Health Authority to commence a prosecution for a breach of the Public and Environmental Health Act 1987, the Public and Environmental Health (Waste Control) Regulations 2010 and/or the Public and Environmental Health (Legionella) Regulations 2008 where the Public and Environmental Health Act 1987, the Public and Environmental Health (Waste Control) Regulations 2010 and/or the Public and Environmental Health (Legionella) Regulations 2008 empowers the Council to commence prosecution for a breach and to do anything necessary, expedient or incidental to performing or discharging the Council's power with effect from 26 October 2011, and such power may be further delegated by the Eastern Health Authority as the Eastern Health Authority sees fit.
- 2.6.3. In exercise of the powers contained in Section 9 of the Supported Residential Facilities Act 1992 the Council delegates this 9th day of August 2011 the powers under Sections 6 and 36(1) of the Local Government Act 1999 to the Eastern Health Authority to commence a prosecution for a breach of the Supported Residential Facilities Act 1992 and/or the Supported Residential Facilities Regulations 2009 where the Supported Residential Facilities Act 1992 and/or the Supported Residential Facilities Regulations 2009 empowers the Council to commence prosecution for a breach and to do anything necessary, expedient or incidental to performing or discharging the Council's power with effect from 26 October 2011, and such power may be further delegated by the Eastern Health Authority as the Eastern Health Authority sees fit.
3. As a standard condition, the delegations made by the Burnside Council to the Eastern Health Authority take effect from 26 October 2011 and the powers and functions so delegated may not be exercised by the Eastern Health Authority until that date.

Seconded by Councillor Cornish

CARRIED

**CEO Report – July 2011 (14.5)**

Councillor Piggott moved:

C8376 That the Report be received:

Seconded by Councillor Wilkins

CARRIED UNANIMOUSLY

**Public Minutes of CEO Recruitment, Performance Appraisal and Remuneration Review Committee Meeting – 20 July 2011 Adjourned to 21 July 2011 (14.6)**

Councillor Lemon moved:

C8377 1. That the Report be received:

2. That Council notes:

Pursuant to Clause 13.2.3 of the CEO Recruitment, Performance Appraisal and Remuneration Review (CRPARR) Committee's Terms of Reference, the CRPARR Committee is required to provide details to Council of the costs incurred by the CRPARR Committee in relation to solicitors and other consultants in the previous year. The Committee notes that those costs incurred (whether paid or unpaid) to 30 June 2011 were as follows:

McArthur (recruitment consultants)

Resolutions CP0075, CP0086  
and CP0096 refer

\$27,317.77

Further fees/costs incurred

\$14,685.00

\$42,002.77

Wallmans Lawyers

\$ 1,806.00

Seconded by Councillor Piggott

CARRIED UNANIMOUSLY

**Eastern Region Alliance – Federal Initiative Group (14.4)**

Councillor Lemon moved:

C8378 1. That the Report be received.

2. That Council endorses the concept of establishing an Eastern Region Alliance Federal Initiative Group and considers allocating \$10,000 towards this initiative at the September 2011 Quarterly Budget review.

3. That the Minutes of the Federal Initiative Group Meetings be distributed to Elected Members.

Seconded by Councillor Davey

CARRIED UNANIMOUSLY



### **Adjournment of Council for the Meeting of the Standing Committee**

Councillor Palk moved:

C8379 That the Meeting be adjourned for the Meeting of the Corporate & Community Services Standing Committee at 7.20 pm.

Seconded by Councillor Davey

### **Resumption of Council**

Councillor Palk moved:

C8380 That the Meeting be resumed at 7.35 pm.

Seconded by Councillor Davey

CARRIED UNANIMOUSLY

### **Adoption of Committee Report**

#### **Corporate & Community Services Standing Committee Report**

Councillor Monceaux moved:

C8381 That the Report of the Corporate & Community Services Standing Committee Meeting held on 9 August 2011 be received and the recommendations contained therein be adopted.

