

OP GRAND

EXHIBIT No. 306
[Signature] CLERK

Date: 11 November 2005
Contact: Mr Dale Dickson
Location: Bundall Office
Telephone: (07) 5581 6048
Your Reference: Mr Robert Needham
Our Reference: LG473/993/02 #18004278

Mr Robert Needham
Chairperson
Crime & Misconduct Commission
Level 3, Terrica Place
140 Creek Street (Cnr Creek & Adelaide Streets)
Brisbane Qld 4000

HAND DELIVERED

Dear Mr Needham

STATEMENT OF MR DALE DICKSON

In response to your request by letter dated 27 October 2005, please find enclosed my Statement dated 11 November 2005 together with supporting documentation.

Yours faithfully


Dale Dickson
CHIEF EXECUTIVE OFFICER

Enc Statement dated 11 November 2005 /Folder supporting documentation

**STATEMENT OF MR DALE DICKSON
CHIEF EXECUTIVE OFFICER, GOLD COAST CITY COUNCIL**

**TO: MR ROBERT NEEDHAM
CHAIRPERSON
CRIME & MISCONDUCT COMMISSION
LEVEL 3 TERRICA PLACE
140 CREEK STREET (CNR CREEK & ADELAIDE STREETS)
BRISBANE QLD 4000**

DATED: 10 November 2005

**FROM: Mr Dale Dickson
Chief Executive Officer
Gold Coast City Council
PO Box 5042
GCMC QLD 9729**

Tel: 07 5581 6048

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1 Notice to appear & request for statement from Mr Robert Needham, Chairperson, Crime & Misconduct Commission - letter dated 27 October 2005

The statement should address the steps taken by you in the discharge of your function, pursuant to Section 433 of the Local Government Act, 1993, of keeping a register of electoral gifts in respect of the 2004 election. Your statement should include details of whether any of the following steps were taken by you, or to your knowledge, by any Council officer.

- *A review of all the returns by candidates or third parties for compliance with the disclosure provisions under the Act, including whether 'relevant details' had been provided;*
- *Any investigation of the accuracy and completeness of the contents of the return.*

It would also be helpful if your statement could deal with:

- *How any requests for advice or further information by candidates or third parties involved in the 2004 election about election returns were dealt with: and*
- *Any advice given by staff of the Council about the completion of the returns.*

It would be appreciated if you could provide the statement by 7 November 2005. If you have any queries in relation to this matter please contact Miss Anna McDonald

The election was conducted over 14 divisions and the mayoralty, encompassing some 56 candidates and 222,000 voters. It is a very significant administrative undertaking. The position of returning officer was contracted out, initially to Mr Alex McKenzie who resigned prior to election day and then to Mr Cec McPaul who completed the election.

The following statement represents a response which reflects the time constraints relating to its composition, and the impracticality of personally examining all relevant documents given the competing demands of my day-to-day responsibilities as CEO of Gold Coast City Council.

2 Statement by Mr Dale Dickson, Chief Executive Officer, Gold Coast City Council

2a Steps taken in the discharge of the function, pursuant to section 433 of the Local Government Act, 1993, of keeping a Register of Electoral Gifts in respect of the 2004 election

- *S.433 Registers of electoral gifts*

(1) *The chief executive officer of a local government must keep, for the local government, a register of electoral gifts (the register).*

(2) *The register must include the following—*

(a) *all returns given to the chief executive officer under this part or section 242*

As CEO I am required, pursuant to s.433 of the Local Government Act (the Act), to keep a register of electoral gifts (the register). A copy of that register was provided to the CMC in April 2005 (see Attachment 1).

The register is securely kept in a safe within the general office of the CEO at the Surfers Paradise Administration Centre. Entrance to this office is controlled. The register is kept in two volumes, one volume for successful candidates (i.e. elected councillors) and the other volume for unsuccessful candidates and third party returns.

- *S.433 (2)*

(b) *applications made to the chief executive officer under section 432;*

The register incorporates applications to amend returns (see Attachment 2), being amendments made by the Mayor and Councillors Young and Sarroff, together with a clarification by Ms Roxanne Scott and a document submitted by the Surfers Paradise Licensed Venues Association.

- *S.433 (2)*

(c) *copies of information given by the chief executive officer under section 435(2);*

I have not received what I consider to be a notification pursuant to s.435(1) of the Act.

- *S.435 Queries on contents of register*

(1) *A person who suspects, or believes, on reasonable grounds that a return given to the chief executive officer of a local government under this part has an error or omission, may inform the chief executive officer.*

On the basis that I have not received a notification pursuant to s.435(1) of the Act, I have not been required to give copies of information under s.435(2).

Notwithstanding my comments above, Mr Tony Beynon, upon receipt of a third party return from Mr Lionel Barden, wrote to Mr Barden advising that an address for a donor had been omitted from the return (see Attachment 3). The relevant information has not to date been supplied by Mr Barden. Mr Beynon was, at that time, Council's Manager Community

Relations and was responsible for coordinating the election from an administrative perspective.

- S.433 (2)

- (d) *statutory declarations given to the chief executive officer under section 435(5);*

I have not received a statutory declaration pursuant to s.435(5) of the Act.

- S.435 Queries on contents of register

- (5) *If the person establishes the return does not need to be amended, the person must—*

- (a) *complete a statutory declaration to the effect that the particulars in the return are a true record of fact; and*

- (b) *give the statutory declaration to the chief executive officer.*

- S.433 (2)

- (e) *copies of notices given by the chief executive officer under section 438(3);*

- (f) *particulars given to the chief executive officer after a request made under section 438(3);*

I have not yet received a response from the letter sent to Mr Barden.

Mr Tony Davis, Council's Manager Office of the CEO, contacted Mr Mal Chalmers by telephone, in response to a question from a journalist from the Gold Coast Bulletin relating to whether or not a third party return was required to be lodged by Mr Chalmers.

The background to the matter was that Ms Scott, an unsuccessful candidate for Division 6, had included in her return a gift from the Mal Chalmers Trust Fund. Mr Chalmers, as trustee, had not provided a third party return and therefore the name, if any, of any other person who had contributed to the gift to Ms Scott had not been disclosed. It was subsequently ascertained by Mr Davis from Mr Chalmers that he had been holding money of a client in his trust fund and had merely distributed that money according to his client's wishes, that a third party return was not required. Furthermore it was confirmed, by reference to s.414 of the Act and to Mr Al Cormack (now deceased) of the Department of Local Government, that the unsuccessful candidate, Ms Roxanne Scott, had complied with her reporting obligations. Subsequent to Mr Davis' discussions with Mr Chalmers, Mr Chalmers advised Ms Scott of the name of the principal who had provided the gift. Ms Scott provided a copy of that advice to Council and that copy is now part of the register. Mr Davis provided a statement regarding this matter to a CMC Officer, Mr K Bemi, on Thursday 3 November 2005.

- **S.433 (2)**

(g) *notices given to the chief executive officer under section 438(5).*

I have not received any information pursuant to s.438(5).

- **S.438 Obtaining of information and completion of returns**

(5) *The person must give to the chief executive officer of the local government to whom the return was given a written notice of the information or particulars obtained.*

Maximum penalty for subsection (5)—20 penalty units.

Overview

All candidates for the 2004 quadrennial election were provided with a "Candidate's Kit" which included, among other items, a copy of the Department of Local Government and Planning booklet "*Disclosure of Election Gifts - Guidelines for candidates and councillors for local government elections*", when they nominated for the election (see Attachment 4).

Responsibility for receipt and checking for compliance with the disclosure provisions was delegated to two Managers, namely Mr Tony Beynon, then GCCC Manager of Community Relations, who handled the returns from unsuccessful candidates and third party returns, and Mr Tony Davis, GCCC Manager Office of the CEO, who handled returns from successful candidates.

Mr Beynon corresponded with the unsuccessful candidates in early April 2004 advising them of their responsibility to submit an election gifts return and enclosing a copy of the return for their attention (see Attachment 5).

My Personal Assistant sent an email on 1 April 2004 to the Personal Assistants of all successful candidates requesting that they bring to their attention the requirement to submit a return before the incoming Councillor could take the Oath of Office (see also Attachment 5).

An informal meeting of all successful candidates was held on the 6th April 2004. Part of the material distributed for that meeting was a reminder of the necessity to complete an election gifts return (see Attachment 6). As is required by s.242, each Councillor submitted an interim or final election gifts return before they took the Oath of Office on the 8th April at the Post Election Meeting of Council.

The statutory "reminder" notice required pursuant to s.429(2) of the Act was sent to successful candidates (GCCC memo dated 28 May 2004 - see Attachment 7) and a letter was sent to relevant candidates dated 4 June 2004 (see Attachment 7).

3 Register of Electoral Gifts

3a A review of all the returns by candidates or third parties for compliance with the disclosure provisions under the Act, including whether 'relevant details' had been provided

All returns for candidates were checked for compliance with the provisions of the Act as follows:

- Where gifts were declared, a check was undertaken that correct sections of the return were completed and signed off;
- Where a nil return was declared, a check was undertaken to ensure forms were completed correctly.

When a candidate brought their return in for submission the return was perused and, if there was any omission, or clarification required, this was brought to the candidate's notice at the time.

As stated in Section 2 above Mr Tony Beynon wrote to Mr Lionel Barden regarding an address that had been omitted from his return.

3b Any investigation of the accuracy and completeness of the contents of the return

Sections 427, 427A and 430 of the Act establish the responsibility of candidates, groups of candidates and third parties to lodge electoral gift returns. It is the CEO's responsibility to receive those returns and make them available for inspection when called upon to do so.

It is not the CEO's responsibility to conduct an investigation of the accuracy of returns submitted. This would be impractical given the resources required and the effective need to have complete and unfettered access to the details of all financial and other transactions of the candidate during the disclosure period as well as having an understanding of the relationship between the candidate and the persons involved in those transactions.

With regard to the question of accuracy and completeness of returns, the CEO's role is generally limited only to ensuring the returns are received and completed satisfactorily in matters of form - as is pointed out, it would be impractical, if not impossible, to check the veracity of the information disclosed in the returns.

3c How any requests for advice or further information by candidates or third parties involved in the 2004 election about election returns were dealt with

Each candidate for the 2004 quadrennial election was provided with a "Candidate's Kit" which included a copy of the Department of Local Government and Planning booklet "*Disclosure of Election Gifts - Guidelines for candidates and councillors for local government elections*" when he/she nominated for the election.

In the event that a candidate contacted my office for advice with respect to election gifts returns, he/she was referred to the Manager - Office of the CEO, Mr Tony Davis, who would speak to them. I had power to and did delegate this function to Mr Davis, who advises me he would, in the normal course of events, refer the candidate to the Department's booklet and point them to the relevant section. At times he would discuss the matter further, but usually on the basis of the details provided in the booklet.

3d Any advice given by staff of the Council about the completion of returns

As stated above, Mr Tony Davis handled enquiries about the completion of returns. Enquiries were usually dealt with via telephone calls. A number of responses were dealt with by email. Attached are copies of email responses (see Attachment 8).

Mr Davis has recall of five particular occasions when he gave advice, and each of those was discussed at various times with myself. Those occasions related to discussions with:

- a) Cr Susie Douglas,
- b) Mr Jim Bell of the Surfers Paradise Licensed Venues Association,
- c) Solicitor, Mr Mal Chalmers,
- d) Mr Greg Roberts, a reporter for the Australian Newspaper, and
- e) Mayor Cr Ron Clarke re the Mayor's clarification regarding in-kind support reportedly received from Mr Tony Stephens.

The circumstances and details of the various advices given were as follows:

- a) Cr Douglas rang Mr Davis some time after the election with respect to an advertisement placed in the Gold Coast Bulletin by the Surfers Paradise Licensed Venues Association. She was not a member of the Association, but the members were (or most were) in her Division as far as their businesses were concerned. Her question related to whether or not a proportion of that advertisement constituted in kind support and should be declared. Mr Davis had not seen the advertisement but discussed the matter with Cr Douglas in the context of the explanation contained in the Department's booklet and on the basis of Cr Douglas' understanding of the matter. He advised Cr Douglas that if she believed the advertisement was in kind support, then she should declare it. Mr Davis worked through the costing matter with Cr Douglas, who subsequently included an amount in her return.
- b) Mr Davis, in the course of following up a third party return from Mr Jim Bell of the Surfers Paradise Licensed Venues Association, had two discussions with Mr Bell wherein the essentials of a third party return were discussed. Mr Bell advised that he had previously submitted a return to Council, however Mr Davis could not locate the return, nor could Mr Bell supply a copy. There is no record whatsoever of a receipt by GCCC of such a return. Mr Bell then submitted a return which summarised the electoral expenditure incurred by the Association. Mr Davis advised him that the return was not correctly completed as it did not declare the gifts received by Mr Bell or the Association. Mr Bell advised that no gifts were received and that the political expenditure campaign had been funded by a levy on certain of its members. Mr Davis accepted that explanation and agreed that if no gift was received by Mr Bell or the Association, no third party return was necessary. I would point out that at this time Mr Beynon was no longer the Manager Community Relations and Mr Davis had taken responsibility for election matters.
- c) Mr Davis contacted Mr Mal Chalmers in regards to an entry in the return of Roxanne Scott, a candidate for Division 6. Ms Scott had noted gifts received from the Mal Chalmers Trust Account. Upon being approached by a reporter from the Gold Coast Bulletin to clarify why a third party return had not been lodged, Mr Davis contacted Mr Chalmers to clarify the circumstances of the gift, i.e. whether it was a gift from Mr Chalmers himself or from another person. Mr Davis sent Mr Chalmers electronic copies of a third party return and the Department's booklet. Based on Mr Chalmers' statements in the telephone conversation, Mr Davis clarified the circumstances with the Department of Local Government. It was Mr Davis' understanding from the conversation with Mr Chalmers that the funds for the gift

were already in the Mal Chalmers Trust Account for another purpose and that Mr Chalmers had been directed by his principal to disburse those funds.

The officer at the Department of Local Government (Mr Al Cormack) concurred with Mr Davis that, on the basis of the information supplied, as Mr Chalmers had not personally been given a gift which he applied for a political purpose, no third party return was required to be lodged. Mr Davis subsequently rang and spoke with Mr Chalmers and advised him of that conclusion. Mr Davis also recommended that Mr Chalmers should declare his principal to Ms Scott for the purposes of her Election Gift Return. Mr Chalmers apparently acted on that advice and wrote to Ms Scott advising her of the name of the principal donor. A copy of that letter was provided to Council and is now part of Ms Scott's election gifts return.

I would point out that when Mr Davis discussed the matter with an officer of the Department of Local Government it was agreed that, pursuant to section 414 of the Act, Ms Scott, in declaring the gift and naming the Mal Chalmers Trust Account, (and effectively Mal Chalmers as the trustee) and giving the business address of Mal Chalmers, had satisfied her disclosure responsibility.

That Departmental Officer agreed that there was an apparent loophole or uncertainty in the Act in that where a solicitor had money deposited in a solicitor's trust account for one purpose and subsequently received an instruction to disperse some or all of that money as an election gift, such funds would not constitute a gift to the solicitor and would therefore not trigger any requirement for a third party return from the solicitor. The provisions of section 414 "relevant details" only require the following in respect of a gift made out of a trust fund:

- (b) *for a gift purportedly made out of a trust fund or out of the funds of a foundation—*
 - (i) *the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and*
 - (ii) *the title or other description of the trust fund or the name of the foundation*

- d) Mr Greg Roberts, a reporter for the Australian newspaper wrote an article which was published on the front page of that paper on 16 May 2005 In essence that article was critical of the Mayor, Cr Ron Clarke, and alleged that Cr Clarke had failed to declare in kind support from the Surfers Paradise Licensed Venue Association. Mr Roberts contacted my office after his article had been published, ostensibly to check the accuracy of his report. I requested that Mr Davis respond to him. Mr Davis informed Mr Roberts that his article was flawed for the reason that the advertising and email campaign waged by the Surfers Paradise Licensed Venues Association was political expenditure incurred by the Association for its own purposes. It was not a gift to the then mayoral candidate Ron Clarke. Nor was it in kind support (as contemplated under the Act) for Mr Clarke. It was obviously a campaign against the former Mayor, Gary Baildon. Mr Roberts did not accept Mr Davis's advice nor my subsequent personal confirmation of that advice. I understand that Mr Roberts subsequently had at least one other article published, on 16 August 2005, which continued his particular view or interpretation of the matter. I do not resile from my view of the matter which I believe is correct.

- e) Following the article published in the Australian newspaper on 11 April 2005 the Mayor, Cr Ron Clarke, wrote to me to amend his election gifts return. The Mayor and Mr Davis subsequently spoke about the amendment with respect to the nature of the in-kind support provided by Mr Stephens and the commercial arrangement that had already been entered into relative to the matter. As a consequence of those discussions the Mayor wrote to me clarifying his earlier memo. Copies of the two memos are provided in Attachment 2. As appears, this matter confirms some "over-contract" driving about of an advertising sign beyond the agreed paid hours.

MATTERS PERTAINING TO THE SCHEDULE

- 4 Knowledge of cases of alleged or suspected official misconduct by Councillors of the Gold Coast City Council, concerning:
- 4a False or misleading statements of candidates for the Gold Coast City Council election in March 2004 with respect to details of any association with other candidates or entities.

I am not aware of any false or misleading statement of any candidate that would constitute an offence under Division 16 Enforcement, Subdivision 1 of the Local Government Act.

S 383 False or misleading statements

- (1) A person must not—
- (a) state something under this chapter that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made under this chapter anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—20 penalty units or 6 months imprisonment.

- (2) A complaint against a person for a contravention of subsection (1) is sufficient if it states that the statement was false or misleading to the person's knowledge.

S 384 False, misleading or incomplete electoral documents

A person must not give a document under this chapter containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—20 penalty units or 6 months imprisonment.

S.394 Misleading voters

- (1) During an election period, a person must not print, publish, distribute or broadcast anything that is intended or likely to mislead an elector about the way of voting at the election.
- (2) A person must not, for the purpose of affecting the election of a candidate, knowingly publish a false statement of fact about the personal character or conduct of the candidate.
- (3) During an election period, a person must not print, publish, distribute or broadcast by television anything that purports to be a representation of a

ballot paper for use in the election, if it is likely to induce an elector to vote other than in accordance with this part.

Maximum penalty—40 penalty units.

It is my understanding that section 383 relates to verbal statements required to be given as part of the electoral process, eg. an elector stating his name and address pursuant to s336(3), and does not extend to political statements made during a pre-election campaign. It is my understanding that s.394(1) is restricted to the manner in which a vote is cast.

Further, I am not aware of any documents that might be caught by s.384 of the Act.

4b Electoral bribery with respect to the Gold Coast City Council election in March 2004

I am not aware of any case of alleged or suspected misconduct involving electoral bribery of any candidate that would constitute an offence under s.385 of the Local Government Act.

4c Returns about election gifts with respect to the Gold Coast City Council election in March 2004

I am aware of the following allegations regarding offences relating to returns about election gifts:

- i. Allegation published in the Australian newspaper that the Mayor, Cr Clarke, had failed to declare in kind support, in the form of advertising and an email campaign provided by the Surfers Paradise Licensed Venues Association. I have considered this allegation and have previously formed the view that the allegation is unsubstantiated (see my comments in section 3d(d) above).
- ii. Accusation that the Mayor, Cr Clarke, failed to disclose in-kind support in the form of assistance provided by the late Tony Stephens. I am aware that this matter has been referred to the CMC (see Attachment 9).
- iii. On 18 July 2005 the Fraud Prevention & Security Advisor referred a matter to the Commission (CMC MI-05-2228, G.C.C.C. LG449/258/03/[09]CF (1006)).

This matter relates to an allegation that Cr Young failed to declare in his register of interests a gift from a corporation that runs a retirement village. A further matter related to Cr Young's correction to his election gifts return. The Commission referred the matter back to the Council to deal with (see Attachment 10). This matter has not yet been finalised.

4d Declaring and dealing with conflicts of interest or material personal interest since the Gold Coast City Council election in March 2004

I am not aware of any case of alleged or suspected misconduct involving declaring and dealing with conflicts of interest or material personal interest since the Gold Coast City Council election in March 2004 that would constitute an offence under section 244 or conflict with a councillor's role under section 229(2) or (3) of the Local Government Act.

There is no legal requirement for a Councillor to declare a conflict of interest. The requirement imposed under s229 is :

(2) *In performing the role, a councillor—*

- (a) *must serve the overall public interest of the area and, if the councillor is a councillor for a division, the public interest of the division; and*
- (b) *if conflict arises between the public interest and the private interest of the councillor or another person— must give preference to the public interest.*

(3) *A councillor must ensure there is no conflict, or possible conflict, between the councillor's private interest and the honest performance of the councillor's role of serving the public interest.*

I am aware of the contention that receipt of an election gift may give rise to a material personal interest or create a conflict of interest. I can find no provision of the Local Government Act which supports that contention.

4e Any criminal offence involving the performance of their functions since the Gold Coast City Council election in March 2004

I am not aware of any such criminal offence.

5 Your knowledge of any related cases of alleged or suspected misconduct by other persons

The following matters have been brought to my attention:

- a) On 25 October 2005 the Commission referred a matter to the Council's Fraud Prevention & Security Advisor (Matters Assessed Report MI-05-3222, G.C.C.C. LG449/258/03/CF (1076)).

This matter refers to a complaint from Mr Cecil Clark, a resident, that Cr Ray Hackwood

- accepted commissions to support route of ring road through Beenleigh Showground, and
- has a conflict of interest in relation to the awarding of Council contracts for heavy plant.

There is no evidence to support the allegation.

(See Attachment 11)

- b) On 18 October 2005 the Commission referred a matter to the Council's Fraud Prevention & Security Advisor (Matters Assessed Report MI-04-2217, G.C.C.C. LG449/258/03/CF (1067)).

This matter relates to information from Mr Warren James, a resident, that favouritism was been given to the late Cr Sue Robbins and current Cr Chris Robbins, who received permission to operate the beach markets without tenders being called. There is no evidence to support the allegation.

(See Attachment 12)

- c) On 11 October 2005 the Commission referred a matter to the Council's Fraud Prevention & Security Advisor (Matters Assessed Report MI-05-3110, G.C.C.C. LG449/258/03/CF (1067)).

This matter relates to information from Mr Warren James, a resident, about various matters including banning of election advertising signs and failure to pursue electors who did not vote. There is no evidence to support the allegations.

(See Attachment 13)

- d) On 22 October 2004 Cr Ted Shepherd raised concerns with myself, and on 15 September 2005 he reiterated these comments to the then Acting Chief Executive Officer Mr Joe McCabe (Council reference LG449/258/03/CF (1063)).

Cr Shepherd's concern was that Cr Peter Young voted in a conflict of interest / material personal interest matter on PN155302/01/DA2 196 Maudsland Road Maudsland DA9802500 MCU9800204. On 19 September 2005 the Council's Fraud Prevention & Security Advisor provided Mr McCabe, as acting CEO, with a report on the matter, and on 27 September 2005 he provided Crs Shepherd and Young with advice.

(See Attachment 14)

- e) On 9 September 2005 the Commission referred to the Council's Fraud Prevention & Security Advisor the Matters Assessed Report MI-05-2793 (Council reference LG449/258/03/CF (1059)).

This matter relates to an anonymous complaint that Cr Hackwood had a conflict of interest in relation to the awarding of Council contracts for heavy plant. The matter was referred to Council to deal with. There is no evidence to support the allegation.

(See Attachment 15)

- f) On 1 July 2005 Council's Fraud Prevention & Security Advisor referred a matter to the Commission (Commission reference MI-05-2077, Council reference LG449/258/03/11/CF (1050)).

This matter relates to an incident where confidential information relating to a harassment matter was released without authority. The Commission referred the matter for Council to deal with. An independent investigation is being conducted through Council's Legal Services Branch. This issue remains outstanding at this time.

(See Attachment 16)

- g) On 19 April 2005 Council's Fraud Prevention & Security Advisor received information from Cr David Power (G.C.C.C. LG449/258/03/CF (1025)), which was passed to the Commission.

Cr Power's concern was that Mr John Wayne, a candidate for the 2004 election may not have declared benefits, i.e. provision of a mobile sign and driver by Mr Tony Stephens.

(See Attachment 17)

- h) On 20 June 2005 Council's Fraud Prevention & Security Advisor referred a matter to the Commission (CMC MI-05-1976, G.C.C.C. LG449/258/03/CF (1015)).

This matter relates to information from Ms Leanne Bartrim, a past employee in the Accounts Department, that she believed that the Transit Centre / Bruce Bishop Car Park report to Council and recommendations were written to satisfy some Councillors, with developers' interests in mind. The Commission referred the matter back to the Fraud Prevention & Security Advisor. There is no evidence to support the allegation.

(See Attachment 18)

- i) On 1 February 2005 the Commission referred a matter to the Council's Fraud Prevention & Security Advisor (Matters Assessed Report MI-05-0393, G.C.C.C. LG449/258/03/CF (1010)).

This matter relates to the complaint of Bruce Atkinson, a resident, that Council has not acted on noise complaints about the Darlington Park Raceway Complex due to the inappropriate involvement of the Mayor Ron Clarke. On 23 May 2005 a letter of response was sent to Mr Atkinson.

(See Attachment 19)

- j) On 24 February 2005 the Commission referred a matter to the Fraud Prevention & Security Advisor (Matters Assessed Report MI-04-0882, G.C.C.C. LG449/258/03/CF (1008)).

This matter relates to a complaint of Ms Jean Campbell of the Willow Vale Residents Action Group concerning conflict of interests by Councillors (Mayor Cr Gary Baidon, Cr Max Christmas, and CEO Dale Dickson (myself) in relation to development of a cableway. The evidence did not substantiate the allegation.

(See Attachment 20)

- k) On 14 October 2004 Cr Peter Young raised concerns with the Fraud Prevention & Security Advisor (Council LG449/258/03/CF (0959).

This related to concerns that Cr Ted Shepherd divulged to a journalist that two councillors were named as defendants in a writ. The matter was assessed the Council's Fraud Prevention & Security Advisor and it was decided to take no action. On 9 November 2004 a report was issued to Cr Young.

(See Attachment 21)

- l) On 25 June 2004 the Commission referred a matter to me as Returning Officer (Matters Assessed Report MI-04-1270, G.C.C.C. LG449/258/03/CF (0930).

This matter relates to anonymous correspondence that Cr David Power paid a person to vote for him during the 2004 election. The matter was assessed by the CMC which advised me that "no suspicion of official misconduct is raised". The CMC then referred the information to me "as the Returning Officer for information and any further action considered appropriate". I considered that no further action was appropriate.

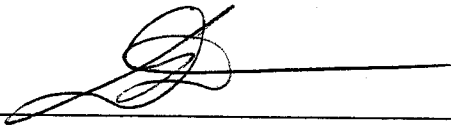
(See Attachment 22)

- m) On 27 April 2004 the Council's Fraud Prevention & Security Advisor referred a matter to the Commission (Commission reference MI-04-1453, Council reference LG449/258/03/[01]/CF (0913)).

This matter relates to publication in the Gold Coast Bulletin of details of a confidential Council report on the Surfers Paradise Transit Centre. The matter was referred back to the Council's Fraud Prevention & Security Advisor who provided me with a report on 11 August 2004. The report concluded that there was no evidence to indicate how the report was provided to the Gold Coast Bulletin and that there was insufficient evidence to establish who released the report or why it was released.

(See Attachment 23)

- n) On 21 June 2004 Cr Sarroff sent me a memo which relating Council officers' alleged reluctance to offer advice which in his opinion was in the public interest. His memo stated "In conclusion, I feel that this administration seems to be more driven by what the powerful group of Councillors seem to be interested in rather than what is for the betterment of the community. I am of the strong view that officers should be offering their advice without fear or favour". I responded to Cr Sarroff on 9 July 2004. Copies of the memos are attached (see Attachment 24).



Signed by
Dale Robert Dickson
Chief Executive Officer
Gold Coast City Council

11 November 2005

Date

APPLICATION FOR ACCESS TO
REGISTER OF ELECTORAL GIFTS

FOR SUCCESSFUL AND UNSUCCESSFUL CANDIDATES

Under Section 433 of the Local Government Act 1993 the Chief Executive Officer of a local government must keep for the local government a register of electoral gifts.

Section 434 of the Act requires that the register of electoral gifts is open to inspection.

PARTICULARS OF APPLICATION

PLEASE PRINT

NAME OF APPLICANT:

SONRAD MARTENS

ADDRESS OF APPLICANT:

GLEE

I hereby request access to the Register of Electoral Gifts of the following candidate under the provisions of Section 434 of the Local Government Act 1993:

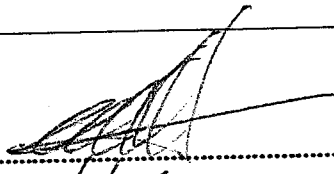
NAME OF CANDIDATE/S:

ALL CANDIDATES MARCH '04
AND BI-ELECTION JANUARY '05

Section 434(2) of the Local Government Act requires that a person must not knowingly disclose information obtained from the register if it is not a true copy or fair summary, of the particulars in the register.

Maximum penalty: 20 penalty units

Signature of Applicant:



Date:

11/4/05

OFFICE USE ONLY

Date of Access:

11.4.05

Officer Authorising Access:

CMILLS

Officer Witnessing Access:

SWILLIAMS

Copy of the Form forwarded to Cr:

N/A

MILLS Catherine

From: DAVIS Tony
Sent: Monday, 11 April 2005 1:53 PM
To: MILLS Catherine
Subject: FW: 1035

Hi Cath
Could you look after this one please

Ta

Tony

-----Original Message-----

From: MARTENS Conrad
Sent: Monday, 11 April 2005 12:18
To: DAVIS Tony
Subject: 1035

CONFIDENTIAL

Tony,

I require ASAP a copy of the returns and any amended returns given to the CEO following the election in March 2004 as follows:

1. returns by all candidates under s. 427 of the Local Government Act (the Act)
2. returns by all candidates under s. 428 of the Act
3. returns by third parties under s. 430 of the Act; and
4. any amended return under s. 432 of the Act.

Regards
Conrad

MILLS Catherine

From: MARTENS Conrad
Sent: Monday, 11 April 2005 12:15 PM
To: DICKSON Dale
Subject: FW: Request for copy of returns under sections 427, 427A, 430 and 432 of the Local Government Act

Dale, FYI

-----Original Message-----

From: Mark Docwra [mailto:Mark.Docwra@cmc.qld.gov.au]
Sent: Monday, 11 April 2005 12:06
To: MARTENS Conrad
Subject: Request for copy of returns under sections 427, 427A, 430 and 432 of the Local Government Act

Conrad,

I refer to our telephone call today.

In the performance of its misconduct functions, the Crime and Misconduct Commission (CMC) requests it be provided with a copy of the returns and any amended returns given to the Chief Executive Officer of the Gold Coast City Council following the Gold Coast City Council election in March 2004 as follows:

1. returns by all candidates under s. 427 of the Local Government Act (the Act)
2. returns by all candidates under s. 428 of the Act
3. returns by third parties under s. 430 of the Act; and
4. any amended return under s. 432 of the Act.

It would be greatly appreciated if you could expedite the processing of this request and, if possible, provide the CMC with a copy of the requested information on or before the close of business Wednesday 13 April 2005.

If you wish to contact me to discuss the matter, you may do so by telephone (3364 6374), facsimile 3360 6006 or by return email.

Many thanks.

Regards

Done
11/4/05

Mark Docwra
Senior Legal Officer
Receivals and Assessments Unit
Complaints Services

This message (including attachments) is intended for the addressee named above. It may also be confidential, privileged and/or subject to copyright. If you wish to forward this message to others, you must first obtain the permission of the author.

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Opinions expressed in this message are those of the sender and do not necessarily represent the official position or opinions of the Crime and Misconduct Commission.

While all care has been taken, the Crime and Misconduct Commission disclaims all liability for loss or damage: that may result from reliance on, or the use of, information contained in this email and attachments; or to person or property arising from this message being infected by computer virus or other contamination.



Mayor

—

—

GOLD COAST CITY
OFFICE OF THE MAYOR



Gold Coast City Council

11 April 2005

Mr Dale Dickson
Chief Executive Officer
Gold Coast City Council
135 Bundall Rd.
Surfers Paradise 4217

Dear Dale

I wish to clarify my earlier memo which I sent to you as a result of the Australian newspaper story today.

During the election campaign it came to my attention that Mr Tony Stephens had an existing mobile sign that could be utilised for my electoral campaign. The matter was discussed and a commercial contract was entered into whereby I paid for the artwork necessary to have the existing sign converted to a sign advertising my mayoral campaign. I also entered into a separate commercial contract to have an independent driver drive the sign around the Gold Coast.

As the above were normal commercial arrangements, bought and paid for, there was no implication for my electoral gifts register.

Mr Tony Stephens took it upon himself to drive the sign around the Gold Coast over and above the commercial arrangements outlined above. I was, and still am, unaware of the extent of this "support" provided by Mr Stephens. I have amended my electoral gifts register to record an estimated value of this support.

I would like the record to show that I was not aware of the extent of the support provided by Mr Stephens. As far as I was concerned I had bought and paid for the electoral assistance (advertising) provided by Mr Stephens.

Yours sincerely

RON CLARKE
MAYOR

10

GOLD COAST CITY
OFFICE OF THE MAYOR



Gold Coast City Council

Monday 11 April 2005

Mr Dale Dickson
Chief Executive Officer
Gold Coast City Council
135 Bundall Rd.
Surfers Paradise 4217

Dear Dale,

It has been brought to my attention that I may have inadvertently not included some non-financial electoral support in my return of Local Government Electoral Gifts Register, which I furnished to you in June 2004. Accordingly, I wish to amend my Form 1 Declaration to include an in-kind gift, represented by a large mobile sign and some time spent towing the sign around districts of the Gold Coast, to the value of between \$20,000 and \$40,000. I paid for the sign writing and for another full time driver over three weeks.

I also produced 100 rubber decal signs that I supplied to supporters and friends to the value of \$1500 for them to display on their private vehicles. As a matter of prudence, could you please make these changes to my declaration for the 2004 election as a matter of urgency.

Yours sincerely

RON CLARKE
MAYOR

Received 11:15 am
Monday 11/4/05
JD

GOLD COAST CITY
OFFICE OF THE MAYOR



Gold Coast City Council

MEMORANDUM

TO: CEO, DALE DICKSON
FROM: MAYOR RON CLARKE
DATE: WEDNESDAY 7 JULY 2004
SUBJECT: ELECTORAL ASSISTANCE

CONFIDENTIAL

Dale,

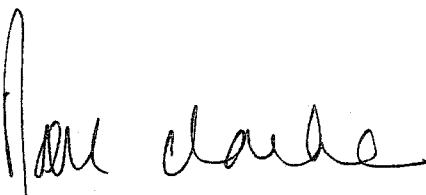
I have been reminded of two areas of in kind assistance at the end of my recent campaign for election as Mayor that I believe should be registered.


This means, if possible, amending my previous "nothing to declare" statement.

These are:

1. The proprietors of Darlington Park Raceway offered to provide free days to any of the persons who assisted my campaign on electoral day by volunteering to man polling booths. As Darlington Park has been closed ever since for random usage, these offers may not eventuate but, nevertheless, they were made in good faith and this perhaps should have been recorded in my disclosure.
2. A Mr Bernie Hatton of Top Rider Motorcycles, drove me around the polling booths and loaned me a helmet on Election Day. This gesture may qualify as an "in kind" donation and, as such, should be added to my statement of assistance.

I apologise for the last minute amendments.


RON CLARKE
MAYOR

DD -
Noted in register of
electoral gifts 8/7/04

CMILLS

Division

5



Memorandum

To : Dale Dickson, Chief Executive Officer

From : Councillor Peter Young

Subject : 2004 Election Gift Register

Date : 5 May 2005

Please be advised that I have today determined there is an error in my 2004 Election Gift Register. In both my Interim and Final Returns I included an entry for a gift from Cater Corporation and an amount of \$3,000.

In seeking to establish the details of non-election related gifts provided to me by Cater Corporation after the disclosure period (i.e. advertising in the period May-August 2004), I was yesterday advised by Cater Corporation that they had contributed a sum of \$5,000 (see attachment). Believing this to be wrong I last night checked my personal bank files. I have confirmed that the correct amount of the Election Gift from Cater Corporation is in fact \$5,000.

The Election Gift Return was completed by myself. The error is entirely my fault. My bank deposit slip, completed by myself, clearly shows a cheque for \$5,000 from Cater Corporation was deposited by me into my account on 20th February 2004.

In accordance with s432 of the *Local Government Act* I am applying to you to amend my Election Gift Register to reflect the correct details of this Gift.

I accept full responsibility for not completing the Election Gift Register correctly. I can only submit that it was not an intentional error. I was quite assiduous about my Register, even including details of very minor (\$5) gifts. I understand I may be subject to the Offence provisions in s436 of the Act.

Cr Peter Young
Ext: 8400

Received
 [Signature]
 10/5/05

4.30p

YOUNG Peter

From: Jo Hockings [Jo@gardensonlindfield.com.au]
Sent: Thursday, 5 May 2005 11:48 AM
To: YOUNG Peter
Subject: RE: request for information please

Peter

Cheque num 1974 - which was banked on the 20th February 2004 for \$5000.00.

Newsletters as follows (I found another one under the heading The Local Newsletter):

20.05.04 - 450.00 - Banked 17.06.04
01.07.04 - 440.00 - ch 2400 - Banked 24.09.04
23.07.04 - 440.00 - ch 2400 - Banked 24.09.04
25.08.04 - 440.00 - ch 2400 - Banked 24.09.04

Jo

-----Original Message-----

From: YOUNG Peter [mailto:PYOUNG@goldcoast.qld.gov.au]
Sent: Thursday, 5 May 2005 11:01 AM
To: Jo Hockings
Subject: RE: request for information please

Hi again

thanks, but more confusion now! My election gift record shows \$3,000 was received on 2 March 2004. That may be the date I put it in the bank. Differences in the actual amount is a concern. I will check my bank record tonight, but hope my record is right!

Sorry to ask for more info, but if you are able to advise the date of the three payments to Local Newsletter that would be very good too.

many thanks Jo

Peter

-----Original Message-----

From: Jo Hockings [mailto:Jo@gardensonlindfield.com.au]
Sent: Thursday, 5 May 2005 10:38
To: YOUNG Peter
Subject: RE: request for information please

Peter

Looked up The Local Newsletter and there were 3 payments of \$440.00 totalling \$1320.00. The \$5000 donation was made on the 18th February 2004 NOT 2005, sorry for the typo.

Jo

-----Original Message-----

From: YOUNG Peter [mailto:PYOUNG@goldcoast.qld.gov.au]
Sent: Wednesday, 4 May 2005 5:58 PM
To: Jo Hockings
Subject: RE: request for information please

\$5,000!!

Jo, how many editions was that? I thought it was about \$400 per edition, and just two or three were published before the Local Newsletter advised they would no longer publish them. Can you please check? I am going

through my records too...

thank you

Peter

-----Original Message-----

From: Jo Hockings [mailto:Jo@gardensonlindfield.com.au]
Sent: Wednesday, 4 May 2005 13:19
To: YOUNG Peter
Subject: RE: request for information please

Peter

We donated \$5000.00 on the 18th February 2005.

