

CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2011

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
63	6 February 2012	Offer to Purchase Property	<p>Pursuant to Section 90(3)(b) Pursuant to Section 90(2). "The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council and/or the potential vendor in that the information to be considered includes commercial costings and other financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.</p> <p>In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been</p>	Report Attachments Minutes	6 months have elapsed	Pursuant to Section 91(7) of the Act the council orders that the report, attachments and all minutes remain confidential until settlement has occurred or 6 months have elapsed, whichever occurs soonest.		August 2012	On web 28/8/12

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			outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other potential contract negotiations. Section 91(7) Order That having considered Agenda Item 16.1 "Opportunity for Property Purchase" in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, attachments and all minutes remain confidential until settlement has occurred or 6 months have elapsed, whichever occurs soonest.						

69 CONFIDENTIAL REPORTS

69.1 **REPORT TITLE: CONFIDENTIAL REPORT: OPPORTUNITY
 FOR PROPERTY PURCHASE**
DATE OF MEETING: 6 FEBRUARY 2012
FILE NUMBER: 200584

Moved Councillor Irvine that Council:

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Infrastructure & Projects, General Manager Council Services, General Manager Corporate Services and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 16.1, "Opportunity For Property Purchase."

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the Council and/or the potential vendor in that the information to be considered includes commercial costings and other financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other potential contract negotiations.

Seconded Councillor Stokes and CARRIED

9.12pm Moved Councillor Campbell that pursuant to regulation 21 of the Local Government Procedures at Meetings Regulations, the (*name of Committee*) Committee has a short term suspension of normal meeting proceedings to enable a period of informal discussion.

Seconded Councillor Hamilton and CARRIED

9.32pm Moved Councillor Westwood that the Committee now end the short term suspension of normal meeting proceedings.

Seconded Councillor Irvine and CARRIED

9.33pm Councillor Campbell rose and left the Chamber

Moved Councillor Irvine

2. That Council authorise the Chief Executive Officer to negotiate terms for the purchase of the property located on the corner of Hutchinson Street and Morphett Street, Mount Barker.
3. The terms of any draft contract be considered by Council within 2 months to determine Council's support to authorise a contract.
4. That Council authorise the Chief Executive Officer to undertake discussions with Big W and the adjoining land owners in relation to financial contributions from them to the cost of purchase and/or the subsequent development of the property for open space.
5. Section 91(7) Order
That having considered Agenda Item 16.1 "Opportunity for Property Purchase" in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, attachments and all minutes remain confidential until settlement has occurred or 6 months have elapsed, whichever occurs soonest.

Seconded Councillor Westwood and CARRIED

MEETING DECLARED CLOSED AT 9.40PM

MAYOR

DATE

16. CONFIDENTIAL REPORTS**16.1. REPORT TITLE: CONFIDENTIAL REPORT: OPPORTUNITY FOR PROPERTY PURCHASE****DATE OF MEETING: 6 FEBRUARY 2012****FILE NUMBER: 200584****Strategic Plan Ref:**

Goal One People, Communities and Culture

1.1, 1.2 1.5 1.7. – Strengthen identity and culture through celebrations, festivals, events, support arts and culture

Goal Area 4 Infrastructure and Human Settlements

Purpose:

For Council to consider pursuing a process to purchase a property located on the corner of Hutchinson Street and Morphett Street, Mount Barker (CT5132/874) 23 Morphett Street, Mount Barker.

Summary – Key Issues:

1. The owners of the property have offered the property for possible purchase by Council at a price and terms to be negotiated.
2. Community sentiment expressed during the Mount Barker Town Centre Review (Stage 1) consultation program has strongly advocated for public space outcomes in this vicinity.
3. Should Council pursue the process and successfully purchase the property it will enhance its ability to influence place making outcomes in relation to the Big W proposal as well as add flexibility and further options to traffic management proposals for the adjacent intersection.

Recommendation:

That Council:

1. Pursuant to Section 90(3)(b)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Infrastructure & Projects, General Manager Council Services, General Manager Corporate Services and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 16.1, "Opportunity For Property Purchase."

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to prejudice the commercial position of the

Council and/or the potential vendor in that the information to be considered includes commercial costings and other financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other potential contract negotiations.

2. That Council authorise the Chief Executive Officer to negotiate terms for the purchase of the property located on the corner of Hutchinson Street and Morphett Street, Mount Barker.
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4. That Council authorise the Chief Executive Officer to undertake discussions with Big W and the adjoining land owners in relation to financial contributions from them to the cost of purchase and/or the subsequent development of the property for open space.
5. Section 91(7) Order
That having considered Agenda Item 16.1 "Opportunity for Property Purchase" in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report and all minutes remain confidential until settlement has occurred or 6 months have elapsed, whichever occurs soonest.

