

From: KENYON Cassandra
Sent: Sunday, 7 November 2004 10:37 PM
To: DONGES Kim
Cc: McCABE Joe; FINLAYSON Graeme
Subject: RE: Finance Agenda Next Week

IN THE MATTER OF:

OP GRAND

EXHIBIT No. 34
McCabe CLERK

Kim
Please find attached a memo to Cnlr Molhoek in response to his query below. If any further information is required, please let me know.
Regards,
Cassandra
x6312



Discount Memo
8-11-04.doc

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

From: McCABE Joe
Sent: Friday, 5 November 2004 8:45
To: FINLAYSON Graeme
Cc: KENYON Cassandra; DONGES Kim
Subject: FW: Finance Agenda Next Week
Graeme (Cass, Kim)

Could you please provide the appropriate advice to Cnr Molhoek. I can't remember too many examples of special circumstances.
Joe

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

From: DONGES Kim
Sent: Friday, 5 November 2004 8:26
To: McCABE Joe
Subject: Finance Agenda Next Week
Hi Joe

Re: Item 2 - Discount on Rates. What precedent if any is there for refunding the discount if it was missed due to late payment?

It has been suggested to me that there are special circumstances re this particular matter. If discounts have been revisited/refused in the past, can I please have some examples.
Would appreciate your wisdom on this.

Thanks
Cr Rob

memorandum

*Respectfully referred
to Council*



TO: Cr R Molhoek
COPY: Director Organisational Services
Director City Governance
FROM: A/Manager Financial Services
SUBJECT: Discount on Rates
DATE: 8 November 2004
FILE NO: LG113/161/03/06(P2)

I refer to your enquiry re what precedent, if any, there is for refunding the discount if it was missed due to late payment.

Financial Services procedures permit officers to extend/allow discount in the following circumstances:

- A) A ratepayer advises the relevant rate notice was not received (if the address quoted is different due to an incorrect address being advised by the ratepayer's solicitor, they are not entitled to discount. Ratepayers need to address this error with their solicitor);
- B) A ratepayer advises that the required payment was late due to sickness;
- C) A ratepayer advises that a cheque for the required amount was posted to Council but did not arrive (cheque must not have been presented to their bank account);
- D) A ratepayer advises that a cheque for the required amount was posted in sufficient time to reach Council by the relevant date but did not do so.
- E) A ratepayer advises that a cheque for the required amount was posted in sufficient time to reach Council by the relevant date but did not do so.

It should be noted that in all of the above cases, discount may only be extended/allowed if the ratepayer **HAS NOT** been granted and allowance or extension of discount within the previous 24 months on any rate account they own.

The follow circumstances are specific categories of discount not to be allowed/extended:

- A) Where a ratepayer advises that they were away from the postal address for the entire or partial discount period for reasons such as holidays or business;
- B) Where a ratepayer has purchased a property and the date of possession is after the date of issue of the rate notice in question (Council has a search facility for solicitors and purchasers detailing the status of a rate account);
- C) Where a ratepayer advises that they forgot to pay the required amount by the stipulated date (previous payment history cannot be considered);
- D) Where a ratepayer advises that a third party, entrusted with the duty of paying the required amount by the stipulated date, neglected to do so.

Certain officers within the Branch have delegated authority to allow/extend discount for special circumstances. These circumstances are determined by the officer's exercising their delegation of Section 1021 of the Local Government Act 1993, for discount if special circumstances prevent prompt payment. Discount is allowed if Council "is satisfied that a person liable to pay the rate has been prevented, by circumstances beyond the person's control, from paying the rate in time to benefit from the discount." Recent examples of discount allowed/extended due to special circumstances include:

- Cheque dishonoured in error by the ratepayer's financial institution - in these cases, written confirmation of the error must be received from the financial institution addressed to Council;

- Incorrect loading of postal address into Council's property system by either Council or the Department of Natural Resources;
- Personal incident that required police involvement.

Specific procedures have been developed and implemented to ensure fairness and consistency when allowing/extending discount.

If you have any further enquiries, please contact me on extension 6312.

Cassandra Kenyon
A/MANAGER FINANCIAL SERVICES

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Gold Coast City Council

AGENDA

for the

FINANCE AND INTERNAL SERVICES COMMITTEE MEETING

to be held

Tuesday 9 November 2004

at

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.