Who were the printers... I cant remember.

Jo

-----Original Message-----

From: YOUNG Peter [mailto:PYOUNG@goldcoast.qld.gov.au]
Sent: Tuesday, 3 May 2005 8:16 PM
To: Jo Hockings
Subject: request for information please

Hi Phil

Hope you are going well and things are all falling into place. Sorry to bother you regarding the advertisements you paid for on my behalf last year (in The Local Newsletter) but I would appreciate please your confirmation of the amounts and dates paid for the advertisements. This is for my Gift Register that I need to update asap..

Sincere regards

Peter

This email and its contents is confidential to the Gold Coast City Council, and un-authorized use is strictly prohibited.

This email and its contents is confidential to the Gold Coast City Council, and un-authorized use is strictly prohibited.

This email and its contents is confidential to the Gold Coast City Council, and un-authorized use is strictly prohibited.



MEMORANDUM

To : Dale Dickson, Chief Executive Officer

From : Cr Peter Young

Subject : Return of Gifts Register

Date : 20 May 2004

On 5 April 2004 I submitted an interim 'Return of Gifts' register relevant to my re-election as Councillor for Division 5.

Within that return I included an entry for a donation of \$3,000 from Cater Corporation. That figure is incorrect and should be \$5,000. This error arose from an error in my record keeping and was just recently made apparent when the Director of that company returned from an overseas holiday.

In keeping with s432 of the *Local Government Act* (Amendment of Returns) I am making application to amend the Interim Return.

I have attached an amended copy of the relevant pages of my return, for inclusion on the Register that you maintain. Please note that it is still my intention to lodge a Final Return before the close of the period allowed under the legislation.

If there are any problems or issues arising from this notification please do not hesitate to contact me

Cr Peter Young
Ext: 8400

*Recd. Arnold,
 Kaye
 20/5/04.*

Section B - Candidate who received gifts during the disclosure period

Disclosure period covered by this return

Commencement Date: 5 MAY 2000
(Refer to Act to calculate commencement date)

Conclusion Date: 5 MAY 2004
(30 days after conclusion of the election - the election concludes when the last notice of the result is displayed in the Council's office)

Total value of all gifts received ~~requiring disclosure~~ received as an individual candidate and/or by the candidate's campaign committee: \$ ~~11,880.00~~ \$13,880.00 *corrected*

Number of person(s) who made those gifts: 42 *20/5/04 P.Y.*

If a gift or a series of gifts of a total value of \$200 or more was received by you as an individual candidate or by your campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/~~FINAL~~*RETURN

Section B - Certification (as an individual candidate)

I certify that to the best of my knowledge and belief, this interim return contains the information readily available at the time the return is given and it is correct. * OR

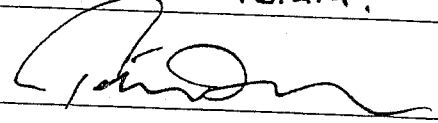
~~I certify that to the best of my knowledge and belief, this final return contains the information readily available at the time the return is given and it is correct. I do not expect to receive any further gifts during the remainder of the disclosure period. However, should I receive any further gifts after the giving of this return I will disclose them by submitting a further return. * OR~~

I certify that to the best of my knowledge and belief, the information provided in this final return is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).
address of ^{minor} 1 donor not known (each gift < \$20)
* address of 3 major donors not known.

Reason for deficiency (please identify why the particulars were not able to be obtained).
address not recorded by person receiving gifts. value of
~~each gift not under limit required for declaration anyway.~~

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).
* address of 3 donors marked with
asterisk to be determined by me and lodged in final
return.

SIGNATURE: 

DATE: 5 APRIL 2004

(* Note: Delete whichever is not applicable)

Relevant details of gifts

Name of Donor	Address of Donor	Date gift made	Amount or value of gift \$	Describe if gift in kind
* MORE ENTERPRISES	address unknown	11/3/04 11/3/04	\$400.00	
* R.G. & M.A. HARDING	address unknown	11/3/04	\$350.00	
PHIL GRAY	64 CLARENCE DR HELENSVALE	11/3/04	\$250.00	
* BILL M'GRATH	address unknown	11/3/04	\$500.00	
AJ. BROMLEY	66 RIVERBOUNSS CR HELENSVALE	11/3/04	\$300.00	
MARK TIERNEY	38 KODLA DR NERANG	20/2/04	\$500.00	
RITA MAHON	53 MERLOD DR NERANG	9/3/04	\$500.00	
JOAN YOUNG	661A BRIGHTON RD SEACLIFF S.A.	9/3/04	\$400.00	
CATER CORPORATION	Po Box 144 SANCTUARY COVE	2/3/04	\$3,000.00 \$5,000.00	Corrected 20/5/04 P.H.
SIMIAM PIL	Po Box 468 ROBINA	10/3/04	\$1,500.00	
ANDY McCONVILLE	40 OREGON WAY OXFORD	14/3/04	\$80.00	GIFTS (2) FOR RAFFLE
PETER CROSSLEY	KYTE ST CURRUMBIN	FEB- MAR	\$400.00	IN KIND - VIDEO PRODUCTION
JOHN WAYNE	45 CRESTHILL DR WONGAWALLAN	FEB- MAR	\$800.00	GRAPHIC LAYOUT
CANDWINDR HOLDINGS	6, 19 SIR JOHN OVERALL DR HELENSVALE	14/3/04	\$100.00	
LEANNE SARROFF	13 CLELAND CR BROADBEACH WATERS	17/3/04	\$300.00	HATS FOR BOOTH WORKERS
GOLD COAST BREADMAKER SUPPLIES	4 LAVELLE ST NERANG	14/3/04	\$40.00	GIFTS FOR RAFFLE

(If more than one page is needed photocopy this page)

Division

10

Councillor Eddy Sarroff
Division 10

DATE: 12 January 2005

MEMO TO: Tony Davis, Manager Office of the CEO

MEMO FROM: Cr Eddy Sarroff

SUBJECT: Statement of Interests

Tony

Thank you for bringing to my attention the order in which my election gifts have been declared.

To best clarify the matter, I have listed all of the donations on the attachment provided.

Please advise if any further clarification is required.

Regards



Councillor Eddy Sarroff
COUNCILLOR FOR DIVISION 10
X6171

ES:CM

FINAL RETURN Conclusion 24/6/2004

Relevant details of gifts

Name of Donor	Address of Donor	Date gift made	Amount or value of gift \$	Describe if gift in kind
McILWAIN FAMILY	34 McILWAIN Dr MERMAID WATERS	13/3/04	500.00	CASH
MM B SERVICES	P.O BOX 189 BROADBEACH 4214	21/3/04	2403.50	CASH
LABEL X P/L (SARGOFF FAMILY OWNED CO.)	1/6 Hampton Rd BURLINGHAM	MARCH 04	1550	CASH
LABEL X P/L	—————	MARCH 04	100 HATS	IN KIND
MM B SERVICES	P.O BOX 189 BROADBEACH 4214	28/6/04	3801.20	CASH

(If more than one page is needed photocopy this page)

Cater

12

Councillor Eddy Sarroff

Division 10

DATE: 24 December 2004

MEMO TO: Tony Davis, Manager Office of the CEO

MEMO FROM: Cr Eddy Sarroff

SUBJECT: Local government Election Gifts Return of Gifts

FAXED
24/12/04

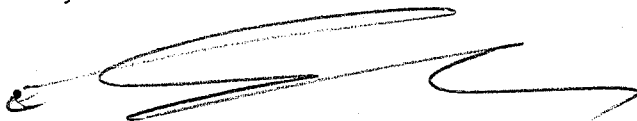
Following our discussion last week in relation to the Return of Gifts register, I have sited the forms and make these comments. My interim return covered the period up to 5/5/2004 which showed an amount of \$4453.50. My final returned covered the period from 5/5/2004 to 28/6/2004 with the value of the gifs received being \$3801.20.

To avoid any confusion can you ensure that when the register is being inspected that both returns are presented.

For the purpose of providing the information as required by the Council resolution, the total donations would of course be a combination of the interim and final returns, totaling \$8254.70.

I hope this clarifies the matter. If you require further clarification please do not hesitate to call.

Thank you.



Councillor Eddy Sarroff
COUNCILLOR FOR DIVISION 10
X6171

ES:RO

REGISTER CONTROL SHEET

Form #	Date Inserted	Date Accessed	Action (ie. Copied/ viewed)	Officer	Witness
FOLIO 1-4	23.8.05	-	memo + return from GC LICENSED VENUES control in progress	<i>[Signature]</i> EMILLS	<i>[Signature]</i> Anwald
FOLIO 1-4	-	3.10.05	copy to Contract Martens for CMC <i>[Note: 171015 should be 118105, T. Davis notified.]</i>	<i>[Signature]</i> EMILLS	<i>[Signature]</i> Anwald

FILE 9

Memorandum



TO : IMU Classification
FROM : Tony Davis - Manager Office of the CEO
ACTION BY : IMU Classification
SUBJECT : Registration of Incoming Document
Mr Jim Bell - ~~Surfers Paradise~~ Licensed Venues Association
DATE : 23 August 2005
FILE NO : LG290/774/04/01 #17786212

Please register this incoming document received from :

Mr James Bell
Gold Coast Licensed Venues Association
46 Cavill Avenue
Surfers Paradise

Please note that this is apparently the 2nd Return submitted to GCCC following the GCCC Elections in March 2004.

Please forward original document once registered to Tony Davis, Manager Office of the CEO for filing.

A handwritten signature in black ink, appearing to read 'A R Davis', written over a circular scribble.

A R Davis
MANAGER OFFICE OF THE CEO

Atch .

OFFICE USE ONLY

Date received:	Registered No:
----------------	----------------

LOCAL GOVERNMENT ACT 1993	RETURN OF GIFTS
Section 430	BY A PERSON (OR ORGANISATION) OTHER THAN A REGISTERED POLITICAL PARTY OR A CANDIDATE FOR A LOCAL GOVERNMENT ELECTION

(Further information to assist third parties to complete this form is attached)

Details of person furnishing this return

Name of person furnishing this return: JAMES BELL

Name of organisation on whose behalf the return is completed (if applicable):
GOLD COAST LICENCED VENUES ASSOCIATION

Postal Address: 46 CAVILL AVE.
SURFERS PARADISE.

Local Government: _____ Division No. _____ (if applicable)

Disclosure period for third party

Disclosure period covered by this return

Commencement Date: 2004 GOLD COAST ELECTIONS
(Refer to Act to calculate commencement date)

Conclusion Date: _____
(The prescribed period (currently 30 days) after the polling day for the election)

Requirements under the Local Government Act 1993 regarding the completion of this return

This return must be furnished by any person or organisation (a "third party") who, during the disclosure period, incurred expenditure or reimbursed expenditure for a political purpose of \$1,000 or more about one or more elections for a particular local government AND who received gifts of a value of \$1,000 or more for expenditure or to reimburse expenditure in relation to that local government.

Certification

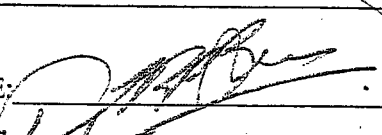
I certify that to the best of my knowledge and belief, the information provided in this return is correct and complete. * OR

~~I certify that to the best of my knowledge and belief, the information provided in this return is correct and complete except to the extent identified below:~~

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).


SIGNATURE: 

DATE: 12/9/05

Wrong date should have been 17/8/05 TO notified CM

(* Note: Delete whichever is not applicable)

I WOULD LIKE TO STATE THAT THIS IS THE SECOND RETURN I HAVE COMPLETED. I COMPLETED ONE LAST YEAR AFTER THE ELECTIONS.

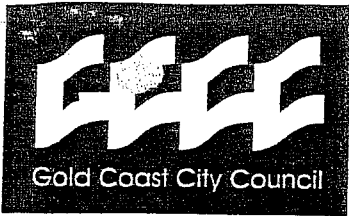

J.R. BELL

Details of gifts received

List on the following page the details of any person or organisation who, during the disclosure period made a gift (or series of gifts) of a total value of \$1,000 or more which were used wholly or partially to incur expenditure or reimburse expenditure for a political purpose during the disclosure period in relation to one or more local government elections for the relevant local government.

Name of Donor	Address of Donor	Date gift made	Amount or value of gift \$	Describe if gift in kind
G. L. V. A	416 CAVILL Ave SURFERS Paradise		\$18,000	PAPER AD.
G. L. V. A.	"		\$3000	RADIO SPM.
"	"		\$8000	SMS TEXT Messages.
"	"		\$1000	FLYERS IN CLUBS.

(If more than one page is needed photocopy this page)



DOCUMENT ACTION SHEET



File Part: LG290/774/04/01(P4)

File Title: NEW INDEX / LG - LOCAL GOVERNMENT ADMINISTRATION / ELECTIONS / LOCAL GOVERNMENT ELECTIONS YEAR 2004 / REGISTER / ELECTORAL GIFTS

Prev File Number:

GCCC Int Ref:

Document Name COPY OF CONFIRMATION THAT FAMILY ASSETS WAS THE PRINCIPAL DONOR IN FUNDING FOR THE ELECTORAL CAMPAIGN

Description: 20050908.012

Doc # 17838428
TOSATTO_KAREN

Ext Org: MAL CHALMERS & COMPANY SOLICITORS

Ext Auth:

Ext Ref: MIC:NR

File Borrower: MILLS_CATHERINE

File Home Location: RECORDS SERVICES



1039804

Acknowledgement of Correspondence Letter Sent:

Action History

Date	Action Officer	Location / Department	Act. Off. Sign Off	Sign Off Date	Records Use Only
08/09/2005	DAVIS TONY	SURFERS CEO - OFFICE OF CEO			

File Note:

Attention: TONY DAVIS

MAL CHALMERS & COMPANY

Solicitors

1156 Gold Coast Highway

PALM BEACH QLD 4221

(PO BOX 53, PALM BEACH)

TEL: 07 5534 4233

FAX: 07 5534 4472

ABN: 75 004 594 681

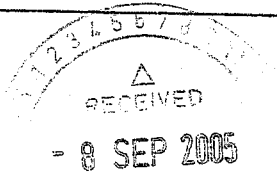
Email: chalmers@malchalmers.com.au

COPY

Our Ref: MIC:NR

Your Ref:

25 August 2005



Ms Roxanne Scott

PO Box 10383

SOUTHPORT MAIL CENTRE QLD 4215

Dear Ms Smith,

I am writing to you to confirm that Family Assets Pty Ltd were the principal donor to you of the sum of \$5,000.00 in respect of your electoral campaign at the last local government election.

Yours faithfully

MAL CHALMERS & CO

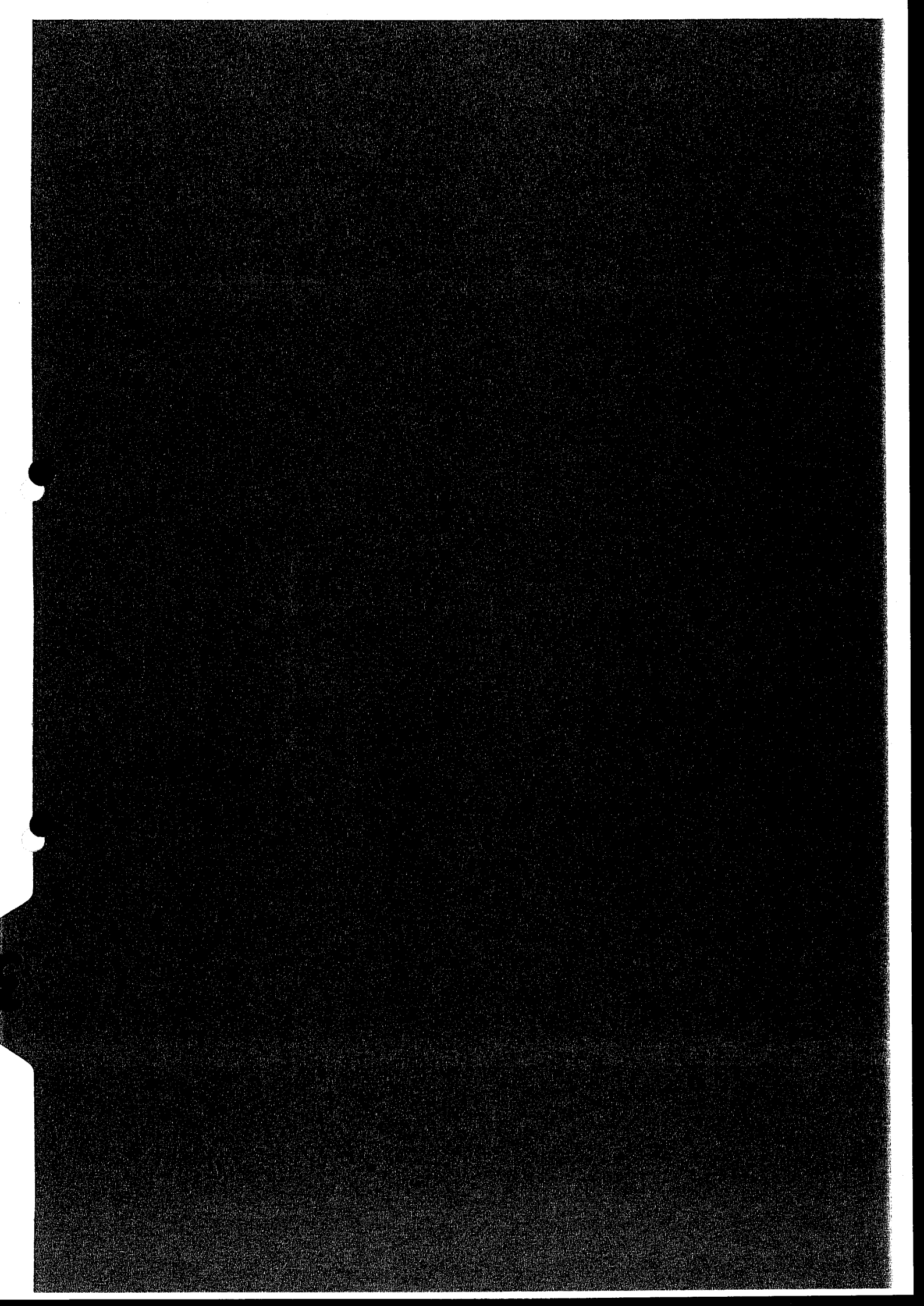
Per:

Received 6/9/05
R Scott

GCCC-IMU



1039804



30 July 2004
A Beynon
Waterside West
(07) 5581 7498

LG290/774/04(P1)

Mr Lionel Barden
21 Highbridge Rise
MUDGEERABA QLD 4213

Dear Mr Barden

RE: LOCAL GOVERNMENT ELECTION GIFTS RETURN

I refer to your Return of Gifts dated 16 June 2004, lodged in accordance with section 430 of the Local Government Act 1993 ("LGA").

Section 430(2) of the LGA requires you to disclose "relevant details" of donors, which term is defined in section 414 of the LGA to be the value of the gift, when the gift was made and the name and residential or business address of the entity that made the gift.

On the page headed "Details of gifts received" you identify a gift made by Blue Sky Capital Pty. Ltd. on 23 March 2004 in the sum of \$10,000.00. You do not, however, provide a business or residential address for the donor.

In accordance with section 435 of the LGA, I accordingly notify you that your return contains an omission, namely, it does not provide a business or residential address for Blue Sky Capital Pty. Ltd.

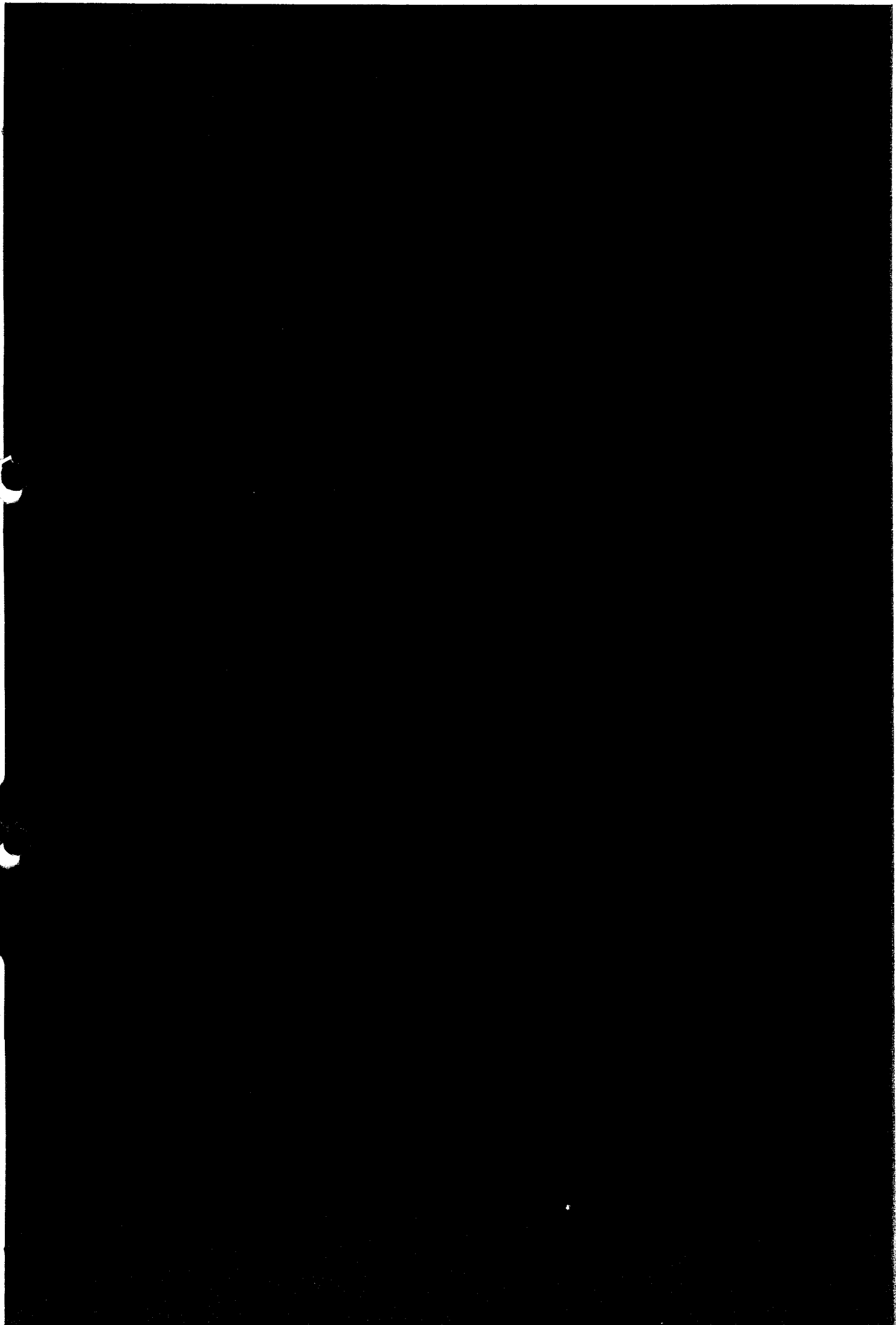
You must now take action, as prescribed in section 435, to address this matter. To assist you in this regard, I enclose copies of sections 435 and 432 of the LGA.

I look forward to your response to this notification, within the time prescribed by section 435.

Yours faithfully

Dale Dickson
CHIEF EXECUTIVE OFFICER

Encl.



WILLIAMS Sue

From: BEYNON Tony
Sent: Thursday, 10 November 2005 8:16 AM
To: DICKSON Dale; DAVIS Tony; MILLS Catherine
Subject: Candidates Information Pack

Good morning all how are you?

Further to your request regarding what information was given to Candidates at the 2004 Council Election I can advise after discussions with Alex Ouff and Cec McPaul that the following information was distributed to all Candidates:-

1. ALL Candidates and there were no exceptions were required to meet with the Returning Officer to discuss the Returning Officers requirements of the Candidates.

2. Each Candidate was given an Information Pack which consisted of :-

- a. Candidates Handbook (Dept Local Government publication)
- Election Gifts Handbook (Dept Local Government publication)
- List of Polling Places
- d. Map of Division (In the case of Mayoral Candidates maps of all divisions were given)
- e. Estimated number of Voters per Division broken down to individual Polling Places
- f. Scrutineers Handbook and Scrutineer Appointment Forms
- g. Printed version of the Roll
- h. Correspondence advising of counting procedures and venues
- i. Details regarding Check Count
- j. Hard copy of Whole of City Roll
- k. Council's Sign Policy relating to Election Signs
- l. Advice as to how to obtain roll on CD

3. Also as part of the process advertisements were placed in local press advising of the commencement of postal and pre poll voting, details of mobile polling and electoral visiting. All candidates were officially advised of this by correspondence.

And before any of you ask if there is a pack available the answer is no as we had the By Election for Division 14 in January 2005. Candidates handbooks and Election Gifts booklets from the Dept of Local Government were out of ● at and candidates for the By Election were given extracts (photocopies) and were also directed to the ● departments website.

I hope this information is what you require.

Regards

Tony

Tony Beynon
Manager
Community Venues & Projects
Gold Coast City Council
ph: (07) 5581 6783
email: tbeynon@goldcoast.qld.gov.au

5

2 April 2004
A Beynon
Waterside West
(07) 5581 7498

LG290/774/04(P1)

«Title» «FirstName» «LastName»
«Address1»
«Address2»
«Address3»

Dear «FirstName»

The 2004 local government election has come and gone.

The Local Government Act, Section 427(2), requires that unsuccessful candidates complete and return the enclosed Form 2 - Local Government Election Gifts - Return of Gifts.

It would be very much appreciated if you could complete the form by no later than 26 April 2004 and return it to The Chief Executive Officer, Gold Coast City Council, PO Box 5042, Gold Coast MC 9729.

Upon Council receiving the completed form your nomination deposit of \$150 will be refunded.

Many thanks.

Yours faithfully

A BEYNON
MANAGER COMMUNITY RELATIONS

Title	FirstName	LastName	Address1	Address2	Address3
Mr	Ian	Latto	Gold Coast Greens	PO Box 1007	BURLEIGH HEADS QLD 4220
Mr	Dean	Vegas	PO Box 855	OXENFORD QLD 4210	
Mr	Gary	Baildon	Unit 2 - Atlantis East	Admiralty Drive	SURFERS PARADISE QLD 4217
Ms	Linda	Mina	22 Linning Street	MT WARREN PARK QLD 4207	
Mr	John	Wayne	45 Cresthill Drive	WONGAWALLAN QLD 4210	
Mr	Fred	Woodley	2/10 Maiala Close	PARADISE POINT QLD 4216	
Mr	David	Childs	41/37 Bayview Street	RUNAWAY BAY QLD 4216	
Ms	Anne	Bennett	PO Box 791	RUNAWAY BAY QLD 4216	
Mr	Wayne	Skuthorpe	2/3 Morinda Way	LABRADOR QLD 4215	
Mr	Peter	Keech	PO Box 1086	BEENLEIGH QLD 4216	
Mr	Hans	Heinrich	127/590 Pine Ridge Road	COOMBABAH QLD 4216	
Ms	Diane	Brennan	20 Longboat Place	BIGGERA WATERS QLD 4216	
Mr	Brian	Rowe	48 Riverdowns Crescent	HELENSVALE QLD 4212	
Ms	Roxanne	Scott	PO Box 10383	SOUTHPORT MAIL CENTRE QLD 4215	
Mr	James	Tayler	12 Bowmore Court	MERRIMAC QLD 4226	
Mr	Matthew	MacKechnie	405 Ashmore Road	ASHMORE QLD 4214	
Mr	Guy	Jones	PO Box 29	MUDGEERABA QLD 4213	

Title	FirstName	LastName	Address1	Address2	Address3
Ms	Jill	Pead	7 Todman Drive	MUDGEERABA QLD 4213	
Mr	Steve	Bryan	44 Port Jackson Boulevard	CLEAR ISLAND WATERS QLD 4226	
Ms	Niree	Christison	7 Cypress Drive West	BROADBEACH WATERS QLD 4218	
Mr	Barry	Jeffriess	8 Bollard Circuit, The Moorings	CLEAR ISLAND WATERS QLD 4226	
Mr	Bruce	Simmonds	PO Box 866	BROADBEACH QLD 4218	
Ms	Linda	Brown	1/22 Brakes Crescent	MIAMI QLD 4220	
Mr	Grant	O'Sullivan	PO Box 1115	BURLEIGH HEADS QLD 4220	
Mr	Peter	Drake	UGA, 50 Goodwin Terrace	BURLEIGH HEADS QLD 4220	
Mr	David	Dunk	PO Box 176	BURLEIGH HEADS QLD 4220	
Ms	Irene	Wareing	116 Ocean Parade	BURLEIGH HEADS QLD 4220	
Mr	Scott	Eade	222/19 Burleigh Street	BURLEIGH HEADS QLD 4220	
Mr	Stephen	Cameron	14 Wonga Street	REEDY CREEK QLD 4228	
Mr	Kevin	Hinton	PO Box 1536	BURLEIGH HEADS QLD 4220	
Ms	Val	Popova-Clark	36 Acron Street	ELANORA QLD 4221	
Mr	Gary	Farrell	131 Murtha Drive	ELANORA QLD 4221	
Mr	Craig	Waiwiri	9 Attadale Court	ELANORA QLD 4221	
Mr	Ken	Hopgood	3/1393 Gold Coast Highway	PALM BEACH QLD 4221	
Mr	Bradley	Stubbs	PO Box 265	CURRUMBIN QLD 4223	
Ms	Karen	Coates	100 Brocks	CURRUMBIN	

Title	FirstName	LastName	Address1 Road	Address2 VALLEY QLD 4223	Address3
Mr	Terry	Stollery	2/735 Ashmore Road	ASHMORE QLD 4214	
Ms	Julie	Devery	PO Box 9123	GCMC QLD 9726	
Mr	Max	Christmas	C/- Max Christmas Real Estate	16-18 Orchid Avenue	SURFERS PARADISE QLD 4217
Mr	Jim	MacAnally	24 Rapallo Avenue	ISLE OF CAPRI QLD 4217	
Mr	Don	Magin	3/3 Elliott Street	SURFERS PARADISE QLD 4217	

MILLS Catherine

From: MILLS Catherine on behalf of Office of the CEO
Sent: Thursday, 1 April 2004 8:22 AM
To: DL CG CouncillorsSecsAll
Cc: DAVIS Tony; BEYNON Tony; 'drd@goldcoast.qld.gov.au'
Subject: COUNCILLORS - ELECTORAL GIFT REGISTER

Importance: High

PA's Please bring to your Councillors attention.

COUNCILLORS - ELECTORAL GIFT REGISTER

Councillors must complete the Electoral Gift Register form attached before they are able to make a declaration of office.

Councillors are to submit the completed form to the Office of the CEO (Tony Davis) by 12Noon Wednesday 7 April 2004. A copy of the relevant handbook 'Disclosure of Election Gifts' was given to each candidate on nomination. Tony Davis has copies of the booklet, should you require another copy.

Your attention to this matter would be appreciated. The website to download the relevant form is listed below.

http://www.dlgp.qld.gov.au/docs/forms/local_govt/elections/election_gifts/eg1.pdf

Catherine Mills

Executive Office Assistant to the Chief Executive Officer
Office of the CEO
Gold Coast City Council
PO Box 5042, GCMC QLD 9729
Tel: 07.5582 8202 Fax: 07.5596 5528
email: cmills@goldcoast.qld.gov.au

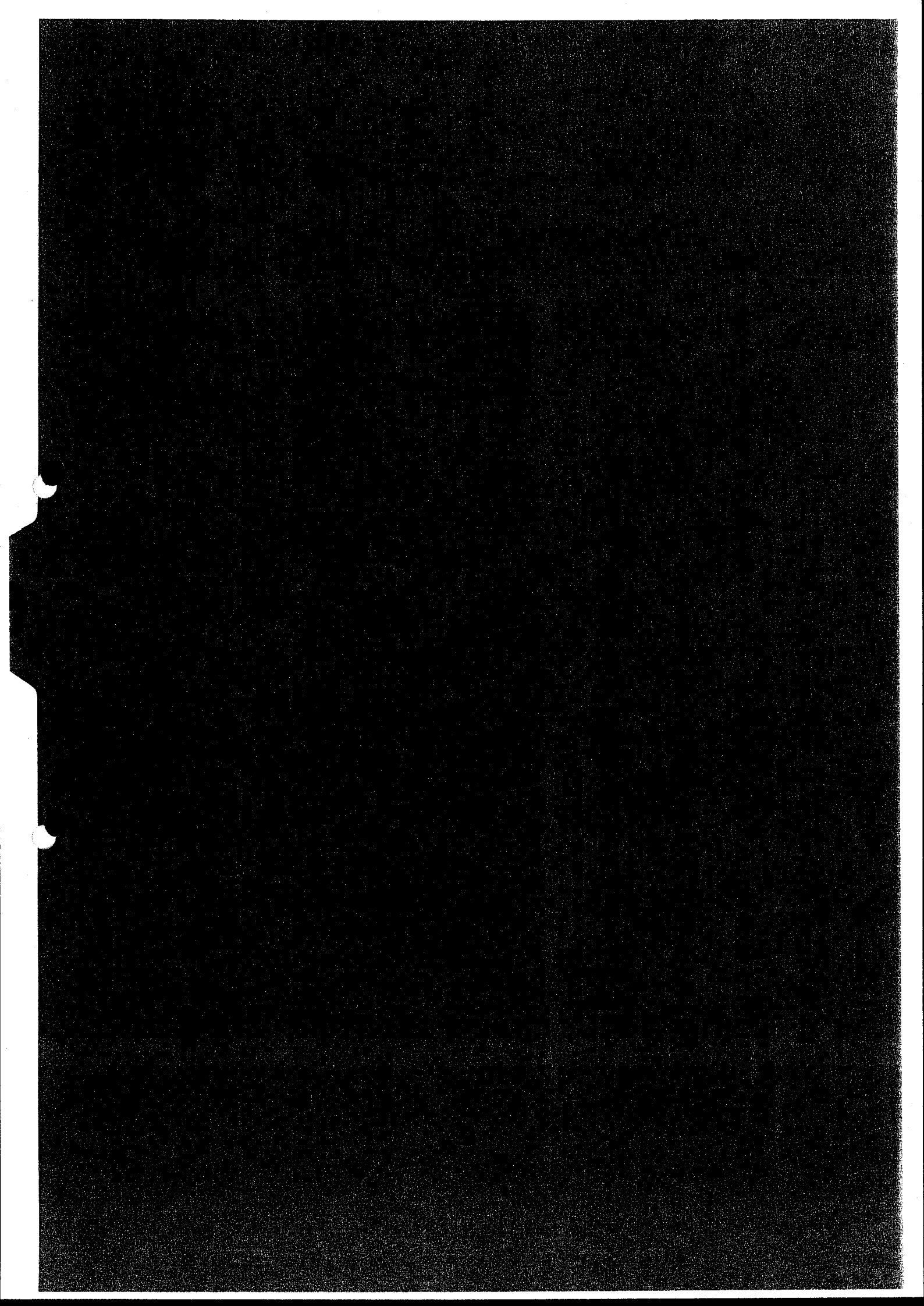


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MAYOR RON CLARKE

OFFICE OF THE CEO – Information Pack

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| 2 | Draft Agenda – Post Election Meeting Thur 8 April 2004 at 9.30am (Council Chambers) |
| ● | Agenda - Strategic Roadmap Workshop 22 April 2004 at 8.45am (Gold Coast Arts Centre) |
| 4 | Telephone Listing - Mayor/CEO Office/Councillors/Directors |
| 5 | Meetings Local Law & Local Law Policy |
| 6 | GCCC Quick Reference Guide for Meetings |
| 7 | Corporate Plan |
| 8 | Media Policy |
| 9 | Councillor Remuneration Policy |
| 10 | Local Government Election Gifts Form 1 |
| ● | 11 CEO Presentation dated July 2003 |
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OFFICE OF THE CEO – Information Pack

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| 10 | GCCC Corporate Structure |
| 11 | Dept of Local Government & Planning – Induction Kit for New Councillors |
| 12 | Corporate Purchasing Cards |
| 13 | Motor Vehicles |



Memorandum

TO : Grant Pforr
Rob Molhoek
Division 7 (Pending)
Greg Betts

FROM : Dale Dickson - Chief Executive Officer

SUBJECT : INFORMATION PACK - OFFICE OF THE CEO

DATE : 31 March 2004

FILE NO : LG290/774/(P5) #15451649

Dear Rob


Congratulations on your recent election victory.

On behalf of the management and staff of the Gold Coast City Council, I welcome you aboard.

I have prepared a package of materials for your information and review. Hopefully these materials will assist in the transition period as you familiarise yourself with Council.

A number of Council's Directorates are currently preparing additional materials for your information, and these will be forwarded in the coming weeks.

Again, my congratulations. I look forward to working with each of you in the service of the Gold Coast community.



Dale Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202



Memorandum

TO : Grant Pforr
Rob Molhoek
Division 7 (Pending)
Greg Betts

FROM : Dale Dickson - Chief Executive Officer

SUBJECT : INFORMATION PACK - OFFICE OF THE CEO

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Again, my congratulations. I look forward to working with each of you in the service of the Gold Coast community.


Dale Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202



Memorandum

TO : Grant Pforr
Rob Molhoek
Division 7 (Pending)
Greg Betts

FROM : Dale Dickson - Chief Executive Officer

SUBJECT : INFORMATION PACK - OFFICE OF THE CEO

DATE : 31 March 2004

FILE NO : LG290/774/(P5) #15451649

Dear Greg

Congratulations on your recent election victory.

On behalf of the management and staff of the Gold Coast City Council, I welcome you aboard.

I have prepared a package of materials for your information and review. Hopefully these materials will assist in the transition period as you familiarise yourself with Council.

A number of Council's Directorates are currently preparing additional materials for your information, and these will be forwarded in the coming weeks.

Again, my congratulations. I look forward to working with each of you in the service of the Gold Coast community.



Dale Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202



Memorandum

TO : Grant Pforr
Rob Molhoek
Division 7 (Pending)
Greg Betts

FROM : Dale Dickson - Chief Executive Officer

SUBJECT : INFORMATION PACK - OFFICE OF THE CEO

DATE : 31 March 2004

FILE NO : LG290/774/(P5) #15451649

Dear Grant

Congratulations on your recent election victory.

On behalf of the management and staff of the Gold Coast City Council, I welcome you aboard.

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A number of Council's Directorates are currently preparing additional materials for your information, and these will be forwarded in the coming weeks.

Again, my congratulations. I look forward to working with each of you in the service of the Gold Coast community.



Dale Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202



4 June 2004
A Beynon
Waterside West
(07) 5581 7498

LG290/774/04(P1)

<Title> <FirstName> <LastName>
<Address1>
<Address2>
<Address3>

Dear <FirstName>

A recent check of Council's records indicates that Council has yet to receive your Notice of Disclosure of Election Gifts as a result of the Local Government Election held Saturday 27 March 2004.

In accordance with the provisions of Section 429 of the Local Government Act 1993, Council hereby reminds you that you are required to forward the Notice within three months after the conclusion of the Election - in this case 5 July 2004.

Could you please forward this Notice by 5 July 2004 so that the matter can be finalised.

