NOTICE is hereby given pursuant to the provisions of Section 83 (1) of the Local Government Act 1999, that the next ordinary meeting of the Council will be held in the Council Chamber, Town Hall, 89 Murray Street, Gawler, on Tuesday 20 December 2011, commencing at 7pm.

A copy of the Agenda for the above meeting is supplied as prescribed by Section 83 (3) of the said Act.

-------------------------------------
Stephen Kerrigan
Chief Executive Officer
15 December 2011
Meeting of the Council to be held on Tuesday 20 December 2011 at 7pm in the Council Chamber, Town Hall, 89 Murray Street, Gawler.

(Note: Council meetings are subject to a three-hour time limit; with one extension of up to a further 30 minutes).

AGENDA

1. Statement of Acknowledgement
   
   Mayor: We would like to acknowledge this land that we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the greater Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

2. Attendance Record
   
   2.1 Roll Call
   2.2 Apologies
   2.3 Motions to grant Leave of Absence
   2.4 Leave of Absence

3. Confirmation of Minutes
   
   3.1 Council Meeting 22 November (Folio 319-340)
   3.2 Special Council Meeting 5 December (Folio 341-344)

4. Business Arising from Minutes

5. Petitions
   
   Nil

6. Deputations
   
   6.1 Sonya & Peter Smethurst – Walkway situated between Angle Vale Road and Young Terrace, Evanston Gardens
   6.2 Anne Moroney – RDA Barossa
   6.3 Graham Williamson - Gawler Amateur Swimming Club

7. Public Open Forum
   
   (Limited to a total time of up to 20 minutes)

8. Notices of Motion

9. Questions on Notice
# 10. Officer Reports

<table>
<thead>
<tr>
<th>Page No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 - 6</td>
<td>Town of Gawler Branding</td>
</tr>
<tr>
<td>7 – 10</td>
<td>Ombudsman Investigation into the City of Charles Sturt – Proposed Legislative Amendments</td>
</tr>
<tr>
<td>11 - 16</td>
<td>Sporting Ovals – Casual Hire Fees and Charges</td>
</tr>
<tr>
<td>17 – 25</td>
<td>Gawler Amateur Swimming Club Inc. – Renew Lease Agreement</td>
</tr>
<tr>
<td>26 - 28</td>
<td>Ombudsman Investigation – Confidential Provision Report</td>
</tr>
<tr>
<td>29</td>
<td>Monthly Finance Report (November 2011)</td>
</tr>
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</table>

# 11. Recommendations from Committees

<table>
<thead>
<tr>
<th>Page No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>30</td>
<td>Elderly Centre Management Committee Meeting 2 December 2011</td>
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<tr>
<td>30 - 31</td>
<td>Infrastructure &amp; Environmental Services Meeting 13 December 2011</td>
</tr>
</tbody>
</table>

# 12. Questions without Notice

# 13. Motions without Notice

# 14. Progress Report

For information only.

# 15. Elected Member Reports

# 16. Confidential Reports

<table>
<thead>
<tr>
<th>Page No.</th>
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</thead>
<tbody>
<tr>
<td>32 - 33</td>
<td>Chief Executive Officer – Employment Agreement &amp; Key Performance Targets</td>
</tr>
</tbody>
</table>

# 17. Closure

# 18. Next Ordinary Meeting Tuesday 24 January 2012, commencing 7pm
10. Officer Reports

<table>
<thead>
<tr>
<th>Item Number</th>
<th>10.1</th>
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</thead>
<tbody>
<tr>
<td>Title</td>
<td>TOWN OF GAWLER BRANDING</td>
</tr>
<tr>
<td>Date</td>
<td>20 December 2011</td>
</tr>
</tbody>
</table>
| Author(s)   | Director Corporate and Community Services (Vic Izzo)  
Manager Business and Community Services (Jodie Grantham)  
Communications Coordinator (Donna Aldridge) |
| Reference   | CC11/262 |
| Previous Reference/ Motion | Special Council 1/9/2010 / Motion No: 2010:09:281  
Council 26/10/2010 / Motion No: 2010:10:314  
Council 30/11/2010 / Motion No: 2010:11:367  
Council 21/12/2010 / Motion No: 2010:12:388  
Council 15/2/2011 / Motion No: 2011:02:32  
Council 22/3/2011 / Motion No: 2011:03:94  
Council 28/6/2011 / Motion No: 2011:06:168 |