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AGENDA				
FINANCE AND INTERNAL SERVICES COMMITTEE MEETING Tuesday 9 November 2004				
ITEM	DIRECT.	FILE	PAGE	SUBJECT
1	PE & T	PD113/106/05-01(P4)	4	CONSULTANCY SERVICES - WILLIAM OWEN (CORE ECONOMICS PTY LTD)
2	OS	PN67889/36/-(P1)	7	REQUEST FOR DISCOUNT ALLOWANCE
GENERAL BUSINESS				

KEY:

- CEO - CHIEF EXECUTIVE OFFICER
- CG - CITY GOVERNANCE
- CMS - COMMUNITY SERVICES
- EDMP - ECONOMIC DEVELOPMENT & MAJOR PROJECTS
- ES - ENGINEERING SERVICES
- GCW - GOLD COAST WATER
- OS - ORGANISATIONAL SERVICES
- PET - PLANNING ENVIRONMENT & TRANSPORT

ATTENDANCE

Cr R Molhoek Chairperson
Cr D L Power
Cr D M Crichlow
Cr E Sarroff

Mr G Finlayson Director Organisational Services
Mr J McCabe Director City Governance

APOLOGIES

PRESENTATIONS

ITEM 1 **PLANNING ENVIRONMENT & TRANSPORT**
CONSULTANCY SERVICES—WILLIAM OWEN (CORE ECONOMICS PTY LTD)
PD113/106/05-01(P4)

1 BASIS FOR CONFIDENTIALITY

Not applicable.

2 EXECUTIVE SUMMARY

Not applicable.

3 PURPOSE OF REPORT

To recommend to Council that it resolves, pursuant to section 486(2) (b) of the *Local Government Act 1993*, that the services required are of such a specialised nature that it would be impractical and disadvantageous to invite tenders or quotations for the supply of independent economic and infrastructure planning consultancy services for the development of the Priority Infrastructure Plan required under the *Integrated Planning Act 1997* to be adopted as part of the GCCC Planning Scheme.

4 PREVIOUS RESOLUTIONS

Not applicable.

5 DISCUSSION

Growth pressures in Gold Coast Since the adoption of the infrastructure policies by Council in January 2004 and implementation in February of 2004, feedback has been received from developers and some members of the community about various aspects of the charges and implementation approaches. This feedback contributes to the refinement of these policies that needs to be progressed under guidance from relevant and direct expertise in this specialist area.

The State Government has also now promulgated *IPOLA 2003*, which requires the development and adoption of a Priority Infrastructure Plan (PIP). The PIP is the statutory instrument for managing future growth and implementing infrastructure charges. The State Government Guidelines for the preparation of PIP's were released in October 2004 by the Department of Local Government, Planning, Sport and Recreation (DLGPSR). Mr Owen and his firm were engaged by DCILGP to draft the guidelines and to recommend other strategies for implementing the Governments infrastructure charging provisions within the IPA legislation.

City necessitated that Council progress the development and implementation of management strategies as 'policies' under the Planning Scheme in the interim period whilst the guidelines were being prepared. Mr Owen was engaged by Gold Coast City Council to assist in that process by preparing policy papers for the Infrastructure Charges Evolution Project including risk management and in scenario generation as a base for testing draft infrastructure charges.

There is now an urgent need to move forward with the current policies, to review them in light of the feedback received and to meet Government expectations in respect to the adoption of a PIP that complies with the IPA legislation and accords with the recently released Guidelines issued by DLGPSR.

ITEM 1 (CONTINUED)

**CONSULTANCY SERVICES—WILLIAM OWEN (CORE ECONOMICS PTY LTD)
PD113/106/05-01(P4)**

The on-going substantive work will involve review of the adopted policies (especially recreation (open space), transport and drainage. Water and sewerage are being reviewed by Gold Coast Water with only peripheral involvement from Mr Owen in respect of conformity with the Guidelines and risk analysis.

The services required of Mr Owen are of such a specialised nature given his unique experience with infrastructure policy development within the Queensland Government and legislative context that it would be impractical for Council to invite tenders or quotations from other providers.

Accordingly it is recommended that Mr William Owen of Core Economics be engaged to provide independent and professional economic and strategic infrastructure advice to Council as the services to be supplied are of such a specialised nature it would be impractical and disadvantageous to invite tenders or quotes. It is further recommended that these services be engaged for a period of 12 months dating from the 4 October 2004.

6 STATUTORY MATTERS

Not applicable.

7 CORPORATE/OPERATIONAL PLAN

Not applicable.

8 COUNCIL POLICIES

This report is in accordance with the Purchasing Policy adopted by Council Resolution 14 December 2001; F01.1211.006.

9 DELEGATIONS

Not applicable.

10 BUDGET/FUNDING

Funding is available as per the program funding adopted in the 2004/05 budget for Strategic Infrastructure Planning.