Yours faithfully

A BEYNON
MANAGER COMMUNITY RELATIONS

KAG/KS

Title	FirstName	LastName	Address1	Address2	Address3
Mr	Gary	Baildon	Unit 2E/2 - Atlantis East	Admiralty Drive	SURFERS PARADISE QLD 4217
Mr	John	Wayne	45 Cresthill Drive	WONGAWALLAN QLD 4210	
Mr	David	Childs	41/37 Bayview Street	RUNAWAY BAY QLD 4216	
Ms	Jill	Pead	7 Todman Drive	MUDGEERABA QLD 4213	
Mr	Peter	Drake	UGA, 50 Goodwin Terrace	BURLEIGH HEADS QLD 4220	
Mr	David	Dunk	PO Box 176	BURLEIGH HEADS QLD 4220	
Mr	Stephen	Cameron	14 Wonga Street	REEDY CREEK QLD 4228	

MILLS Catherine

From: Office of the CEO
Sent: Friday, 28 May 2004 4:10 PM
To: DL CG CouncillorsSecsAll
Subject: REMINDER - NOTICE OF DISCLOSURE OF GIFTS

Importance: High



MEMO
COUNCILLOR ELECTORAL

Pa's

Please print out and hand to your Councillor at the earliest.

with thanks
Catherine



Gold Coast City Council

Memorandum

TO :

Cr R W Clarke, Mayor
Cr R W Hackwood
Cr D L Power
Cr G Pforr
Cr R Molhoek
Cr P J Young
Cr D M Crichlow
Cr S Douglas
Cr R La Castra
Cr E L Shepherd
Cr E Sarroff
Cr J E Grew
Cr G Betts
Cr D I McDonald
Cr S Robbins

FROM : Dale Dickson - Chief Executive Officer

ACTION BY : Bob Towson Office of Chief Executive Officer

SUBJECT : Reminder Notice Disclosure of Gifts

DATE : 28 May 2004

FILE NO : LG290/774/04 #15518086

Councillors

In accordance with the provisions of the Local Government Act 1993 [Sect 429] I am obliged to remind you that final returns relating to gifts received at the last election will need to be lodged in my office by 5th July 2004.

If you have lodged a final return you need do no more.

Enclosed are the relevant sections of the Local Government Act 1993 relating to your obligations and penalties that may be evoked for failure to comply.

Dale Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202

Enclosures Extract from Local Government Act 1993 viz:
Sect 222, Sect314 (2)[Part], Sect 427, Sect 427A, Sect 436, & 438.

SECTION 222**Disqualification and vacation of office for certain offences**

- (1) This section applies if a person is convicted of an offence against—
 - (a) for the Brisbane City Council—section 98B, 98E or 98G(a) or (b)48 of the Criminal Code; or 48 Section 98B (False or misleading information), 98E (Influencing voting) or 98G (Voting if not entitled) of the Criminal Code
 - (b) for another local government—section 384, 399 or 401(a) or (b);49 or (c) for all local governments—section 242, 244, 247 or 436.50
- (2) The person is not qualified to become a local government councilor for 4 years after the conviction and, if the person is a local government councillor, the person vacates the office—
 - (a) if the person appeals against the conviction—on the appeal being dismissed, struck out or discontinued; or
 - (b) if the person does not appeal against the conviction—at the end of the time fixed by law within which an appeal must be started.
- (3) A court may, by order, direct that this section does not apply to a person if the court is satisfied that it would be just to give the direction.

SECTION 314 (2) Disposal of deposits generally

- (2) Despite subsection (1), a candidate's deposit must not be refunded until—
 - (a) if, under section 427, the candidate is required to give a return under the section for the candidate's disclosure period for the election—the candidate gives the return; or
 - (b) if, under section 427(3), the candidate is not required to give a return under the section for the candidate's disclosure period for the election—the end of the disclosure period.

SECTION 427 Gifts to candidates

- (1) This section applies to gifts received by a candidate for an election during the candidate's disclosure period for the election but not to a gift made in a private capacity to the candidate, for the candidate's personal use, that the candidate has not used, and does not intend to use, solely or substantially for a purpose related to any election.
- (2) Each candidate for the election must, within 3 months after the conclusion of the election, give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating—
 - (a) whether the candidate received any gifts to which this section applies; and
 - (b) if so—
 - (i) the total value of all of the gifts; and
 - (ii) how many persons made the gifts; and
 - (iii) the relevant details for each gift made by a person to the candidate, if the total value of all gifts made by the person to the candidate during the disclosure period is the prescribed amount or more.
- (3) A candidate need not comply with subsection (2) if—
 - (a) the candidate gives a return under section 242(1)(a)88 and the return states the candidate—
 - (i) does not expect to receive gifts in the disclosure period for the election after giving the return; and
 - (ii) will give a return under the section if gifts are received in the disclosure period for the election after giving the return; and
 - (b) the candidate does not receive gifts in the disclosure period for the election after giving the return.

SECTION 427A Gifts to groups of candidates

- (1) This section applies if—
 - (a) a candidate for an election is a member of a group of candidates; and
 - (b) the group, or the group's campaign committee for the election, receives gifts for the election during the disclosure period for this section for the election.
- (2) Within 3 months after the conclusion of the election, the candidate must give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating the following—
 - (a) the names of the candidates forming the group;
 - (b) the name, if any, of the group;
 - (c) the total value of all of the gifts;
 - (d) how many persons made the gifts;
 - (e) the relevant details for each gift made by a person to the group if the total value of all gifts made by the person to the group during the disclosure period is the prescribed amount or more.
- (3) A candidate need not comply with subsection (2) if—
 - (a) the candidate gives a return under section 242(1)(a) and the return states the candidate—
 - (i) does not expect the group or the group's campaign committee for the election to receive further gifts in the disclosure period for the election after giving the return; and
 - (ii) will give a return under the section if further gifts are received in the disclosure period for the election after giving the return; and
 - (b) the group, or the group's campaign committee for the election does not receive further gifts in the disclosure period for the election after giving the return.

SECTION 436 Offences about returns

- (1) A person must give a return the person is required to give under division 397 within the time required by the division.

Maximum penalty—20 penalty units.
- (2) A person must not give a return the person is required to give under division 3 containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty—
 - (a) if the person is required to give the return as a candidate—100 penalty units;
 - (b) if paragraph (a) does not apply—50 penalty units.
- (3) A person (the “**first person**”) must not give to another person who is required to give a return under division 3 or section 24298 information to which the return relates that is, to the knowledge of the first person, false or misleading in a material particular.

Maximum penalty—20 penalty units.

SECTION 436**Offences about returns***continued...*

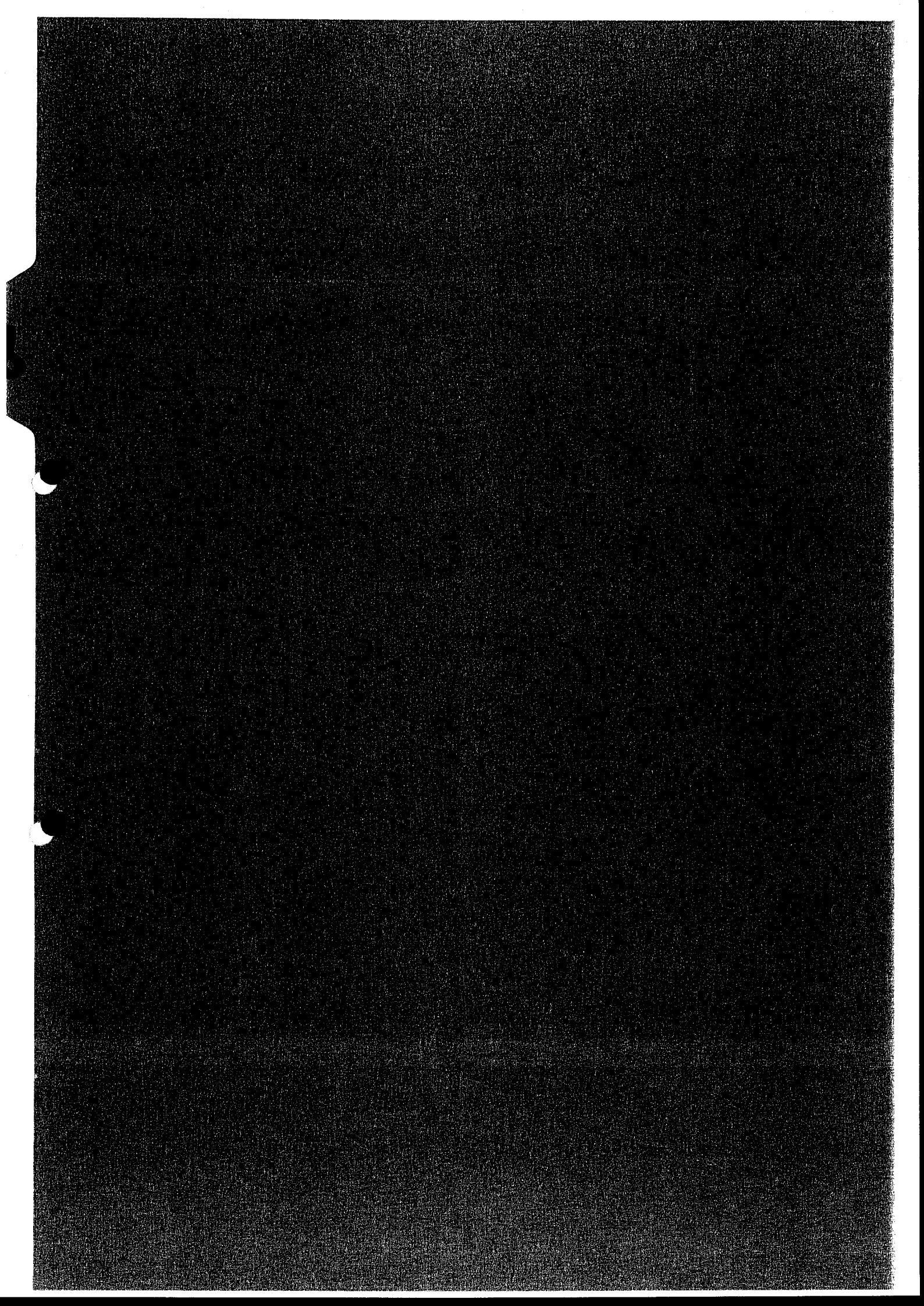
- (4) A prosecution for an offence against a provision of this section may be started at any time within 4 years after the offence was committed.
- (5) If a person is found guilty of an offence under subsection (1), a court may, as well as imposing a penalty under the subsection, order the person to give the relevant return within a time stated in the order.
- (6) If a person is found guilty of an offence under subsection (2), a court may, as well as imposing a penalty under the subsection, order the person to pay, within a time stated in the order, to a local government an amount equal to the amount of the value of any gifts made to, or for the benefit of, the person and not disclosed in a return.

SECTION 438**Obtaining of information and completion of returns**

- (1) A person who is required to give a return under division 3 must—
 - (a) take all reasonable steps to obtain the particulars required to complete the return; and
 - (b) complete the return to the extent that it is possible with the particulars obtained.

Maximum penalty—20 penalty units.
- (2) The return must state whether the return is complete as required by division 3 and, if not complete, state—
 - (a) the nature and type of particulars the person has not been able to obtain; and
 - (b) the reasons why the person has not been able to obtain the particulars; and
 - (c) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give the particulars—that belief and the reasons for it and the name and address of the other person.
- (3) If a return contains a statement mentioned in subsection (2)(c), the chief executive officer of the local government who receives the return must give a written notice to the person named in the statement asking the person to give the chief executive officer the particulars the person knows.
- (4) Subsection (5) applies if, at any time, within 5 years after the conclusion of an election, a person, who has made a statement under subsection (2) in a return about the election that the return is not complete, obtains information or particulars relevant to the return that the person was not able to obtain before completing the return.
- (5) The person must give to the chief executive officer of the local government to whom the return was given a written notice of the information or particulars obtained.

Maximum penalty for subsection (5)—20 penalty units.



DAVIS Tony

From: DAVIS Tony
Sent: Tuesday, 30 August 2005 8:19 AM
To: YOUNG Peter
Subject: RE: mal chalmers third party return

Sorry Peter,

This issue relates to the presence or absence of a gift to the solicitor. Pursuant to s430(1)(a-c) a third party return requires three elements:

- a) expenditure is incurred for a political purpose
- b) the total amount of all political expenditure exceeds \$1000
- c) solicitor is given a gift (note that it is not necessary for the candidate to be given a gift)

If a solicitor holds money of a client and is directed to pay all or part of that money to say a candidate then such does not constitute a gift to the solicitor. The solicitor is merely complying with the owners request to pay the money. It is a principal agent situation not a gift situation, at least to the solicitor. Certainly the candidate is required to disclose the gift but not the solicitor in this case.

Regards

Tony

-----Original Message-----

From: YOUNG Peter
Sent: Friday, 26 August 2005 10:12
To: DAVIS Tony
Subject: FW: mal chalmers third party return

still awaiting response please Tony
PY

-----Original Message-----

From: YOUNG Peter
Sent: Thursday, 25 August 2005 13:09
To: DAVIS Tony
Subject: mal chalmers third party return

Hi Tony

can you please advise why Mal Chalmers would not be required to submit a third party election return in relation to gifts received for election purposes???

thank you

PY

Sent Items 1 June 05 to 22 September 05
Date Order

DAVIS Tony

From: DAVIS Tony
Sent: Wednesday, 6 July 2005 1:37 PM
To: YOUNG Peter
Subject: RE: my election gift return

Hi Peter

I was over at Nerang this morning but your office was unattended. I will send it to you via snail mail.

Tony

-----Original Message-----

From: YOUNG Peter
Sent: Wednesday, 6 July 2005 13:25
To: DAVIS Tony
Subject: FW: my election gift return
Importance: High

Tony please advise status of my request.

Peter

-----Original Message-----

From: YOUNG Peter
Sent: Wednesday, 29 June 2005 14:56
To: DAVIS Tony
Subject: my election gift return
Importance: High

Tony

I refer to our telephone conversation in regard to my election gift register and my memo to the CEO seeking to amend my register. You advised that legal advice had been sought regarding this and a determination has been made to refer this to the CMC.

As advised during that conversation I would appreciate immediate written advice. Please also provide copies of correspondence regarding the legal advice sought, including the legal advice itself, and all other correspondence regarding this matter.

Thank you

Peter

Sent Items 1 June 05 to 22 September 05
Date Order

DAVIS Tony

From: DAVIS Tony
Sent: Monday, 18 July 2005 8:42 AM
To: YOUNG Peter
Subject: FW: 1006 20050510 to CEO

Hi Peter

This attached is the memo from Conrad Martens to the CEO for your info as discussed

Regards

Tony

-----Original Message-----

From: MARTENS Conrad
Sent: Friday, 15 July 2005 16:49
To: DAVIS Tony
Subject: 1006 20050510 to CEO



1006 20050510
to CEO.doc

CONFIDENTIAL

Memorandum



TO : Dale Dickson, Chief Executive Officer

COPY :

FROM : Conrad Martens, Fraud Prevention & Security Adviser

ACTION BY :

SUBJECT : REGISTERS OF INTERESTS & ELECTION GIFTS - CR YOUNG

DATE : 12 May 2005

FILE NO : LG449/258/03/CF

REGISTER OF INTERESTS (S247 LGA)

On 28/2/05 you referred to me information that Cr Young had not declared in his Register of Interests the possible receipt of a gift by way of financial support for advertising in The Local News. Following is my assessment of the information.

In April, May, July and August 2004 a one-page private advertisement was published in the Local News - identified as an "Advertisement" and entitled "A message from Councillor Peter Young's desk Division 5 - City of Gold Coast" (see Attachment A, copies of Cr Young's Newsletter and Advertisements). The Local News advises that in 2004 the cost of such a one-page advertisement to Council or a Councillor was \$440.

Following are excerpts from the advertisements related to the matter of financial support:

- APRIL 2004 - "... I have decided to pay for this second page each month myself. If you want to offer some financial support for this page to be published please give me a call."
- MAY 2004 - "Welcome to the second edition of the 'other page' - a page I pay for from my own pocket in order to relay to you facts deemed too damning by the Council."
- JULY 2004 - "Last month, regrettably, I could not afford to publish this second non-censored page. Along with the email edition of the newsletter I advised people of this financial constraint, and expressed by hope to be able to reinstate this second page in the future. Within 24 hours I received an email about this. It said "We believe that our Division ought to be informed by information that you provide on the second page and therefore *Gardens on Lindfield* will sponsor this cost for the next 12 months." Wow - what an offer! I have thought about this long and hard So, what is my decision? You're reading it. I have accepted the offer - graciously I hope."

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- AUGUST 2004 - Nil.

The business "*The Gardens on Lindfield*" is a retirement village situated at 101 Lindfield Road, Helensvale. It is owned by Cater Corporation Pty Ltd (ACN 084 718 552) of which Philip Cater is the Director, Secretary and sole Shareholder.

The advertisements state that Cr Young paid initially at least for the April and May advertisements, but are silent on who paid for the July and August advertisements.

It appears that a 12-month advertising budget would be in the order of \$5280. however, even though the July advertisement stated that a 12-month sponsorship was accepted at least in principle, the fact that the advertisements did not appear beyond August 2004 cast doubt on whether sponsorship was ever received.

Cr Young's Register of Interests does not currently disclose receipt of any gift from *The Gardens on Lindfield*, Cater Corporation or Philip Cater (see Attachment B, copy of Cr Young's Register of Interests).

There was no other evidence at hand indicating that another party paid for, or reimbursed Cr Young for expenses associated with, any of the four advertisements, though it was a possibility.

However, Cr Young's email to you dated 26 April 2005 (Attachment C) brought a new light on the situation. Referring to my inquiries Cr Young states:

"The matter of the investigation is, according to the journalist, related to me not declaring on my 'Register of Interests' (i.e. not election gift register) a gift in the form of paid advertising. This gift was provided to me by a property owner and developer of a retirement centre in July -August 2004."

In addition, Cr Young's memorandum to you dated 6 May 2005 and received 10/5/05 (included in Attachment D Electoral Gifts Return) has attached an email from Cater Corporation confirming stating that Cr Young received gifts to the total value of \$1770 from Cater Corporation Pty Ltd. It states that Cater Corporation paid The Local Newsletter the following sums on Cr Young's behalf - 22/5/04 \$450, 1/7/04 \$440, 23/7/04 \$440 and 25/8/04 \$440.

The above raises the question of Cr Young's knowledge in 2004 of receipt of gifts to the value of \$1770 from Cater Corporation and the failure to properly declare those gifts in his Register of Interests.

The Local Government Act 1993 (section 247 Registers of interests and regulation 17 Financial and non-financial particulars for registers) requires Cr Young to tell you the correct particulars of a relevant interest (in this case a gift over \$500 in value).

The LGA (Section 249 Queries on contents of register) requires you to immediately inform Cr Young that the gift of advertising sponsorship identified by him in his email dated 26 April 2005 and memorandum dated 6 May 2005 should be in the register.

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RETURN OF ELECTION GIFTS (242, 427 LGA)

On a related matter, Cr Young's memorandum dated 6 May 2005 states that in his Interim and Final Electoral Gift Returns declared a gift from the Cater Corporation to the value of \$3000, whereas he received \$5000 banked on 20/2/04 and wishes to correct that error.

The only declared electoral gifts from Cater Corporation are a gift on 2/3/04 of \$3000 in the Interim Return, and a gift on 2/3/04 of \$5000 in an amendment to the Interim Return dated 20/5/04 and the Final Return dated 3/7/04. The latest memorandum from Cr Young showing receipt on a different date (20/2/04) of \$5000 suggests an error or omission in the return the Return (Attachment D).

The LGA (sections 242 Requirements of councillors before acting in office, 427 Gifts to candidates, 427A Gifts to groups of candidates) requires Cr Young to give you correct particulars in an Electoral Gifts Return.

Once again, the LGA (Section 435 Queries on contents of register) requires you to immediately inform Cr Young of the suspected error or omission arising from his memorandum dated 6 May 2005.

COMPLAINT BY CR YOUNG -

In his email to you Cr Young raised the concern that on 26/4/05 a print media journalist advised him that he was under investigation in relation to not declaring advertising sponsorship in his Register of Interests. I have no knowledge whatsoever of whether such information has come to the hands of a journalist or how a journalist may have received such information. I keep the fact of an investigation confidential for the purpose of protecting the interests of all parties concerned.

REFERRAL

The Crime and Misconduct Act 2001 (38 Duty to notify commission of official misconduct) requires that the CEO refer any matter that may involve official misconduct, e.g. a criminal offence.

The LGA specifies several offence provisions in relation to keeping a Register of Interests and submitting a Return of Electoral Gifts, and it is arguable that the aforementioned matters are referable to the Commission.

At the time of doing so, it would be appropriate for the CEO to bring to the Commission's attention Cr Young's concerns about a breach of confidentiality.

RECOMMENDATION

It is recommended that:

- 1 The CEO advises Cr Young in writing along the following lines:

The information provided in you email dated 26 April 2005 and memorandum dated 6 May 2005 indicate that you have received a gift of financial support for

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advertising in The Local Newsletter that should be in your Register of Interests. I will therefore refer you to the requirements placed upon you by sections 247 and 249 of the Local Government Act 1993.

I note that you are currently determining the details of the gift for the purposes of amending the Register. However, under the Crime and Misconduct Act I am obliged to refer the matter to the Commission.

I note your memorandum dated 6 May 2005 amending your Electoral Gift Return to show receipt on 20/2/04 of a gift to the value of \$5000 from Cater Corporation Pty Ltd. I will point out that the Return currently records a gift from Cater Corporation on 2/3/04 of \$5000 (Amendment to your Interim Return dated 20/5/04 and Final Return dated 3/7/04) and correct details are required.

In response to your concerns about the unauthorised release of information about Mr Martens' inquiries, he assures me that any investigations by him are kept strictly confidential and he is unaware of who may have provided such information to the media.

As the aforementioned matters are interrelated, I propose to convey information about them to the Commission for independent assessment.

- 2 The CEO (Fraud Prevention & Security Advisor) refers the matters to the Commission.

I apologise for the delay in finalising this matter to you.


Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR
(5582 8816)


10 CONSIDERATION OF NOTICES OF MOTION

Nil

11 QUESTIONS ON NOTICE / ANSWERS TO QUESTIONS ON NOTICE

11.1. Answers to Question from Cr Shepherd to the Chief Executive Officer at the Council Meeting held on 10 June 2005.

 **Question:** Mr Tony Davis is requested to review the Minutes and provide advice to Council as to his determination of the comments made in regard to the answers by Cr Douglas.

 **Answer:** Mr Tony Davis has advised as follows:

The following is the response to Cr Douglas (via her Personal Assistant) in an email dated 19 May 2005.

'Robin

My advice to Cr Douglas was that, if she considered that she was given assistance to her electoral campaign, then she should declare this. Cr Douglas told me that she had received support in the form of part of an advertisement paid for by the Licensed Venues Association. I advised her that, if she thought that was in kind support, then she should declare that proportion of the cost of the advertising that was attributable to the support of her campaign. On the basis that Cr Douglas thought that half of the advertisement supported her campaign, we agreed that half the cost should be declared.

*Regards
Tony'*

11.2. Questions from Cr Shepherd to Cr Young

Question 1: Have you made a presentation to the Minister for Local Government that contains a dossier prepared by yourself of statements and accusations concerning Councillors of this City?

Answer: Yes Mr Mayor.

Question 2: Does this document contain a reference to a fundraising function conducted on my behalf, in May, 2005, to raise funds for my re-election in 2008.

Answer: Yes Mr Mayor.





Mayor's 'gift' list goes missing

Greg Roberts

A DOCUMENT at the centre of an investigation into the election campaign of Gold Coast Mayor Ron Clarke has been lost by the Gold Coast City Council.

The manager of the council's chief executive office, Tony Davis, said a return of electoral gifts submitted by the Licensed Venues Association could not be found.

"I haven't been able to source a copy of it," Mr Davis said. "I can't explain what happened to it."

The Crime and Misconduct Commission is investigating claims that Mr Clarke, the former Olympic runner, failed to declare up to \$20,000 in undisclosed "in kind" donations from the association for last year's election campaign.

They took the form of newspaper advertisements and thousands of SMS text messages to nightclub members, urging a vote against incumbent mayor Gary Baildon.

When *The Australian* reported in May that Mr Clarke had not disclosed the assistance in his election return, Gold Coast City Council chief execu-

tive Dale Dickson insisted the mayor was under no obligation to do so because it was not an electoral gift.

But in an apparent inconsistency, *The Australian* reported last week that Mr Dickson wrote to the Licensed Venues Association last August demanding that a return be submitted for what he described as "clearly expenditure for a political purpose".

Association chairman Jim Bell said yesterday that the return was hand-delivered to the council in response to Mr Dickson's letter, and he was puzzled by its absence from council records. "This seems very strange," Mr Bell said.

Gold Coast City councillor Dawn Crichlow said she spent an hour with council officers going through records several weeks ago and they could not locate the return, or the letter from Mr Dickson to Mr Bell.

The letter surfaced only after *The Australian* produced its own copy last week.

"I have it in writing that I was shown all the relevant files and nothing was there," Ms Crichlow said.

"Then the letter pops up, and now the return is still missing. What's going on here?"

Mr Clarke said he had no knowledge of the whereabouts of the documents.

Speaking on behalf of Mr Dickson, Mr Davis said the letter to the Licensed Venues Association had been put in the wrong file.

Mr Davis said that although the association's return could not be found, it had transpired that it did not have to be submitted after all.

The CMC is also investigating the mayor's failure to declare up to \$40,000 worth of donations by Darlington Park Raceway owner Tony Stephens.

Mr Clarke has denied a link between the donations and his call soon after the election for the relocation of the annual Indy motor race from Surfers Paradise to Darlington Park.

The CMC is conducting a wide-ranging investigation of Gold Coast City Council but said last week it did not have sufficient powers to investigate many allegations before it.



Poll gift advice appears to vary

Greg Roberts

GOLD Coast nightclubs were told that up to \$20,000 worth of undisclosed donations given to Olympian Ron Clarke for his campaign to be elected Gold Coast mayor should have been declared under state laws.

Instructions given to the Licensed Venues Association last year by council chief executive Dale Dickson appear to be inconsistent with his later statements to *The Australian* and advice to Gold Coast City councillors.

The Australian reported in May that Mr Clarke failed to disclose up to \$20,000 in in-kind donations from the nightclubs. The assistance came in the form of newspaper advertisements and thousands of SMS text messages sent to club members urging a vote against incumbent mayor Gary Baildon, whom Mr Clarke narrowly defeated in the election.

At the time, Mr Dickson wrote to *The Australian* and city councillors, saying the assistance did not constitute gifts for electoral purposes and did not have to be declared under the Local Government Act.

But in a letter to Gold Coast Licensed Venues Association chairman Jim Bell last August, Mr Dickson said the anti-Baildon campaign was "clearly

expenditure for a political purpose", which had to be declared. Mr Dickson instructed Mr Bell to lodge a return "without delay" or risk a \$1500 fine.

Mr Dickson insisted yesterday that the clubs' expenditure did not constitute an electoral gift for Mr Clarke. "The expenditure by the LVA was expenditure incurred in its own right in its advertising campaign against the former mayor," he said. "There is no discrepancy."

But Mr Bell said last night he found it odd that Susie Douglas, another councillor who received assistance from the clubs similar to that provided to Mr Clarke, had been required to declare it.

"There appears to be an obvious inconsistency here," Mr Bell said. "We paid for it. We were open about it. Ron Clarke should have declared it."

The apparent discrepancy arose because at least seven of the 15 councillors and several developers were served last Friday with notices by the state's Crime and Misconduct Commission to provide information to assist its investigation into the embattled council. Councillors who received the notices include Grant Pforr and Greg Betts, whose campaigns for last year's elections were bankrolled by the Common Sense Trust, a secret

developers' fund set up by Liberal identity Lionel Barden and the late Brian Ray.

Deputy Mayor David Power, who sold a property for more than \$1 million to a developer who donated \$9000 to his campaign, also received a notice.

The notices require the presentation of documents including correspondence between councillors and developers, bank statements and election campaign committee minutes.

The CMC is investigating claims that some councillors consistently voted in favour of developers who donated to their campaigns, without declaring a potential conflict of interest.

Local Government Minister Desley Boyle has threatened to sack the council if the CMC makes adverse findings against councillors.

The CMC is also examining an admission by Mr Clarke that he did not disclose up to \$40,000 worth of in-kind donations to his campaign by Darlington Park Raceway owner Tony Stephens.

Mr Clarke declined yesterday to say if he had been issued with a notice. "What I receive from the CMC is up to the CMC to disclose," he said. "Otherwise, it is a private matter."

MILLS Catherine

From: MILLS Catherine on behalf of DICKSON Dale
Sent: Monday, 15 August 2005 4:55 PM
To: 'robertsg@theaustralian.com.au'
Subject: GCCC CEO response to your enquiry re: Donations 15/8/05

Greg

I refer to your discussion with Mr Davis of this Office on Monday 15 August 2005 and confirm that there is no discrepancy with respect to your statement as follows:

Greg Roberts Statement:

"advice to me and to councillors of 17 May 2005 regarding assistance by the Licensed Venues Association to the mayor's electoral campaign. You advised that this assistance did not constitute "in kind" gifts for purposes of the electoral gifts register and therefore did not have to be declared."

CEO response:

The expenditure by the Licensed Venues Association was expenditure incurred in its own right in its advertising campaign against the former Mayor, Gary Baildon. It did not constitute an in kind electoral gift for the then mayoral candidate Mr Ron Clarke, which is an entirely separate matter.

have been in receipt of 2004 legal advice that:

"Mr Jim Bell was the spokesperson for the Licensed Venues Association. At present, and in the absence of any evidence to the contrary, it must be assumed that Mr Jim Bell was the person responsible for raising the funds from the 4 nightclubs to conduct this particular advertising campaign."

On the present material, it is our opinion that Mr Jim Bell will be obliged to provide a return pursuant to section 430(2) in relation to any contribution he received from other nightclub owners which exceed the prescribed amount of \$1,000."

have written to Mr Bell in this regard.

In respect to your question relating to my letter to Mr Bell of 3 August 2004 I have located a copy of the letter in question. It had simply not been put on the correct file.

Dickson
Deputy Executive Officer
Chief Executive of the CEO
Gold Coast City Council
Box 5042, GCMC QLD 9729
07.5581 6048 Fax: 07.5581 6808
Email: ddickson@goldcoast.qld.gov.au

MILLS Catherine

From: Roberts, Greg [robertsg@theaustralian.com.au]
Sent: Monday, 15 August 2005 10:24 AM
To: DICKSON Dale
Subject: donations

Attn Dale Dickson

I refer you to your advice to me and to councillors of 17 May 2005 regarding assistance by the Licensed Venues Association to the mayor's electoral campaign. You advised that this assistance did not constitute "in kind" gifts for purposes of the electoral gifts register and therefore did not have to be declared.

On 3 August 2004, you wrote to LGA president Jim Bell advising him that the LGA was required to provide a return in relation to this assistance.

Can you explain the discrepancy between these advices?

Furthermore, Councillor Dawn Crichtlow informs me that she inspected council files on 28 June 2005 and there was no record of the abovementioned letter to the LGA. Nor was there a return from the LGA on file. She has advice from Bob Towson confirming she inspected all the relevant files. Jim Bell advises me a return was provided and that he also understands that both the letter, which he confirms he received, and the return are not on file.

Can you explain if these documents are missing?

Greg Roberts
The Australian
GPO Box 2145,
Brisbane, 4001, Australia.
robertsg@theaustralian.com.au
Ph 61 7 3666 7461
Fax 61 7 3666 7499

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments which does not relate to the official business of the sending company must be taken not to have been sent or endorsed by that company or any of its related entities. No warranty is made that the e-mail or attachment(s) are free from computer virus or other defect.



Mayor 'failed to disclose nightclub grants'

Greg Roberts

OLYMPIAN Ron Clarke allegedly failed to disclose up to \$20,000 in donations he received from Gold Coast nightclubs for his successful mayoral campaign.

The Gold Coast Licensed Venues Association further alleges that after he was elected last year, Mr Clarke changed his position on earlier closing hours for the tourist strip.

The association says it paid for advertising for the former Olympic long-distance runner. Such in-kind donations are required to be declared under the Local Government Act.

Mr Clarke declared in his returns after last year's election that he received no campaign donations. He said he spent \$250,000 of his own money to defeat incumbent mayor Gary Baildon. But Mr Clarke was forced to amend his returns when *The Australian* revealed last month that he received up to \$50,000 worth of donations from the Darlington Park Raceway.

Mr Clarke had denied the

donations were related to his call for the annual Surfers Paradise Indy motor race to be transferred to the raceway.

Licensed Venues Association chairman Jim Bell said the donations to Mr Clarke's campaign were in the form of newspaper advertisements published over three days, 30 radio advertisements, and between 50,000 and 60,000 SMS text messages sent to nightclub members.

All the material urged a vote for Mr Clarke.

Mr Bell alleged the assistance was given after Mr Clarke said he opposed Mr Baildon's support for earlier nightclub closing hours.

In an email to the association in March last year, Mr Clarke said: "I can confirm that I strongly believe in 5am closing, if not later, provided clubs look to dispersing their patrons as quietly as possible."

But Mr Bell said that after he was elected, Mr Clarke supported a lock-out for nightclubs so patrons could not be admitted after 3am.

"It was a complete turnaround," Mr Bell said.

"He accepted \$20,000 worth of support and then he turned on us. If we'd known, we would have stuck with Gary Baildon."

Mr Clarke denied yesterday that he had anything further to declare.

"What the venues spent on their campaign to oust Gary Baildon was their business and not mine," he said. "I was never aware of the amount of their advertising account and I was not involved in any way with their campaign."

Continued — Page 7



Accusations: Ron Clarke



Clarke faces questions on poll funding

Greg Roberts

QUEENSLAND'S Crime and Misconduct Commission is investigating claims that Gold Coast mayor and former Olympian Ron Clarke received \$50,000 worth of election donations from a Gold Coast motor-racing identity that were not disclosed.

Mr Clarke, who insists he had no knowledge of any undeclared donations, sparked a furore last week when he called for the annual Indy motor race to be transferred from Surfers Paradise to the Darlington Park Raceway at Yatala, north of the Gold Coast. The CMC has been given the transcript of a conversation taped last July at Darlington Park between two Gold Coast City councillors, Dawn Crichlow and Eddy Sarroff, and a man Ms Crichlow identifies as Tony Stephens, the raceway's owner.

The transcript records them discussing \$50,000 worth of "in-kind" donations from Mr Stephens to Mr Clarke's successful campaign for the mayoral election four months earlier. The donations allegedly took the form of trailers displaying large billboards, labour, petrol and assorted costs.

The transcript records Mr Sarroff saying to Mr Stephens: "You should be giving him (Mr Clarke) the bill for the 50K for the trailers."

Mr Stephens is recorded saying: "What I develop, quarries and raceways, are the hardest thing, the hardest zoning to get through ... I helped him tremendously. I made the sign, cost me a fist that one — \$23,000 — to build

overnight. He paid for the banners."

When Mr Sarroff again suggested Mr Clarke should have paid, Mr Stephens responded: "I said (to Mr Clarke) I'll lend you those to help you ... I helped Ron just the same as John Wayne. I drove the truck from 6.30am till 11 at night."

Mr Wayne unsuccessfully stood for election against Gold Coast Deputy Mayor David Power.

Ms Crichlow told *The Australian* the transcript was an accurate record of the conversation. "I was there. That's what was said," she said.

Mr Sarroff declined to comment.

Queensland laws require local authority election candidates to declare campaign donations. Mr Clarke, who has said he spent \$250,000 of his own money on his campaign, submitted a



Clarke

statement after the election in March last year saying he had no donations to declare.

Last July, Mr Clarke wrote to council chief executive officer Dale Dickson to amend the statement, declaring Darlington Park had offered "free days" to people who manned his polling booths.

Mr Stephens denied he had spoken to Ms Crichlow and Mr Sarroff about donations to Mr Clarke, or that he had supported the mayor's campaign.

"There are two or three Tony Stephens out here. They might have spoken to one of the others." Mr Stephens told *The Australian*.

"If they did, they would have been

told that anything provided to the mayor's campaign was paid for by the campaign. We build billboards all the time. We don't do any special favours for anyone."

But Mr Wayne said Mr Stephens provided free and generous support to both his campaign and the mayor's campaign. "I declared \$45,000 in in-kind donations from Tony Stephens to my campaign," Mr Wayne said.

"Tony provided the figures. Ron Clarke got the same support, a large amount of money as a gift in-kind. I was amazed to see that Ron Clarke put in a nil return. I couldn't believe it."

Mr Clarke told *The Australian* he would have declared any donations of which he was aware.

"It seems \$50,000 is a bit high for any help they might have given pulling my signs around for a couple of weeks," Mr Clarke said.

"We used their sign boards, but it was my understanding they were paid for. If there was anything else that was provided, then I didn't know about it or I would have declared it."

Mr Clarke said he had no knowledge of any meeting between Mr Stephens and Ms Crichlow and Mr Sarroff.

Last Thursday, Mr Clarke backed down on his call for the Indy venue to be changed in the face of an angry public backlash, saying he was "walking along the beach this morning and I decided I was wrong".

A CMC spokeswoman said a complaint concerning alleged donations to Mr Clarke was under investigation.

BUCKLEY Emma

From: MILLS Catherine on behalf of Office of the CEO
Sent: Tuesday, 17 May 2005 8:39 AM
To: MAYOR; DL CG CouncillorsSecsAll; DL GCCC Directors; DL GCCC DirectorsSecretaries; MONTGOMERY David
Subject: Memo Electoral Gifts Register and media articles
Importance: High



MEMO TO CRS RE
AUSTRALIAN ARTI..



00016505933.pdf
(133 KB)

Mayor, Councillors, Directors, City Solicitor

Please see attached memo re: Electoral Gifts Register and media articles for your information.

Regards
Catherine
Catherine Mills
Executive Office Assistant to the Chief Executive Officer
Office of the CEO
Gold Coast City Council
PO Box 5042, GCMC QLD 9729
Tel: 07.5581 6048 Fax: 07.5581 6808
email: cmills@goldcoast.qld.gov.au



Gold Coast City Council

Memorandum

TO :

Cr R W Clarke, Mayor	Director Organisational Services
Cr R W Hackwood	Director Gold Coast Water
Cr D L Power	Director Engineering Services
Cr G Pforr	Director Planning, Env.& Transport
Cr R Molhoek	Director City Governance
Cr P J Young	Director Community Services
Cr D M Crichlow	Director Economic Development & Major Projects
Cr S Douglas	City Solicitor
Cr R La Castra	
Cr E L Shepherd	
Cr E Sarroff	
Cr J E Grew	
Cr G Betts	
Cr D I McDonald	
Cr C Robbins	

COPY :

FROM : Dale Dickson - Chief Executive Officer

ACTION BY :

SUBJECT : Electoral Gifts Register - media reports

DATE : 17 May 2005

FILE NO : LG324/212/05 #17168437

I have attached, for your information, a copy of an article that appeared in The Australian newspaper yesterday (Monday 16 May 2005). The article alleges that the Mayor 'failed to disclose nightclub grants' in his Electoral Gifts Register.

I have received an inquiry from Mr Greg Roberts, the journalist who wrote the article, and I believe it important to advise all Councillors of this inquiry.