Background
The following provides a brief summary of Council decisions in relation to the review of the Town of Gawler branding:

1. Special Council meeting 1 September 2010 (Motion No: 2010:09:281)
   Chief Executive Officer presented a Gawler Growth Management Strategy of which the Communications Plan was a part of, to Council. This strategy was endorsed ‘in principle’ as the basis for the Town of Gawler to progress work to ensure managed growth pending further information.

2. Council meeting 26 October 2010 (Motion No: 2010:10:314)
   That the matter of the Gawler Growth Management – Interim Business Plan of which the Communications Plan was a part of, be deferred with further details of budgetary expenditure and timeframes to be provided.

3. Council meeting 30 November 2010 (Motion No: 2010:11:367)
   That consideration of the Gawler Growth Management – Interim Business Plan of which the Communications Plan was a part of, be deferred to the December Council Meeting.

4. Council meeting 21 December 2010 (Motion No: 2010:12:388)
   That the report be deferred to a future Council Meeting.

5. Council meeting 15 February 2011 (Motion No: 2011:02:32)
   Adoption of the Communication Plan.

6. Council meeting 22 March 2011 (Motion No: 2011:03:94)
That Council have a further discussion about communication / branding and strategies prior to further actioning in the communication strategy.

7. Council meeting 28 June 2011 (Motion No:2011:06:168)
   That Council endorse the recommendation that KS Design be engaged as consultants to commence implementing the branding component of the Communication Plan 2010 - 2014.

In addition to the above reports, Elected Members have been provided with the following workshops:

1. Branding Workshop held on 14 April 2011
2. Branding Workshop held with KS Design 11 August 2011
3. Branding Workshop held with KS Design 6 December 2011

Attachment(s)
Nil

Comments/Discussion
At the last workshop (6/12/2011) facilitated by Karin Seja from KS Design, Members were provided with the following:

1. Crest – two versions (colour and black and white)
2. Logos – four options

It is fair to say that Members were generally in agreement with the preferred design.

The Council now needs to agree to certain principles to enable completion of a Style Guide and Basic Implementation Plan which is the final components of the consultancy engagement with KS Design.

The three workshop discussions, have assisted in the compilation of the following principle positions.

1. Branding:
   (a) Pursue the adoption of logo as presented by KS Design in workshop held 6 December 2011.
   (b) Crest with and without the words “Town of Gawler” to be utilised
   The above combinations will become registered trademarks of Council. As a result an application and monitoring process will be formulated for any third party seeking to utilise the logo to ensure ongoing integrity.

2. Branding Application: Will be detailed further in the Style Guide with the essence being on use of the Crest for official publications, items of significance or where determined more appropriate. Promotions of Gawler holistically, undertaken by the Town of Gawler, will utilise the new adopted logo only.

3. Tag Line: No longer to appear as the logo in all applications. A tag line will be used depending on the marketing activity, relevant to the target audience and therefore the message will change accordingly. Recognition that “The Best of Town and Country” may still be used in certain circumstances. Tag lines will not be included in detail as part of the final Style Guide.
4. **Existing Logo:** In addition to the above it would also be relevant for Council to consider the ongoing use of the existing logo. The existing logo has been identified as the Council logo for over 15 years. If Council seeks to create a fresh and new identity for the organisation and the community to embrace, then ongoing use of this logo should cease. It is recommended that Council similarly trademark this logo and cease any release to external organisations once the new logo implementation is commenced.

