

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING MEETING HELD ON THURSDAY, 17 MAY 2012 AT 6:00 PM

---

---

	Page
1. DECLARATION OF MEETING .....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED).....	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER) .....	2
4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER) .....	2
5. APOLOGIES & LEAVE OF ABSENCE .....	2
6. PUBLIC QUESTION TIME.....	2
7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS.....	2
8 (SCM 17/05/2012) - PURPOSE OF MEETING .....	2
9. COUNCIL MATTERS.....	3
9.1 <u>(MINUTE NO 4777)</u> (SCM 17/05/2012) - SALE OF LAND - PORTION OF LOT 11 BRENCHLEY DRIVE, ATWELL - OWNER: CITY OF COCKBURN (5515393) (K SIM) (ATTACH).....	3
10. <u>(MINUTE NO 4778)</u> (SCM 17/05/2012) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995) .....	7
11 (SCM 17/05/2012) - CLOSURE OF MEETING.....	7



# CITY OF COCKBURN

## MINUTES OF SPECIAL COUNCIL MEETING MEETING HELD ON THURSDAY, 17 MAY 2012 AT 6:00 PM

---

### PRESENT:

#### ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Mr K Allen	-	Deputy Mayor
Mr Y Mubarakai	-	Councillor
Mr S Portelli	-	Councillor (arrived 6.06pm)
Ms L Smith	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mr S Pratt	-	Councillor
Mrs V Oliver	-	Councillor
Mr B Houwen	-	Councillor

#### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Ms V. Viljoen	-	PA to Chief Executive Officer

### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 6.02pm.

### 2. APPOINTMENT OF PRESIDING MEMBER (If required)

Not applicable.



**3. DISCLAIMER (To be read aloud by Presiding Member)**

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

**5. APOLOGIES & LEAVE OF ABSENCE**

Nil

**6. PUBLIC QUESTION TIME**

Nil

**7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS**

Nil

**8 (SCM 17/05/2012) - PURPOSE OF MEETING**

The purpose of the meeting is to consider the Sale of Land – Portion of Lot 11 Brenchley Drive, Atwell.

**DEPUTATION**

Ms Natalie Jardine of Illuminate Property made a deputation to Council on behalf of Atwell greens Pty Ltd, in relation to Item 9.1.



## 9. COUNCIL MATTERS

### 9.1 **(MINUTE NO 4777) (SCM 17/05/2012) - SALE OF LAND - PORTION OF LOT 11 BRENCHLEY DRIVE, ATWELL - OWNER: CITY OF COCKBURN (5515393) (K SIM) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) sell the 2,417sqm portion of Lot 11 Brenchley Drive, Atwell for a consideration of \$185,000 to Atwell Greens Pty Ltd subject to no objections being received as a result of the statutory advertising required by Section 3.58 of the *Local Government Act 1995*; and
- (2) allocate proceeds of the sale to the Land Development Reserve Fund.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

#### **COUNCIL DECISION**

MOVED Mayor L Howlett SECONDED Clr S Portelli that Council:

- (1) not accept the offer from Atwell Greens Pty Ltd to purchase the 2,417sqm portion of Lot 11 Brenchley Drive, Atwell for a consideration of \$185,000;
- (2) make a counter offer to Atwell Greens Pty Ltd to sell the 2,417 sqm portion of Lot 11 Brenchley Drive, Atwell for a consideration of \$250,000, representing the formal valuation of the land;
- (3) proceed with the sale of the 2,417 sqm portion of Lot 11 Brenchley Drive, Atwell, subject to the counter offer being accepted and no objections being received as a result of the statutory advertising process required by Section 3.58 of the *Local Government Act 1995*; and
- (4) allocate the proceeds of the sale to the Land Development Reserve Fund, subject to the completion of the sale in accordance with (2) above.

**MOTION LOST 2/8**

MOVED Deputy Mayor K Allen SECONDED Clr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/2**



NOTE: Mayor L Howlett and Clr S Portelli requested their vote against the decision be noted for the record.