"I note his earlier response regarding donations by Darlington Park Raceway to the mayor's campaign and in particular to the following:

In the context of a breach of the Local Government Act, as set out above, it is pertinent to note that Mr Clarke stated in his amended return "I was, and still am, unaware of the extent of this "support" provided by Mr Stephens.

Can the ceo now advise what action he intends to take in relation to claims by the Gold Coast Licensed Venues Association, as reported in today's Australian.

I ask also if you can confirm Susie Douglas's claim that Tony Davis told all councillors they were required to declare in-kind donations."

I wish to advise that my response to Mr Roberts was:

"I have looked at the advertisements and the newspaper report of 26 March 2004 referring to the SMS messages. I do not believe that either of these constitute "in-kind" gifts for purposes of the Electoral Gifts Register. I draw your attention to a publication (copyrighted) prepared by the Department of Local Government and Planning, entitled "Disclosure of Election Gifts - Guidelines for candidates and councillors for local government elections". I suggest that you obtain a copy of this publication. It will no doubt assist in developing your understanding of this relatively simple matter.

I can confirm that I wrote to all candidates prior to the close of the election period and drew their attention to the requirement to lodge an Electoral Gifts Return. The successful candidates (councillors) were written to twice. The first memo referred them specifically to the publication I have recommended to you. Cr Susie Douglas subsequently rang Mr Davis to clarify the matter of "in-kind" support from her perspective."

Dale Dickson
CHIEF EXECUTIVE OFFICER

R

CONFIDENTIAL

Memorandum



TO : Dale Dickson, Chief Executive Officer

COPY :

FROM : Conrad Martens, Fraud Prevention & Security Adviser

ACTION BY :

SUBJECT : REGISTERS OF INTERESTS & ELECTION GIFTS - CR YOUNG

DATE : 12 May 2005

FILE NO : LG449/258/03/CF

REGISTER OF INTERESTS (\$247 LGA)

On 28/2/05 you referred to me information that Cr Young had not declared in his Register of Interests the possible receipt of a gift by way of financial support for advertising in The Local News. Following is my assessment of the information.

In April, May, July and August 2004 a one-page private advertisement was published in the Local News - identified as an "Advertisement" and entitled "A message from Councillor Peter Young's desk Division 5 - City of Gold Coast" (see Attachment A, copies of Cr Young's Newsletter and Advertisements). The Local News advises that in 2004 the cost of such a one-page advertisement to Council or a Councillor was \$440.

Following are excerpts from the advertisements related to the matter of financial support:

- APRIL 2004 - "... I have decided to pay for this second page each month myself. If you want to offer some financial support for this page to be published please give me a call."
- MAY 2004 - "Welcome to the second edition of the 'other page' - a page I pay for from my own pocket in order to relay to you facts deemed too damning by the Council."
- JULY 2004 - "Last month, regrettably, I could not afford to publish this second non-censored page. Along with the email edition of the newsletter I advised people of this financial constraint, and expressed by hope to be able to reinstate this second page in the future. Within 24 hours I received an email about this. It said "We believe that our Division ought to be informed by information that you provide on the second page and therefore *Gardens on Lindfield* will sponsor this cost for the next 12 months." Wow - what an offer! I have thought about this long and hard So, what is my decision? You're reading it. I have accepted the offer - graciously I hope."

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- AUGUST 2004 - Nil.

The business "*The Gardens on Lindfield*" is a retirement village situated at 101 Lindfield Road, Helensvale. It is owned by Cater Corporation Pty Ltd (ACN 084 718 552) of which Philip Cater is the Director, Secretary and sole Shareholder.

The advertisements state that Cr Young paid initially at least for the April and May advertisements, but are silent on who paid for the July and August advertisements.

It appears that a 12-month advertising budget would be in the order of \$5280. However, even though the July advertisement stated that a 12-month sponsorship was accepted at least in principle, the fact that the advertisements did not appear beyond August 2004 cast doubt on whether sponsorship was ever received.

Cr Young's Register of Interests does not currently disclose receipt of any gift from *The Gardens on Lindfield*, Cater Corporation or Philip Cater (see Attachment B, copy of Cr Young's Register of Interests).

There was no other evidence at hand indicating that another party paid for, or reimbursed Cr Young for expenses associated with, any of the four advertisements, though it was a possibility.

However, Cr Young's email to you dated 26 April 2005 (Attachment C) brought a new light on the situation. Referring to my inquiries Cr Young states:

"The matter of the investigation is, according to the journalist, related to me not declaring on my 'Register of Interests' (i.e. not election gift register) a gift in the form of paid advertising. This gift was provided to me by a property owner and developer of a retirement centre in July -August 2004."

In addition, Cr Young's memorandum to you dated 6 May 2005 and received 10/5/05 (included in Attachment D Electoral Gifts Return) has attached an email from Cater Corporation confirming stating that Cr Young received gifts to the total value of \$1770 from Cater Corporation Pty Ltd. It states that Cater Corporation paid The Local Newsletter the following sums on Cr Young's behalf - 22/5/04 \$450, 1/7/04 \$440, 23/7/04 \$440 and 25/8/04 \$440.

The above raises the question of Cr Young's knowledge in 2004 of receipt of gifts to the value of \$1770 from Cater Corporation and the failure to properly declare those gifts in his Register of Interests.

The Local Government Act 1993 (section 247 Registers of interests and regulation 17 Financial and non-financial particulars for registers) requires Cr Young to tell you the correct particulars of a relevant interest (in this case a gift over \$500 in value).

The LGA (Section 249 Queries on contents of register) requires you to immediately inform Cr Young that the gift of advertising sponsorship identified by him in his email dated 26 April 2005 and memorandum dated 6 May 2005 should be in the register.

CONFIDENTIAL

RETURN OF ELECTION GIFTS (242, 427 LGA)

On a related matter, Cr Young's memorandum dated 6 May 2005 states that in his Interim and Final Electoral Gift Returns declared a gift from the Cater Corporation to the value of \$3000, whereas he received \$5000 banked on 20/2/04 and wishes to correct that error.

The only declared electoral gifts from Cater Corporation are a gift on 2/3/04 of \$3000 in the Interim Return, and a gift on 2/3/04 of \$5000 in an amendment to the Interim Return dated 20/5/04 and the Final Return dated 3/7/04. The latest memorandum from Cr Young showing receipt on a different date (20/2/04) of \$5000 suggests an error or omission in the return the Return (Attachment D).

The LGA (sections 242 Requirements of councillors before acting in office, 427 Gifts to candidates, 427A Gifts to groups of candidates) requires Cr Young to give you correct particulars in an Electoral Gifts Return.

Once again, the LGA (Section 435 Queries on contents of register) requires you to immediately inform Cr Young of the suspected error or omission arising from his memorandum dated 6 May 2005.

COMPLAINT BY CR YOUNG -

In his email to you Cr Young raised the concern that on 26/4/05 a print media journalist advised him that he was under investigation in relation to not declaring advertising sponsorship in his Register of Interests. I have no knowledge whatsoever of whether such information has come to the hands of a journalist or how a journalist may have received such information. I keep the fact of an investigation confidential for the purpose of protecting the interests of all parties concerned.

REFERRAL

The Crime and Misconduct Act 2001 (38 Duty to notify commission of official misconduct) requires that the CEO refer any matter that may involve official misconduct, e.g. a criminal offence.

The LGA specifies several offence provisions in relation to keeping a Register of Interests and submitting a Return of Electoral Gifts, and it is arguable that the aforementioned matters are referable to the Commission.

At the time of doing so, it would be appropriate for the CEO to bring to the Commission's attention Cr Young's concerns about a breach of confidentiality.

RECOMMENDATION

It is recommended that:

- 1 The CEO advises Cr Young in writing along the following lines:

The information provided in you email dated 26 April 2005 and memorandum dated 6 May 2005 indicate that you have received a gift of financial support for

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advertising in The Local Newsletter that should be in your Register of Interests. I will therefore refer you to the requirements placed upon you by sections 247 and 249 of the Local Government Act 1993.

I note that you are currently determining the details of the gift for the purposes of amending the Register. However, under the Crime and Misconduct Act I am obliged to refer the matter to the Commission.

I note your memorandum dated 6 May 2005 amending your Electoral Gift Return to show receipt on 20/2/04 of a gift to the value of \$5000 from Cater Corporation Pty Ltd. I will point out that the Return currently records a gift from Cater Corporation on 2/3/04 of \$5000 (Amendment to your Interim Return dated 20/5/04 and Final Return dated 3/7/04) and correct details are required.

In response to your concerns about the unauthorised release of information about Mr Martens' inquiries, he assures me that any investigations by him are kept strictly confidential and he is unaware of who may have provided such information to the media.

As the aforementioned matters are interrelated, I propose to convey information about them to the Commission for independent assessment.

2. The CEO (Fraud Prevention & Security Advisor) refers the matters to the Commission.

I apologise for the delay in finalising this matter to you.

Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR
(5582 8816)

Level 3 Terrace Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cc.qld.gov.au

www.cmc.qld.gov.au

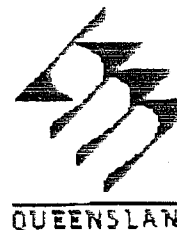
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ALL THE PAGES OR IF
THE TEXT IS NOT
LEGIBLE PLEASE
CONTACT (07) 3360 6060
IMMEDIATELY.

The information the subject
of this transmission is
confidential and is
privileged against
disclosure except to and for
the use of the addressee for
the purposes of the
Commission and the *Crime
and Misconduct Act 2001*.

If the information contained
in this transmission
becomes the subject of any
request under Freedom of
Information legislation,
consultation should be
undertaken with this
Commission.

If you are not the
addressee, please ensure
that this confidentiality and
privilege is maintained by
not disclosing or using the
information in any manner
and immediately notify the
Commission on the above
number or 1800 061 611 to
arrange the return of the
information.

Facsimile Transmission



To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: HELEN FABILA

Fax No.: 5582-8125

Subject: MATTERS ASSESSED REPORT:
MI-05-2228

Date: 21 JULY 2005

NO. OF PAGES (INC. THIS PAGE):

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

MATTERS ASSESSED (MI-05-2228)
Local Government; Gold Coast City Council

File Number: MI-05-2228 Received Date: 19-JUL-2005

Matter Type: Complaint
 Method of Lodgement: E-mail from department or public sector agency

Concerned Parties: Mr Conrad MARTENS (Notifier)
 Councillor David POWER (Complainant)

Persons of Interest: Councillor Peter YOUNG (Subject)
 Gold Coast City Council
 Councillor

Precis: Gold Coast City Council refers allegation raised by a Councillor for Division 2 in relation to another Councillor; alleged failure to properly declare gifts in his register of interests received in the amount of \$1,770 from a corporation which runs a retirement village.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Councillor Peter YOUNG (Subject)	Corruption and Favouritism	Failure to declare interest / Using authority in situation where conflict of interest exists Alleged failure to properly declare gifts register of interests received in the amount of \$1,770 from a corporation which runs a retirement village.	Official Misconduct	Mr Conrad MARTENS (Notifier)

Status: Referral to the UPA to deal with the complaint - outcome advice only.

Endorsement Comment: Having regard to the information provided and to the actions already being taken by the Council, the matter is appropriate for referral to the Council to deal with. (Helen COUPER)

Date: 21-JUL-2005

MARTENS Conrad

From: MARTENS Conrad
Sent: Monday, 18 July 2005 4:55 PM
To: CMC Complaints (E-mail)
Subject: LG449/258/03/09/CF Referral

CONFIDENTIAL

Ms Helen Couper
Chief Officer Complaints Section
Official Misconduct Division
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

Dear Ms Couper

REFERRAL - CR PETER YOUNG

The following matter is hereby referred to the Commission in accordance with the Crime and Misconduct Act 2001.

PERSON RAISING INITIAL CONCERN

David Power - Councillor for Division 2 and Deputy Mayor initially raised a concern with the Chief Executive - Officer Dale Dickson, about the completeness of Cr Peter Young's register of interests.

DESIRED OUTCOME OF CONCERNED PARTY

Deputy Mayor, Cr Power views that it is a serious matter if the allegations are proven.

PERSON OF INTEREST

Peter Young, Councillor for Division 5
First floor, Nerang Council Chambers
Phone: (07) 5582 8400
Mobile: 0414 180 118
Home phone: (07) 5502 8080

PRECIS OF MATTER

Register Of Interests (S247 LGA)

In April, May, July and August 2004 a one-page private advertisement was published in the Local News - identified as an "Advertisement" and entitled "A message from Councillor Peter Young's desk Division 5 - City of Gold Coast" (see Attachment A, copies of Cr Young's Newsletter and Advertisements). The Local News advises that in 2004 the cost of such a one-page advertisement to Council or a Councillor was \$440.

Following are excerpts from the advertisements related to the matter of financial support:

- APRIL 2004 - "... I have decided to pay for this second page each month myself. If you want to offer some financial support for this page to be published please give me a call."
- MAY 2004 - "Welcome to the second edition of the 'other page' - a page I pay for from my own pocket in order to relay to you facts deemed too damning by the Council."
- JULY 2004 - "Last month, regrettably, I could not afford to publish this second non-censored page. Along with the email edition of the newsletter I advised people of this financial constraint, and expressed by hope to be able to reinstate this second page in the future. Within 24 hours I received an email about this. It said "We believe that our Division ought to be informed by information that you provide on the second page and therefore *Gardens on Lindfield* will sponsor this cost for the next 12 months." Wow - what an offer! I have thought about this long and hard So, what is my decision? You're reading it. I have accepted the offer - graciously I hope."
- AUGUST 2004 - Nil.

The business "The Gardens on Lindfield" is a retirement village situated at 101 Lindfield Road, Helensvale. It is owned by Cater Corporation Pty Ltd (ACN 084 718 552) of which Philip Cater is the Director, Secretary and sole Shareholder.

The advertisements state that Cr Young paid initially at least for the April and May advertisements, but are silent on who paid for the July and August advertisements.

It appears that a 12-month advertising budget would be in the order of \$5280. however, even though the July advertisement stated that a 12-month sponsorship was accepted at least in principle, the fact that the advertisements did not appear beyond August 2004 cast doubt on whether sponsorship was ever received.

On 10 May 2005 Cr Young's Register of Interests did not disclose receipt of any gift from The Gardens on Lindfield, Cater Corporation or Philip Cater (see Attachment B, copy of Cr Young's Register of Interests).

There was no other evidence at hand indicating that another party paid for, or reimbursed Cr Young for expenses associated with, any of the four advertisements, though it was a possibility.

However, Cr Young's email to the Chief Executive Officer - Dale Dickson dated 26 April 2005 (Attachment C) brought a new light on the situation. Referring to the Fraud Prevention & Security Officer's inquiries Cr Young states:

"The matter of the investigation is, according to the journalist, related to me not declaring on my 'Register of Interests' (i.e. not election gift register) a gift in the form of paid advertising. This gift was provided to me by a property owner and developer of a retirement centre in July -August 2004."

In addition, Cr Young's memorandum to the Chief Executive Officer - Dale Dickson dated 6 May 2005 and received 10/5/05 (included in Attachment D Electoral Gifts Return) has attached an email from Cater Corporation confirming stating that Cr Young received gifts to the total value of \$1770 from Cater Corporation Pty Ltd. It states that Cater Corporation paid *The Local Newsletter* the following sums on Cr Young's behalf - 22/5/04 \$450, 1/7/04 \$440, 23/7/04 \$440 and 25/8/04 \$440.

The above raises the question of Cr Young's knowledge in 2004 of receipt of gifts to the value of \$1770 from Cater Corporation and the failure to properly declare those gifts in his Register of Interests.

The Local Government Act 1993 (section 247 Registers of interests and regulation 17 Financial and non-financial particulars for registers) requires Cr Young to tell the Chief Executive Officer the correct particulars of a relevant interest (in this case a gift over \$500 in value).

Return Of Election Gifts (242. 427 LGA)

Cr Young's memorandum dated 6 May 2005 raised the matter of an error in his Interim and Final Electoral Gift Returns (see Attachment D)..

On 5 April 2004, Councillor Young completed an interim return of electoral gifts disclosing a donation of \$3,000.00 on 2 March 2004 from Cater Corporation.

On 8 April 2004 Councillor Young executed his declaration of office (see Attachment E).

On 20 May 2004, Councillor Young purported to amend this return by changing the amount of the donation from Cater Corporation from \$3,000.00 to \$5,000.00. The date of the donation remained unchanged as 2 March 2004.

On 3 July 2004, Councillor Young completed a final return of electoral gifts disclosing the donation from Cater Corporation as being \$5,000.00 and the date of the donation as being 2 March 2004.

On 10 May 2005, the Chief Executive Officer received from Councillor Young a memo where he admits that the final return of electoral gifts of 3 July 2004 is incorrect because the donation of \$5,000.00 from Cater Corporation was received on 20 February 2004, and not on 2 March 2004 as previously disclosed.

Councillor Young's interim return of 5 April 2004 discloses not only an incorrect date for the donation (2 March 2004 instead of 20 February 2004) but also an incorrect amount for the donation \$3,000.00 instead of \$5,000.00. That return was lodged by Councillor Young immediately prior to taking his declaration of office, pursuant to section 242(1) (a) of the LGA.

OTHER AGENCIES

Not applicable.

SIGNIFICANT BACKGROUND INFORMATION

There is history between Cr Power and Cr Young.

In his email to the Chief Executive Officer - Dale Dickson, Cr Young raised the concern that on 26/4/05 a print media journalist advised him that he was under investigation in relation to not declaring advertising sponsorship in his Register of Interests. I have no knowledge whatsoever of whether such information has come to the hands of a journalist or how a journalist may have received such information. I keep the fact of an investigation confidential for the purpose of protecting the interests of all parties concerned.

WITNESSES

Not applicable.

PRIORITY ISSUES

Not applicable.

PUBLIC INTEREST DISCLOSURE

Not applicable.

EVIDENTIARY MATTERS

See attachments described above.

ACTION TAKEN TO DATE

The Fraud Prevention & Security Advisor Conrad Martens provided a report on the matter to the Chief Executive Officer.

AGENCY CAPACITY

Capacity known to the Commission.

Please do not hesitate to contact me if I may be of assistance or you require further advice. I will remain Council's contact officer.

Yours faithfully

Conrad Martens
Fraud Prevention & Security Advisor
"Protecting You - Protecting Us"

Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125

City Governance, Gold Coast City Council

· Waterside West (level 5) 11 Holden Place, Bundall

· P.O. Box 5042 Gold Coast Mail Centre 9729

[Link to Council Business Ethics <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460)

[Link to Council Code of Conduct <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029)



Att A - Cr Young
Newsletters.t...



Att B - Cr Young
Register of I...



Att C - Cr Young
Email to CEO ...



Att D - Cr Young
Register of E...



Att E - 2004 Post
Election 08A...

Memorandum



TO : Dale Dickson - Chief Executive Officer
FROM : David Montgomery - City Solicitor
SUBJECT : Electoral Disclosure Obligations
Register of Interests
CC : Tony Davis - Manager CEO's Office
Joe McCabe - Director City Governance
DATE : 15 June 2005
FILE NO : LG211/187/CF

Tony Davis -
Pleant action
on dismissed
J 1/7/05

You have asked me to consider 3 issues, namely: -

1. Whether the Mayor has failed to comply with the electoral disclosure obligations prescribed by the Local Government Act 1993 ("LGA") in relation to the SMS messaging, radio and newspaper advertising conducted by Jim Bell and/or the "Surfers Paradise Licensed Venues Association" in the week prior to the 2004 elections.
2. Whether Councillor Young has failed to comply with the electoral disclosure obligations prescribed by the LGA in relation to the issues raised by the Fraud Prevention & Security Adviser in his memo to you of 12 May 2005.
3. Whether Councillor Young has failed to comply with his ongoing obligation to advise you of changes to his register of interests, as raised by the Fraud Prevention & Security Adviser in his memo to you of 12 May 2005.

Introductory comments - the obligations imposed upon you by the Crime and Misconduct Act 2001

Although these introductory comments are not directly relevant to the first issue (on the basis that the issue has already been referred to the CMC by others), it is directly relevant to the second and third issues as a consequence of the Fraud Prevention & Security Adviser advising you to refer both matters to the CMC. It also seems timely, given issues external to this advice to review statutory obligations placed upon you.

Under section 38 of the Crime and Misconduct Act 2001 ("CMA") a "public official" has a mandatory duty to notify the CMC about any matter which the official "suspects involves or may involve" official misconduct.

The term "public official" is defined in Schedule 2 to the Act in terms, which clearly include the CEO of a local government.

That aside, there are two components of this duty that require comment.

Suspicion

The term "suspects" has a well recognised legal meaning, and there is no basis for not applying that well recognised meaning to the term as it is used in section 38 of the CMA. The term refers

to a state of conjecture where there is no belief or actual knowledge about a particular matter, and where proof is lacking, but where there is some relevant fact or circumstance by which, rationally, there is a possibility that the particular matter or circumstance exists.

It will therefore be apparent that, in order to trigger the obligation on the basis that the CEO "suspects" as required by the section, the CEO is not required to have evidence, even prima facie evidence, that official misconduct has occurred, and is not required to carry out investigations or evaluate or weigh evidence in order to determine, to any standard of proof, whether he or she believes that official misconduct has occurred. It is fundamental to the legal nature of a suspicion that there is no proof - merely a possibility, albeit one, which cannot be dismissed as merely frivolous or idle speculation.

The fact that it is not necessary that there be a suspicion that actions (actually) involve official misconduct, and that it is sufficient that there be only a suspicion that the actions "may involve" official misconduct, simply reinforces the very slight nature of the evidence which is required in order to create a legally recognised suspicion, and thus ignite the statutory obligations.

The reason why the mandatory referral obligation is imposed upon such very slight evidence is simply that, once the issue of official misconduct is raised (in circumstances where it can not be dismissed as merely frivolous or idle speculation), the job of assessing the evidence and deciding whether the matter should be further investigated or otherwise be the subject of further action is a job for the CMC.

However the CMC may (under section 44 of the CMA) refer the matter back to the CEO with directions about the way in which the matter should be investigated and further dealt with. This issue is dealt with later in this advice.

Clearly the policy reasons are to ensure that any misconduct, no matter how deeply embedded may show itself slightly in the day to day operations of Council, and should therefore come of the attention of the CMC.

Official misconduct

The term "*official misconduct*" is defined in sections 14 and 15 of the CMA. In the case of local government councillors, it has two distinct elements (both of which are essential to fall within the definition): -

- The conduct must have some characteristic by which powers conferred on an individual for public purposes have been used dishonestly, with partiality or otherwise for some personal or ulterior purpose other than the public purpose for which the powers were granted; and
- The conduct, if proved, must constitute a criminal offence.

In the context of local government councillors, if circumstances exist which raise a suspicion about breaches of the electoral returns and register of interest disclosure provisions in the LGA, then there is no doubt that those circumstances raise a suspicion of "official misconduct". This is because a breach of those provisions: -

- Involves conduct where there is a conflict between the person's public duties and private interests which, on any view, "could adversely affect" the honest and impartial performance of the statutory duty; and
- Contravening sections 242 and 436 (offences about electoral returns) and 247 (register of interests) of the LGA are criminal offences. (The term "criminal offence" refers to any offence, which is punishable by a specified penalty following a criminal prosecution process. The term is not limited to offences under the Criminal Code, or other more "serious" offences.)

Against that background, what needs to be determined is whether the facts that have been identified to you give rise to a situation where you should "suspect" that conduct of a councillor "may involve" a breach of sections 242, 436 or 247 of the LGA. If so, section 38 of the CMA imposes a mandatory duty to refer the matter to the CMC, without further investigation by you.

SMS messaging, radio and newspaper advertising issue

The crux of this issue is whether the SMS messaging, radio and newspaper advertising conducted by Jim Bell and/or the "Surfers Paradise Licensed Venues Association" in the week prior to the 2004 elections, constituted a "gift" to the Mayor, as that term is used in section 427 of the LGA. The SMS advertising consisted of an alleged message (sent to registered club patrons) advising them not to vote for then Mayor, Gary Baidon. The message allegedly said, "Gary Baidon thinks your vote won't count because you're young and go to nightclubs. He wants you in bed by 3am. Don't let him tell you what to do! Vote him out." The newspaper advertising consisted of an advertisement asking people not to vote for Mayor Gary Baidon and the Association's name was printed at the bottom of the advertisement. The advertisement also contained a suggested voting format, which suggested that voters place Ron Clarke at No.1 on the ballot paper for Mayor (and Susie Douglas at No.1 on the ballot paper for Councillor).

There was no suggestion prior to the election that the Association or its spokesperson, Mr Jim Bell, was providing the advertising as a gift to a specific candidate. The only time this issue was raised was in a newspaper report of 16 May 2005 in the Australian Newspaper in which Mr Bell was alleged to have said, "He accepted \$20,000 worth of support and then he turned on us. If we'd known, we would have stuck with Gary Baidon." In the same article (and elsewhere), the Mayor has denied any prior knowledge of the advertising.

Sub-sections (1) and (2) of section 427 are of most relevance, and are in the following terms: -

"(1) This section applies to gifts received by a candidate for an election during the candidate's disclosure period for the election but not to a gift made in a private capacity to the candidate, for the candidate's personal use, that the candidate has not used, and does not intend to use, solely or substantially for a purpose related to any election.

(2) Each candidate for the election must, within 3 months after the conclusion of the election, give to the chief executive officer of the local government to which the election relates a return, in the approved form, stating—

(a) whether the candidate received any gifts to which this section applies; and

(b) if so—

(i) the total value of all of the gifts; and

(ii) how many persons made the gifts; and

(iii) the relevant details for each gift made by a person to the candidate, if the total value of all gifts made by the person to the candidate during the disclosure period is the prescribed amount or more."

The term "gift" is further defined in section 414 of the LGA and essentially means the disposition of property or the provision of a service without consideration or consideration less than full consideration. The term "disposition of property" is further defined in section 414 to mean the conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property. The provision of SMS messaging and advertising was not, in my view, a disposition

of property as defined. The question therefore becomes whether what occurred was the "provision of a service".

The ordinary use of the word "provision" involves there being a provider and a recipient. In my view, it is implicit in section 427 that the recipient of the gift be aware that the gift was being made to him or her. Whilst advertising or provision of funds for advertising of this nature could constitute a gift, none of the material I have examined suggests that it was received by or disposed of on behalf of the Mayor. Further, there is nothing in the material to suggest that the Association or Jim Bell was acting as an agent for the Mayor when providing the advertising.

It is also not clear that the Association or Jim Bell intended to make a gift to either the current Mayor or Councillor Douglas. In fact the newspaper reports prior to the election suggest that the Association's primary objective was to serve their own interest of protesting Mayor Baildon's stance on nightclub closure times. Mr Bell is quoted in the Gold Coast Bulletin of 26 March 2004 as saying "This Council is not capable of running the town. At least if we might get a new Council we might get someone who will take our business seriously." This strongly suggests that the removal of Gary Baildon from the office of Mayor was the prime motivation for the advertising (rather than providing support to the current Mayor or Councillor Douglas).

Finally, if what occurred did amount to a gift for the purposes of section 427, the Mayor could not have complied with section 427(2) in any meaningful way because, at the relevant time, he did not have any knowledge of the matters listed in sub-paragraphs (i), (ii) and (iii) of section 427(2)(b).

This confirms in my mind a basic notion, even outside legal theory, that the recipient needs to have knowledge that the gift was made and intended for the recipient. Otherwise, the situation could arise where a group supports a candidate, whose platform is closest to the interests of the group, however the candidate does not endorse, support or want to be associated with the group i.e. Neo-Nazi supporters. It needs to be noted however, that an assertive act, in my view, is not necessarily required by the candidate to constitute a gift being given, however examination of that issue is not required for the purposes of this advice.

For these reasons, it is my conclusion that what occurred did not amount to a gift for the purposes of section 427 of the LGA.

However, from my perusal of the relevant newspaper articles, it appears that the entity known as the "Surfers Paradise Licensed Venues Association" paid for the SMS messages allegedly sent to 75,000 "night clubbers", at a reported cost of \$16,000.00. Further, this Association also paid for radio and newspaper advertising (including a double page ad that appeared in The Gold Coast Bulletin on Thursday March 25, 2004). On page 10 of the Gold Coast Bulletin of 26 March 2004, it is reported that: -

"Four major Surfers Paradise club owners pooled funds to pay for the advertising."

The spokesperson for the Association is Mr Jim Bell. At present, and in the absence of any evidence to the contrary, it must be assumed that Mr Jim Bell was the person responsible for raising the funds from the 4 nightclubs to conduct this particular advertising campaign.

On the present material, it is my opinion that Mr Jim Bell is obliged to provide a return pursuant to section 430(2) in relation to any contribution he received from other nightclub owners which exceeded the prescribed amount of \$1,000.00.

Councillor Young's Electoral Return

The relevant issues here are: -

1. On 5 April 2004, Councillor Young completed an interim return of electoral gifts disclosing a donation of \$3,000.00 on 2 March 2004 from Cater Corporation.

2. On 20 May 2004, Councillor Young purported to amend this return by changing the amount of the donation from Cater Corporation from \$3,000.00 to \$5,000.00. The date of the donation remained unchanged as 2 March 2004.
3. On 3 July 2004, Councillor Young completed a final return of electoral gifts disclosing the donation from Cater Corporation as being \$5,000.00 and the date of the donation as being 2 March 2004.
4. On 10 May 2005, you received from Councillor Young a memo where he admits that the final return of electoral gifts of 3 July 2004 is incorrect because the donation of \$5,000.00 from Cater Corporation was received on 20 February 2004, and not on 2 March 2004 as previously disclosed.
5. In his memo to you of 12 May 2005, the Fraud Prevention & Security Adviser advises that Councillor Young be reported to the CMC for having incorrectly completed his final return of electoral gifts (in that he provided an incorrect date of receipt for the \$5,000.00 donation).

Section 436 of the LGA contains the major offence provisions in relation to electoral gift returns. Section 436(2) provides: -

“(2) A person must not give a return the person is required to give under division 3 containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty—

- (a) if the person is required to give the return as a candidate—100 penalty units;
- (b) if paragraph (a) does not apply—50 penalty units.”

In the present case, I do not think Councillor Young’s error in recording the wrong date for the donation constitutes an offence because the minor error in relation to the date of receipt in the electoral return is not “false or misleading in a material particular”.

That, however, is not the end of the matter.

Councillor Young’s interim return of 5 April 2004 discloses not only an incorrect date for the donation (2 March 2004 instead of 20 February 2004) but also an incorrect amount for the donation \$3,000.00 instead of \$5,000.00). That return was lodged by Councillor Young immediately prior to taking his declaration of office, pursuant to section 242(1)(a) of the LGA. Section 242(8) of the LGA provides: -

“The person must not give a return, under subsection (1)(a), containing particulars that are, to the knowledge of the person, false or misleading in a material particular.

Maximum penalty for subsection (8)—100 penalty units.”

Councillor Young appears to have lodged an interim return in contravention of section 242(8) in relation to the error in the amount of the donation. I accordingly agree given the test that applies, that you are obliged to report the matter to the CMC.

How the CMC (and, possibly, Council) subsequently deals with this matter is discussed later.

Councillor Young’s Register of Interests

The relevant issues are adequately canvassed in the Fraud Prevention & Security Adviser’s memo to you of 12 May 2005.

I am not so certain whether the paid advertising constitutes a gift as contemplated by section 17(1)(j) of the Local Government Regulation 1994 ("the Regulation"), because section 17(1)(j) refers to gifts (of cash or in kind) actually received by a councillor, which is not what occurred here.

In any event, further consideration of this question is not required because section 17(1)(o) of the Regulation contains a "catch-all" provision requiring disclosure of: -

"particulars sufficiently detailed to identify each other financial or non-financial interest of the councillor or related person—

(i) of which the councillor is aware; and

(ii) that raises, appears to raise, or could foreseeably raise, a conflict between the councillor's duty as a councillor and the holder of the interest."

It is my opinion that the paid for advertising falls within this provision and for that reason I agree that the matter must be referred to the CMC, on the basis that: -

1. Councillor Young has an ongoing obligation to inform you of changes in his register of interests (section 247(3)).
2. Councillor Young is obliged to inform you of such changes within 3 months of the change occurring (see section 18(2) of the Regulation).
3. Failure to inform you of such changes within 3 months constitutes an offence as evidenced by the existence of a penalty provisions at the end of section 247(3).

How the CMC is likely to handle the matters

Since the commencement of the CMA in 2002, the CMC has been empowered to refer complaints made to it, back to be dealt with by the CEO who made the initial notification (see section 46(2)(b) of the CMA).

In my opinion the two possible offences are of a relatively minor nature and one would expect that the CMC will refer the matters back to you, to be dealt with by you.

The CMA provides little further guidance as to how you should deal with the matter, with the exception of section 44(3) which states: -

"If the public official is satisfied that—

(a) a complaint—

(i) is frivolous or vexatious; or

(ii) lacks substance or credibility; or

(b) dealing with the complaint would be an unjustifiable use of resources;

the public official may take no action or discontinue action taken to deal with the complaint."

In the present cases, section 44(3)(b) is the only provision of relevance.

Although you have been delegated the power to make prosecution decisions, I would expect that, as the issue is one relating to the conduct of a Councillor, you would ultimately refer the matter to Council for the decision as to whether to prosecute.

When reporting the matter to the Council, I would recommend that my following comments be brought to the Council's attention in relation to these particular matters.

Every prosecution decision is a matter for discretionary judgement having regard to a range of factors which are easy to express in general terms, but often difficult to apply to particular fact situations. Those factors are: -

- The seriousness of the offence.
- The strength (or otherwise) of the evidence to support the prosecution.
- The costs likely to be incurred and the extent to which, assuming a successful outcome, those costs are likely to be recovered from the defendant.
- Whether the defendant has acknowledged the contravention and expressed remorse for it (or whether, by contrast, the defendant continues to defiantly assert that he or she did not breach the relevant law).
- The public interest desirability of taking a prosecution to act as a deterrent to others having regard to: -
 - the likely level of penalty;
 - whether offences of the relevant kind are prevalent, or might be encouraged by a lack of decisive action on the particular matter in question.

In order to provide some guidance to you, I make the following comments in relation to Councillor Young's breaches: -

1. In relation to the issue of seriousness of the offence, it is self-evident that neither offence constitutes a serious or grave contravention of the relevant provisions.
2. In relation to the strength of the case, there would appear to be little doubt that we have the evidence to prove that Councillor Young committed the offences.
3. In relation to legal costs to be incurred in prosecuting the matter, those costs cannot objectively be considered to be excessive or to constitute a very significant impost on the resources of a Council the size of ours.
4. In relation to acknowledgment and remorse, it is apparent Councillor Young has fully co-operated in relation to the investigations in relation to the matter and, in relation to the electoral returns matter does not deny that he may have breached the LGA. If there is co-operation with investigative processes, an acknowledgment of wrongdoing, an apology or a statement of remorse (i.e. there is no attitude of defiance of the law), such actions are factors, which militate against commencing prosecution proceedings.
5. Both sections 242 and 247 are laws designed to protect the public from misuse of the privileges that are attached to being elected to public office. They are not "minor" or "peripheral" laws. For the most part, councillors' actions are a matter of self-regulation within the bounds of non-prescriptive and non-criminal obligations imposed by the LGA and the general law. The few specific criminal offences, which are provided in the LGA, are therefore to be seen as specific decision by Parliament about more serious legal treatment for matters, which are fundamentally important to the legal framework of the LGA. That means that any breach of those provisions should always be considered a candidate for prosecution.

On the other hand, having regard to the fact that there has been no attempt by Councillor Young to conceal the offences and to the fact that his breaches have not harmed any third parties (as far as we know), there is no great strength in any argument that it is necessary to prosecute in order to ensure that a grave breach of the legislation

does not go unpunished. This links back to the issues about the seriousness of the offence discussed above.

Similarly, there appear to be no factors surrounding these two breaches that provide a basis for asserting that it is necessary to prosecute in this case in order to act as a deterrent to other councillors who may possibly commit similar offences, or that failure to prosecute him will encourage him (and other councillors) to commit similar offences.

Turning to likely penalty, section 242 prescribes a maximum penalty of 100 penalty units, which equates to \$7,500.00 and section 247 prescribes a maximum penalty of 85 penalty units, which equates to \$6,375.00. The penalty actually imposed will certainly be significantly lower than the maximum. I can say with high confidence that it will be no more than one third of the maximum, which is often applied as an unwritten rule of thumb for a non-trivial first offence.

Moreover, having regard to a number of factors we have already mentioned a well structured plea in mitigation by the defendant coupled with a statement of remorse could get the penalty down much further.

Offences against section 242 or 247 of the LGA are offences identified as being subject to section 222 (Disqualification and vacation of office for certain offences). If Councillor Young were to be convicted of either offence, by virtue of section 222(2) he will be deemed to have vacated his office, unless the Magistrate makes an order pursuant to section 222(3) that section 222(2) should not apply.

In this regard, you are referred to the prosecution against former Councillor Sciacca, where Mr Kilner SM (who is still one of the Southport Magistrates) made an order under section 222(3) in Councillor Sciacca's favour, in relation to breaches of section 247 that were, in my opinion, clearly far more serious than Councillor Young's breaches.

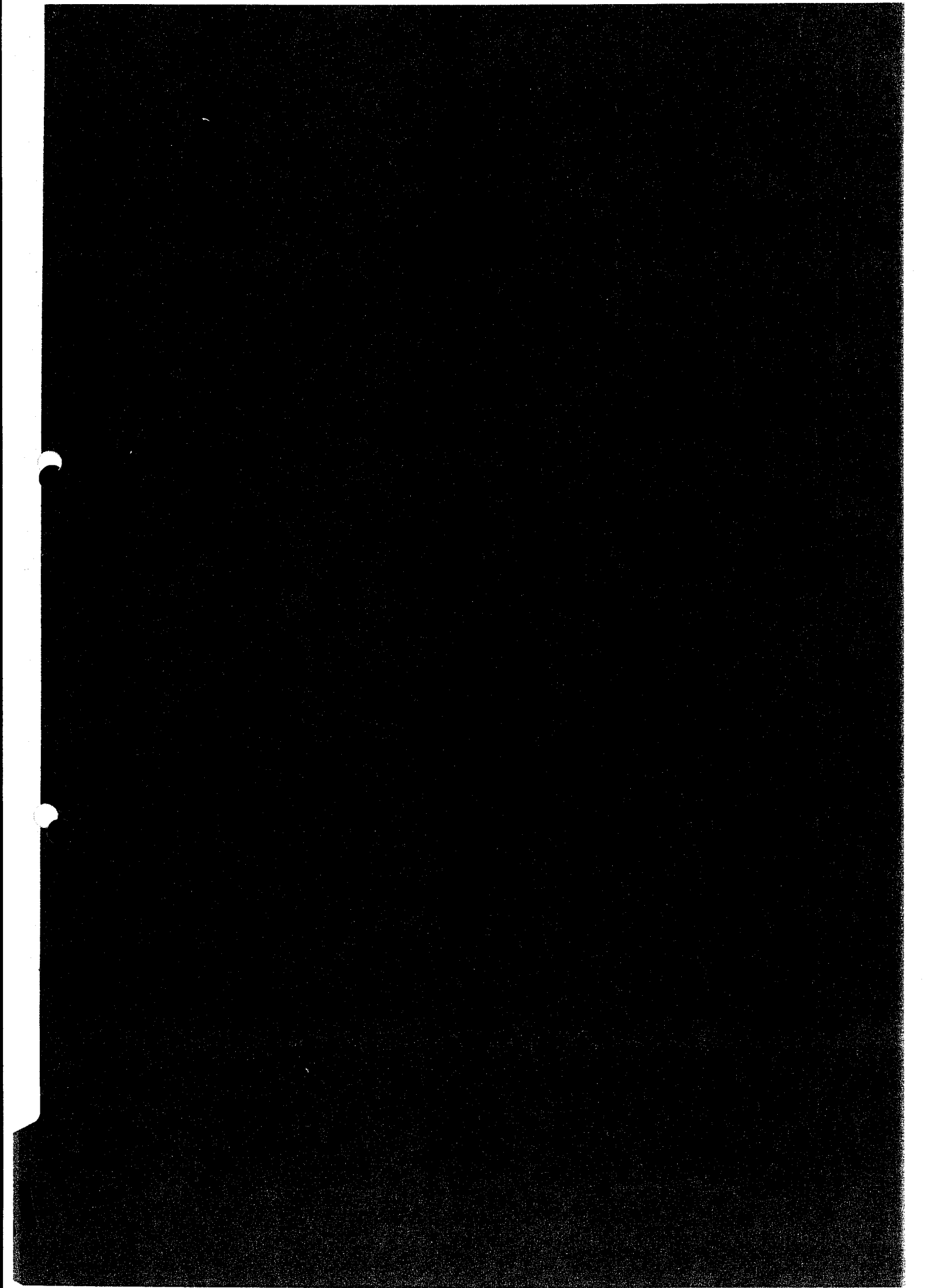
In summary, on the issue of penalty and deterrence, it is my view that the likely penalty will be low, no conviction will be recorded and it is extremely likely that an order pursuant to section 222(3) would be made, allowing Councillor Young to remain a Gold Coast City Councillor.