5. **Implementation:**

The 2011/12 Budget provides $130,000.00 for Town Signage Strategy. It is suggested that high priority be given to the installation of the new logo at the three main entrances ie Main North Road south, Main North Road north and the Barossa Valley Highway. Following the entrance signs, directional signage will be the next priority. Street names, stationery etc will be replaced with the new logo when existing stocks are depleted.

**Communication**

Council should put its mind to how it would like to formally launch the new logo to the community and when its use is to commence.

There are many ways in which this could be undertaken for instance Council may like to consider a suite of activities concentrated over the course of a week to inform the community. Alternatively it may like to introduce the new logo discretely to its residents.

**Consultation**

Elected Members
Executive

**Policy Implications**

Nil

**Statutory Requirements**

Nil

**Financial/Budget Implications**

Implementation of the new logo will be staged so as to reduce financial impact. Already relevant staff are managing stocks to ensure cost effective introduction.

Upon receipt of the basic Implementation Plan detailed costings will be undertaken with the intention to accommodate change within existing approved budgets for 2011/2012.

**Strategic Implications**

Outcome 1.1 : A separate town (not a suburb)
Outcome 1.3 : Valued local history and culture
Outcome 3.1 : Well informed community
Outcome 5.4 : Good administration
OFFICER’S RECOMMENDATION

Item 10.1— Town of Gawler Branding (CC11/262)

1. That Council proceed with the adoption of the new Town of Gawler Branding as presented by KS Design, along with the principles detailed within this report to enable the completion of a Town of Gawler Style Guide.

2. That Council approve, as a high priority, the design and installation of the three Entrance Signs funded from the allocation of $130,000 contained in the 2011/12 Budget.

3. That a further report be presented to Council on a detailed Branding Implementation Plan.
Background
The Local Government Association (LGA) advised in Circular 46.4 that the South Australian Ombudsman has finalised his report on the investigation into the City of Charles Sturt. The Ombudsman has made a number of recommendations to amend legislation and the LGA is seeking feedback from Councils on the Ombudsman’s recommendations.

Attachment(s) Under Separate Cover
South Australian Ombudsman – Recommendations for Amendment of the Law

Comments/Discussion
The South Australian Ombudsman tabled a report in Parliament on the investigation into the City of Charles Sturt on 2 November 2011.

The findings in the report relate to:
- Conflict of interest
- Code of conduct
- Council’s consultation process
- Confidentiality issues
- Prudential requirements

The SA Ombudsman’s full 234 page report is available via the following website: http://www.ombudsman.sa.gov.au/publications/reports

The Ombudsman has made thirteen (13) recommendations for changes to the law (refer to attachment under separate cover).

The LGA advised in Circular 46.4 that it has previously considered some of the recommended amendments the Ombudsman has identified and, in some cases, supported them. Other recommendations are new or have not been supported by Councils in the past.

Recommendation 7 - recommends amending the Local Government (Elections) Act 1999 to require the disclosure of political affiliations prior to the election. The LGA General Meeting in April 2011 resolved to ask the Minister to amend the Local Government (Elections) Act even more extensively to require all candidates to disclose information consistent with the register of interest requirements under the Local Government Act (including membership of professional bodies and political parties in the preceding two years) and that this disclosure be publicly available for the information of electors.
Recommendation 11 - recommends amending the Local Government Act to provide for a single code of conduct with coercive sanctions for breaches. This recommendation is in line with the proposals in the Attorney-General's Public Integrity paper, which the LGA supported provided that there was appropriate consultation with Councils. The Government has recently announced that Minister Wortley would shortly be consulting with Councils on new mandatory codes.

The LGA has also considered the question of conflicting duties in an LGA discussion paper circulated to Councils in 2010.

Recommendations 4, 5 & 6 - cover these issues and go further than the views considered in the discussion paper in that the recommendations propose to extend the concept of a conflict of duties to any organisation of which the Council Member is a member. Recommendation 6 also proposes excluding public servants generally, and electorate officers in particular, from election to Council.