Seconded by Councillor Lemon

CARRIED UNANIMOUSLY

### **Other Business**

Nil

### **Regional Subsidiaries – Eastern Waste Management Authority, Highbury Landfill Authority, Eastern Health Authority**

Nil

**Confidential Items****Chelsea Cinema Expressions of Interest – Preliminary Assessment (20.1)**

Councillor Palk moved:

- C8382 1. That pursuant to Section 90(2) and (3) (a) and (b) of the Local Government Act 1999 the Council orders that all members of the public, except the CEO, General Manager, Corporate & Community Services, Acting General Manager, Planning & Infrastructure, Manager Facilities and Procurement and the Executive Assistant and EOI Assessor Mark Booth, and Probity Auditor David Powell, be excluded from attendance at the Meeting for Agenda Item 20.1 – Chelsea Cinema Expressions of Interest Preliminary Assessment.
2. The Council is satisfied that
- 2.1. pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered will involve the unreasonable disclosure of information concerning the personal affairs of one or more of the Applicants; and
- 2.2. pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered is information the disclosure of which could reasonably be expected to confer an advantage for a person or persons with whom the Council is proposing to conduct business and the disclosure of this information would, on balance, be contrary to the public interest.
3. The Council is satisfied that in all of these circumstances the principle that the Meeting be conducted in a place open to the public has been outweighed.

Seconded by Councillor Lemon

CARRIED UNANIMOUSLY

**Short Term Suspension**

Councillor Wilkins moved:

- C8383 That there be a Short Term Suspension of Proceedings for 30 minutes until 8.10 pm.

Seconded by Councillor Lemon

CARRIED

Councillor Monceaux moved:

- C8384 That the Short Term Suspension of Proceedings be extended by 20 minutes until 8.30 pm.

Seconded by Councillor Lemon

CARRIED

**Resumption of Meeting**

Councillor Palk moved:

- C8385 That the Meeting resume at 8.20 pm.

Seconded by Councillor Davey

CARRIED

Councillor Palk moved:

- C8386
1. That the Report be received.
  2. That Council receive and endorse the Expressions of Interest Evaluation Plan for the Chelsea Cinema, as amended (Attachment A) and Council's EOI Assessor assess each application in accordance with this Evaluation Plan subject to the following amendment to the Heritage Criteria Evaluation of Attachment A:
    - 2.1 'commitment to proposed investment, maintenance, conservation and/or restoration requirements - 10%'
    - 2.2 'any proposed investment, maintenance and/or restoration proposal that is over and above the requirements contained in the Chelsea Cinema Conservation Management plan - 10%'
  3. That the Preliminary Assessment (Attachment B) be received.
  4. That Council resolves that all five Applicants be considered as Confirmed Applicants for the purpose of the Expression of Interest process.
  5. That Council invites the five Confirmed Applicants to present their application to Council and Council's EOI Assessor at a Special Meeting of Council to be held on 18 August 2011.
  6. That Council's EOI Assessor determines the order of presentations. The following times are to be set aside:
    - 6.1. Presentation 1: 18:00 – 18:45
    - 6.2. Presentation 2: 18:45 – 19:30
    - 6.3. Presentation 3: 19:30 – 20:15
    - 6.4. Presentation 4: 20:15 – 21:00
    - 6.5. Presentation 5: 21:00 – 21:45
  7. That consequent upon the presentations, the Council's EOI Assessor presents his Assessment and Recommendations in accordance with the Expressions of Interest Evaluation Plan for the Chelsea Cinema at a Special Meeting of Council to be convened on 30 August 2011.
  8. That pursuant to Sections 91(7) and (9) of the Local Government Act 1999 (SA) the Council orders that the Report, Minutes, attachments and associated documents relating to Item 20.1 titled 'Chelsea Cinema Expressions of Interest Preliminary Assessment' having been considered and dealt with by the Council on a confidential basis under Section 90(2) and (3) (a) and (b) of the Local Government Act 1999, are to be kept confidential and not available to the public for a period of 24 months from the date of this confidentiality order.

Councillor Osterstock arrived at the Meeting at 8.25 pm.

Seconded by Councillor Davey

CARRIED UNANIMOUSLY

## Closure

The Meeting closed at 8.29 pm.