Balancing all the above factors, it is my view assuming the CMC refers the matter to you without directions, that it is against Council's overall interests to expend further time and resources on taking prosecution proceedings, and, that there is no detriment to the good public benefit principles in the prosecution proceedings not being instigated. On any objective view of the matter, Council would have no difficulty in properly and responsibly justifying a decision not to prosecute.



David Montgomery
CITY SOLICITOR
ext 7484

g/solicitor/memo/ElectoralDisclosureObligations



Level 3 Temica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

E-mail
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



Facsimile Transmission

To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: JUNE CLARKE

Fax No.: 5582 8125

Subject: MATTERS ASSESSED REPORT:
MI-05-3222

Date: 25 OCTOBER 2005

NO. OF PAGES (INC. THIS PAGE): 6

MESSAGE:

Please find attached Matters Assessed Report and supporting documentation.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

The information the subject of this transmission is confidential and is privileged against disclosure except to and for the use of the addressee for the purposes of the Commission and the *Crime and Misconduct Act 2001*.

If the information contained in this transmission names the subject of any request under Freedom of Information legislation, consultation should be undertaken with this Commission.

If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061 611 to arrange the return of the information.

MATTERS ASSESSED (MI-05-3222)
Local Government; Gold Coast City Council

Received Date: 10-OCT-2005

File Number: MI-05-3222

Matter Type: Complaint

Method of Lodgement: Correspondence from concerned party

Concerned Parties: Cecil A. CLARK (Complainant)
 125 Logan Street
 Eagleby QLD 4207

Persons of Interest: Councillor Ray HACKWOOD (Subject)
 Gold Coast City Council
 Councillor

Precis: Complainant raises concerns about the possible construction of a ring road which will pass through Beenleigh Show Ground and how he believes the Subject Officer has accepted commissions to support the proposed route. It is also alleged that the Subject Officer has stated in a newsletter that this route will be adopted before the matter has gone to Council for approval. It is further suggested that the Subject Officer has final say on works contracts and staff hiring for such contracts and that he has 2 graders on hire to Council who get paid for doing nothing.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
2	Councillor Ray HACKWOOD (Subject)	Corruption and Favouritism	Failure to declare interest / Using authority in situation where conflict of interest exists It is alleged the Subject Officer, as chairman of the Council's Engineering and Services Committee, has misused his authority as he has 2 graders on hire to Council. It is alleged he may be using his position for financial gain as he can authorise the hire of the graders. It is further suggested that the Subject Officer is pushing for the construction of the ring road so his graders will be hired long-term by Council.	Official Misconduct	Cecil A. CLARK (Complainant)

Status Referral to the UPA to deal with the complaint - outcome advice only.

Endorsement Comment Allegation could, if proved, amount to OM (breach of trust, assault). While allegation is serious in that the conduct alleged would be improper, the matter is suitable for referral to the UPA to deal with. (Conor MCGARRITY)

Date 10-OCT-2005

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Councillor Ray HACKWOOD (Subject)	Control of Information	Giving incorrect information Complainant alleges the Subject Officer has stated in the	Police Misconduct	Cecil A. CLARK (Complainant)

Printed By: JCLARKE
 Printed Date: 26-OCT-2005 10:33:23

IN-CONFIDENCE

MATTERS ASSESSED (MI-05-322)
Local Government; Gold Coast City Council

<u>No</u>	<u>Subject</u>	<u>Type</u>	<u>Sub-type/Comment</u>	<u>Conduct Category</u>	<u>Complainant</u>
	Status		The alleged conduct if proven could not constitute official misconduct or police misconduct and does not warrant referral to the relevant UPA or any other agency.		
	Endorsement Comment		The Subject Officer does not have sole authority to make the decision regarding the route of the proposed ringroad and as such there exists no suspicion of any official misconduct on the part of this officer. (Conor MCGARRITY)		
	Date		10-OCT-2005		

Sub-type/Comment
 Riverlands News dated 22 September 2005 that the proposed ring road will pass through the centre of Beaulleigh Show Ground- before the matter has been voted on before Council. It is alleged this information is false and misleading.

IN-CONFIDENCE

MI-05-3222 59885

0MOS/116764

CRIME AND MISCONDUCT
RECEIVED
10 OCT 2005
COMMUNICATIONS

125 Logan Street
Eagleby. 4207.
5th October.2005.

The,
Crime & Misconduct Commission
Level 3, Terrica Place
140 Creek Street(Cnr. Adelaide Street)
Brisbane. 4001.

With the coming enquiry into the Gold Coast City Council by the Crime & Misconduct Commission, I feel as a Citizen and Ratepayer I have something to report to the Commission, for consideration and investigation.

The Beenleigh Show Society has been negotiating with the Gold Coast City Council, of a ring road that goes through the Beenleigh Show Ground for 2 years now.

The Council seems to be hell bent to take it through the middle of the Show Ground, which takes away our main sideshow area & Stalls area for our Show and weekly Sunday Markets, virtually destroying the Show Ground.

We believe that Kilcor Property Developers known as Kilcor Commercial Pty. Ltd. has offered money to our Div 1, Council Representative, who appears to be pushing hard for the road to go through the middle of the showground in an effort to destroy the show ground so as it can be developed. Bruce Brown is Kilcor Commercial Pty. Ltd. Representative. Phone 38325044.

The Show Society has been negotiating with the Gold Coast City Council to take the road through the Northern end of the Show Ground, which will have less impact on the main side show area. Council engaged a firm Sinclair, Knight & Mertz to make a study of both proposals & come up with our proposal the preferred option for the ongoing operation of the Show Ground

The Show Society engaged a firm of solicitors LE. MASS & engineers BRAMML, our Engineer drew up our proposal according to Traffic standards & still refused it & now threatening land resumption to go through the centre.

> Hackwood reported in the Riverlands News 22nd September, 2005, that the Council planned route through the Centre of the Show Ground will be the option adopted when Council next meets <after the Main roads Department flatly rejected any alternative route.

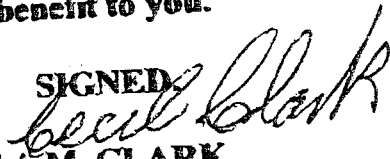
SEARCHED
SERIALIZED
INDEXED
FILED

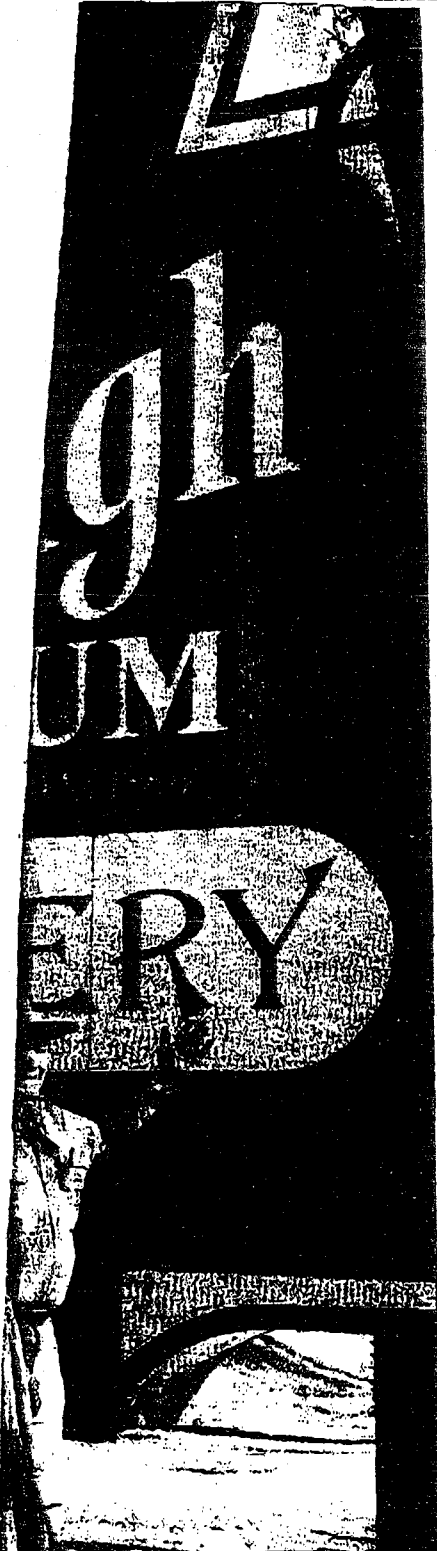
On reading his statement in the Riverlands News I rang the Ministers Office Paul Lucas his Secretary was most concerned about the statement and transferred to an officer in the Main Roads Department Mr. J Donaghey, who informed me that never rejected anything< he said it was solely between the Gold Coast City Council and the beenleigh Show Society. He also stated that the Council had asked them to be the adjudicators on the issue and they refused, as they did not want to be involved.

Cr. Hackwood is preEmpting a Council decision which is contrary to Council policy. He is also misleading the Community giving a false statement to the press, which I believe is a serious offence. Also I would like to report that Cr. Hackwood is Chairman of the Engineering & services Committee which decides on all Works contracts & hiring of Plant for Council Works. Cr> Hackwood has 2 Graders on hire to Council and there will A lot of work for Graders in constructing the ring road. Information that I have been given, when there is no work for Graders they Stand in the Council yard and still gets paid hire.

Also the President of Beenleigh Chamber of Commerce has vested interests in planning Developments and seems to be pushing the Council Proposal through the middle of the Show ground. Half the members of the Chamber are in Real Estate with vested interests. Geoff Kempe & Brian Gassman of Gassman & Associates donated \$1500-00 each to the last Council Election Campaign.

I am enclosing a copy of the Riverlands News and Plans of the Ring Road. I hope this information may be of some benefit to you.

SIGNED

 C.A.M. CLARK.



ry Sign was rescued by the Beenleigh Historical Society, is an important piece of history according to... be have it here, it's part of our local history so... ed with 2 metre deep foundations.

Roadworks delay costs community

By Vincene Wilson

AFTER wild weather conditions disrupted the annual Beenleigh Show last Friday and Saturday keeping crowds away, the local business community has called for Council to act to resume showground land for the long awaited Beenleigh ring road.

Area Councillor Ray Hackwood said pending a Council decision next month, the ring road through the Beenleigh Showgrounds will get the final go ahead.

Despite The Beenleigh Show Society's attempts to block the move, Cr Hackwood said Council's planned route through the showgrounds will be the option adopted when Council next meets after the Department of Main Roads flatly rejected any alternative route.

Cr Hackwood said the delays had come at a cost and he hoped the work would begin before Christmas.

Beenleigh Chamber of Commerce President Geoff Kempe is fed up with the delays and the 'impediment the hold-ups have had on the revitalisation of the centre of Beenleigh'.

He's calling on Council to resume the showground land it needs, whether the Show Society likes it or not.

"This has been a enormous obstacle to the moving forward of Beenleigh," Mr Kempe said.

"It's awfully sad."

Mr Kempe believed the Show Society would fight to the bitter end, so Council should act now.

Beenleigh Show Society Secretary Annette Mundt said she had a lot of community support for the society's stance, but was not at liberty to comment further.

Mr Kempe said the Chamber's concern was that two planned projects for the centre of town; the removal of the roundabout, the installation of traffic lights and the completion of the ring road through the showgrounds should run in tandem.

Cr Hackwood said the traffic lights at the Beenleigh intersection of City Rd, Main and George Sts could not be completed until the traffic could be diverted to the ring road, and the allocated funds would pay for both projects.

Mr Kempe disagreed.

"Previously he (Cr Hackwood) has agreed that one is not dependent on the other, but now they (the council) have gone away from that," he said.

"I am concerned about the public and the business community. This is critical infrastructure and it needs to be implemented and funded as a priority," Mr Kempe said.

The Chamber also wants to push ahead with plans to relocate the lighting structure currently in the centre of the town's roundabout.

Mr Kempe said there was funding left over from the original State Government and Council 'innovation grant' which built the structure three years ago, and it would pay for its' relocation.

He said initial plans could see the structure moved towards the Beenleigh Railway Station to complement the Junior Chamber of Commerce efforts to make an entry statement in Beenleigh.

He said the solar powered lights could also form part of an eat street concept in the precinct helping to illuminate businesses at night.

Do you wish to sell your property?



~~1080~~ 1067



Level 3 Temica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailto:mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au

Facsimile Transmission

To: Mr Conrad Martens
Manager – Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: Deborah Blythe – Complaints Services CMC

Fax No.: 5582 8125

Subject: Additional information re: MI-04-2217 – Concerns of Mr Warren James

Date: 18 October 2005

NO. OF PAGES (INC. THIS PAGE): 4

MESSAGE:

Dear Conrad,

RE: Our conversation today about the concerns of Mr Warren James

The Crime and Misconduct Commission (CMC) received correspondence from Mr Warren James on 31 May 2004 concerning the alleged conduct of officers of the Gold Coast City Council in relation to the Gold Coast Beach Markets.

By way of Matters Assessed Report, the CMC referred the matter to the Council on 9 July 2004 to deal with.

Please find following further correspondence dated 16 September 2005 received from Mr Warren James about his concerns in relation to the above matter for your consideration.

Should you have any further queries concerning this matter please contact Deb Blythe, Complaints Services on 3360 6060.

Kind regards,

Deb Blythe
Complaints Services
CMC

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If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061 611 to arrange the return of the information.

MI-04-2217

0405/16766
CRIME AND MISCONDUCT
RECEIVED
10 OCT 2005
COMMISSION

Attention: Mr Connor McGarrity
Crime and Misconduct Commission

From: Warren James
Date: 16 September 2005

Re- Gold Coast Beach markets, run by the Robbins family, since 1988

* Permission was gained by former Broadbeach Councillor Kerry Smith, about 1998 'who told me: " I'm getting the beach markets for some women I know.' It was a 'sisterhood' thing and I believe the 'women' were the former, late Cr Sue Robbins and her successor and sister in law Cr Chris Robbins.
I don't believe the markets had been put to tender then and since. In fact I was one of the first to do so.

* The beach markets use crown land and they had never been put to tender until recently. Over a period of almost 20 years there had not been tendering. .

* About five years ago Cr Dawn Crichlow expressed her concern the markets were not tendered for saying to me: 'the markets have never been put to tender and under the Act they're supposed to be.' Then she said: 'Why don't you have a go?'

* I made application. The conditions in the application were stringent and daunting; I was to get the OK from local clubs that I would be a suitable applicant to run the markets. Also, the OK from (I think it was 20 of the market vendors.) The vendors would have obviously felt intimidated by the request as they may have been intimidated by the Robbins family, however many of them were courageous enough and happy to endorse my application. I believe the stringencies were an obvious ploy by the Council committee. The committee Chairman was Cr Bob La Castra.

* When I was carrying out the required survey, the Robbins family distributed a circular to the 200 operators at the Coolangatta market warning them in the pamphlet: '*an annoying individual is telling everyone he is taking over the running of the market--let us reassure you, that is not true.*' (I still have a copy of the circular.) The attempt by the Robbins family to undermine my survey was obvious.

<input type="checkbox"/>	ISSUE	DATE
<input type="checkbox"/>	One of the reasons the Robbins family won the tender was their alleged expenditure of \$50 000 on promotion and advertising. (which was never evident at Coolangatta, or anywhere else for that matter.) After the Robbins family won the tender I called a Council officers to enquire about the alleged \$50 000 spent on promotion and if there was any proof by way of invoicing to prove such expenditure had occurred; he replied that he wasn't able to prove the expenditure. The whole thing was a concoction I believe, by the Robbins family and a blatant excuse by the Council committee to give the Robbins family a continuing right to run the markets at Coolangatta, Burleigh Heads,	
<input type="checkbox"/>		
<input type="checkbox"/>		

12

2
and Broadbeach (at Broadbeach they are run on two different weekends.)
The Robbins monopoly was therefore perpetuated.)

*According to Cr Crichlow, when the Council was discussing the issue of the markets the late Cr Sue Robbins, Chris Robbins' sister-in-law was 'jumping up and down and making all sorts of noises about the issue at the Council (attempting to sway the decision of Council.) The matter of Cr Robbins' behaviour at the time was reported in one of the local newspapers.

* The Council committee decided, for the sake of expediency, with more covert cronyism, to have tenders for the markets run every three years. The reason given was the time that it took to go through the process. I believe this was corrupt (keeping in mind the tendering had never been done in previous years) because it meant any potential operators would have been discouraged to put in a tender for the operation of the markets, and the period of time it took for the committee was not excessive, in fact there appeared to be no real time spent on investigation of the tenders including validating the assertions made in the Robbins tender, as mentioned. That means annual tendering should not have been out of the question.

The fact that there had not been tenders for the markets for nearly 20 years is an example of corruption. The decision made to perpetuate the 'ownership' of the markets by the Robbins family was in a large part based on the alleged managerial competency of the family. In fact, running the markets did not require a high level of managerial skill at all. The Robbins family have a lucrative business that uses public land, the gross profit in the order of \$6000 every weekend for the four markets (Broadbeach is held twice every month.) The expenses are very low and at Broadbeach and Coolangatta I have never seen advertising banners or bunting, notwithstanding the Robbins family stated in one application they spent \$50 000 on promotions. The 'material benefit' from a lucrative monopoly, is obvious, there is no possible way contenders, due to the obvious bias by the Councillors on the committee that assesses applications, could win. The contenders are further discouraged due to the tri-monthly tendering that was said to have been put in place. It is a form of cronyism that fellow councillors would decide on a committee whether a fellow councillor should have the right to run the markets on Council land.

Finally, the vendors have to sign a document that guarantees their products sold at the beachside markets are 'homemade' art and crafts. However, cursory inspection of the products on display would show that a vast number of products sold at the art and craft markets are not locally made and are in fact imported. The Robbins family obviously has turned a blind eye to that fact and betrayed the conditions set out by Council, yet this is ruling is not observed. (Note: market sellers who sell imported products are often called: 'rogue sellers' and their products often called 'rogue products'.) It should be noted that according to recent reports I have gained, the owners of the Carrara markets have been fined \$100 000 for having 'rogue products' sold.

It would therefore be wondered if the Robbins family will suffer the same fate, as they too sell a lot of imported products.

I approached Cr Chris Robbins a few weeks' ago at her office asking her if I would be able to apply to run a produce market on the beachside at Kirra. (Just a kilometre up the road from Coolangatta) She was not forthcoming with encouragement or help in my quest and told me "50 % of the product sold would have to be handicrafts." Why? This would have made my endeavour daunting, in fact impossible. A successful produce market may have been a possibility, however.

Warren James
(Former Council candidate and continuing observer)



A reply is to be prepared by: _____
 (A copy of the reply is to be forwarded to Complaints Registry.)

Suggested reply:

Acknowledgement (letter 1)
 ('unlikely CMC will contact you further')

Acknowledgement (letter 2)
 ('CMC will contact you in due course')

Registry:

Acknowledgement receipt

No reply required

Matter forwarded to DS for preparation of reply.
 Initials: DS Date: 1/16/65

CMC CLASSIFICATION

() Highly Protected

() Protected

() In-Confidence

() Unclassified

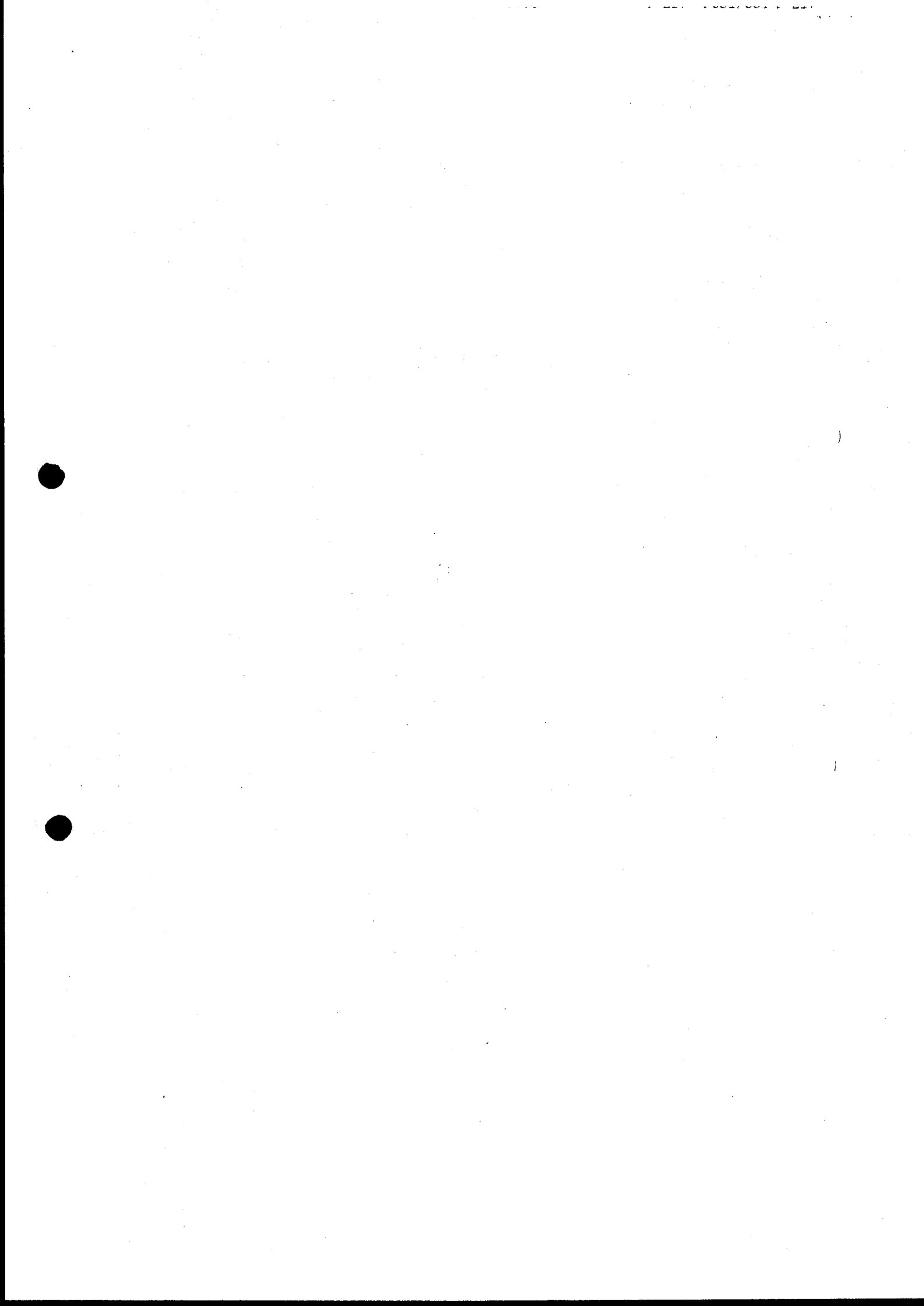
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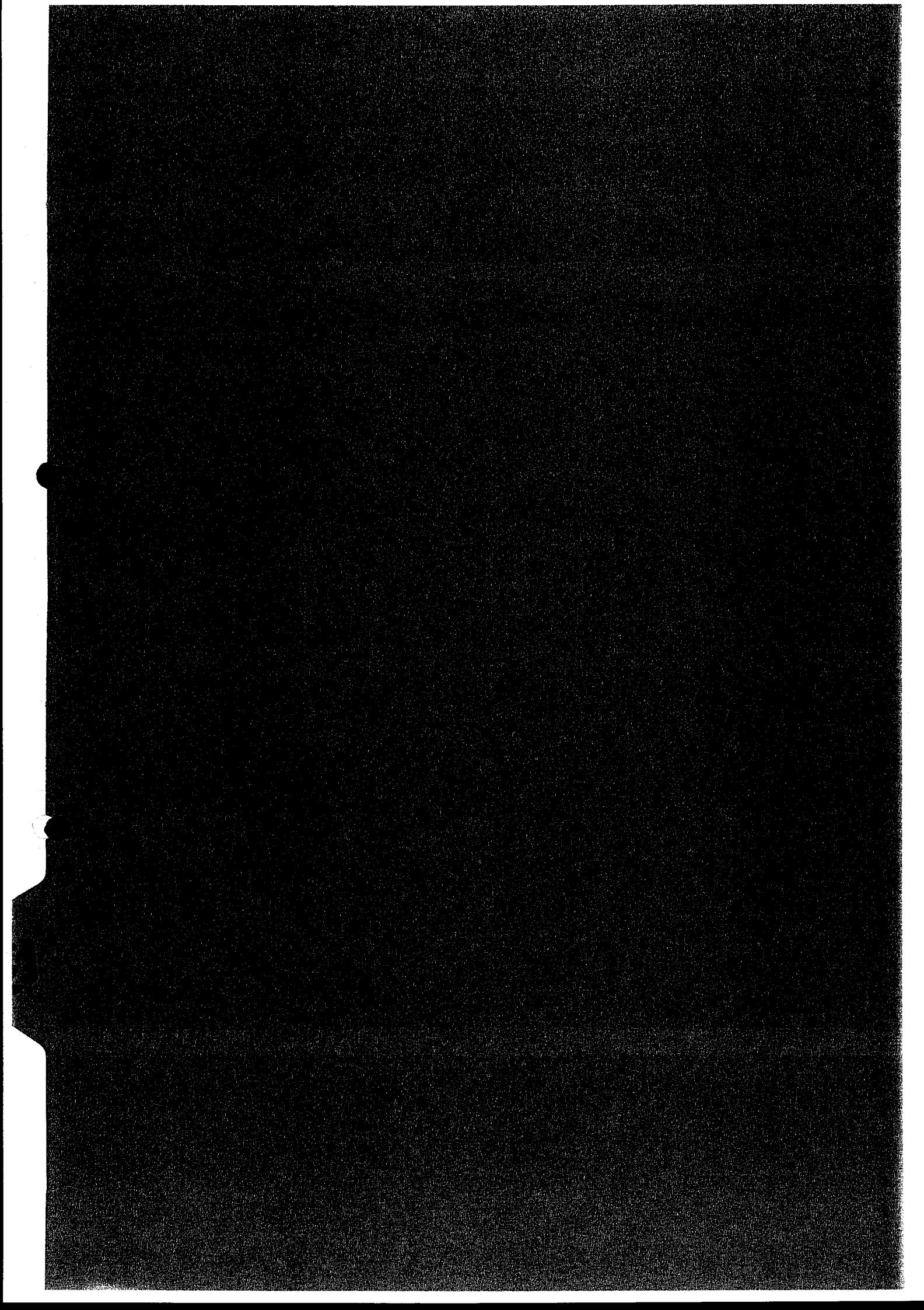
Date: 1/16/65

Reg No. OM 205/1657 66

1. MI-04-2217
2. Delshie Blythe







Level 3 Terra Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



Facsimile Transmission

To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: JUNE CLARKE

Fax No.: 5582 8125

Subject: MATTERS ASSESSED REPORT:
MI-05-3110

Date: 11 OCTOBER 2005

NO. OF PAGES (INC. THIS PAGE): 5

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

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MATTERS ASSESSED (MI-05-10)
Local Government; Gold Coast City Council

File Number: MI-05-3110 **Received Date:** 30-SEP-2005

Matter Type: Complaint

Method of Lodgement: Correspondence from concerned party

Concerned Parties: Mr Warren JAMES (Complainant)
 2/486 Coolangatta Road
 Tugun QLD 4224

Persons of Interest: Mr Dale DICKSON (Subject)
 Gold Coast City Council
 Employee

Councillor Chris ROBBINS (Subject)
 Gold Coast City Council
 Councillor

UNKNOWN130281 (Subject)
 Gold Coast City Council
 Employee

Precis: *GCCC* Complainant, who has made numerous previous complaints about the Gold Coast City Council, alleges that during the November 2004 Council election, executive officers of the Gold Coast City Council (GCCC) including the CEO did not allow candidates to use political advertising (such as staked corflute), and did not put up advertising banners to announce the Council elections; which resulted in 6000 electors not voting. The complainant further alleges that the GCCC has not pursued electors who failed to vote. Complainant raises another allegation against a subject Councillor, the complainant alleges that sometime in September 2005 the subject Councillor announced in the media (Border Mail) that she thought developers should give money to candidates, because 'it was important for democracy' and she appeared to discredit the CMC's investigations.

***** PREVIOUSLY REPORTED *****

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	UNKNOWN130281 (Subject)	Corruption and Favouritism	Alleged failure to allow candidates to use political advertising (such as staked corflute) and advertising banners to announce the upcoming elections which resulted in 6000 electors not voting.	Official Misconduct	Mr Warren JAMES (Complainant)
2	Mr Dale DICKSON (Subject)	Corruption and Favouritism	Alleged failure to allow candidates to use political advertising (such as staked corflute) and advertising banners to announce	Official Misconduct	Mr Warren JAMES (Complainant)

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 Printed Date: 11-OCT-2005 11:54:41

IN-CONFIDENCE

MATTERS ASSESSED (MI-05-00)
Local Government; Gold Coast City Council

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
3	UNKNOWN130281 (Subject)	Official Conduct	Inaction the upcoming elections which resulted in 6000 electors not voting. Alleged failure to pursue electors who failed to vote in the council election.	Official Misconduct	Mr Warren JAMES (Complainant)
4	Councillor Chris ROBBINS (Subject)	Corruption and Favouritism	Inappropriate use of authority/failure to carry out duties, obligations (e.g. receiving money to remain quiet) for personal benefit or the benefit of a significant other Alleged to have announced in the media (Border Mail) that developers should give money to candidates, because it was important for democracy.	Official Misconduct	Mr Warren JAMES (Complainant)
	Status		Referral to the UPA to deal with the complaint - outcome advice only.		
	Endorsement Comment		Allegation could, if proved, amount to OM. Having regard to the available information the matter is considered suitable for referral to the Council to deal with. (Robert WALKER)		
	Date		07-OCT-2005		

2/486 Coolangatta Road
TUGUN QLD 4224

TO: Mr Connor McGarrity *CMC*
FROM: Warren James
DATE: 23 September 2005

CRIME AND MISCONDUCT

WJ RECEIVED

30 SEP 2005

COMMISSION

ISSUE: The Gold Coast City Elections, and the outlawing of signage that resulted in 6000 electors not voting.

I am referring to Division 14 last November 2004 in particular at which I was a campaign manager for a candidate Mr Bradley Stubbs. According to the Returning Officer (Cec McPaul) the number of electors on the roll was 19 458 (contained in a document sent to me on 4th February 2005 at my request).

Candidates were not permitted to use political advertising such as staked 'corflute', which I have been since been led to believe the Council had no right to impose on candidates. Local residents in Currumbin Valley Road put a corflute sign on their front lawn and they were threatened they would be fined if they didn't remove the sign.

The questions is: Why did the Council prevent the candidates from reasonably advertising their intentions as candidates to the public? Why did the council impose such a silly rule, which was, as I understand and illegal imposition? Did the Council's Chief Executive Officer have a motive for the decision, we don't fully appreciate?

The important aspect of a democracy is the effective use of the ballot box, and properly informing the public of an impending election. The Council would explain my argument by saying there had been plenty of advertising in the newspapers, but they forget not everyone buys newspaper. The Council didn't explain why they had imposed a restriction on the use of signs such as 'corflute' signs, and even if they may introduce a so-called 'visual pollution' it is the visual signage that properly permits an awareness in the community of its responsibility to vote on election day. There was no advertising (such as banners) to announce the elections.

Of the 19 458 electors as mentioned about 6000 didn't accord their vote. This was a serious, poor turn up at the booths, and indicated the ineptitude and perhaps shenanigans of the present Council, or at least its executives, including the CEO Mr Dale Dickson.

Another point: The Returning officer (Mr Cec McPaul) intended to declare my How To Vote Cards illegal because I had printed against my name the word 'Independent'. A colleague of mine a Mr Selwyn Johnston of Cairns (a former federal Senate candidate) disputed my McPaul's ruling and his ruling was fortunately overruled.

CMC CLASSIFICATION

- Highly Protected
- Protected
- In-Confidence
- Unclassified

Initials:.....

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

Reg No: *CMC.5/16/62*

2/

Notwithstanding Mr McPaul did a good job in many ways, I was concerned he came out publicly in the media (on TV) criticising a publication by a Mr Thom Hayes, who published Robins' Roost. The Gold Coast Bulletin also criticised Robin's Roost in its pages calling it a 'trashy rag'. If Mr McPaul was to even-handed should he have also criticised the bias in the newspapers on both sides of the border that gave front-page space to Christ Robbins, the sister-in law of the deceased candidate (Sue Robbins) a candidate who was previously unknown and had no experience in public life. (She came out a few weeks' ago in the Border Mail saying she thought developers should give money to candidates, because 'it was important for democracy' and appeared to give a one-fingered salute to the CMC's investigations.

She said the public wasn't cornered at the behaviour of Council, yet on a subsequent page of the same newspaper, former Mayor and State member Lex Bell, declared there was concern about the behaviour in the community of the Gold Coast Council.

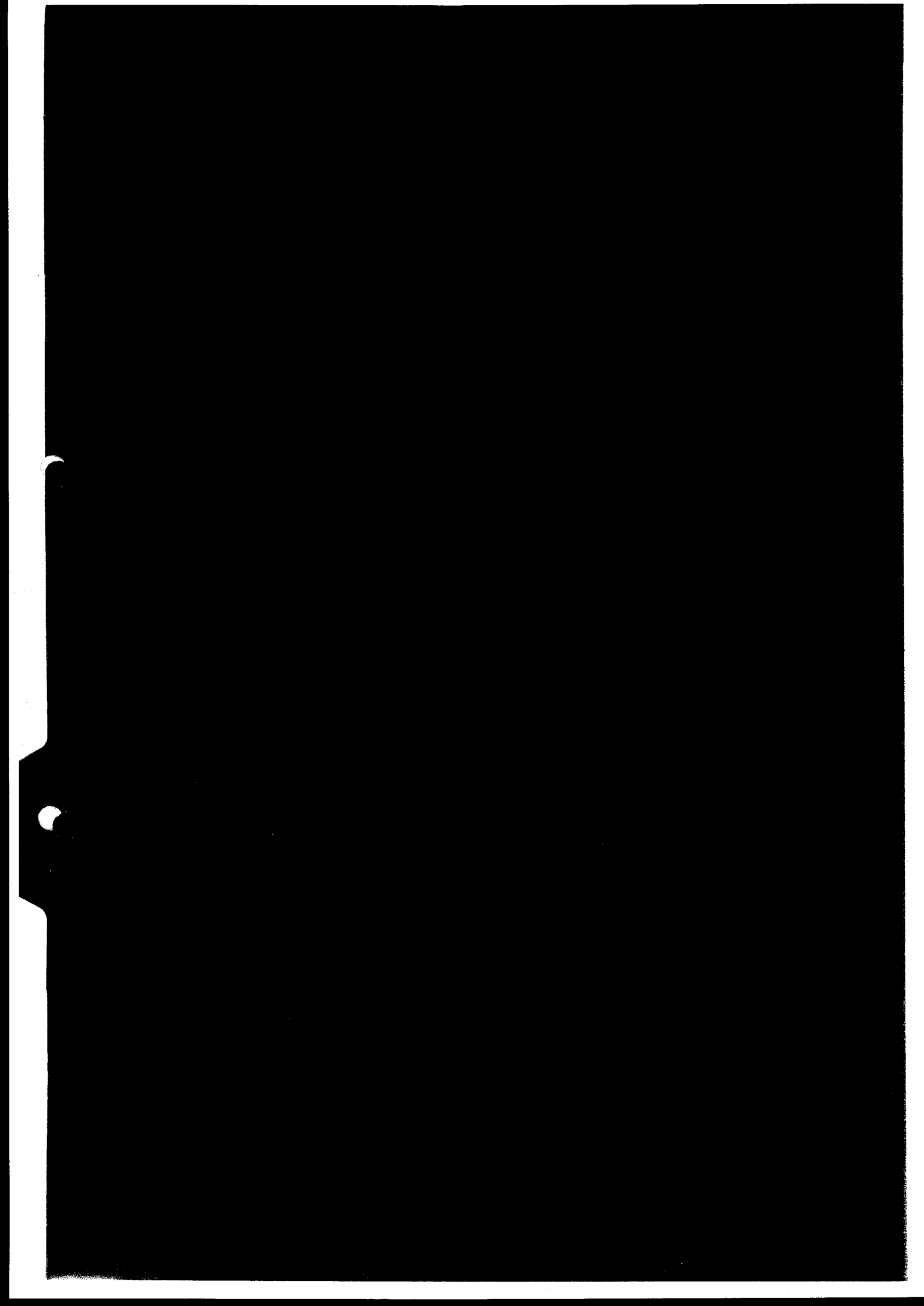
Warren James
Former Council Candidate



p.s

3 Please note the Council did absolutely nothing re- the voters who didn't turn up, when there is compulsory voting, which means it is still unlawful not to vote. The Council has been seriously remiss in not even sending out a 'please explain' to all those who stayed away (about 6000 voters) from the booths. Such ineptitude must surely come under the category of misconduct if not then a serious maladministration. .

cc Minister, local government



MARTENS Conrad

From: MARTENS Conrad
Sent: Tuesday, 27 September 2005 1:19 PM
To: YOUNG Peter; SHEPHERD Ted
Cc: McCABE Joe
Subject: LG449/258/03/CF (1063)

Cr Peter Young
Cr Ted Shepherd

Councillors,

PN155302/01/DA2 196 MAUDSLAND ROAD MAUDSLAND DA9802500 MCU9800204

This is to confirm that no confidentiality attaches to the following advice from Joe:

- There is no evidence from the files that would indicate Cr Young had a material personal interest; and
- Cr Shepherd may raise any personal concerns with the Crime and Misconduct Commission.