The remaining recommendations cover such issues as access to registers of interest, changes to the conflict of interest provisions in the Local Government Act and the introduction of mandatory training for Council Members.

The LGA is seeking comments from Councils on the proposed recommendations by Thursday 29 December 2011.

Communication
Nil

Consultation
Executive Team

Policy Implications
N/A

Statutory Requirements
Local Government Act 1999
Local Government (Elections) Act 1999

Financial/Budget Implications
Nil

Strategic Implications
Outcome 3.1: Well informed community
Outcome 5.3: Responsible government
Outcome 5.4: Good administration
OFFICER’S RECOMMENDATION

Item 10.2 – Ombudsman Investigation into the City of Charles Sturt – Proposed Legislative Amendments (CC10/2062)

That:-

1. The Ombudsman Investigation into the City of Charles Sturt – Proposed Legislative Amendments report be received.

2. Council advise the Local Government Association (LGA) that the Town of Gawler supports the following Ombudsman recommendations for changes to the law:

   2.1. require that council members notify the Chief Executive Officer of any changes to their information which must be recorded on the Register of Interests, as soon as practicable. Failure to do so without reasonable excuse should attract a penalty.

   2.2. require that councils provide immediate access to information of certain parts of a council’s Register of Interests, such as income sources, membership of any political party, any body or association formed for political purposes, any trade or professional organisation, hospitality benefits, and pecuniary gifts via their website.

   2.3. amending section 73(3) of the Local Government Act to include a council member who is a member, officer or employee of any organisation, not just an agency or instrumentality of the Crown.

   2.4. amend section 73(3) of the Local Government Act to provide that where a matter directly concerns any organisation of which a council member is a member, officer or employee, the council member will be regarded as having an interest which they must disclose under section 74.

   2.5. prohibit electorate officers (and others engaged under section 72 of the Public Sector Act) from becoming a council member or nominating as a candidate for council at an election.

   2.6. require disclosure of political affiliation prior to election.

   2.7. remove the application of section 74(4) to some types of non-pecuniary benefits; and to benefits or detriments shared with other ratepayers.

   2.8. introduce ongoing mandatory training in relation to conflict of interest for council members.

   2.9. the conflict of interest provisions in the Local Government Act to include past benefits / inducements.

   2.10. provide for a single code of conduct with coercive sanctions for breaches, in accordance with the proposals in An Integrated Model — A Review of the Public Integrity Institutions in South Australia and an Integrated Model for the Future, Discussion Paper, 25 November 2010.
2.11. introduce mandatory training for council members to better appreciate their public officer roles and responsibilities, and the significance of the declaration on taking office.

2.12. require councils to obtain a land valuation before selling or exchanging land, other than where the land is sold for unpaid rates or is transferred without consideration.

3. Council advise the Local Government Association (LGA) that the Town of Gawler does not support the following Ombudsman recommendations for changes to the law:

3.1. include an objective test for council members’ conflicts of interest by allowing those in attendance at a council meeting to decide whether a particular council member has a conflict of interest or could reasonably be taken to have a conflict of interest.

3.2. amend the Local Government Act so that a councillor who has an interest is required to abstain from voting only if they are actually involved in the matter within the organisation of which they are a member, officer or employee.
**Background**
Fees and Charges for the casual hire of the major sporting ovals in the Town of Gawler have been set for 2011/2012.

As a result of finalising requirements associated with:-

1. Policy 5.7 Sporting and Community Clubs/Organisations Agreement Schedule for Ground Leases (Exclusive Right of Possession), and
2. Policy 5.8 Sporting and Community Clubs/Organisations Agreement Schedule for Leases (Exclusive Right of Possession),

consideration needs to be give to the setting of appropriate fees and charges for the ovals usage.

Operational changes regarding hire of ovals as a result of finalising arrangements with the sporting and community clubs/organisations in line with the above policies is scheduled to commence as at 1 January 2012.

**Attachment(s)**
Attachment 1 – Comparative fees (other Councils)

**Comments/Discussion**
For comparative purposes, Attachment 1 outlines the current fees that a number of other Councils apply for similar facilities.