### **Background**

Council at its meeting held on 10 May considered the following recommendation;

- (1) *sells the 2417sqm portion of Lot 11 Brenchley Drive, Atwell for a consideration of \$185,000 to Atwell Greens Pty Ltd subject to no objections being received as a result of the statutory advertising required by Section 3.58 of the Local Government Act 1995; and*
- (2) *allocates proceeds of the sale to the Land Development Reserve Fund.*

*Council resolved to defer this matter to a Special Council Meeting, pending a further report to Council on the monetary return to the City if it were to proceed with the proposed sale and the value derived by Atwell Greens Pty Ltd if the sale were to proceed.*

Lot 11 Brenchley Drive, Atwell has been owned by the City of Cockburn since 1977. The transfer document reveals that the City paid \$1 for all of the lot 11. It exists as an unusual 'L' shaped piece of land, with the east-west leg utilised as an open drain and the north-south leg undeveloped. The section under consideration of this offer to purchase is the 2417sqm north-south leg.

### **Submission**

An offer to purchase the land in the form of an Offer and Acceptance Contract has been received from Atwell Greens Pty Ltd. A valuation report and update to that report has been received from Licensed Valuer Wayne Srhoy from McGees Property. A subdivision layout proposed for Lot 10 and the subject portion of Lot 11 Brenchley Drive has also been received via the Western Australian Planning Commission who has conditionally approved the proposed subdivision.

### **Report**

Council officers have discussed the matters raised by Elected Members with a representative of Atwell Greens Pty Ltd and the Developments Project Manager.



Atwell Greens Pty Ltd as the Developer state that the risks involved with the subdivision are such that they cannot pay anymore than \$185,000 for the portion of Lot 11.

They have pointed out that the nature of these projects is that until most of the subdivision lots are pre-sold the lending agencies will not provide funds to acquire all of the land and pay for the required civil works. Civil works for this subdivision have an estimated cost of \$1,958,000.

It was clear to Council officers that the risks associated with the Development which involve acquiring the land, getting all approvals undertaking the civil works, obtaining funding and selling the lots in a timely manner were real.

If the decision is made not to sell the portion of Lot 11 at the offer price Atwell Greens Pty Ltd have stated that they will proceed with the subdivision of Lot 10. The difference is that 21 lots instead of 24 lots will be created.

The positive aspect of the sale of the portion of Lot 11 for \$185,000 to create 24 lots is that the extra 3 lots will generate additional rates amounting to a total of approximately \$2,800 per year. The 3 extra lots will generate approximately a total of \$8,400 in Developer Contributions.

If the decision is made not to sell the Council land then the land will remain in its current form.

A subdivision of Lot 10 will result in an acoustic wall being constructed between the subdivision lots and Councils Lot 11. The height of such wall is not known at this stage but should be high enough to discourage the practice of disposing of garden waste over the fence. None the less the City will be obliged to maintain Lot 11 on an annual basis. The fire risk will need to be addressed with weed control, removal of any other discarded objects and vegetation control. The annual fee is estimated at \$3000. Access to the site will only be feasible from the northern end of the site.

An idea that has been broached, if the decision not to accept the offer is taken, is to, at a later date negotiate the sale of portions of lot 11 to the rear of the future subdivision lots.

This would involve contracts with 9 different owners, moving the acoustic wall to the boundary with the freeway and a new subdivision. Experience has shown these exercises to be extremely difficult to negotiate. To achieve the equivalent return of the McGees valuation plus our costs each owner would need to pay approximately \$40,000. We don't believe that it is likely that the owners would be willing to pay



this amount, given that the additional area would not increase the development potential of the lots.

Advertising as required by Section 3.58 of the *Local Government Act 1995* will be undertaken if Council decides to proceed with the land sale. The advertisement will indicate the proposed sale price and the value determined by the Licensed Valuer. If there are any objections a further report will be presented to Council.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

Proceeds of the sale totalling \$185,000 will be transferred to the Land Development Reserve Fund.

### **Legal Implications**

Provisions of Section 3.58 of the *Local Government Act 1995* apply.

### **Community Consultation**

Details of the sale will be advertised in a newspaper for State wide publication, as required by Section 3.58 of the *Local Government Act 1995*.

### **Attachment(s)**

1. Plan of Subdivision Lot 10 (21 Lots)
2. Plan of Subdivision Lot 10 & 11(24 Lots )

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 17 May 2012 Special Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.





10. **(MINUTE NO 4778) (SCM 17/05/2012) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

**COUNCIL DECISION**

MOVED Clr V Oliver SECONDED Clr C Reeve-Fowkes that the recommendation be adopted.

**CARRIED 10/0**

11 **(SCM 17/05/2012) - CLOSURE OF MEETING**

MEETING CLOSED AT 6.42PM

**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