My report to Joe [Ref: LG449/258/03/CF(1063)] is classified as and remains confidential.

Regards
Conrad
x8816

Memorandum



TO : Joe McCabe, Acting Chief Executive Officer

FROM : Conrad Martens, Fraud Prevention & Security Advisor

SUBJECT : COMPLAINT ABOUT ACTIONS OF COUNCILLOR YOUNG

DATE : 19 September 2005

FILE NO : LG449/258/03/CF (1063)

PURPOSE

To advise you on my assessment of a complaint by Cr Shepherd of official misconduct by Cr Young who voted at Council Meeting on 8/10/04 on a matter in which he had previously declared an interest.

FOCUS

PLANNING AND ENVIRONMENT COURT APPEAL NO. 63 OF 1999 - BIRD & SONS PTY LTD - LOTS 1 & 2 RP 218104 - 196 & 292 MAUDSLAND ROAD MAUDSLAND - DIVISION 2 - FILE PN155302/01/DA2(P5)

EVIDENCE

The following documents were examined during the assessment:

- PN155302/01/DA2 196 MAUDSLAND ROAD MAUDSLAND DA9802500 MCU9800204.
- Minutes of the City Planning Committee Meeting (335) 5 October 2004.
- Minutes of the Council Meeting (335) 8 October 2004.
- Minutes of the Council Meeting (336) 18 October 2004.
- Memorandum Cr Shepherd to Chief Executive Officer 22 October 2004.
- Memorandum Cr Shepherd to Chief Executive Officer 15 September 2005.
- Gold Coast Bulletin 14/9/05 article "Councillor accused of breach".

FACTSChronology

- 1 Council received an application 10 July 1998 seeking Preliminary Approval for a Material Change of Use from Special Facilities (Golf Course, Clubhouse, Recreation Facilities, Motel accommodation units, Restaurant and Dwelling Houses) to

CONFIDENTIAL

- Residential, Park Residential, Rural and Open Space land uses to permit Residential, Park Residential, Rural and Open Space.
- 2 About August 1998 Dredge & Bell Planning Pty Ltd gave the required notices of MCU / DA L1 & L2 RP218104 PN155302 at 196 & 292 Maudsland Road Maudsland.
 - 3 Council receives a letter dated 17/9/98 from Mr Peter Young (a private citizen) who resided at 275 Koppas Road Oxenford, objecting to the rezoning and providing grounds.
 - 4 Council Officers recommended to the Planning & Development (North) Committee 1 December 1998 that Council resolve to approve the application subject to conditions. Committee recommended the matter be deferred pending an inspection of the site.
 - 5 Council receives a facsimile dated 10 December 1998 from Mr Peter Young, urging Council to not approve the subject proposal and providing reasons why he would challenge it in a court.
 - 6 The same recommendation/report was again put before the Planning & Development (North) Committee on 11 December 1998.
 - 7 The Coordination Committee 17 December 1998 recommended that Council grant Preliminary Approval for a Material Change of Use application to permit Residential, Park Residential, Rural and Open Space.
 - 8 At it's meeting on 18 December 1998 (Minute No. C98.1217.029), Council resolved to refuse the application.
 - 9 The applicant (Bird & Sons Pty Ltd) lodged an Appeal against the refusal with the Planning and Environment Court (No. 63 of 1999).
 - 10 On the 5 March 1999 Council received a Planning and Environment Court Notice of Election from Mr Peter Young of 275 Koppas Road, Oxenford 4210 to become a co-respondent to the subject appeal.
 - 11 In April Mr Peter Young was elected as a Councillor for the City of Gold Coast.
 - 12 A "Without Prejudice" meeting was held at Council 1 August 2000.
 - 13 No further representations were received and the appeal was held in abeyance until such time as the draft Planning Scheme had progressed further for adoption.
 - 14 A second "Without Prejudice" meeting was held at Council 16 March 2004. Subsequent to this, Council received the appellants revised "Without Prejudice Submission" 5 April 2004 and an amended submission on 21 September 2004.
 - 15 On 5/10/04 the matter was again put to the City Planning Committee Meeting (335). The Minutes record:

"Cr P J Young (absent from meeting 10:35am to 10:44am)"

*Late Item 11 - PN155302/01/DA2 196 MAUDSLAND ROAD MAUDSLAND
DA9802500 MCU9800204:*

"Councillor Young declared an interest and left the room during discussion and voting on this item."

CP04.1005.011 "B That Council instruct its solicitors to seek to settle Planning & environment Court Appeal 63 of 1999 by way of a consent order, granting Preliminary Approval for Material Change of Use for Residential, Park

CONFIDENTIAL

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Residential Rural and Open Space land uses in accordance with submitted Concept Plan and Table of Development subject to the following conditions..."

- 16 On 8/10/04 the recommendation was put to the Council Meeting (335). The Minutes record:

"4.1 CITY PLANNING

Cr Shepherd, Chairperson of the City Planning Committee, presented the Minutes of the Meeting of the City Planning Committee held on Tuesday, 5 October 2004.

RESOLUTION G04.1008.003 moved Cr Shepherd seconded Cr Douglas That the Report of the City Planning Committee Meeting held on Tuesday, 5 October 2004, covered by Recommendations CP04.1005.001 to CP04.1005.012 be received.

CARRIED"

"ADOPTION OF CITY PLANNING COMMITTEE REPORT

RESOLUTION G04.1008.006 moved Cr Shepherd seconded Cr Pforr That the Report of the City Planning Committee's Recommendations of Tuesday, 5 October 2004, numbered CP04.1005.001 to CP04.1005.012 be adopted with the exception of Recommendation Numbers CP04.1005.004 and CP04.1005.005 which were specifically resolved.

A Division was called

For 15 Cr Hackwood, Cr Power, Cr Pforr, Cr Molhoek, Cr Young, Cr Crichlow, Cr Douglas, Cr La Castra, Cr Shepherd, Cr Sarroff, Cr Grew, Cr Betts, Cr McDonald, Cr Robbins, Cr Clarke.

Against 0

CARRIED"

- 17 The Minutes of Council Meeting 336 on 18/10/04 record:

"RESOLUTION G04.1018.008 moved Cr Shepherd seconded Cr Young

That the Minutes of the Three Hundred and Thirty-Fifth Ordinary Meeting of the Council of the City of Gold Coast held on Friday 8 October 2004 at 9.00 am be confirmed.

CARRIED"

- 18 On 22/10/04 Cr Shepherd issued a memorandum to the Chief Executive Officer /copy to City Solicitor stating:

"Cr Young declared an interest" in the matter at the Committee meeting on 5/10/05.

"The reason for his declaration was the he was personally involved in the Appeal process."

"...at the Council meeting on 8 October he failed to declare this interest and in fact voted to adopt the recommendation of the Committee..."

and raising the concerns that:

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“... Cr Young failed to declare a Material Personal Interest and voted to resolve a recommendation from Council's Planning Committee.”

“I have concerns that this may place Council in a position of exposure and ask you to investigate the ramifications of this action.”

- 19 On 15/9/05 Cr Shepherd sent a memorandum to the Chief Executive Officer stating:

“I need confirmation from you office as to whether this matter has been referred by you to the CMC for investigation of official misconduct or if it is appropriate for me to raise this matter during the [public] inquiry.”

Observations

- 20 On the matter of the “interest” declared by Cr Young at the City Planning Committee Meeting (335), could be a perceived material personal interest or conflict of interests. The Minutes do not record Cr Young declaring a “material personal interest” within the meaning of section 6 of the Act.

6 Meaning of material personal interest

(1) A person has a material personal interest in an issue if the person has, or should reasonably have, a realistic expectation that, whether directly or indirectly, the person or an associate stands to gain a benefit or suffer a loss, including a benefit or loss as a director of a significant business entity under chapter 8, part 7 that is, or is to become, an LGOC, depending on the issue's outcome.

(3) However, a person does not have a material personal interest in an issue—

(b) if the interest is merely—

(i) as an elector, ratepayer or resident of the local government's area; or

- 21 Councillors can face severe penalties for failure to disclose material personal interests and liability should not depend on purely subjective judgements as to a benefit or loss; it should be objectively verifiable. The interpretation of subsection (1) is that the “benefit” or “loss” must be money or money's worth or at least something that can be measured or estimated in money. It must be something more than the promotion of a matter in which the councillor believes or which he supports. There is no evidence that approval or non-approval was going to have any effect on the value of Cr Young's property (even if he had expressed a personal view that his property would lose amenity if the application was granted).
- 22 Considering subsection (3)(b)(i) above, Cr Young was one of a significant group of ratepayers that would be affected by Council's decision on the application for MCU. It is a question of the degree to which councillors will be affected by decisions in such instances. However, it is arguable that this subsection specifically excluded Cr Young's interest from being a material personal interest.
- 23 The overwhelming argument is that Cr Young did not have a material personal interest.

CONFIDENTIAL

- 24 There is also the matter of Cr Young voting whilst having a personal interest in a matter. The Act (s229) also places requirements on Councillors where there is a conflict between their private interests (non-material personal interests) and the public interest that they are to serve, that is Councillors shall give preference to the public interest. In addition, the Code requires that a Councillor with actual or possible conflict of interests disclose their interest to the Council or Committee meeting prior to the matter being considered. The Councillor may then, at his or her sole discretion, debate and vote on the matter at hand whilst giving preference to the public interest.
- 25 An interest was declared at the City Planning Committee Meeting (335) and recorded in the minutes of that meeting, which were tabled at the Council Meeting (335). Therefore, Cr Young's personal interest was transparent to the Council when the recommendations of City Planning Committee Meeting (335) were adopted (G04.1008.006).
- 26 Moreover, it is noted that at the Council meeting there was no debate but a division was called and all Councillors voted to adopt the recommendations of the Committee. Presumably, had Cr Young not voted the same outcome would have resulted. Therefore Cr Young has arguably voted in the public interest and against his personal interests that were originally expressed.

CONCLUSION

- 27 In his memorandum of 22/10/04 to the CEO, Cr Shepherd stated, "I have concerns that [Cr Young failing to declare a Material Personal Interest at the Council Meeting] may place Council in a position of exposure and ask you to investigate the ramifications of this action". My view is that there is no basis for the concerns that Council was or is exposed.
- 28 Also, on 15/10/05 Cr Shepherd again raised the issue with the Acting CEO seeking an investigation of "official misconduct". The evidence does not support a suspicion of official misconduct.
- 29 Cr Shepherd also asked whether it was "appropriate for [him] to raise this matter during the [Public Inquiry]". The responsibility falls upon the CEO to refer suspicions of official misconduct to the Crime and Misconduct Commission. The evidence does not raise a suspicion of a breach of the Local Government Act or official misconduct warranting referral to the CMC. Having said that, Cr Shepherd may raise his personal concerns with the CMC.

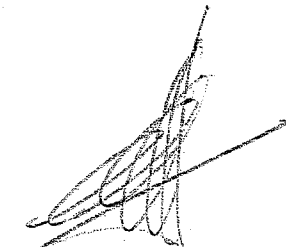
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RECOMMENDATION

It is recommended that you advise Cr Shepherd:

1. There is no evidence from the files that would indicate Cr Young had a material personal interest; and
2. Cr Shepherd may raise any personal concerns with the Crime and Misconduct Commission.



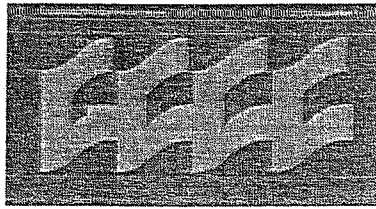
Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR
(5582 8816)

Enc:

- A) Excerpt (4 pages) Minutes of the City Planning Committee Meeting (335) 5 October 2004.
- B) Excerpt (4 pages) Minutes of the Council Meeting (335) 8 October 2004.
- C) Excerpt (3 pages) Minutes of the Council Meeting (336) 18 October 2004.
- D) Memorandum Cr Shepherd to Chief Executive Officer 22 October 2004.
- E) Memorandum Cr Shepherd to Chief Executive Officer 15 September 2005.
- F) Gold Coast Bulletin 14/9/05 article "Councillor accused of breach".

CONFIDENTIAL

A
335



Gold Coast City Council

MINUTES

of the

CITY PLANNING COMMITTEE MEETING

held on

Tuesday 5 October 2004

at

9.00 am

Room 5

Nerang Community Bicentennial Centre
Nerang Southport Road, Nerang

OUR VISION

Naturally, the world's best place to be . . . because we will create a city that is recognised internationally for the quality, diversity and sustainability of its lifestyle, economy and environment. The Gold Coast's future will be secure as Australia's most desirable place to live and favourite place to visit.

OUR MISSION

To benefit our local community by sustainably managing the City's resources and opportunities, and by delivering high-quality, affordable services, in partnership with the community, State and Federal Governments, educational institutions and the private sector.

ATTENDANCE

Cr E L Shepherd Chairperson
Cr R W Hackwood (absent from meeting 10:25am to 10:44am)
Cr D L Power
Cr G Pforr
Cr P J Young (absent from meeting 10:35am to 10:44am)

Cr D M Crichlow
Cr S Douglas
Cr E Sarroff
Cr G Betts
Cr S Robbins

Mr W Rowe Director Planning Environment & Transport
Mr M Hulse Manager Implementation & Assessment
Mr J Webb Coordinator Development Assessment & Compliance
Mr C Netherway Coordinator Subdivision & Environmental Assessment
Mr G Richardson Acting Supervising Planner - Development Assessment (North)
Mr D Kling Acting Supervising Planner - Development Assessment (South)
Ms R Callianiotis Supervising Planner - Subdivisions

APOLOGIES

moved Cr Power seconded Cr Pforr

Cr R W Clarke Mayor
Cr R Molhoek
Cr R La Castra
Cr J E Grew
Cr D I McDonald

ITEM 11 IMPLEMENTATION & ASSESSMENT
WITHOUT PREJUDICE OFFER - PLANNING AND ENVIRONMENT COURT APPEAL NO.
63 OF 1999 - BIRD & SONS PTY LTD - LOTS 1 & 2 RP 218104 - 196 & 292
MAUDSLAND ROAD MAUDSLAND - DIVISION 2 - FILE PN155302/01/DA2(P5)

Refer 10 page attachment

Councillor Young declared an interest and left the room during discussion and voting on this item. X

BASIS FOR CONFIDENTIALITY

- A I recommend that this report be considered in Closed Session pursuant to Section 463(1)(a) to (h) of the Local Government Act for the reason that the matter involves starting or defending legal proceedings involving Council.
- B I recommend that the report/attachment be deemed a confidential document pursuant to Sections 250 (2) and 1143 (4) of the Local Government Act and remain so unless Council decides otherwise by resolution.

BRIEF SUMMARY

This "Without Prejudice Submission" before Council seeks to resolve Planning & Environment Court Appeal No. 63 of 1999 which was lodged against Council's decision to refuse a development application seeking Preliminary Approval for a Material Change of Use to permit Residential, Park Residential, Rural and Open Space land uses as designated in the submitted Concept Plan Drawing and Table of Development.

In the assessment of the original proposal it was concluded by Council Officer's that *"in light of the sites geographic location, proximity to infrastructure services and the existing commercial node, physical suitability of the site, protection of the limited environmental qualities of the site and issues pertaining to the Draft Structure Plan it is considered that the proposal does have merit and represents an orderly approach to the planning of the area."*

Notwithstanding the Officer's recommendation of approval, Council at its meeting on 18 December 1998 (Minute No. C98.1217.029) resolved to refuse the application on the following grounds:

1. It is contrary to the Strategic Plan;
2. There is no identified need for the development;
3. It will have an adverse impact on the amenity of the area; and
4. The Kopps Road Structure Plan has not yet been completed.

Following an assessment of the appellants "Without Prejudice Submission", Council Officer's are satisfied that the grounds of refusal have been adequately addressed and notwithstanding the conflict with the Strategic Plan sufficient planning grounds exist to justify approving the application despite the conflict.

It is therefore recommended that Council accept the appellants "Without Prejudice Submission" and advise Solicitors acting on its behalf of its decision with regard to the conduct of this Appeal.

ITEM 11 Continued

WITHOUT PREJUDICE OFFER - PLANNING AND ENVIRONMENT COURT APPEAL NO. 63 OF 1999 - BIRD & SONS PTY LTD - LOTS 1 & 2 RP 218104 - 196 & 292 MAUDSLAND ROAD MAUDSLAND - DIVISION 2 - FILE PN155302/01/DA2(P5)

Changed Recommendation

COMMITTEE RECOMMENDATION CP04.1005.011
moved Cr Crichlow seconded Cr Power

That on a "Without Prejudice Basis" in respect to the following property:

Real Property Description	Lots 1 & 2 RP 218104
Address of Property	196 & 292 Maudsland Road, Maudsland
Area of Property	45.95 ha
Proposed use	Residential, Park Residential, Rural and Open Space land uses in accordance with submitted Concept Plan and Table of Development

- A That the current report on this item be moved into Open Session and that Attachments 11.11 to 11.71 be deemed confidential pages pursuant to Sections 250 (2) and 1143 (4) of the Local Government Act and remain so unless Council decides otherwise by resolution.
- B That Council instruct its solicitors to seek to settle Planning & Environment Court Appeal No. 63 of 1999 by way of a consent order, granting Preliminary Approval for Material Change of Use for Residential, Park Residential Rural and Open Space land uses in accordance with submitted Concept Plan and Table of Development subject to the following conditions:

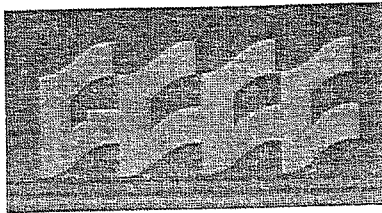
DEVELOPMENT IN ACCORDANCE WITH PLANS

- 1 The development shall be carried out generally in accordance with the approved Plan of Development No. 7635-PSP-2a(Sheet 2), dated 15 September 2004 and associated table of development.

INFRASTRUCTURE

- 2 The applicant shall make payment of contributions towards water supply headworks or sewerage headworks, water supply works external or sewerage works external and water supply works internal or sewerage works internal to be assessed on the basis of approved building plans or approved subdivision plans relevant to the proposed development. The contributions are due for payment prior to the issue of a Certificate of Classification or Building Final for any Building Works or the date of sealing of registrable plans of subdivision and will be calculated in accordance with the rates in force at the due date for payment.

335



Gold Coast City Council

MINUTES

of the

COUNCIL MEETING

held

Friday 8 October 2004

at

9.00 am

Gold Coast City Council Chambers
135 Bundall Road, Surfers Paradise

OUR VISION

Naturally, the world's best place to be . . . because we will create a city that is recognised internationally for the quality, diversity and sustainability of its lifestyle, economy and environment. The Gold Coast's future will be secure as Australia's most desirable place to live and favourite place to visit.

OUR MISSION

To benefit our local community by sustainably managing the City's resources and opportunities, and by delivering high-quality, affordable services, in partnership with the community, State and Federal Governments, educational institutions and the private sector.

Minutes of the Three Hundred and Thirty-Fifth Ordinary Meeting of the Council of the City of Gold Coast held at the Surfers Paradise Administration Centre, 135 Bundall Road, Surfers Paradise, on Friday 8 October 2004, at 9.00 am.

1 ATTENDANCE

Cr R W Clarke Mayor
 Cr R W Hackwood
 Cr D L Power (arrived 9.10am)
 Cr G Pforr
 Cr R Molhoek
 Cr P J Young
 Cr D M Crichlow
 Cr S K Douglas
 Cr R La Castra
 Cr E L Shepherd
 Cr E Sarroff
 Cr J E Grew
 Cr G Betts
 Cr D I McDonald
 Cr S Robbins

Mr D Dickson Chief Executive Officer
 Mr J McCabe Director City Governance
 Mr W Rowe Director Planning Environment & Transport
 Mr M Hulse Manager Implementation & Assessment

1.1 APOLOGIES/LEAVE OF ABSENCE

Nil

2 CONFIRMATION OF MINUTES

RESOLUTION G04.1008.001 moved Cr Hackwood seconded Cr Pforr

That the Minutes of the Three Hundred and Thirty-Fourth Ordinary Meeting of the Council of the City of Gold Coast held on Friday 17 September 2004 at 10.00 am be confirmed.

CARRIED

4 RECEPTION & CONSIDERATION OF COMMITTEE REPORTS

4.1 CITY PLANNING

Cr Shepherd, Chairperson of the City Planning Committee, presented the Minutes of the Meeting of the City Planning Committee held on Tuesday, 5 October 2004.

RESOLUTION G04.1008.003 moved Cr Shepherd seconded Cr Douglas

That the Report of the City Planning Committee Meeting held on Tuesday, 5 October 2004, covered by Recommendations CP04.1005.001 to CP04.1005.012 be received.

CARRIED

ITEM 4

MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) FOR A DUPLEX - PETER NIOTAKIS C/- MICHEL GROUP SERVICES PTY LTD - LOT 47 ON RP 91210 - 5 SANDOWN AVENUE, BUNDALL - DIVISION 7 - FILE PN51094/01/DA1(P1)

RESOLUTION G04.1008.004 moved Cr Douglas seconded Cr Crichlow

That Committee Recommendation CP04.1005.004 be adopted with an amendment to Condition A 2 under the heading of "Infrastructure Charges" such that reference to "RDPU03" be replaced with the words "Park Division 7".

CARRIED

ITEM 5

MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) FOR AN EIGHT STOREY, 20 UNIT APARTMENT BUILDING - FOR QUADRANT PTY LTD C/- HUMPHREYS REYNOLDS PERKINS - LOTS 560-562 ON RP94914 AT 1 & 3 STANHILL DRIVE AND 6 TARCOOLA CRESCENT, SURFERS PARADISE - DIVISION 7 - FILE PN46393/01/DA1

RESOLUTION G04.1008.005 moved Cr Douglas seconded Cr Crichlow

That Committee Recommendation CP04.1005.005 be adopted with an amendment to Condition A 4 such that reference to "RDPU03" be replaced with the words "Park Division 7".

CARRIED

4 RECEPTION & CONSIDERATION OF COMMITTEE REPORTS

4.1 CITY PLANNING (Continued)

ADOPTION OF CITY PLANNING COMMITTEE REPORT

RESOLUTION G04.1008.006 moved Cr Shepherd seconded Cr Pforr

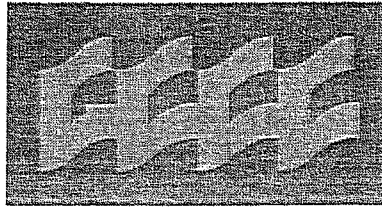
That the Report of the City Planning Committee's Recommendations of Tuesday, 5 October 2004, numbered CP04.1005.001 to CP04.1005.012 be adopted with the exception of Recommendation Numbers CP04.1005.004 and CP04.1005.005 which were specifically resolved.

A Division was called

For	15	Cr Hackwood, Cr Power, Cr Pforr, Cr Molhoek, Cr Young, Cr Crichlow, Cr Douglas, Cr La Castra, Cr Shepherd, Cr Sarroff, Cr Grew, Cr Betts, Cr McDonald, Cr Robbins, Cr Clarke.
Against	0	

CARRIED

336



Gold Coast City Council

MINUTES

of the

COUNCIL MEETING

held

Monday 18 October 2004

1.00 pm

Gold Coast City Council Chambers
135 Bundall Road, Surfers Paradise

OUR VISION

Naturally, the world's best place to be . . . because we will create a city that is recognised internationally for the quality, diversity and sustainability of its lifestyle, economy and environment. The Gold Coast's future will be secure as Australia's most desirable place to live and favourite place to visit.

OUR MISSION

To benefit our local community by sustainably managing the City's resources and opportunities, and by delivering high-quality, affordable services, in partnership with the community, State and Federal Governments, educational institutions and the private sector.

Minutes of the Three Hundred and Thirty-Sixth Ordinary Meeting of the Council of the City of Gold Coast held at the Gold Coast City Council Chambers, 135 Bundall Road, Surfers Paradise, on Monday 18 October 2004 at 1.00 pm.

National Anthem

The Mayor, Cr R W Clarke, welcomed Reverend Russell Hinds of the Gold Coast Christian Family Church, Mudgeeraba, to open the meeting in prayer.

1 ATTENDANCE

Cr R W Clarke Mayor
Cr R W Hackwood
Cr D L Power
Cr G Pforr
Cr R Molhoek
Cr P J Young
Cr D M Crichlow
Cr S K Douglas
Cr E L Shepherd
Cr E Sarroff
Cr J E Grew
Cr G Betts
Cr D I McDonald
Cr S Robbins

(left at 4.03 pm)

Mr D Dickson Chief Executive Officer
Mr A J McCabe Director City Governance
Mr A Dunn Acting Director Engineering Services
Mr S L Cox Director Gold Coast Water
Mr G Finlayson Director Organisational Services
Mrs C McCool Director Community Services
Mr W Rowe Director Planning Environment & Transport
Mr G Young Director Economic Development & Major Projects

1.1 APOLOGIES/LEAVE OF ABSENCE

RESOLUTION G04.1018.001 moved Cr Shepherd seconded Cr Grew

That leave of absence be granted to Cr La Castra.

CARRIED

3 MAYORAL MINUTE

RESOLUTION G04.1018.007 moved Cr Clarke seconded Cr Young

- 1 That Council resolve that away meetings of Council be scheduled on a quarterly basis in appropriate venues on a rotational basis throughout the City commencing with a meeting before the end of this calendar year in Mudgeeraba on 29 November 2004.
- 2 That after these meetings close, a thirty-minute time slot be reserved for presentations by local groups or residents should general matters of concern, either whole of city or local, wish to be raised directly with the Council.
- 3 That the Chief Executive Officer develop a protocol to manage the presentations by local groups and residents referred to in 2 above.

CARRIED

4 CONFIRMATION OF MINUTES

RESOLUTION G04.1018.008 moved Cr Shepherd seconded Cr Young

That the Minutes of the Three Hundred and Thirty-Fifth Ordinary Meeting of the Council of the City of Gold Coast held on Friday 8 October 2004 at 9.00 am be confirmed.

CARRIED

5 MAYOR'S REPORT

Nil

6 CLARIFICATION - MEMBERS

Nil

7 BUSINESS ARISING FROM MINUTES

Nil

COUNCILLOR TED SHEPHERD
DIVISION 9

MEMO TO: CHIEF EXECUTIVE OFFICER
FROM: COUNCILLOR TED SHEPHERD
COPY: DAVID MONTGOMERY
CITY SOLICITOR
DATE: 22 OCTOBER 2004

Following the Council Meeting of 8 October 2004 it has come to my attention that Councillor Peter Young has failed to declare a Material Personal Interest and voted to resolve an Item from Council's City Planning Committee report.

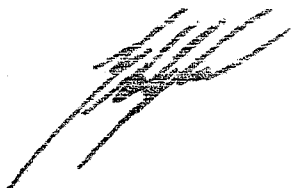
During the Planning Meeting of 5 October 2003 Councillor Young declared an interest in Item 11 that dealt with a Planning and Environment Appeal over a subdivision application at 196 & 292 Maudsland Road, Maudsland.

The reason for his declaration was that he was personally involved in the Appeal process.

However at the Council Meeting on 8 October he failed to declare this interest and in fact voted to adopt the recommendation of the Committee as was recorded in a division vote against Resolution G04.1008.006.

I have concerns that this may place Council in a position of exposure and ask you to investigate the ramifications of this action.

Regards



Ted Shepherd
Councillor Division 9

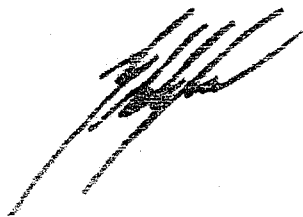
COUNCILLOR TED SHEPHERD
DIVISION 9

MEMO TO: CHIEF EXECUTIVE OFFICER
FROM: COUNCILLOR TED SHEPHERD
DATE: 15 SEPTEMBER 2005

I refer to my previous memo of 22 October 2004 (copy attached) seeking your investigation of official misconduct by Cr Young in voting on a matter that was considered by him to involve a material personal interest.

As yet I have not received a response to this memo and in light of the current CMC investigation I feel that this matter has relevance to that investigation and should be raised during the public enquiry.

I need confirmation from your office as to whether this matter has been referred by you to the CMC for investigation of official misconduct or if it is appropriate for me to raise this matter during the aforementioned enquiry.



Ted Shepherd
Councillor Division 9



Councillor accused of breach

COUNCILLOR Ted Shepherd yesterday accused rival Peter Young of a 'direct breach' of the Local Government Act by failing to declare a material personal interest.

Cr Shepherd said he would refer the alleged breach to the Crime and Misconduct Commission if chief executive officer Dale Dickson had not done so already.

The failure to disclose related to a Planning and Environment Court appeal about a Maudsland subdivision application, considered by the council last October.

Cr Shepherd said Cr Young, who was personally involved in the appeal, declared a material personal interest when the matter went through the planning committee.

However he failed to

declare the interest when the matter was considered by the full council a week later.

Cr Young said the failure to declare was an innocent mistake as he simply forgot to do so at the meeting. He said the fact he was being pursued by Cr Shepherd smacked of desperation as the CMC's public inquiry drew nearer.

"I had to sign off on the appeal as I was involved in the case - I placed even more stringent conditions on the council than the developer did," he said.

Cr Shepherd said he made a complaint about the disclosure failure to the CEO in October 2004. "If he (Mr Dickson) hasn't referred it to the CMC, I will be bringing it up at the public inquiry and bringing it to the CMC's attention beforehand - absolutely," said Cr Shepherd.

51

CRIME AND MISCONDUCT COMMISSION

1059



Level 3 Temica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au

Facsimile Transmission

To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: Deb Kuss

Fax No.: 5582-8125

Subject: MATTERS ASSESSED REPORT:
MI-05-2/93

Date: 09/09/2005

NO. OF PAGES (INC. THIS PAGE): 3

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

The information the subject of this transmission is confidential and is privileged against disclosure except to and for the use of the addressee for the purposes of the Commission and the *Crime and Misconduct Act 2001*.

If the information contained in this transmission comes the subject of any request under Freedom of Information legislation, consultation should be undertaken with this Commission.

If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061 611 to arrange the return of the information.

MATTERS ASSESSED (MI-05-2793)
Local Government; Gold Coast City Council

Received Date: 02-SEP-2005

MI-05-2793

File Number: MI-05-2793
Matter Type: Complaint
Method of Lodgement: Phone call to CMC staff
Concerned Parties: ANONYMOUS129380 (Complainant)
Persons of Interest: Councillor Ray HACKWOOD (Subject)
 Gold Coast City Council
 Councillor

Precis: Anonymous complainant alleges that a Gold Coast City Councillor has a possible conflict of interest in relation to the awarding of Council contracts. Complainant alleges that Councillor has a private company (plant/equipment, eg road graders) which tenders of Council works and his company's plant/equipment is always working on Council jobs.

***** PREVIOUSLY REPORTED *****

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Councillor Ray HACKWOOD (Subject)	Corruption and Favouritism	Failure to declare interest / Using authority in situation where conflict of interest exists Gold Coast City Councillor has a possible conflict of interest in relation to the awarding of Council contracts.	Official Misconduct	ANONYMOUS129380 (Complainant)

Status: Referral to the UPA to deal with the complaint - no recommendation - review after dealt with. (12)
Endorsement Comment: Having regard to the nature of the complaint and the capacity of the Council the matter is referred to the Council to deal with; it may well be that there is nothing to suggest that the subject Councillor has had any inappropriate involvement in the decision-making in relation to the awarding of the contract, the Council may wish to consider any need to take action to address any public misconception; CMC to review how the matter is dealt with (Helen COUPER)

Date: 08-SEP-2005

MEMORANDUM

CMC CLASSIFICATION

() Highly Protected
() Protected
(X) In-Confidence
() Unclassified

TO: ASSESSMENT COMMITTEE

FROM: KELLY SMITH

DATE: 5 September 2005

RE: ANONYMOUS COMPLAINT RE GOLD COAST CITY
COUNCILLOR RAY HACKWOOD

File No. NEW MATTER - 59186

A male person named Peter, and who wished to remain anonymous, telephoned the CMC on 2 September 2005 alleging that Gold Coast City Councillor Ray Hackwood has a possible conflict of interest in relation to the awarding of Council contracts.

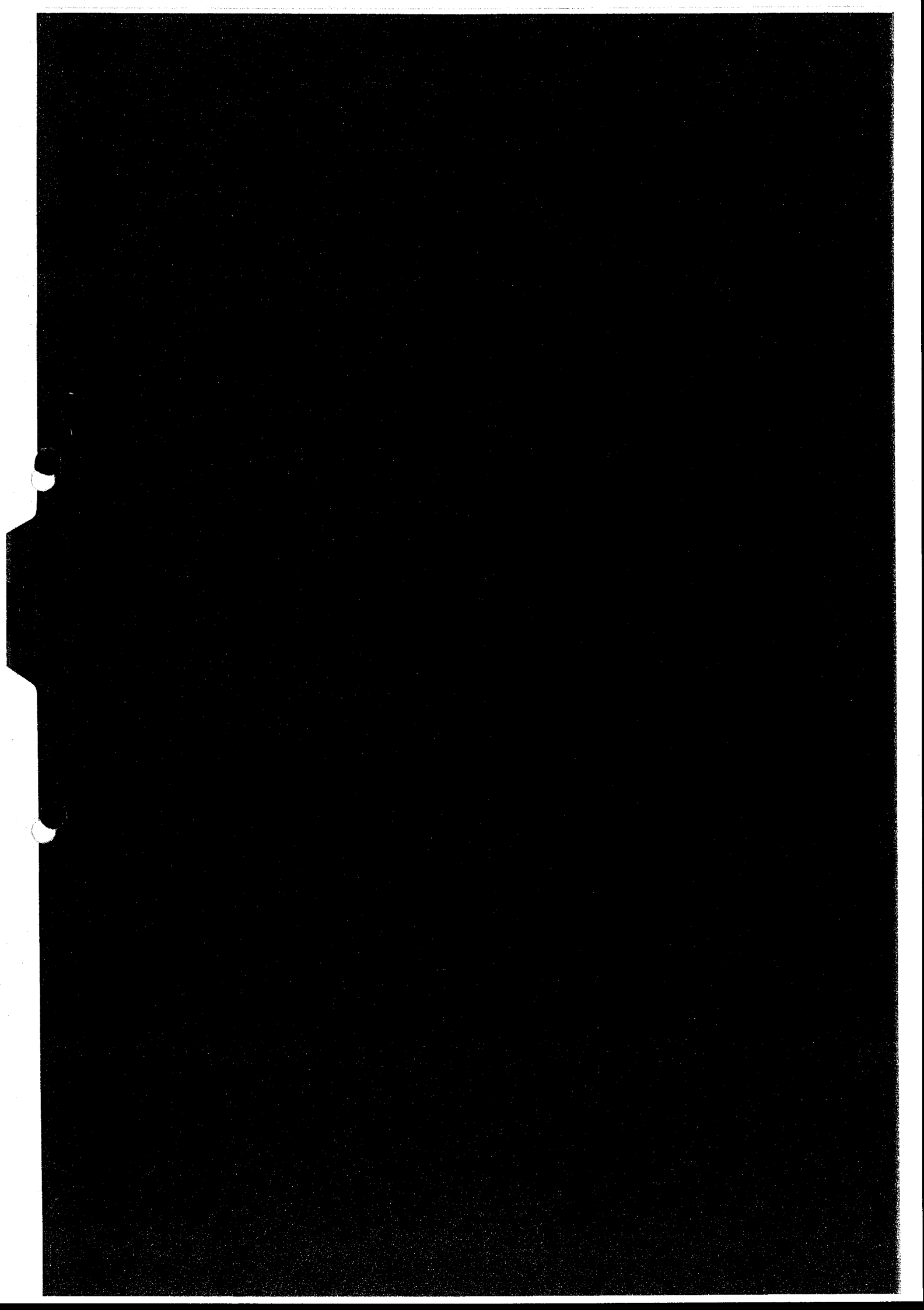
The caller alleged that Councillor Hackwood has a private company (plant/equipment, eg road graders) which tenders of Council works and his company's plant/equipment is always working on Council jobs.

When asked for further information in relation the specific contracts/works, the caller advised that he had no further information to provide to the CMC.


Complaints Officer

KMS/59186-ANON-HACKWOOD-MEM-050905.DOC

IN-CONFIDENCE



MARTENS Conrad

From: MARTENS Conrad
Sent: Friday, 1 July 2005 11:42 AM
To: CMC Complaints (E-mail)
Subject: 1024

CONFIDENTIAL

Mr Russell Pearce
Acting Chief Officer Complaints Section
Official Misconduct Division
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

Dear Mr Pearce

UNAUTHORISED RELEASE OF CONFIDENTIAL INFORMATION

Council wishes to refer to you, a report that on 12 and 13 April 2005, confidential information was released without authority to the Gold Coast Bulletin. Furthermore, that the Gold Coast Bulletin reported that Cr Susie Douglas released the information. In addition, the release of the confidential information may be contrary to the provisions of the Local Government Act 1993 (s250) and the Council policies.

You are referred to the attached two media articles and report on an independent review of the relevant matter by Livingstones Australia.

Council considers this matter of routine priority.

Please do not hesitate to contact me if I may be of assistance in the assessment of this referral. I will remain Council's contact officer.

Conrad Martens

Fraud Prevention & Security Advisor
"Protecting You - Protecting Us"

Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125

City Governance, Gold Coast City Council

- Waterside West (level 5) 11 Holden Place, Bundall
- P.O. Box 5042 Gold Coast Mail Centre 9729

[Link to Council Business Ethics <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460)

[Link to Council Code of Conduct <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029)



Review of
Process.doc



00016012512.pdf



00016030245.pdf

Level 3 Terrica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone:
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



Facsimile Transmission

To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: Deb Kuss

Fax No.: 5582-8125

Subject: MATTERS ASSESSED REPORT:
MI-05-2077

Date: 05/07/2005

NO. OF PAGES (INC. THIS PAGE): 2

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

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If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061 611 to arrange the return of the information.

**MATTERS ASSESSED (MI-05-2077)
Local Government; Gold Coast City Council**

Received Date: 01-JUL-2005

File Number: MI-05-2077

Matter Type: Complaint

Method of Lodgement: Correspondence from department or public sector agency

Concerned Parties: Mr Conrad MARTENS (Notifier)

Persons of Interest: Councillor Suzie DOUGLAS (Subject)
Gold Coast City Council

Precis: Gold Coast City Council forward complaint that on 12 and 13 April 2005, a Councillor released confidential information without authority to the Gold Coast Bulletin, possibly in breach of s250 of the Local Government Act, in relation to the content of letters written by a former senior Council employee to another employee, which became the subject of a sexual harassment complaint.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Councillor Suzie DOUGLAS (Subject)	Control of Information	Unauthorised disclosure for unknown gain Release of confidential information without authority to the Gold Coast Bulletin possibly in breach of section 250 of the Local Government Act.	Official Miscellaneous	Mr Conrad MARTENS (Notifier)

Status: Referral to the UPA - no recommendation - outcome advice only.