11 COORDINATION & CONSULTATION

The relevant infrastructure service providers have been consulted in the preparation of this report.

12 TIMING

It is proposed that that this recommendation will be effective from 4 October 2004 through to October 2005.

13 STAKEHOLDER IMPACTS

Not applicable.

ITEM 1 (CONTINUED)
CONSULTANCY SERVICES—WILLIAM OWEN (CORE ECONOMICS PTY LTD)
PD113/106/05-01(P4)

14 CONCLUSION

Due to Mr William Owen's (Core Economics) unique background, qualifications and experience, it is considered to be impractical to invite tenders or quotes for the provision of infrastructure economics and strategic infrastructure services advice for a period not exceeding 12 months, effective from 4 October 2004. Should a requirement for this service exist beyond the specified date then a further report will be forwarded to Council for approval.

15 RECOMMENDATION

It is recommended that Council resolves as follows:

That in accordance with Section 486(2)(b) of the Local Government Act, Council is satisfied that the services to be supplied by Mr William Owen of the firm Core Economics Pty Ltd, are of such a specialised nature it is considered to be impractical and disadvantageous to invite tenders or quotes for the provision of economic and strategic infrastructure services advice for a period of 12 months effective from 4 October 2004.

Author:

Stewart Somers
Coordinator Strategic Planning and City
Infrastructure
28 October 2004

Authorised by:

Matthew Hulse
Acting Director Planning Environment &
Transport

ITEM 2
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)

ORGANISATIONAL SERVICES
CONFIDENTIAL ATTACHMENT

Refer 2 page confidential attachment

1 BASIS FOR CONFIDENTIALITY

I recommend that the 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.

2 EXECUTIVE SUMMARY

Not Applicable

3 PURPOSE OF REPORT

To consider a request from the applicant to allow discount on the late payment of rate notice issued on 28 January 2004.

4 PREVIOUS RESOLUTIONS

Not Applicable

5 DISCUSSION

The Mayor's Office has received a request from the applicant to consider allowing discount on the late payment of the rate notice that was issued on 28 January 2004 because of extenuating circumstances. The rate notice was due for payment on the 2 March 2004 to qualify for the discount.

The discounted amount to pay on the rate notice was \$86,045.94. This amount was paid on the 25 March 2004 following the issue of a "Notice of Creditors Intention to Instigate Legal Proceedings" on the 19 March 2004. Because payment was received after the due date it left an amount outstanding of \$13,822.45 representing lost discount. Both the rate notice and the aforementioned recovery notice had been sent to the same postal address.

Upon receiving the "Notice of Creditors Intention to Instigate Legal Proceedings" and making payment the applicant wrote to Council seeking consideration for allowance of discount on the basis that the subject rate notice was received 15 days after the due date.

Council undertook a check of the rating records which confirmed that the postal address for service of notices recorded in Council's rating system was the address provided for this purpose on the documentation received when the owner purchased the property back in October 2003.

On the basis Council had issued the rate notice to the address nominated, the request for discount allowance was declined.

A second request to consider the discount allowance was received on the 1 June 2004. The applicant claiming the address on the notice was its business address and not its postal address and that previous payment history for its other properties would indicate payment being made by the due date.

ITEM 2 (CONTINUED)
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)

CONFIDENTIAL ATTACHMENT

The applicant was again advised that discount could not be allowed and that they could request for further consideration of the decision to the Manager Financial Services. On the 22 June 2004 the applicant requested for discount to be granted to the Manager Financial Services, stating the reasons already mentioned and the applicant stating its involvement

with large development projects within the City and engaging Council for its building certifications.

The Acting Manager Financial Services considered the request and the decision was that grounds did not exist to allow the discount, but in this instance, approved the waiving of interest penalty up to 6 August 2004 to allow time for payment of the outstanding amount. A further request was made on the 28 July 2004 and the decision was that Council had issued the rate notice to the correct address as advised and therefore, could not assist in this matter.

On the 22 September 2004, the applicant wrote to the Mayor's Office stating that it was now believed the rate notice was delivered to their office but because of an administrative mix-up, the rate notice was not recognised as one of their own because they did not recognise the company name (Carnriver Pty Ltd) on the rate notice.

The Mayor's Office requested a report be presented to Council for consideration.

6 STATUTORY MATTERS

Section 1021 of the Local Government Act 1993 – Discount if special circumstances prevent prompt payment.

7 CORPORATE/OPERATIONAL PLAN

2.1.3 Healthy Economy, Well Managed City, Services

8 COUNCIL POLICIES

Revenue Policy – Appendix D Revenue Statement:

(d) Discount: "That discount of 10% of the current rates and charges shall be granted to ratepayers who pay the whole of a rate or charge within 31 days after the date of issue of each notice."

