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|---|----------|---|--|--------------------------------------|-----------|---|-----------|----|-----------------------------|
| 9 | 7 Aug 06 | Financial Contributions Towards the Morphett Street Stormwater Infrastructure Upgrade | <p>Reason: S 90(3)(b) information the disclosure of which: (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting or proposing to conduct, business, or to prejudice the commercial position of the Council; and (ii) would, on balance, be contrary to the public interest.</p> | Discussion Agenda Attachment Minutes | Complete. | Extend Confidential Order to September 2017 The Chief Executive Officer be delegated the authority to revoke all or part of the order and directed to present a report containing the item for which the confidentiality has been revoked. | 5 Sept 11 | NA | RELEASE 5 Sept 11 |
|---|----------|---|--|--------------------------------------|-----------|---|-----------|----|-----------------------------|

17.1 **REPORT TITLE:** **CONFIDENTIAL REPORT
FINANCIAL CONTRIBUTIONS TOWARDS
THE MORPHETT STREET STORMWATER
INFRASTRUCTURE UPGRADE.**

DATE OF MEETING: 7TH AUGUST 2006

AUTHOR: DAVID NINIO

AUTHOR'S TITLE: SPECIAL PROJECTS OFFICER

REPRESENTORS: NOT APPLICABLE

FILE NUMBER: 44-070-001-04

DEPARTMENT: ASSETS AND INFRASTRUCTURE

**DEPARTMENT
MANAGER:** BRIAN CLANCEY

Moved Councillor Gamble:

1. That pursuant to Section 90(2) and 90(3) of the Local Government Act 1999 the District Council of Mount Barker orders that the public be excluded from attendance at the meeting to consider in confidence matters regarding:

- (b) information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council;

2. That the Chief Executive Officer, General Manager Assets & Infrastructure, General Manager Strategy and Development, General Manager Corporate and Community Services, and the Minute Secretary be permitted to remain in the room.

Seconded Cr Allen and CARRIED.

Moved Cr Gamble:

3. That Council authorise Council Officers to negotiate with the property owners of the Gilberts, McDonalds, Bob Jane, Coles and Herriots sites(the owners) a financial contribution towards the construction and upgrade of the Morphett Street Stormwater Infrastructure to be located within the Morphett Street Road Reserve (refer to attached map).

Seconded Cr Wright and CARRIED

Moved Cr Wright:

4. That the Council orders pursuant to Section 91(7), (8) and (9) of the Local Government Act 1999 that the discussion, reports, attachments and minutes relating to this item be kept confidential until ~~7 August 2007~~ ~~6 Sept 08~~, ~~9 September 09~~, ~~9 September 2010~~, 5 September 2011.

6/9/10: The Chief Executive Officer be delegated the authority to revoke all or part of the order and directed to present a report containing the item for which the confidentiality has been revoked.

Seconded Councillor Stokes and CARRIED

12.8 **REPORT TITLE:** **CONFIDENTIAL REPORT
FINANCIAL CONTRIBUTIONS TOWARDS
THE MORPHETT STREET STORMWATER
INFRASTRUCTURE UPGRADE.**

DATE OF MEETING: 7TH AUGUST 2006

AUTHOR: **DAVID NINIO**

AUTHOR'S TITLE: **SPECIAL PROJECTS OFFICER**

REPRESENTORS: **NOT APPLICABLE**

FILE NUMBER: **44-070-001-04**

ATTACHMENTS: **INFRASTRUCTURE MAP**

DEPARTMENT: **ASSETS AND INFRASTRUCTURE**

**DEPARTMENT
MANAGER:** **BRIAN CLANCEY**

PURPOSE

The purpose of this report is to seek Council approval to negotiate with five property owners a financial contribution towards the Morphett Street Stormwater Infrastructure Upgrade.

RECOMMENDATION

1. That pursuant to Section 90(2) and 90(3) of the Local Government Act 1999 the District Council of Mount Barker orders that the public be excluded from attendance at the meeting to consider in confidence matters regarding:
 - (b) information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council;
2. That the Chief Executive Officer, General Manager Assets & Infrastructure, General Manager Strategy and Development, General Manager Corporate and Community Services, and the Minute Secretary be permitted to remain in the room.

3. That Council authorise Council Officers to negotiate with the property owners of the Gilberts, McDonalds, Bob Jane, Coles and Herriots sites(the owners) a financial contribution towards the construction and upgrade of the Morphett Street Stormwater Infrastructure to be located within the Morphett Street Road Reserve (refer to attached map).
4. That the Council orders pursuant to Section 91(7), (8) and (9) of the Local Government Act 1999 that the discussion, reports, attachments and, minutes relating to this item be
~~kept confidential until 7 August 2007~~
7 August 2007. 6 Sept 2007 (extended at Council Mtg 4 Sept 2006) extended to 6 September 2008, extended to 9 Sept 2010. extended to 5 September 2011
5. ~~As announced, the public is permitted to the meeting at the conclusion of the item.~~

BACKGROUND

At its meeting held on 19th June 06, Council authorised senior staff to undertake preliminary discussions with owners of land on Hawthorn Road for the purpose of identifying a possible site to establish a flood detention basin.

