

MINUTES OF MEETING OF THE CITY OF MOUNT GAMBIER HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER ON TUESDAY 15TH NOVEMBER, 2016 AT 6.00 P.M.

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Cr Mutton moved that the following Agenda Item be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act 1999, and an order be made that the public (with the exception of Council Members: Mayor A Lee, Cr Christian Greco, Cr Mark Lovett, Cr Josh Lynagh, Cr S Mezinac, Cr Frank Morello, Cr Des Mutton, Cr Steven Perryman, Cr Hanna Persello and Cr Penny Richardson and Council Officers: Mark McShane, Grant Humphries, Gary Button, Barbara Cernovskis, Alan Hollway, Michael McCarthy, Tracy Tzioutziouklaris and Melissa Telford now present) be excluded from the meeting in order for the Agenda Item 2. **PROPERTY MANAGEMENT – Acquisition, Ref. AF15/595 – First Right of Refusal to Purchase Property** to be considered in confidence.

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 confer a commercial advantage on a person with whom the Council is:
 - proposing to conduct business; or
- to prejudice the commercial position of the Council.

Council, having a first right of refusal to purchase a property, needs to consider it’s commercial and negotiating position. Consideration of such matters in an open meeting would disclose Council’s negotiating position conferring an advantage on the vendor and prejudice the commercial position of the Council.

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 the continued non-disclosure of the 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 Council is considering the expenditure of public/community funds to purchase land in a non-competitive environment and to disclose it’s commercial/negotiating position could reasonably be expected to result in a poor community outcome.

ITEM NO.	SUBJECT MATTER	S90 (3) GROUNDS
Council Item		
2.	<u>PROPERTY MANAGEMENT</u> – Acquisition AF15/595 – First Right of Refusal to Purchase Property	(b)
<u>CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL</u>		

Cr Mezinac seconded

Carried

IN CONFIDENCE

2. **PROPERTY MANAGEMENT – Acquisition AF15/595 – First Right of Refusal to Purchase Property**

The Manager Governance & Property reported:

Background

In the late 1990's Council identified the SA Country Women's Association (CWA) Hall at 1 Lawrence Street as being strategic in terms of the provision of city centre carparking and equally importantly as an opportunity to improve traffic flows in and around the Commerce Place carpark. Traffic management reports presented to Council in the late 1990's identified the intersection of Lawrence St and Penola Road as being a problem intersection due to the narrow road width on Lawrence Street and the poor sight distance on Penola Road – particularly for vehicles turning right out of Lawrence Street.

In 2000 Council entered into an Option Agreement with the SA Country Women's Association (CWA) for a first right of refusal to purchase property comprising the CWA Hall located at 1 Lawrence Place, Mount Gambier and a Caveat was registered over the property to protect Council's interest.

By letter dated 1 November 2016 and received on 4 November 2016 the CWA have given Council a formal "Sale Notice", triggering Council's obligation under the Option Agreement to give notice within 30 days of an acceptance or rejection of the sale offer and price (between \$240,000-250,000).

A copy of the Option Agreement and the "Sale Notice" letter are attached for information.

The Commerce Place carpark is strategically located and is well used but suffers from poor access and egress arrangements. The purchase of the CWA property will secure the first three properties on the southern side of Lawrence Street from Penola Road into Council ownership and will allow for traffic management improvements to and from the area (including localised widening of Lawrence Street) as well as an increase in the number of car parking spaces in the Commerce Place carpark.

The attached diagram displays the subject property at 1 Lawrence Street and the surrounding council landholdings.

1 Lawrence Street

1 Lawrence Street is located behind the former District Council Offices/South East Community Legal Services premises at 9 Penola Road.

Site improvements (comprising the CWA Hall) consist of a 2 storey limestone building with a medium sized hall, kitchenette, office and toilet facilities on the upper level facing Lawrence Street, and a small meeting room on the lower level.

The structural condition of the building could be described as fair requiring significant external maintenance to items such as guttering, roofing and paint. The interior is aged and would warrant full refurbishment of floor coverings, ceilings, wet areas (kitchen and toilets), painting and upgrade of services (hot water, heating and electrical) if it were to be made available for occupation/hire.

The building would not meet any current DDA requirements for access/toilet facilities.

Exercise of Option to Purchase

Council may now give consideration to accepting/rejecting the sale offer for the purchase of 1 Lawrence Street, Mount Gambier for a consideration amount between \$240,000-\$250,000.

Members should note the limited timeframe (30 days) imposed by the Option Agreement and that failure to exercise Council's right within that period (i.e. by 3 December 2016) will result in the expiry of Council's purchase right and the protections offered by the registered Caveat.

The Option Agreement provides that if notice of acceptance is received there shall be deemed to be a binding contract for the sale on the terms and conditions of the current Law Society of SA contract for the sale of land, with settlement to occur not more than thirty (30) days from the date of the acceptance notice.

If Council does not accept the purchase offer the owner will be at liberty to present the property for sale and to settle any subsequent sale contract. Such circumstances could present an opportunity for Council to pursue a purchase for a lower value, with the risk that the property could sell for a higher (or lower) value and/or to another purchaser.

Cr Mutton moved:

- (a) the report of the Manager Governance & Property is received;**
- (b) having considered the South Australian Country Women's Association Incorporated's offer to purchase 1 Lawrence Street for \$240,000-\$250,000, Council hereby confirms it's acceptance of the offer to sell;**
- (c) the South Australian Country Women's Association Incorporated be notified of Council's intentions as specified in resolution (b) above;**
- (d) and, subject to an affirmative resolution at (b) above:**
 - a. the Mayor and Chief Executive Officer be duly authorised to arrange and affix the Council Seal to any documentation necessary to give effect to the purchase and settlement for property at 1 Lawrence Street, Mount Gambier.**
 - b. the purchase of 1 Lawrence Street, Mount Gambier being for operational purposes not be subject to any trust or other instrument affecting its ownership or use and that it be excluded from classification as community land under s193 of the Local Government Act 1999.**
 - c. funding options and any necessary budget variation to account for the purchase associated with an affirmative resolution at (b) above be presented with the next Budget Review.**
- (e) CAD Loan funds to be used to complete the purchase.**

Cr Perryman seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Lovett moved that an order be made pursuant to Section 91 (7) of the Local Government Act, 1999 that the document in relation to Item 2 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
2.	PROPERTY MANAGEMENT – ACQUISITION – FIRST RIGHT OF REFUSAL TO PURCHASE PROPERTY - REF. AF15/595	(b)	Report, resolution, all attachments and details	Until: Settlement of a contract for Council's purchase of the subject land or 13 months have elapsed, whichever is the earlier.

Cr Persello seconded

Carried

Meeting closed at 7.16 p.m.

MJT