Endorsement Comment: The allegation could, if proved, amount to OM (breach of trust, criminal offence/dismissible disciplinary breach). Having regard to the principles which apply under the Act, the nature of the complaint, the information provided in support of the concerns and the capacity of the Council, the matter is appropriate for the Council to deal with. CMC to be advised outcome. (Mark DOCWRA)

Date: 05-JUL-2005



Level 3 Terrace Place
140 Creek Street
(Cnr Adelaide & Creek)
Stabara Queensland

GPO Box 3123
Brisbane QLD 4001

Telephone
(07) 3360 9000

Facsimile
(07) 3360 9333

Toll Free
1800 661 511

Email
mailbox@crimcom.gov.au

www.crimcom.gov.au

Facsimile Transmission

To: DALE DIXON

Organisation: GOLD COAST CITY COUNCIL

From: STEPHEN HARDY

Fax No.: 5582 8125

Subject: COMPLAINT ALLEGING RELEASE OF CONFIDENTIAL
INFORMATION TO GOLD COAST BULLETIN

Date: 18 August 2005

NO. OF PAGES (INC. THIS PAGE): 2

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IMMEDIATELY.

MESSAGE:

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of this transmission is
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disclosure except to and for
the use of the addressee for
the purposes of the
Commission and the Crime
and Misconduct Act 2001.

If the information contained
in this transmission
becomes the subject of any
request under Freedom of
Information legislation,
consideration should be
undertaken with this
Commission.

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addressee, please ensure
that this confidentially and
privilege is maintained by
not disclosing or using the
information in any manner
and immediately notify the
Commission or the above
number or 1800 661 511 to
arrange the return of the
information.

CRIME AND MISCONDUCT COMMISSION

GPO Box 2123
Brisbane Qls 4001
Tel: (07) 3360 6060
Fax: (07) 3360 6333

Toll Free:
1 800 061 011

E-mail
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au

Our Reference: ML76-2077-MP
Contact Officer: S Hardy



18 August 2005

OFFICE OF THE
Assistant
Commissioner
Misconduct

Mr Dale Dixon
Chief Executive Officer
Gold Coast City Council
PO Box 5042
GOLD COAST MAIL CENTRE QLD 9729

Level 3, Terra Plaza
140 Creek St
(Cnr Creek and Adelaide)
Brisbane, Queensland

BY FACSIMILE : 5582 8125

Dear Mr Dixon

RE: COMPLAINT ALLEGING RELEASE OF CONFIDENTIAL
INFORMATION TO GOLD COAST BULLETIN

I refer to the Matters Assessed Report forwarded by facsimile transmission to the Council on 15 July 2005 concerning the allegation that Councillor Susie Douglas breached the provisions of the *Local Government Act 1993* by releasing confidential information to the Gold Coast Bulletin, namely the contents of letters subject of a sexual harassment complaint.

The CMC's Matters Assessed Report referred the complaint to your Council to deal with and for the CMC to be advised of the outcome of the complaint only.

I now that your Council has since determined to engage the services of an independent consultant to investigate the complaint.

Upon further consideration of the circumstances in terms of the principles outlined by section 34 of the *Crime and Misconduct Act 2001* (the Act), the CMC has determined that it is appropriate to require your Council to provide the CMC with a copy of the consultant's finalised investigation report (and attachments) for review prior to the Council taking any action in respect to such report. This requirement has been made pursuant to section 49(1)(b) of the Act.

Upon receipt of the completed investigation report, the CMC will review the report in a timely manner and advise you of any further requirements that the CMC may have.

Should you have any queries in relation to this requirement, please do not hesitate to contact me directly on 3360-6207.

Yours sincerely

STEPHEN HARDY
Executive Legal Officer
Monitoring and Support Unit
Complaints Services



DAVIS Tony

From: Mark Docwra [Mark.Docwra@cmc.qld.gov.au]
Sent: Thursday, 21 April 2005 11:35 AM
To: MARTENS Conrad
Subject: Re: Your 1025

Conrad,

I advise Cr Power's concerns about the election return of candidate John Wayne will be examined and considered along with other matters the CMC is currently examining and considering in relation to the election returns for the Gold Coast City Council.

Regards

Mark Docwra
Senior Legal Officer
Receivals and Assessments Unit
Complaints Services
(ph: 3360 6374)

>>> "MARTENS Conrad" <CMARTENS@goldcoast.qld.gov.au> 19/04/2005 16:18:52 >>>
CONFIDENTIAL

Crime and Misconduct Commission
Mr Mark Docwra, Complaints Services

Dear Mr Docwra,

I refer to our recent discussions.

It has come to the attention of Cr David Power that Mr John Wayne who ran in Division 2 at the last Council poll may not have declared the provision of a mobile sign and driver by a Mr Tony Stephens. Cr Power states that whilst cash contributions were declared he did not recall any reference to the aforementioned mobile advertising that he states ran constantly throughout the Division during the campaign.

Yours sincerely,

Conrad Martens
Fraud Prevention & Security Advisor
"Protecting You - Protecting Us"
Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125
City Governance, Gold Coast City Council
* Waterside West (level 5) 11 Holden Place, Bundall
* P.O. Box 5042 Gold Coast Mail Centre 9729
Link to Council Business Ethics <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460>
Link to Council Code of Conduct <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029>

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MARTENS Conrad

From: MARTENS Conrad
Sent: Tuesday, 19 April 2005 4:01 PM
To: POWER David
Subject: RE:

David, If you agree, I will advise the CMC of your concerns. Regards Conrad

-----Original Message-----

From: POWER David
Sent: Tuesday, 19 April 2005 11:07
To: MARTENS Conrad
Subject:

Conrad

It has come to my attention that Mr John Wayne who ran in Division 2 at the last Council poll may not have declared the provision of a mobile sign and driver by a Mr Tony Stephens.

Whilst cash contributions have been declared I do not recall any reference to the above which was inconstant use throughout the Division during the campaign.

Your comments would be appreciated.

Regards
David

MARTENS Conrad

From: MARTENS Conrad
Sent: Tuesday, 19 April 2005 4:19 PM
To: 'Mark Docwra'
Subject: My 1025

CONFIDENTIAL

Crime and Misconduct Commission
Mr Mark Docwra, Complaints Services

Dear Mr Docwra,

I refer to our recent discussions.

It has come to the attention of Cr David Power that Mr John Wayne who ran in Division 2 at the last Council poll may not have declared the provision of a mobile sign and driver by a Mr Tony Stephens. Cr Power states that whilst cash contributions were declared he did not recall any reference to the aforementioned mobile advertising that he states ran constantly throughout the Division during the campaign.

Yours sincerely,

Conrad Martens
Fraud Prevention & Security Advisor
"Protecting You - Protecting Us"

Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125

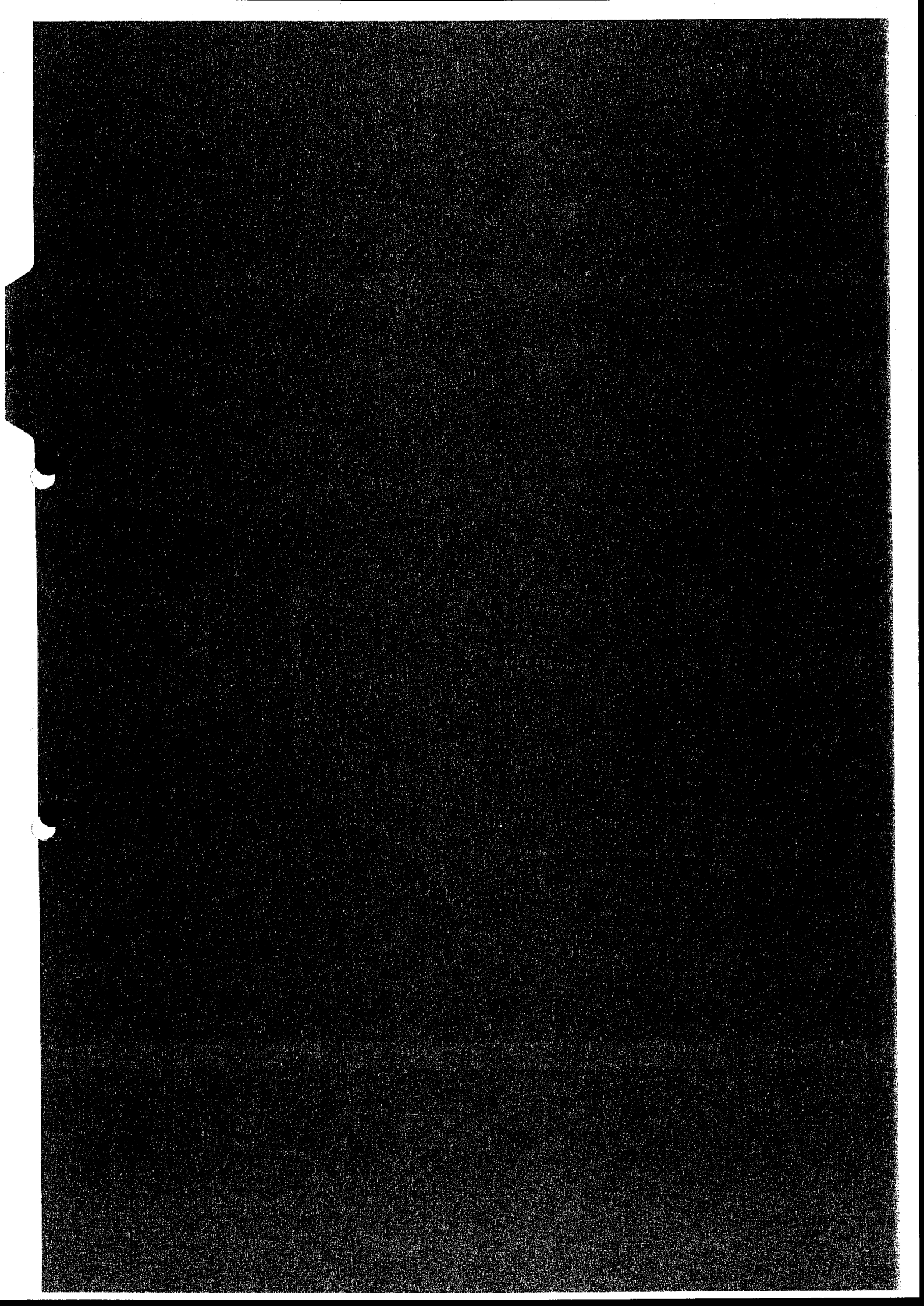
City Governance, Gold Coast City Council

* Waterside West (level 5) 11 Holden Place, Bundall

* P.O. Box 5042 Gold Coast Mail Centre 9729

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GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 8060

Facsimile
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Facsimile Transmission

To: Mr Conrad Martens
Manager - Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: LEE-ANNE GEISSLER

Fax No.: 5582-8125

Subject: MATTERS ASSESSED REPORT:
MI-05-1976

Date: 23 JUNE 2005

NO. OF PAGES (INC. THIS PAGE): 2

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 8060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 8060 IMMEDIATELY.

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MATTERS ASSESSED (MI-05-1976)

EA Reference: 1015

Received Date: 21-JUN-2005

File Number: MI-05-1976

Matter Type: Complaint

Method of Lodgement: Correspondence from department or public sector agency

Concerned Parties: Mr Conrad MARTENS (Notifier)

Persons of Interest: UNKNOWN127243 (Subject)
Gold Coast City Council

Precis: Gold Coast City Council notification of allegation made by a Gold Coast resident, a former employee of Council, that the Transit Centre / Bruce Bishop Car Park item and recommendations were written to satisfy some Councillors, with developers interests in mind.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	UNKNOWN127243 (Subject)	Corruption and Favouritism	Inappropriate use of authority/failure to carry out duties, obligations for unknown benefit Allegation a Gold Coast Transit Centre and car park item and recommendations were written to satisfy some Councillors with developers interests in mind.	Official Misconduct	Mr Conrad MARTENS (Notifier)

Status

Unjustifiable use of resources - the information provided to the Commission is insufficient to reasonably raise a suspicion of official misconduct/police misconduct. (ie if proven could amount to official misconduct/police misconduct but information insufficient to reasonably raise).

Endorsement Comment

The bald allegation could, if proved, amount to OM (breach of trust, fraud). However, the information provided does not remotely support the allegation. Accordingly, the CMC is unable to take any further action. Should any evidence to support misconduct be identified that is to be referred to the CMC. (Mark DOCWRA)

Date: 22-JUN-2005

MARTENS Conrad

From: MARTENS Conrad
Sent: Monday, 20 June 2005 6:20 PM
To: 'complaints@cmc.qld.gov.au'
Subject: My Ref 1015

CONFIDENTIAL

Ms Helen Couper
Chief Officer Complaints Section
Official Misconduct Division
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

Dear Ms Couper,

Council wishes to refer to you the following information.

Until today I was of the mistaken belief that the information had already been referred to the Commission, and in that respect sincerely apologise for the delay in making the referral.

Cr Daphne McDonald reported the following to the Chief Executive Officer:

"At around 11.15am today [30 November 2004] I had a phone call from Mrs Leanne Bartrim (Division 13 resident and member of the recently formed Local Action on Planned Development (LAPD): Palm Beach. Leanne raised an issue which greatly concerns me - that she believes that the Transit Centre / Bruce Bishop Car Park item and recommendations were written to satisfy some Councillors, with developers' interests in mind. Leanne said she would be watching with interest all that transpired from now on with the sale of the land. I questioned her about her allegation, asking if she had any information she could give me because this would be a CMC matter. The above is forwarded for your information in view of her claim."

Mrs Bartrim is I believe a former employee of Council, and known to the Commission.

I will remain Council's contact officer, and would appreciate the Commissions' advice on the referral.

Yours sincerely,

Conrad Martens

Fraud Prevention & Security Advisor

"Protecting You - Protecting Us"

Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125

Corporate Risk, City Governance, Gold Coast City Council

- Waterside West (level 5) 11 Holden Place, Bundall
- P.O. Box 5042 Gold Coast Mail Centre 9729

[Link to Council Business Ethics <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460)

[Link to Council Code of Conduct <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029)

COUNCILLOR DAPHNE McDONALD
DIVISION 13

DATE : 30 November 2004
TO : Chief Executive Officer
SUBJECT : Transit Centre/Bruce Bishop Car Park, Surfers Paradise -
Council Decision 29/11/04

Dale

At around 11:15am today, I had a phone call from Mrs Leanne Bartrim (Division 13 resident and member of recently formed Local Action on Planned Development (LAPD): Palm Beach).

Leanne raised an issue which greatly concerns me - that she believes that the Transit Centre/Bruce Bishop Car Park item and recommendations were written to satisfy some Councillors, with developers' interests in mind.

Leanne said she would be watching with interest all that transpired from now on with the sale of the land.

I questioned her about her allegation, asking if she had any information she could give me, because this would be a CMC matter.

The above is forwarded for your information in view of her claim.

Kind regards

for Daphne McDonald
Working for Division 13

DMcD:BP

Cath w
Please liaise with Tony
Janis to ensure this
matter is referred to
the CMC

D 30/11/04



Date: 23/5/05
Contact: Mr Conrad Martens
Location: Waterside West Office
Telephone: (07) 5582 8816 Fax (07) 55828125
Your Reference:
Our Reference: PN162073/16 #17058671



Mr Bruce Atkinson
P.O. Box 185
ORMEAU QLD 4208
Facsimile: (07) 3807 3461

Dear Mr Atkinson,

CRIME AND MISCONDUCT CONCERNS - DARLINGTON PARK

I apologise for the delay in responding to you on this matter.

An independent assessment has been made of the following complaints made by you about Darlington Park:

- Verbal complaint to the Crime and Misconduct Commission 1/2/05, alleging that the Gold Coast City Council and management of the Raceway Complex at Darlington Park may not be acting on residents' noise complaints due to the inappropriate involvement of the Gold Coast Mayor.
- Facsimile complaint to the Chief Executive Officer, Gold Coast City Council 17/2/05, asking:
 - Why is the G.C.C.C. still taking no action?
 - Why is the compliance section of the Council stating that Darlington Park is fully fenced as to the court order when it's not?
 - Why have helicopters (for Scanni trucks) been allowed to land and take off several times a day over a 7 day period when this is a breach of Council by laws? What follow up action did the Council take on this matter?
- Facsimile complaint to the Chief Executive Officer, Gold Coast City Council 21/3/05 asking:
 - Council confirm that on both [19th and 20th March 2005] ...the Darlington Park Raceway as per Joe's comments were well under their required 48db for Driver Training.

I have discussed the concerns raised by you with the relevant officers in Implementation & Assessment Branch, Health Regulatory Services & Lifeguards Branch, and Legal Services Branch, and reviewed Council information as required.

Lack of Action

First let me reassure you that Council will continue to take action where complaints or information about breaches are received. I will refer you to the attached status report on this matter presented to Council in September 2004, which is the latest public report and freely available on Council's Internet site.

ABN 84858548460

PO Box 5042 Gold Coast MC Qld 9729 Australia Email: gcccmail@goldcoast.qld.gov.au Web: www.goldcoast.qld.gov.au
Surfers Paradise Administration Centre 135 Bundall Rd Surfers Paradise Ph: +61 7 5582 8816
Nerang Administration Centre Nerang Southport Ph: +61 7 5582 8816

However, the release of information about complaints to and investigations by Council can jeopardise the success of investigations and subsequent legal action. Whilst complainants will usually receive a general advice that complaints are being actioned, concerned members of the public such as you will not necessarily know what if any investigations have or are being undertaken in relation to a matter until action is taken in court or information is made public by Council. Information about investigations includes inspection information and noise monitoring information.

Lack of Fencing

It is my understanding that Council Officer Mr Greg Green has advised you that Darlington Park is fenced from the road, and the only section not fenced is a portion of land adjoining an industrial property owned by the same entity that owns Darlington Park. You are invited to write to Mr Green at Council should you have additional evidence that substantiates a compliance breach.

Helicopter Activity

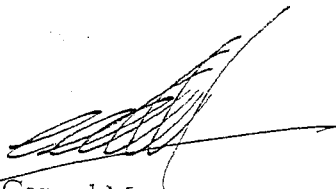
Information provided to me is that there were reports about helicopter activity one week in August 2004, which were formally addressed by Council. You are invited to write to Mr Michael Rogers at Council should you have additional evidence that substantiates a compliance breach.

Councillor Influence

My investigations have revealed no evidence that the Mayor Cr Ron Clarke has attempted to influence compliance or legal action, or been involved in relevant Council meetings other than the one in September 2004.

Please do not hesitate to contact me should you have any further concerns.

Yours sincerely,



Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR

Cc Mr Russell Pearce, Crime & Misconduct Commission

Phone/Fax: (07) 3807 3461

E-mail: wearart1@tpg.com.au

FACSIMILE

1010

Attention: D Dickson - GGCC CEO

Fax No: 5581 6808 Date: 21/03/05

From: Bruce Atkinson

No. of pages (inc. this cover): 1

Reference: Crime and Misconduct concerns

GGCC Chief CEO,

Mr Dickson,

Once again I would like to lodge a formal complaint regarding Very Loud and Intrusive noise from Darlington Park over the weekend on 19 and 20th of March 2005.

Normally I refer these matters to my local council member David Power, but he refuses to respond on my matters relating to Darlington Park so I'm now forced to take these matters further.

I phoned through on both days to the Council after hours emergency number and lodged complaints. Also phoned the Darlington Park Noise Management number as instructed by GGCC only to have to listen to bad and abusive language from Joe and to be told that as usual they are well under their noise limits and that I was not a pre-existing resident so I should not be complaining. Could you please confirm that on both these Days they, DPRW as per Joe's comments where well under their required 48db for Driver Training!

I would like to advice Council that I will no longer phone this Council funded Darlington Park Noise Management Program as I feel I don't have to put up with this type of Language or abuse, but rest assured I will continue my complaints to GGCC and any other government body who will listen.

I also would like to follow up on a complaint that I have lodged to the Crime and Misconduct Commission regarding Council handling of this matter and the Relationship of Ron Clarke and Darlington Park.

I have lodged a complaint to their office on the 1st of Feb 05 and since then they have refereed the matter back to you for investigating. As usual with matters relating to Darlington Park and the GGCC I have not had a response to this matter.

I have phoned the Crime & Misconduct Commission again this morning and they have asked that I write to you to find out where this investigation is at, before they look into the matter further.

Hoping you can help in these matters

Bruce Atkinson

Ph/Fax: 07 3807 3461

PO Box 185 Ormeau Qld 4208

Email: wearart1@tpg.com.au"

COPIES TO:
D MONTGOMERY
CONRAD MARTENS.

Phone/Fax: (07) 3807 3461

E-mail: wearart1@tpg.com.au

FACSIMILE

IN 162073/16

Attention: D Dickson - GGCC CEO

Fax No: 5581 6808

Date: 17/02/05

From: Bruce Atkinson

No. of pages (inc. this cover): 1

Reference: Councillor Powers office

Further to my phone conversation to your assistant today regarding my complaint on Councillors Powers failure to respond to my correspondence to his office.

I have now Emailed Cr. David Powers office a total of 3 times since the 6/01/05 and still have not had a response. I have also phoned 3 times asking for a response to my questions and concerns regarding Darlington Park or failing that at least a reason for not responding, and as yet still have not had reply. I can not get passed his assistant "Donna" to speak to him directly.

In my frustration I have since phoned the Ombudsman Office lodging a complaint regarding GGCC failure to respond on issues of concern to residents. The Ombudsman suggested waiting a couple more weeks to see if I don't get a response which is what I have done. They have suggested now talking to your department to see if you can find out the reason for David's Power reluctance to inform residents on these matters. If I still fail to get any information or a response the Ombudsman will conduct their own investigation on the matter as all residents have a right of reply.

Please find below the section of the Email that I sent To Cr Power's Office on the 6/01/05 asking for a response...

"Councillor David Power,

Re;- Darlington Park.

At the Last AVCA meeting at River Mount College you stated that if DP continued to breach his noise levels after the noise management plan was put in place you would take immediate steps to take action. Contempt of court I think is the word you used?

After talking to Mike Rodgers of the Gold Coast City Council he confirms that he has recorded continued noise breaches by DP. These where on Sunday 12th December 04 (Top Riders) and Sat 18th December 04 (Cars).

DP Noise Management denies any breach's and stated that GCCC have no idea on what they're doing when it comes to noise management and that on both occasions they where well under their allowable limits. They also stated that Top Riders will once again become a regular week-end feature at DP and that Top Riders have never in the past breached their allowable noise limit.

Correct me if I'm wrong but I thought Top Riders where the main offenders when it came to Noise Breach's and basically the whole of the GCCC court case was based on the noise recorded mostly by the noise from Top Riders.

Has some magical thing happened now that these same bikes using the same part of the track, under taking the same activity are now well under there allowable limit.

It would seem somebody got it wrong.

Has the GCCC after spending large amounts of rate payers money on 3 years of noise monitoring and evidence gathering, court cases, and noise management plans be wrong.

Why is the GCCC still taking no action????

Why is the Compliance section of the Council stating that DP is fully fenced as to the court order when it's not???

Why have Helicopters (for Scanni trucks) been allowed to land and take off several times a day over a 7 day period when this is a breach of Council by laws???? What follow up action did the Council take on this matter???

Hoping you can put some of my concerns to rest

Regards

Bruce Atkinson

Ph/Fax: 07 3807 3461

Email: wearart1@tpg.com.au"

*DO BOX 185
DAMEARA*

4208

Attn: John Kling

Fax: 8080

*For action &
response.*

cc. to the CEO office

CRIME AND MISCONDUCT COMMISSION

Level 3 Terrica Place
40 Creek Street
Cnr Adelaide & Creek
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



Facsimile Transmission

To: MR CONRAD MARTENS, MANAGER, FRAUD PREVENTION &
SECURITY

Organisation: GOLD COAST CITY COUNCIL

From: KEILY SMITH

Fax No.: 5582 8125

Subject: MATTERS ASSESSED REPORT CMC REF: MI 05 0303
COMPLAINT BY MR BRUCE ATKINSON

Date: 23 February 2005

NO. OF PAGES (INC. THIS PAGE): 3

IF YOU DO NOT RECEIVE
ALL THE PAGES OR IF
THE TEXT IS NOT
LEGIBLE PLEASE
CONTACT (07) 3360 6060
IMMEDIATELY.

MESSAGE:

Conrad

Please find attached the above Matters Assessed Report for your attention.

Should you have any concerns in relation to the attached, please do not hesitate to contact me on
3360 6376.


Complaints Officer
Complaints Services

The information the subject
of this transmission is
confidential and is
privileged against
disclosure except to and for
the use of the addressee for
the purposes of the
Commission and the *Crime
and Misconduct Act 2001*.

If the information contained
in this transmission
is the subject of any
request under Freedom of
Information legislation,
consultation should be
undertaken with this
Commission.

If you are not the
addressee, please ensure
that this confidentiality and
privilege is maintained by
not disclosing or using the
information in any manner
and immediately notify the
Commission on the above
number or 1800 061 611 to
arrange the return of the
information.

MATTERS ASSESSED (MI-05-0393)
Local Government; Gold Coast City Council

Received Date: 01-FEB-2005

File Number: MI-05-0393

Matter Type: Complaint

Method of Lodgement: Phone call to CMC staff

Concerned Parties: Bruce ATKINSON (Complainant)
 14-16 Enkleman Road
 Yatala QLD 4207

Persons of Interest: Councillor Ron CLARKE (Subject)
 Gold Coast City Council
 Councillor

Precis: Complainant alleges the Gold Coast City Council and the management of the Raceway Complex at Darlington Park may not be acting on residents' noise complaints due to the inappropriate involvement of the Gold Coast Mayor.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Councillor Ron CLARKE (Subject)	Corruption and Favouritism	Inappropriate use of authority/failure to carry out duties, obligations for unknown benefit Gold Coast City Council and the management of the Raceway Complex at Darlington Park may not be acting on residents' noise complaints due to the inappropriate involvement of the Gold Coast Mayor.	Official Misconduct	Bruce ATKINSON (Complainant)

Status: Referral to the UPA to deal with the complaint - outcome advice only.

Endorsement Comment: The complainant alleges failure by Council to take action in relation to a noise complaint. Although it would seem unlikely that any person has committed any improper act, the appropriate course is to refer the complaint to the Council so that the allegations might be addressed. Outcome advice only. (Russell PEARCE)

Date: 18-FEB-2005

MEMORANDUM

CMC CLASSIFICATION	
<input type="checkbox"/>	Highly Protected
<input type="checkbox"/>	Protected
<input checked="" type="checkbox"/>	In-Confidence
<input type="checkbox"/>	Unclassified

①

TO: ASSESSMENT COMMITTEE

FROM: KELLY SMITH

DATE: 8 February 2005

RE: COMPLAINT BY MR BRUCE ATKINSON
14-16 Enkleman Road
Yatala Q 4207
Telephone : 3807 3461

MI-05-0393.

0405/02122

RECFIND

File No. NEW MATTER - 55130

Mr Bruce Atkinson telephoned the Commission on 1 February 2005 alleging that the Gold Coast City Council and the management of the Raceway Complex at Darlington Park may not be acting on residents' noise complaints due to the inappropriate involvement of the Gold Coast Mayor Ron Clarke.

Mr Atkinson said that the developer of the complex is Tony Stevens of Hanwell Pty Ltd.

Mr Atkinson said that prior to the last Council elections, residents took the Raceway management to court over noise matters. He said that as a result the Gold Coast City Council instituted a Noise Management Plan. He said that this Plan is now not being adhered to by the Raceway. He said that whilst complaints had been made to the Gold Coast City Council about breaches of the Plan, Council are not acting on the complaints. He alleges that this inaction is because the Raceway was a backer for Ron Clarke during the local government elections and it made a financial contribution of \$6,000 to John Wayne's candidature. He said that he is unsure if Ron Clarke received any financial contribution from the Raceway and/or the developer during the election campaign. He said that during the election campaign Ron Clarke made pronouncements that he would back the Raceway and that it would be successful. He said that a poster depicting Ron Clarke and the developer was used during the election campaign.

Mr Atkinson said that under the Plan, residents are suppose to lodge complaints in first instance with the Raceway, it is to check noise monitors and if over noise level, it is to reduce the noise level or cancel the event. He said that Raceway staff deny any noise breaches are occurring.

Mr Atkinson said that he has been told by Mike Rogers of Council that the Council are monitoring the situation and that there have been breaches. He said that Mike Rogers has presented the information about the noise breaches to Council but no action has been taken on the breaches.

Mr Atkinson said that the club Top Riders (motor bikes) are the main offenders in relation to the noise breaches. He said that this club is now back at the Raceway for regular weekend fixtures and complaints have been made about noise breaches by this club.

Mr Atkinson said that last Sunday (30/1/05) an event was held at the Raceway Complex in Ron Clarke's honour to thank all those who assisted him during the election campaign.

I advised Mr Atkinson that his complaint would be assessed and he would be notified as to the assessment in due course.

Kelly Smith
Complaints Officer

KMS/55130-ATKINSON-MEM.DOC

IN-CONFIDENCE

7

CRIME AND MISCONDUCT COMMISSION



Facsimile Transmission

Level 3 Terrica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au

To: Mr Conrad Martens
Manager – Fraud Prevention & Security

Organisation: GOLD COAST CITY COUNCIL

From: INGRID KNAGGS

Fax No.: 5582-8125

Subject: MATTERS ASSESSED REPORT:
MI-04-0882 – Complaint by Jean Campbell (Complainant)

Date: 25 FEBRUARY 2005

NO. OF PAGES (INC. THIS PAGE): 4

MESSAGE:

Please find attached Matters Assessed Report.

Should you have any further queries concerning this report please contact Complaints Services on 3360 6060.

IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

The information the subject of this transmission is confidential and is privileged against disclosure except to and for the use of the addressee for the purposes of the Commission and the Crime and Misconduct Act 2001.

If the information contained in this transmission becomes the subject of any request under Freedom of Information legislation, consultation should be undertaken with this Commission.

If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061 611 to arrange the return of the information.

**MATTERS ASSESSED (MI-04-0882)
Local Government; Gold Coast City Council**

Received Date: 10-MAR-2004

MI-04-0882

Complaint

Correspondence from concerned party

Ms Jean CAMPBELL (Complainant)
c/- 14 Coleman Cr
Springwood QLD 4127

Mr Gary J. BAILLON (Subject)
Gold Coast City Council
Councillor

Mr Max CHRISTMAS (Subject)
Gold Coast City Council
Councillor

Mr Dale DICKSON (Subject)
Gold Coast City Council
Employee

Precis:

CP, Co-Chair Willow Vale Residents Action Group and Vice President of Ormeau Progress Association, complains of conflict of interest by a Councillor and the Mayor of the Gold Coast City Council. The complaint arises out of the proposed development of a cableway from the Coomera district to Tamborine Mtn. There is no official application for such devt but it is alleged many approaches to Council to 'pave the way' have been made. The director of the company proposing the devt is also Vice President (VP) of Max Christmas Real Estate. POI/1 owns this company and is also a GCCC Councillor. GCCC Mayor (POI/2) has asked POI/1 to leave the Council chamber and to abstain from voting on issues relating to the cableway on only one of several occasions. It is alleged that the VP appears to have prior knowledge of Council's likely response to these issues and lobbies all councillors intensely prior to meeting where these issues are to be voted on. GCCC has erected gates to the Wongawallan Conservation Area to prevent any unauthorised access. These gates are kept locked with only Councillors or Council employees with access to keys. It is alleged the VP has been observed on the other side of the locked gate on more than one occasion without official permission. On other occasions it is alleged a vehicle has gained access through the locked gates and cleared trees at request of VP. CP complained to CEO. (POI/3). It is alleged the CEO underook no investigation of the matter.

***** PREVIOUSLY REPORTED *****

MATTERS ASSESSED (MI-04-0882)
Local Government; Gold Coast City Council

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
2	Mr Gary J. BAILLON (Subject)	Corruption and Favouritism	Inappropriate use of authority/failure to carry out duties, obligations (e.g. receiving money to remain quiet) for personal benefit or the benefit of a significant other Fail to insist that a Councillor absent himself from Council meeting where matters involving a conflict of interest for the Councillor are to be voted on.	Official Misconduct	Ms Jean CAMPBELL (Complainant)
	Status	The alleged conduct if proven could not constitute official misconduct or police misconduct and does not warrant referral to the relevant UPA or any other agency.			
	Endorsement Comment	Having regard to the available information there is no evidence to demonstrate the councillor had a material person interest as defined by the Local Government Act and in any event there is no lawful basis upon which the subject could have excluded the councillor from the meeting. Accordingly, the matter could not constitute official misconduct. (Mark DOCWRA)			
	Date	24-FEB-2005			

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	Mr Max CHRISTMAS (Subject)	Corruption and Favouritism	Failure to declare interest / Using authority in situation where conflict of interest exists Councillor failing to absent himself from Council meeting where issues concerning a company owned by the Councillor are to be voted on.	Official Misconduct	Ms Jean CAMPBELL (Complainant)
	Status	The alleged conduct if proven could not constitute official misconduct or police misconduct and does not warrant referral to the relevant UPA or any other agency.			
	Endorsement Comment	Having regard to the information available to the CMC, there is no evidence that the subject was a member or office holder of the company and accordingly did not have a material personal interest in the matter in terms defined by the Local Government Act. Accordingly, the matter could not constitute official misconduct. (Mark DOCWRA)			
	Date	24-FEB-2005			

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
5	Mr Dale DICKSON (Subject)	Protection of Offenders from Investigation/Prosecution	Protecting by failing to investigate/prosecute Fail to investigate the unauthorised access to a restricted area, by an employee of a Councillor.	Official Misconduct	Ms Jean CAMPBELL (Complainant)
	Status	The alleged conduct if proven could not constitute official misconduct or police misconduct and does not warrant referral to the relevant UPA or any other agency.			
	Endorsement Comment	The available information indicates the Council undertook inquiries and determined no further investigation was warranted. There is no			

**MATTERS ASSESSED (MI-04-0882)
Local Government; Gold Coast City Council**

No Subject **Type** **Sub-type/Comment** **Conduct Category** **Complainant**
 evidence to indicate that was not a decision properly made. Accordingly, the matter could not constitute official misconduct. (Mark DOCWRA)
Date 24-FEB-2005

No Subject **Type** **Sub-type/Comment** **Conduct Category** **Complainant**
 4 Mr Max CHRISTMAS Corruption and Favouritism Inappropriate use of authority/failure to carry out duties, Official Ms Jean CAMPBELL (Subject) obligations (e.g. receiving money to remain quiet) for personal benefit or the benefit of a significant other Misconduct (Complainant)
 Allowing an unauthorised person access to a restricted area.

Status The complainant has a history of making false or unsubstantiated complaints.

Endorsement Comment The information available to the CMC does not indicate the subject had any practical ability to allow any person improper access to the land and there is no evidence to raise a suspicion that the subject was involved in any unlawful access. On the information to hand the matter could not constitute official misconduct and no further action by the CMC is warranted. (Mark DOCWRA)

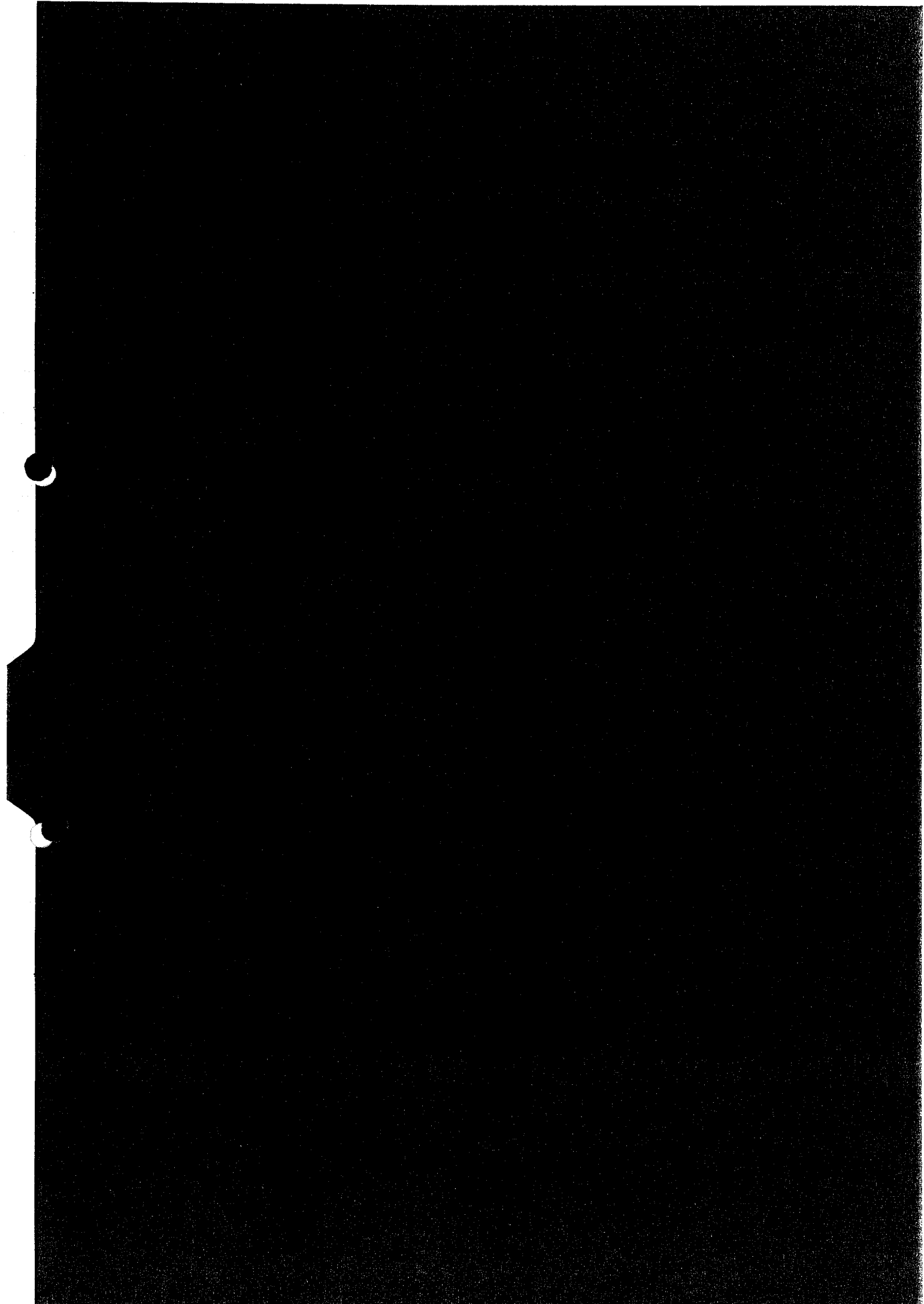
Date 24-FEB-2005

No Subject **Type** **Sub-type/Comment** **Conduct Category** **Complainant**
 3 Mr Max CHRISTMAS Control of Information Unauthorised disclosure for personal gain Official Ms Jean CAMPBELL (Subject) Councillor advising the Vice President of a company he owns, Misconduct (Complainant)
 about Council business WRT issues concerning the company.

Status Unjustifiable use of resources - the information provided to the Commission does not raise a suspicion of official misconduct/police misconduct.