Two alternative sites are currently being investigated namely the Gallash and Bligh sites both on Hawthorn Road. A preferred site will be recommended to Council as soon as preliminary designs and costing have been completed.

The rationale in upgrading and constructing the Morphett Street Stormwater Infrastructure and the proposed detention basin is a risk management initiative to reduce the risk of flooding in the Mount Barker Township. Construction of the detention basin is directly linked to the Morphett Street Infrastructure Upgrade and vice versa i.e. each project needs to proceed; it is not a case of one or the other.

The current situation is that stormwater drainage pipes, the majority of which are without easements to Council (shown in blue on the enclosed map) are located on private land. Only two stormwater pipes also located on private land have easements to Council (shown in yellow on the enclosed plan).

DISCUSSION

The intent is to approach each of the owners with a proposal that:

- The existing infrastructure located on their land will be extinguished.
- Council will fully fund the detention basin and extinguish easements where they exist.
- In return Council will be seeking a financial contribution from each of the owners towards the construction of the Morphett Street Stormwater Infrastructure proportionate to the distance of stormwater pipes located on their land.
- If an owner intends to not contribute, Council will make known its intention to acquire an easement registered on the title where this is not already in place.

Under the above mentioned scenario the financial contribution to the nearest dollar from each of the owners based on a pre design indicative estimated construction cost of \$2727 per metre of pipe for Morphett Street would be as follows:

| | |
|--|-------------------|
| - . Gilberts Site 67 metres | \$182,700 |
| - . McDonalds Site 39.9 metres | \$108,800 |
| - . Coles Site (incorporating Euroday) 59.2 metres | \$161,400 |
| - . Bob Jane Site: 21 metres | \$ 57,300 |
| - . Herriots Site 121.7 metres (Including 40m of pipe on Stephens St) | \$331,800 |
| Total: | \$ 842,000 |

This would be our opening bid and a best case outcome.

The majority of the owners would have a valid commercial argument to the effect that the contribution that we are seeking is not justified; given that Stormwater drainage is not their responsibility and that under the current development plan they can meet their storm water obligation at a lower cost. A better gauging of outcome will be known when the owners have been approached and initial negotiations have taken place.

A follow up report to Council will be submitted when negotiations are in progress and the response from the owners is better known.

Three proponents have lodged development applications. The current status of their applications is:

- Provisional development consent has been granted on the Gilberts site and some work has already been undertaken as a consequence of a collapsed drain. The applicant has not yet responded to a draft deed agreement that indemnifies Council against any claim from storm water damage caused before the completion of the construction of the detention basin.

- A non compliant development application on the Herriots site has been placed on hold as requested by the applicant. The expectation is that a new development application will be lodged; however the proponent has the capacity to revive the current application.

- Magnolia (the Coles Site) has not yet addressed a number of issues raised by Council pertaining to their development application including the issue of storm water drainage (contributing to the stormwater upgrade and relocation has been formally raised without stating what level of contribution is sought by Council).

POLICY IMPLICATIONS

1. Budget

The 2006-2007 budget contains \$1.35million capital works dedicated towards the upgrade and construction of the Morphett Street Stormwater Infrastructure. An income of \$450,000 has been estimated as financial contributions from property owners who would most benefit with the construction of the Morphett Street Stormwater Infrastructure.

This budget excludes the construction of the detention basin. A separate provision has been made for this.

2. Legal

A Summary Advice received from Norman Waterhouse indicates that:

- There is no clear statutory framework providing rights to the Council to pursue or impose obligations on private land owners for the construction and maintenance of storm water on private land.
- Council could seek to negotiate or compulsory acquire easements for construction and maintenance of storm water on private land but would require Ministerial consent for such acquisition if undertaken through Compulsory Acquisition.

The preferred outcome is to negotiate a financial contribution from the relevant property owners towards the Morphett Street Stormwater Infrastructure Upgrade. The notion of compulsory acquisition of easements should only be considered as a last resort and a bargaining tool.

3. Staffing/Work Plans

Internal staff resources will be used to negotiate with the relevant property owners.

4. Environmental

Environmental needs will be taken into consideration in the design and construction of the Morphett Street Stormwater Infrastructure.

5. Social

A flooding event in our Community would create major adverse social/economic implications to our Community. The Council's initiatives will reduce this risk dramatically.

The 1 in 100 years ARI flow will be contained within the new drainage system

6. Strategic Plans

This submission meets the following objectives:

Lifestyle Objective 3. Improve the understanding and response to the social needs of the community and act to meet these needs,

Economic Development- Objective 4. Enhance economic development by facilitating projects that ensure a degree of independence and sustainability for the District.

Community assets- Objective 1. Fulfil Council's responsibility as custodian and provider of community assets.

It is also consistent with the policy and role of Council in relation to stormwater management as adopted by Council on 1st May 06.

COMMUNITY CONSULTATION

The major stakeholders with a direct interest in the construction of the Morphett Street Stormwater Infrastructure upgrade will be consulted during the negotiation process.

Promotion/Communications

The Community and the major stakeholders will be kept informed on the works program

MORPHETT STREET DRAINS UPGRADE CONCEPT PLAN