(e) Due Date: "All rates and utility charges must be paid within 31 days after the date of issue of the initial rate notice that includes a rate or utility charge."

9 DELEGATIONS

Not Applicable

10 BUDGET/FUNDING

Not Applicable

11 COORDINATION & CONSULTATION

Not Applicable

ITEM 2 (CONTINUED)
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)

CONFIDENTIAL ATTACHMENT

12 TIMING

Not Applicable

13 STAKEHOLDER IMPACTS

Not Applicable

14 CONCLUSION

It is Council's practice to decline requests made by ratepayers for discount allowance in situations such as those of this case i.e. wrong mailing address because of incorrect information supplied on transfer documentation or the taking into consideration of previous payment history of the applicant. If Council was to "open up" the ability for allowance of discount based on these circumstances, the precedent such a decision would set for other ratepayers in the City to apply to Council for discount on the grounds of error (e.g. forgot to pay, misread the due date etc) would negatively impact on Council's revenue budget and negate the incentive for the ratepayer to pay their rates on time.

The other important issue to consider in this matter is Council's legislative power. Section 1021 of the Local Government Act permits Council to allow discount if it "is satisfied that a person liable to pay the rate has been prevented, by circumstances beyond the person's control, from paying the rate in time to benefit from the discount."

In this instance Council correctly discharged its responsibility by issuing the rates notice to the correct address as advised at the time. The failure on behalf of the applicant in not recognising the rate notice as belonging to them is not considered to be a circumstance beyond the person's control. The other factor is that the rate notice contains other identifying information such as the address of the property and the description of the property or properties being rated.

15 RECOMMENDATION

It is recommended that Council resolves as follows:

That Council advises the applicant that it cannot allow the discount on the subject rate notice, which was paid late.

Author:
Paula Deveson
Supervisor CSO Group
29 October 2004

Authorised by:
Graeme Finlayson
Director Organisational Services

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Gold Coast City Council

MINUTES

of the

FINANCE AND INTERNAL SERVICES COMMITTEE MEETING

held on

Tuesday 9 November 2004

at

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.

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FINANCE AND INTERNAL SERVICES COMMITTEE MEETING Tuesday 9 November
2004

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4	CS	LG314/411/05/017	7	TENDER FOR SUPPLY, DELIVERY AND RECYCLING OF WHEELIE BINS
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KEY:

CEO	CHIEF EXECUTIVE OFFICER	OS	ORGANISATIONAL SERVICES
CG	CITY GOVERNANCE	PET	PLANNING ENVIRONMENT & TRANSPORT
CMS	COMMUNITY SERVICES		
EDMP	ECONOMIC DEVELOPMENT & MAJOR PROJECTS		
ES	ENGINEERING SERVICES		
GCW	GOLD COAST WATER		

ATTENDANCE

Cr R Molhoek Chairperson
Cr D L Power
Cr D M Crichlow
Cr E Sarroff

Mr G Finlayson Director Organisational Services
Mr J McCabe Director City Governance

APOLOGIES

PRESENTATIONS

ITEM 1 **PLANNING ENVIRONMENT & TRANSPORT**
CONSULTANCY SERVICES—WILLIAM OWEN (CORE ECONOMICS PTY LTD)
PD113/106/05-01(P4)

Changed Recommendation

COMMITTEE RECOMMENDATION FI04.1109.001
moved Cr Crichlow **seconded Cr Sarroff**

- 1 That in accordance with Section 486(2)(b) of the Local Government Act, Council is satisfied that the services to be supplied by Mr William Owen of the firm Core Economics Pty Ltd, are of such a specialised nature it is considered to be impractical and disadvantageous to invite tenders or quotes for the provision of economic and strategic infrastructure services advice for a period of 12 months effective from 4 October 2004.
- 2 It be noted that the anticipated expenditure for the 12 month period is approximately \$50,000. All charges to be debited to Budget Number B0267500.

CARRIED

ITEM 2 **ORGANISATIONAL SERVICES**
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1) **CONFIDENTIAL ATTACHMENT**

Changed Recommendation

MOTION
moved Cr Crichlow **seconded Cr Sarroff**

That the officer's recommendation as printed be adopted.

THE MOTION WAS LOST

MOTION
moved Cr Clarke **seconded Cr Power**

That the discount on the subject rate notice be granted due to the special circumstances.

THE MOTION WAS CARRIED

COMMITTEE RECOMMENDATION FI04.1109.002