Background:

1. Mr Gary Minuzzo is the 'lead' owner of the subject property (refer attachment 1.) A meeting with Mr Minuzzo on 19 January 2012 was facilitated by Mr Grant Gilbert. At the meeting Mr Minuzzo confirmed that the owners of the property have determined their intention to sell and wish to offer the opportunity to purchase to Council.
2. The property is understood to have been purchased for \$950,000 approximately 3 years ago. The current owners have incurred costs (approximately 8% per annum) for design, contamination reports, etc.

The purchase price and costs is approximately \$1,450,000 in total commitment by the current owners.

3. In discussion with Mr Minuzzo the current owners' objective was represented as one of minimising any loss upon sale.
4. Mr Minuzzo has provided details of the 2 current leases on the subject property. Both lease have options which if exercised would give the tenants the right of continued occupation until 2017 and 2020 respectively.
5. As far as Council staff are aware there is no break clause or other agreement which would allow early termination. It is always possible that vacant procession could be agreed with either tenant the cost would be a matter of negotiation.
6. The adjoining land currently owned by Woolworths was previously occupied by Herriot Dry Cleaners and subject to contamination arising from former uses. The owners have represented that investigations have been conducted and there are no issues of concern.

Discussion:

7. A process has been initiated to assemble the terms of a draft contract for Council to consider.
8. This report aims to inform Council of the process and the accompanying investigations.
9. Council is encouraged to offer the following direction to Staff.
 - a. Support staff in the assembly of information to draft a contract; and
 - b. Any other terms or conditions it seeks.
10. The process to date has included:
 - a. The ordering of an independent valuation report expected within 2 weeks
 - b. Discussion with Big W representatives to gauge reaction to possibility of a public space on this location. At the moment it is understood Big W proposes to build an approximately 15-17 metre high solid masonry wall around the land effectively closing off the subject property. However, should Council achieve a public space, Big W has offered an initial speedy response draft concept (see attachment 2) which addresses/integrates the 2 properties;
 - c. Legal advice has been sought to assist in resolving one other important issue that is the property is currently leased commercially to commercial tenants including a finance/loan business and a car windscreen service business.

11. Council will need to determine whether it considers the potential benefits and strategic role this corner will have for the Town Centre justifies the expense of its purchase. Financial contributions from Big W and other adjacent property owners will be sought.
12. Council is currently undertaking a consultation process for two concepts which have been developed for the Morphett and Hutchinson intersection. The upgrade of the Morphett Hutchinson Precinct seeks to accommodate the impacts of proposed new retail development (Big W) on the vacant land; including improvements to the pedestrian situation and provision of better connectivity to Gawler Street. It is considered that these outcomes could be further enhanced through the incorporation of the CBC Mount Barker Land (Mount Barker Windscreens) into an area of open space which is developed as a high quality public 'space'.
13. The use of this land for open space will compliment works Council is seeking to undertake not only with regards to the 'place making' elements but will also compliment the traffic management treatments proposed in the precinct. The additional area of open space would reduce the need for the creation of open space through potential road closures (as highlighted in stage 2 concepts presented to Council). The result being that through traffic could be maintained on Hutchinson Street in the long term while a more usable area of open space is provided outside of the road network.
14. The potential for site contamination will need to be addressed as part of any purchase negotiations.

Policy:

NA

Budget:

Not budgeted for in capital budget for 2011/12.

Statutory/Legal:

Legal advice has been sought to assist in resolving existing commercial leases.

Environmental:

To be advised.

Staff Resource Requirements:

The purchase would require coordination and management from several areas of Council.

Social:

Purchasing the property would contribute to social and community arts/culture outcomes for the District.

Risk Assessment:

- To be advised regarding contamination
- Public Amenity outcomes

Asset Management:

Opportunity to seek grant funding if a purchase proceeds.

Conclusion:

Council to endorse pursuing a process to purchase the property located on the corner of Hutchinson Street and Morphett Street, Mount Barker.

Key Contact

Andrew Stuart, Chief Executive Officer

Manager or Sponsor of Project

Andrew Stuart, Chief Executive Officer

Attachments

1. Subject property – 12/006517
2. Draft Concept image of integrated properties – 12/006519

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Attachment 1 to Confidential Item 16.1





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Attachment 2 to Confidential Item 16.1