Endorsement Comment The information available to the CMC does not indicate the subject officer improperly released information confidential to the Council. At highest the information raises a suspicion that the subject officer gave advice or information of his opinion. Accordingly no further action is justified. (Mark DOCWRA)

Date 24-FEB-2005



Memorandum



*Cr Young's Office 2.12pm 9/11/04
 Went to discuss with Cr Young who
 said "I hate it. That's fucking ridiculous.
 There is nothing in it to discuss. Cr Young
 hood up & teased me. The dear, quality
 can't you do just exist to discuss any aspect?
 P.S. There is nothing to discuss. Goodbye.
 Cr Peter Young*

COPY :
 FROM : Conrad Martens, Fraud Prevention & Security Advisor
 ACTION BY :
 SUBJECT : COMPLAINT ABOUT ACTIONS OF COUNCILLOR SHEPHERD
 DATE : 9 November 2004
 FILE NO : 33/11/0-959

Cr Young,

I refer to your memorandum of 14 October 2004 reporting the actions of Cr Shepherd.

I have considered the information provided by you and the Gold Coast Bulletin article of 17 September. Also, I have spoken with the current Manager Corporate Risk Graham McGinniskin and the City Solicitor David Montgomery in general terms about the handling of matters such as the correspondence from Steindls by the Insurance section, to draw out relevant information.

The GCB 17/9/04 quoted Cr Shepherd as saying, "... [Cr Shepherd] understood a defamation writ had been issued against two councillors by a developer". This attributed statement is in my view sufficiently ambiguous that it is unlikely to be proven to refer to the matter between "NCR Securities Pty Ltd and Norman Colin Rix" and Cr Sarroff and you.

If the statement is referring to the correspondence from Steindls it is factually incorrect because a writ had not been mentioned in the correspondence, which in my view was relatively cordial. The attributed statement therefore evidences that Cr Shepherd had only anecdotal information because of its inaccuracy. This indicates against Cr Shepherd being aware of the contents of the letters to the Chief Executive Officer, Cr Sarroff and you.

Also, Cr Shepherd may have obtained information about an alleged writ from various sources external to Council including, as you stated - the developer.

The alleged statement by Cr Shepherd appears to not involve misuse of official or confidential information, or a breach Council's trust, or dishonesty or impartiality in the exercise of his functions.

CONFIDENTIAL

My assessment is that the information provided is insubstantial and to investigate it further would be an unjustifiable use of resources.

Aside from the above, proving that Cr Shepherd actually made the statements attributed to him by the journalist would involve the cooperation of that journalist, which is highly improbable.

The Chief Executive Officer takes seriously his responsibility to refer to the Crime and Misconduct Commission matters that involve or may involve official misconduct. However, in my view this matter does not warrant referral from the CEO to the Commission.

Should you wish to personally refer a matter to the Commission, the postal address is:

Chief Officer Complaints Section
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

Regrettably I am unable to assist your further on this matter.



Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR
(5582 8816)

CONFIDENTIAL



Memorandum

CONFIDENTIAL

To : Conrad Martens, Fraud Prevention & Security Advisor
From : Cr Peter Young
Subject : Steindls Lawyers and Notary
Date : 14 October 2004

Conrad, I refer to you for investigation a matter of genuine concern to me. This matter may in fact involve a criminal breach and therefore be the responsibility of the Crime and Misconduct Commission.

On about 9th September I received a letter marked 'Private and Confidential' from Steindls Lawyers and Notary. Please find a copy enclosed.

A similar letter, also marked 'Private and Confidential', was sent to Cr Sarroff.

Shortly afterward I received telephone advice from Gary Webb that Steindls had also sent a letter about the same subject, and also marked 'Private and Confidential', to the office of the Chief Executive Officer. I requested and received a copy of that letter. Please find a copy enclosed.

On 17 September an article published in the Gold Coast Bulletin (journalist Alice Gorman) stated "Cr Shepherd said yesterday that he understood a defamation writ had been issued against two councillors by a developer."

Cr Shepherd's knowledge of this matter concerns me greatly, as does his divulging that information to a journalist. How did Cr Shepherd know this? Did the developer tell him? Did Cr Power's lover, Cath Mills - who is also secretary to the Chief Executive Officer - let it slip to Cr Power, who then in turn told Cr Shepherd? Did the Manager Corporate Risk divulge the nature of this 'Private and Confidential' material? Or perhaps the City Solicitor? I have absolute confidence no information about the matter was divulged from my office to any person (except Cr Sarroff who was obviously the other subject of the correspondence).

Please do your best to treat this matter with the sensitivity and diligence it deserves.

Cr Peter Young
Ext: 8378



2



CRIME AND MISCONDUCT COMMISSION

GPO Box 3123
Brisbane Qld 4001

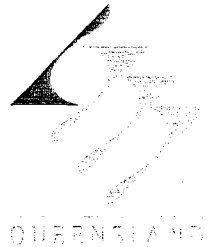
Tel: (07) 3360 6060
Fax: (07) 3360 6333

Toll Free:
1800 061 611

E-mail
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au

Our Reference: MI-04-1270 / KMS
Contact Officer: Ms K Smith



25 June 2004

OFFICE OF THE
Assistant
Commissioner
Misconduct

Level 3, Terrica Place
140 Creek St
(Cnr Creek and Adelaide)
Brisbane, Queensland

Mr Dale Dickson
Chief Executive Officer
Gold Coast City Council
PO Box 5042
GOLD COAST MC Q 9729

Dear Mr Dickson

RE: CONCERNS ABOUT LOCAL GOVERNMENT ELECTION

The Crime and Misconduct Commission (CMC) has received anonymous correspondence concerning an allegation that the writer's husband was paid generously to vote for Councillor David Power at more than one of the pre-poll booths for the recent Council elections. A copy of the anonymous correspondence is attached.

Whilst it is considered the concerns could, if proved, amount to official misconduct as defined in the *Crime and Misconduct Act 2001*, it has been determined that having regard to the state of the information in support of the allegation, no suspicion of official misconduct is raised. Accordingly, the CMC proposes taking no further action in relation to the matter.

However, the information is referred to you as the Returning Officer for information and any other action considered appropriate.

Yours sincerely

ROBERT WALKER
Executive Legal Officer
Receivals and Assessments Unit
Complaints Services

Encl

1. Noted
2. Refer f Council
Martens
20 28/6

49 559

1

I can not state my name as I fear for my safety.

My husband is in the construction business. He was paid, paid generously. to vote for David Power at more than one of the pre-poll booths. There are many more who were 'encouraged' to do the same. I haven't been able to sleep with this knowledge. It is not right.

At a gathering outside the booth (Windaroo High) on Saturday I overheard my husband being told... "just don't worry, there are extra blue slips going in the right box."

I am sending a copy of this to the newspaper, the premier and the police. Are you going to be the one taking action against this level of corruption? I do not want my husband under those threats and pressure any more.



CONFIDENTIAL

Memorandum



TO : Dale Dickson, Chief Executive Officer

COPY :

FROM : Conrad Martens, Fraud Prevention & Security Advisor

ACTION BY :

SUBJECT : UNAUTHORISED RELEASE OF CONFIDENTIAL REPORT - SURFERS PARADISE TRANSIT CENTRE

DATE : 11 August 2004

FILE NO : 33/11/0-913

PURPOSE

To advise you on the outcome of my inquiries into the unauthorised release of a confidential report on the "Surfers Paradise Transit Centre".

DISCUSSION

On Thursday 22/4/04, matters relating to the "Surfers Paradise Transit Centre & Bruce Bishop Car Park" were discussed at a workshop for Councillors. That day, a confidential report was printed and distributed through the normal processes as agenda item 6 on the Economic & Cultural Development Committee 27/4/04 - "Surfers Paradise Transit Centre & Bruce Bishop Car Park Report No 16 - Division 7".

The following material was recommended and subsequently decided by Council to be confidential unless Council decides otherwise by resolution:

*"Section 10 references to the valuation of the property described in Section 5.1;
and*

Attachments 6.28 to 6.32 - Valuer's Report (Summary Valuation)."

on the basis that in involved:

"e- contracts proposed to be made by Council

h- business for which public discussion would be likely to prejudice the interests of Council or someone else, or enable a person to gain financial advantage"

On Tuesday 27/4/04 an article "City assets in play, by Alice Jones" appeared in the Gold Coast Bulletin (GCB). The article made it clear that the GCB had a copy of the aforementioned confidential report discussed aspects of the report. While the Council valuation was \$37.5 million, the GCB stated the property "...may be sold in a \$35 million deal to fund urgent roadworks" and "could fetch more than \$35 million".

CONFIDENTIAL

CONFIDENTIAL

The CEO asked for the unauthorised release of the confidential report to be investigated. Unauthorised release of a confidential report is a breach of Council's Local Law and Policy - Meetings, the Code of Conduct and the Protective Security Policy; and potentially a breach of the Local Government Act 1993 (Improper use of information by councillors / Improper conduct by local government employees), and the Crime and Misconduct Act 2001 (Official Misconduct).

On 27/4/04 the matter was referred to the Crime and Misconduct Commission in accordance with the requirements of the Crime and Misconduct Act. The Commission responded that the allegation could, if proved, amount to Official Misconduct under the Act, as the alleged unauthorised release was a breach of trust and an offence against the Local Government Act. The Commission referred the matter for Council to deal with.

A series of GCB articles appeared to have some relevance to the unauthorised release of the confidential report. The following excerpts include all comments from Councillors, and copies of the articles are attached.

On 27/4/04 the article "City assets in play, by Alice Jones", which states in part:

- "The Surfers Paradise Transit Centre and the rights to its airspace may be sold in a \$35 million deal to fund urgent roadworks to fix the city's traffic gridlock"...
- "A confidential report has proposed the sale to pay for the second and third stages of the Surfers Paradise traffic management scheme estimated to cost \$26 million."
- "... Councillor Susie Douglas says she is not convinced that the sale being promoted by council bureaucrats is what locals want. The matter will go before the new economic and cultural development committee today, but Cr Douglas wants it deferred for community consultations."
- "She said the proposed sale, which also includes the adjoining Bruce Bishop Car Park and the Neal Shannon public park above it and could fetch more than \$35 million, should not be linked to the traffic management scheme."
- "The confidential report to the council, obtained by The Gold Coast Bulletin, asked for..." [The article goes on to disclose other aspects of the report and attachments.]

On 4/6/04 the article "Eddy throws in the towel, by Alice Jones and Peter Gleeson", which states in part:

- "Cr Sarroff has called into question the actions of the chief executive officer Dale Dickson and economic development and major projects director Greg Young. He accuses the CEO of 'playing politics' and Mr Young of being wrong about the figures put forward to support the Surfers Paradise Transit Centre sale."
- "His anger also stems from his inability as finance chairman to convince his colleagues to ditch plans to sell off the transit centre."
- "Cr Sarroff says he was also concerned last week to find that figures enclosed in a report by Greg Young encouraging the council to sell the Surfers Paradise Transit Centre were wrong and built a compelling argument for selling the asset. Yet when he raised the anomalies during last Friday's council meeting, Cr Sarroff said his colleagues did not heed his call, strengthening his belief in the existence of a power bloc."

On 4/6/04 the article "CEO defends an excellent draft budget, by Alice Jones", which states in part:

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- *"Of Cr Sarroff's claims that the council had been given misleading financial figures promoting the sale of the transit centre, Mr Dickson would not comment specifically."*

On 4/6/04 the article "Sarroff exits the ring, by Peter Gleeson", which states in part:

- *"... and he is strongly opposed to the sale of the Surfers Paradise transit centre."*
- *"The straw that broke the camel's back for Cr Sarroff came last week during debate on the future of the Surfers Paradise transit centre. Despite trying to convince councillors "until I was blue in the face" that they should oppose the sale of the centre, Cr Sarroff was rolled."*
- *"The transit centre disappointment came during a week when Cr Sarroff also raised questions about the administration and its recommendation to borrow ..."*

On 19/6/04 the article "Leaks are part of the secret life of us, by Alice Jones", which states in part:

- *"... my mates down at the city council have launched an inquiry into how, we at The Bulletin got our hands on a confidential report weighing up the pros and cons of selling the Surfers Paradise Transit Centre."*
- *"... Journalism 101 is all about the basic tenet of being a good reporter - DO NOT REVEAL YOUR SOURCES.
So first up, the council asked the Crimes and Misconduct Commission to investigate and were told, "Do your own dirty work"...or words to that effect.
Then the council's fraud investigator wrote a letter to my boss asking him to reveal how we came to be in possession of what, from memory, was a rather boring report.*
- *My boss declined the generous offer and said anyway he didn't know how in the hell it arrived here."*
- *"So now, as I hear it, they have been systematically interviewing (some) councillors and their secretaries, asking what they know about the leaking of the report. They even have a list of which councillors faxed which numbers around that time... presuming, I suppose, that the hefty report was faxed to me."*
- *"The particularly sensitive part of the transit centre report was a valuation of its worth, which if published would more than likely ruin the sale."*
- *"Yes there was a valuation mentioned, but it was just one that the former Surfers Paradise councillor Max Christmas had been telling anyone who would listen ... he is a licensed valuer after all."*
- *"The council's chief executive officer Dale Dickson told me this week that the matter was being taken 'very seriously' because of the public interest implications of the leak."*
- *"That would be the case if we had published the official valuation - but as I have pointed out to them numerous times, we did not."*
- *"When [Peter Gleeson] was covering City Hall the authorities spent \$12,000 investigating which councillor gave him a secret report. No conclusion was reached but they strongly suspected it might have been the councillor whose house his car was sometimes parked outside. Gee, for a lot less than \$12,000 I could have told them that."*

On 27/4/04 Council (Fraud Prevention & Security Advisor) wrote to the Deputy Editor of the GCB Mr Mike Carroll pointing out that the publication of the confidential information

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was contrary to the public interest, and seeking cooperation by advising how the GCB came by the confidential report. Mr Carroll responded in the attached email that:

"Alice raised the concerns about printing the property figure in the story and I considered those concerns before choosing to publish it. You will note that we chose a figure that wasn't quite that quoted in the report. I would also point out that we have published a similar figure previously based on estimates from real estate agents - including former councillor Max Christmas. With all due respect, if the property is worth that amount of money than I doubt a report in the GCB - a report of the ilk we run on hundreds of commercial properties every week - will affect its value. Put simply, if the property is really worth that much money, than you will find someone prepared to pay it. In regards to the report itself, that is a matter between the reporter and her contact, who will always remain anonymous. As a professional reporter Alice would not hand over the report to any other party. I am not even sure of the location of the report at this point."

Questions were asked (in writing and orally) of the Councillors and officers who had access to the confidential report, including the valuer, authors, printers and couriers, Councillors, senior officers, personal assistants, etc. A list of interviewees follows:

Mayor Ron Clarke	Naomi Douglas	Shaun Cox	June Toland
Cr McDonald	Gail Brown	Warren Day	Joan Maybury
Cr Shepherd	Glenys Porter	Warren Rowe	Alistair Dunn
Cr Grew	Kim Donges	Greg Young	Fiona Roberts
Cr Crichlow	Kay Wood		Kathleen Tannock
Cr La Castra	Linda Collyer	David Montgomery	Kirsty McKenzie
Cr Molhoek	Robyn McMurtrie	Garry Webb	Shaelee Richards
Cr Young	Rebecca Shields	Bryan Case	Haiden Taylor
Cr Hackwood	Liz Carroll	Steven Holle	Kelsey Ross
Cr Betts	Melinda Murdoch	Grayson Perry	Janet O'Byrne
Cr Power	Donna Gates	Paul Herd	Tonya McLeod
Cr Douglas	Ros Bennett	Tony Davis	Jill Bohulus
Cr Robbins	Patricia McKinnon	Bob Towson	
Cr Sarroff	Mary Calleja	Wayne Glindeman	Karen Wilson
Cr Pforr	Robin Goldstone	Cathy Mills	Maree Moon
	Ruth Oatridge	Kay Arnold	Tanya Tabone
Cheryl Murray	Shelly Greaves	Sylvia Brown	Renee Cargill
Michelle Sowden		Judy Learmonth	Peter Obst
Di Papworth	Dale Dickson	Victoria Highfield	Stephen Kent
Bev Piggins	Joe McCabe	Jackie Deacon	Alec Dickson
Cheryl Murray	Graeme Finlayson	Terri Hansford	Allan Whelan
Desma Truscott	Colette McCool	Kay Bennett	

All interviewees were reminded of the protections available under the Whistleblowers Protection Act should they have any information about this matter, which in the interests of Council they wish to disclose.

Five questions in particular were asked of all interviewees, and the responses are discussed below.

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"Q1. Do you acknowledge the agenda item made it clear that the release of the information could be damaging to Council? (If the answer is in the negative, provide details.)"

Generally, interviewees responded in the affirmative. The only response of note was from Councillor Sarroff:

- Cr Sarroff said: *"I recall that the entire item was confidential and at some stage it was decided that the item would be put on open pages with the exclusion of the valuation section of that report. I am of the strong view that the valuation should not have even formed part of the report. As I explained to you. This prime site should not have had a valuation attached to it. With some 176 sq meters in the heart of Surfers Parade it should have been left to the market to determine what the appropriate price should be. The previous Councillor, Max Christmas, on numerous occasions stood up and announced that the Transit Centre/Bruce Bishop Carpark and the entire site would fetch in the order of \$30 - 35 million. That, in itself, was inappropriate as Cr Christmas at the time was a sitting Councillor wearing, quite often, his real estate hat. I disagree with your statement above that "The unauthorised release of the valuation information could profit potential developers at the expense of the community". I am of the strong view that the conservative valuation that formed part of that report was grossly under-estimated, and that, in my opinion, would have been better off not disclosed in the first instance. Further, I would add that one of the Gold Coast high profile developers, Soheil Abedian from the Sunland Group, I understand was quoted on Channel 9 Local News saying that the Centre is far too expensive at \$35 million (or so). Again, this is simply a developer trying to drag down the value of the premises, in my opinion, so he can be well positioned to be in the bidding when and if the parcel is put to tender. As I said to you, I believe what should be investigated is a whole lot of issues surrounding this matter including the misleading information that was put forward by officers in the agenda item dated 25 May 2004."*

"Q2. Prior to the Committee meeting of 27/4, did you directly or indirectly provide a complete or partial copy of the abovementioned agenda item to Gold Coast Bulletin personnel? (If the answer is in the affirmative, provide details.)"

Interviewees responded in the negative.

"Q3. Between 21/4 and the meeting of 27/4, what direct or indirect contact or communication did you have with Gold Coast Bulletin personnel? (Provide date and time, person's name and role, and subject of contact.)"

Almost all interviewees responded that they had no contact with GCB personnel; a few stated they had contact in relation to other matters; and the remaining two stated:

- Cr Douglas said: *"On the weekend of 24th April, Alice Jones rang for a comment about the sale. I gave no confidential information; I only made a comment that I thought it should not be sold."*
[Also, Cr Douglas said during interview that the GCB reporter Alice Jones rang her on a Saturday 24/4 and mentioned something about the PRD report, but did not appear to know then the confidential report contents or amount. Also, Cr Douglas spoke to the reporter after the first publication of the confidential report details and the reporter agreed that Cr Douglas did not leak it.]
- Cr Sarroff stated: *"I have had numerous contacts with the Gold Coast Bulletin personnel, mainly due to the fact that many Councillors do not respond to the Gold Coast Bulletin. In relation to what time and date and the persons' names, I will not even attempt to try and work this out."*

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“Q4. Prior to the meeting on 27/4, who could have obtained access to your copy of the agenda item, with or without the knowledge of you or your assistants? (Provide details.)”

Interviewees responded in the main that no one had access to their copy of the agenda, some responded that immediate support personnel had access, and fewer still replied that security and cleaners might have access after hours. It should be noted that the computer Network and TRACKS supervisors have the ability to access documents, and access by TRACKS supervisors will not leave an audit trail.

“Q5. Do you have any information, whether known fact or circumstantial, that may relate in any way to the agenda item being provided to Gold Coast Bulletin personnel? (If the answer is in the affirmative, provide all information. Do not be dissuaded from providing information on the basis that you do not have all the answers.)”

Most interviewees had no further information that might be of assistance. Aside from the hearsay of others, one Councillor made a comment.

- *Cr Shepherd said: “Dawn Crichlow has on many occasions stated that she has disclosed confidential information to the Gold Coast Bulletin and that she would continue to do so.”*
- *[Also, Mr Greg Young said during interview that he had spoken to Cr Sarroff 6-8 weeks prior to Committee, and Cr Sarroff appeared to be aggressive and appeared to think that the sale of the Surfers Paradise Transit Centre was to finance the traffic management scheme. Cr Sarroff allegedly said words to the effect of, “I’m not happy about this and I will be taking it further”. Also when the matter was raised at a workshop for Councillors on 22/4/04, Cr Sarroff said that people had said Council should retain the Surfers Paradise Transit Centre, and Cr Crichlow had an issue with loss of public money, but did not raise a specific issue about the Transit Centre.]*

CONCLUSION

The evidence establishes that between 22/4/04 and 26/4/04 the Gold Coast Bulletin and / or its reporter obtained a copy of the agenda item 6 on the Economic & Cultural Development Committee 27/4/04 - “Surfers Paradise Transit Centre & Bruce Bishop Car Park Report No 16 - Division 7. The report was completed and printed on 22/4 and the GCB article would have been completed by the night of 26/4/04. There is no evidence that the report was stolen. It was probably provided without authority on or after 24/4/04 when the reporter was seeking comments from relevant councillors.

There is no evidence to indicate how the report was provided to the Gold Coast Bulletin.

There is insufficient evidence to establish who released the report or why it was released.

The unauthorised disclosure was clearly contrary to a Council decision, a breach of public trust and contrary to the public interest. Discussions with Mr Greg Young and Council’s valuer indicate that the unauthorised release of the confidential information in the report may potentially have cost the community millions of dollars. In addition, it would adversely impacted on Council’s image and reputation to keep commercial secrets.

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Other issues outside the focus of the investigation should be mentioned here.

Firstly, the Gold Coast Bulletin published valuation information knowing that it was confidential to the Gold Coast City Council and improperly disclosed. The GCB apparently appreciated the damage done:

"The particularly sensitive part of the transit centre report was a valuation of its worth, which if published would more than likely ruin the sale." [19/6/04 "Leaks are part of the secret life of us, by Alice Jones"].

and made inconsistent statements about the publication:

- *"Alice raised the concerns about printing the property figure in the story and I considered those concerns before choosing to publish it. You will note that we chose a figure that wasn't quite that quoted in the report. I would also point out that we have published a similar figure previously based on estimates from real estate agents - including former councillor Max Christmas."* [28/4/04 Mr Carroll GCB];
- *"Yes there was a valuation mentioned, but it was just one that the former Surfers Paradise councillor Max Christmas had been telling anyone who would listen ... he is a licensed valuer after all."* [19/6/04 "Leaks are part of the secret life of us, by Alice Jones"];
- *"...may be sold in a \$35 million deal to fund urgent roadworks" and "could fetch more than \$35 million".* [27/4/04 "City assets in play, by Alice Jones"]; and
- *"The previous Councillor, Max Christmas, on numerous occasions stood up and announced that the Transit Centre/Bruce Bishop Carpark and the entire site would fetch in the order of \$30 - 35 million."* [Cr Sarroff].

Aside from that, the investigation highlighted one particular security issue - that many of the Councillor's personal assistants (permanent and temporary) were insufficiently aware of Council security / code of conduct policy requirements in relation to the protection of confidential information and reporting of security breaches. On this occasion, the Fraud Prevention & Security Advisor provided each PA separately with an appropriate briefing. However, the Director City Governance should ensure that PAs are briefed prior to employment and annually thereafter.

RECOMMENDATION

It is recommended that:

1. The Chief Executive Officer note the report.
2. The Director City Governance (Manager Community Relations) ensures that each Councillor Personal Assistant is provided with appropriate security / code of conduct awareness briefing prior to appointment and annually thereafter.

Conrad Martens
FRAUD PREVENTION & SECURITY ADVISOR

913

MARTENS Conrad

From: Roben Simo-Swer [Roben.Simo-Swer@cmc.qld.gov.au]
Sent: Thursday, 5 August 2004 8:20 AM
To: MARTENS Conrad
Subject: AOA SCHEDULES



Gold Coast City
Council.doc

RE: COMPLAINTS WHERE CMC REQUIRES OUTCOME ADVICE ONLY

Please find attached schedule containing details of all current complaints referred to your Department/Council/Agency for "outcome advice only" outstanding at

Advice is only required for those matters which have been FINALISED - outlining how they were dealt with i.e. internal/external investigation, disciplinary action, managerial resolution, whether any other organisation has been advised of the matter; etc and indicating any new allegations raised as a result of your investigation. We would also be grateful if you could include YOUR REFERENCE NUMBER in the EA REFERENCE section located at the top right of the file number on the schedule.

Please return the completed schedule via e-mail (Complaints@cmc.qld.gov.au - Attention Monitoring & Support Unit).

It is anticipated, dependant upon the number of matters involved, that the schedule will be provided to you on a quarterly basis. We would appreciate your advice of outcome being provided within 7 weeks of receipt. Every effort will be made to ensure advice received on or prior to that time is updated as a matter of urgency. Any advice received at a later date will not be reflected.

The document is now hopefully more user friendly as it has been created as a Word document. If you experience any difficulties accessing the Outcome Advice Only Schedule please do not hesitate to contact Maureen Roben on 3360-6372 or 3360-6290.

We would also be grateful if you could ACKNOWLEDGE RECEIPT of the schedule via return e-mail or telephone.

Thank you.

Maureen Pannell and Roben Simo-Swer
Monitoring & Support Unit

This message (including attachments) is intended for the addressee named above. It may also be confidential, privileged and/or subject to copyright. If you wish to forward this message to others, you must first obtain the permission of the author.

913

FINAL OUTCOME ADVICE ONLY SCHEDULE
Local Government, Gold Coast City Council
Outstanding at 30-JUNE-2004

File Number: MI-04-1453 Date Referred: 30-APR-2004 EA Reference:

Precis: Gold Coast City Council refer concerns that an unknown Councillor or Council employee has without authorisation released of a confidential Council report about the Surfers Paradise Transit Centre to the Economic and Cultural Development Committee meeting on 27/4/04. The report was distributed to Councillors and relevant officers on 22/4/04. On 27/4/04 an article appeared in the Gold Coast Bulletin which asserts that the newspaper has a copy of the Council's confidential report. The report was deemed confidential by Council officers under the Local Government Act.

Date Received: 28-APR-2004 Security Classification: In-Confidence

Concerned Parties:

UNKNOWN115249 (Subject)

<u>Allegations identified by CMC</u>	<u>How Dealt with</u>	<u>Final Outcome</u>
Control of Information Unauthorised disclosure for unknown unknown Councillor or Council employee has released without authorisation a confidential Council report about the Surfers Paradise Transit Centre to the Economic and Cultural Development Committee meeting on 27/4/04.		

<u>Allegations identified by UPA</u>	<u>How Dealt with</u>	<u>Final Outcome</u>

CRIME AND MISCONDUCT COMMISSION

Level 3 Terrace Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Queensland

GPO Box 3123
Brisbane Qld 4001

Telephone
(07) 3360 6080

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cmc.qld.gov.au

www.cmc.qld.gov.au



Facsimile Transmission

To: MR CONRAD MARTENS
MANAGER FRAUD PREVENTION & SECURITY

Organisation: GOLD COAST CITY COUNCIL

From: LEE-ANNE GEISSLER

Fax No.: 5582 8125

Subject: MATTERS ASSESSED REPORT

Date: 5 May 2004

NO. OF PAGES (INC. THIS PAGE): 2

IF YOU DO NOT RECEIVE
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CONTACT (07) 3360 6060
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The information the subject
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disclosure except to and for
the use of the addressee for
the purposes of the
Commission and the *Crime
and Misconduct Act 2001*.

If the information contained
in this transmission
becomes the subject of any
request under Freedom of
Information legislation,
consultation should be
undertaken with this
Commission.

If you are not the
addressee, please ensure
that this confidentiality and
privilege is maintained by
not disclosing or using the
information in any manner
and immediately notify the
Commission on the above
number or 1800 061 611 to
arrange the return of the
information.

MESSAGE:

Conrad

Please find attached the following:-

1. Matters Assessed Report – CMC MI-04-1453 – Complaint against unknown officers.

Regards
Lee-Anne Geissler

MATTERS ASSESSED (MI-04-1453)

File Number: MI-04-1453 Received Date: 28-APR-2004

Matter Type: Complaint

Method of Lodgement: E-mail from department or public sector agency

Concerned Parties: Conrad MARTENS (Notifier)

Persons of Interest: UNK JOWNI15249 (Subject)
Gold Coast City Council

Precis: Gold Coast City Council refer concerns that an unknown Councillor or Council employee has without authorisation released of a confidential Council report about the Surfers Paradise Transit Centre to the Economic and Cultural Development Committee meeting on 27/4/04. The report was distributed to Councillors and relevant officers on 22/4/04. On 27/4/04 an article appeared in the Gold Coast Bulletin which asserts that the newspaper has a copy of the Council's confidential report. The report was deemed confidential by Council officers under the Local Government Act.

Allegations - Current Assessment

No	Subject	Type	Sub-type/Comment	Conduct Category	Complainant
1	UNKJOWNI15249 (Subject)	Control of Information	Unauthorised disclosure for unknown gain Unknown Councillor or Council employee has released without authorisation a confidential Council report about the Surfers Paradise Transit Centre to the Economic and Cultural Development Committee meeting on 27/4/04.	Official Misconduct	Conrad MARTENS (Notifier)

Status: Referral to the UPA to deal with the complaint - outcome advice only.

Endorsement Comment: Allegation could, if proved, amount to OM (breach of trust, offence against LGA). Having regard to the information available concerning the allegation and the advice of the UPA as to action it is taking to deal with the concern, the matter is suitable for referral to the UPA to deal with. (Robert WALKER)

Date: 30-APR-2004

MARTENS Conrad

From: MARTENS Conrad
Sent: Thursday, 29 April 2004 5:05 PM
To: 'keily.smith@cmc.qld.gov.au'
Subject: FW: My Ref 913

-----Original Message-----

From: MARTENS Conrad
Sent: Tuesday, 27 April 2004 16:15
To: 'complaints@cmc.qld.gov.au'
Subject: My Ref 913

CONFIDENTIAL

Ms Helen Couper
Chief Officer Complaints Section
Official Misconduct Division
Crime and Misconduct Commission
GPO Box 3123
Perth WA 6001

Dear Ms Couper,

Council wishes to refer to you the unauthorised release of a confidential Council report on the Surfers Paradise Transit Centre to the Economic and Cultural Development Committee meeting on 27/4/04.

I understand that the report was distributed to Councillors and relevant officers on 22/4/04. On 27/4/04 the attached article appeared in the Gold Coast Bulletin page 2 "City assets in play". The article asserts that the Gold Coast Bulletin has the Council officers' confidential report.

The report was deemed confidential by Council officers under the Local Government Act, as it was seen that disclosure of the information would be likely to prejudice the interests of the Council or someone else, or enable a person to gain financial advantage. The Gold Coast Bulletin publication of a possible dollar value for the sale of the Transit Centre could well now minimise the value realised by the Council on behalf of the whole community, and is contrary to the public interest.

Council has taken steps to minimise the damage caused by the unauthorised release of the report. The cooperation of the Gold Coast Bulletin was sought for the return of the report and a response is awaited. In addition, relevant staff are being spoken to about the matter.

The unauthorised release of the report appears to be politically motivated. Council does not have the power to require Councillors to answer questions or require the journalist to reveal the source of the report.

I will remain Council's contact officer, and would appreciate the Commissions' advice on the referral.

Yours sincerely,

Conrad Martens

Fraud Prevention & Security Advisor

"Protecting You - Protecting Us"

Ph: (07) 5582 8816 All hours Fax: (07) 5582 8125
Corporate Risk, City Governance, Gold Coast City Council

- Waterside West (level 5) 11 Holden Place, Bundall
- P.O. Box 5042 Gold Coast Mail Centre 9729

[Link to Council Business Ethics <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=1460)

[Link to Council Code of Conduct <http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029>](http://www.goldcoast.qld.gov.au/t_std2.asp?PID=2029)



GCB20040427.bmp

MARTENS Conrad

From: MARTENS Conrad
Sent: Tuesday, 27 April 2004 4:15 PM
To: 'complaints@cmc.qld.gov.au'
Subject: My Ref 913

CONFIDENTIAL

Ms Helen Couper
Chief Officer Complaints Section
Official Misconduct Division
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

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Conrad Martens

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GCB20040427.bmp

42



Memorandum

- CONFIDENTIAL -



Gold Coast City Council

TO : Cr Eddy Sarroff

COPY TO : Mayor Ron Clarke
Warren Rowe - Director P E & T

FROM : Chief Executive Officer

SUBJECT : Response to Memo 21 June 2004 - Reluctance of Council
officers to offer advice to Council

DATE : 9 July 2004

FILE NO : LG211/898/10 #15576387

Cr Sarroff

In response to your memo of 21 June 2004 I offer the following comments.

Whilst it is important that the genuine grievances of individual Councillors are properly considered and responded to, it is similarly appropriate that spurious allegations of inappropriate conduct, maladministration or the like do not serve to distract us.

With all due respect, there have been many public criticisms or allegations by you of unprofessional conduct, conspiratorial behaviour and the like over the past year, which have not been supported by tangible evidence.

Your most recent public and private criticism of my actions, and those of Mr Davis, at the Council meeting of 18 June, 2004 is another of these.

The above meeting you chose not to give me any prior notice of your actions in asking me to validate the document you tabled, which was your choice, not mine. It is therefore absurd that you have now privately and publicly criticised my response to what was clearly a premeditated action on your part. It is entirely appropriate and lawful for an officer to take a question on notice at any Council meeting or Committee meeting should circumstances dictate.

Moreover, you have said in your memo that my report on Councillor remuneration is based on satisfying the desires of, in your words, 'the powerful group of Councillors', and go on to infer that my motives are therefore suspect and are inconsistent with the public interest. This is simply untrue given that my report of four years ago effectively recommended the same outcome, and was directed to a very different group of Councillors.

In summary, your propensity for calling into question the motives of myself and other Council officers in circumstances where your individual views don't align with those of a majority of your Councillor colleagues is misguided and at times can be quite offensive.

Turning to the City Planning Committee proceedings you refer to, given that I was not present at the time, I can only offer the following comments:

1. I am advised that your interpretation of the proposition put to the City Planning Committee meeting by Cr Shepherd in respect to Tolga Road, as stated in your memo, is incorrect.
2. I note that you confirm the Council officers gave appropriate advice in respect of the Chauffers Pty Ltd application, once the Committee chairperson gave approval for them to speak at the meeting.

It is a fact that Council officers cannot, as a matter of course, 'offer advice' or 'comment' on matters being debated by Council or a committee.

Under a number of levels of law (eg the Local Government Act, Local Law No 1 (Meetings), Local Law Policy No 1 (Meetings) and common law) the Mayor or chairperson controls a meeting. Only members of a meeting are permitted to participate in debate unless the chair or the meeting decides otherwise.

Officers and directors are present at committee meetings to answer any questions or provide such further information/clarification as is directed to them through the chair. Furthermore, directors attend Council meetings for the same purpose.

I do acknowledge that it is appropriate for a director or officer, with the concurrence of the chair, to 'introduce' an item which contains matters of significance or which is out of the ordinary, or exercise judgement on occasions such that approval of the chair is sought to speak, which I believe is the point you are really trying to emphasise.

That said, I personally place great store in the various institutions and conventions which make up our system of local democratic governance, because it is by properly respecting and supporting these that the public interest is ultimately best served, irrespective of the political issue of the day. The legislative and common law framework which guides the conduct of Councillors and officers at Council meetings (including Committee meetings), is but one such institution.

Again, where the judgements or reports of Council officers do not abide with your personal views on particular matters, it does not automatically follow that the public interest is being ignored or that there is some form of conspiratorial conduct at play.

● e Dickson
CHIEF EXECUTIVE OFFICER
Ext 8202
#15576387

Councillor Eddy Sarroff

Division 10

DATE: 21 June 2004

MEMO TO: Dale Dickson, Chief Executive Officer

MEMO FROM: Cr Eddy Sarroff

SUBJECT: Reluctance of Council Officers to Offer Advice to Council

Dale

I wish to highlight my concerns with Council officers' reluctance to offer advice which in my opinion is in the public interest. I will outline specific concerns in just the past two weeks.

The first example is in relation to last Tuesday's City Planning meeting, specifically Item 4 Negotiated decision notice - combined application for material change of use for urban residential development & reconfiguring a lot - Auspacifik Design Engineers Pty Ltd - part of Lot 1 on RP48353 - 12 Tolga Road, Bonogin. The Chairman moved to remove Part 2 of Recommendation 41 which requires the developer to pay for the construction of Tolga Road from Nicole Street to the new Bonogin Road roundabout.

The matter was to be put to the vote and it was at that point in time that I intervened and asked officers whether this was a reasonable and relevant condition. The officers did confirm that this was a reasonable and relevant condition. The cost of this infrastructure is estimated at \$250,000 and if not paid by the developer would have been paid by rate-payers of this city. Upon further investigation I was informed that this road will also provide more appropriate access to the development. None of this information was volunteered at the meeting. I think it is fair to say that new Councillors should be made aware of this information, particularly when there is a request to remove a vital piece of infrastructure which would then need to be funded by rate payers of the city if this condition was removed.

The second example was also in relation to today's City Planning meeting, Item 5, Reconfiguring a lot (Community title subdivision to create 78 lots with public roads and open space in common property with full public access) - the Heilbronn Group for Chauffeur Pty Ltd. The item made specific recommendations in relation to a required 10 meter buffer. At the meeting today, Cr Shepherd circulated an amendment which included a reduction of the buffer from 10 meters to 5 meters. Whilst he and Cr Power felt that this was a more appropriate outcome, the matter was put to a vote without officers offering any advice in relation to the impacts of this change.

CLR EDDY SARROFF

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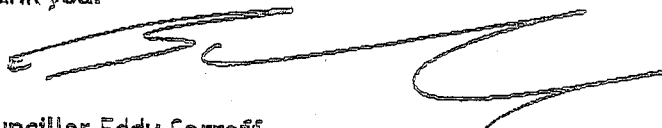
I am of the strong view that this significant relaxation will have a long term detrimental impact. It is therefore important that Council officers offer advice to that extent. Council officers did indicate, after I intervened, that they felt that it was import that this condition be retained. Whilst the final decision did not take into consideration officers view, I will strongly argue that Councillors, in particular the new Councillors, need to hear Council officers' advice to be in a position to make an informed decision.

The third instance is in relation to last Friday's Council meeting. I am quite disappointed that both yourself and Mr Tony Davis refused to comment in relation to the handout which I distributed in relation to the impact of the decision on the Councillors remuneration.

I am most disappointed because Councillors did not seem to understand the total impact of the resolution as outlined in your report and whilst my hand-out attempted to more clearly explain the impact of the decision, both your advise and Mr Davis' advice could have had an impact on the final vote that was taken. I am quite disappointed that whilst neither yourself nor Mr Davis would comment on my handout that immediately after the vote was taken when Mr Davis was confronted by myself and asked, "Do you agree with those figures?", he responded in the affirmative.

In conclusion, I feel that this administration seems to be more driven by what the powerful group of Councillors seem to be interested in rather than what is for the betterment of the community. I am of the strong view that officers should be offering their advice without any fear or favour.

Thank you.



Councillor Eddy Sarroff
COUNCILLOR FOR DIVISION 10
X6171
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