In setting fees, consideration needs to be given to ensuring that there is an appropriate return on Council’s investment in the facilities, but at the same time, ensuring that the fees are not set at such a level as to discourage use of these important community facilities.

Further, consideration should also be given to applying separate hire fees for community use as distinct from private and commercial use.
Table 1 – 2011/2012 Sporting Ovals Proposed Hire Fees

Ovals – Gawler Oval, Princes Park, South Gawler Football Oval and Willaston Football Oval

<table>
<thead>
<tr>
<th>GST included</th>
<th>Community Group</th>
<th>Private</th>
<th>Commercial</th>
</tr>
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<tbody>
<tr>
<td>Casual Use (Up to 8 hrs)</td>
<td>$121.00</td>
<td>$242.00</td>
<td>$290.40</td>
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<tr>
<td>Casual Use (Up to 4 hrs)</td>
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<td>$48.50</td>
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<tr>
<td>Casual Use (per hour)</td>
<td>$24.50</td>
<td>$49.00</td>
<td>$58.80</td>
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<td>Casual Use Regular (per hour)</td>
<td>$15.00</td>
<td>$30.00</td>
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<tr>
<td>Key Bond</td>
<td>$50.00</td>
<td>$50.00</td>
<td>$50.00</td>
</tr>
</tbody>
</table>

Gawler Oval – SAPSASA Annual Fee of $1,210.00 to apply.

Karbeethan Sporting Association

<table>
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<tr>
<th>GST included</th>
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<tbody>
<tr>
<td><strong>All Pitches</strong></td>
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<tr>
<td>Casual Use (Up to 8 hrs)</td>
<td>$242.00</td>
<td>$484.00</td>
<td>$580.80</td>
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<tr>
<td>Casual Use Regular (per hour)</td>
<td>$20.00</td>
<td>$40.00</td>
<td>$48.00</td>
</tr>
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</table>

| **Per Pitch**                    |                 |         |            |
| Casual Use (Up to 8 hrs)         | $121.00         | $242.00 | $290.40    |
| Casual Use (Up to 4 hrs)         | $60.50          | $121.00 | $145.20    |
| Casual Use Regular (Up to 8 hrs) | $60.50          | $121.00 | $145.20    |
| Casual Use Regular (Up to 4 hrs) | $30.25          | $60.50  | $72.60     |
| Casual Use (per hour)            | $20.00          | $40.00  | $48.00     |
| Casual Use Regular (per hour)    | $10.00          | $20.00  | $24.00     |
| Key Bond (Any pitch hire)        | $50.00          | $50.00  | $50.00     |

It is recommended that the above fees are adopted for the remainder of 2011/2012.

Fees previously set for the 2010/2011 financial year (i.e. prior to implementation of Policy 5.7 & 5.7 were:-
Table 2 – 2010/2011 Ovals and Reserves Fees

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<th>2010/11</th>
<th>2011/12</th>
<th>% Variance</th>
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<td>$20.00</td>
<td>$21.00</td>
<td></td>
<td>5.00</td>
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</tbody>
</table>

**Communication**
Appropriate advice to sporting organisations following adoption.

**Consultation**
Property Services Officer
Director – Planning and Infrastructure
Sporting organisations have provided initial feedback to relevant officers.

**Policy Implications**
Nil

**Statutory Requirements**
Nil

**Financial/Budget Implications**
If significant, the budget impact will be included in the second budget review 2011/12.

**Strategic Implications**
Outcome 2.2 : Services and facilities that meet community needs
Outcome 3.4 : An active community
Outcome 4.2 : Good quality open space that responds to community needs and attracts use
Outcome 5.4 : Good administration
OFFICER’S RECOMMENDATION

Item 10.3 – Sporting Ovals – Casual Hire Fees and Charges (CC10/2028)

That Council approve the 2011/2012 casual hire fees for the Sporting Ovals as follows, effective from 1 January 2012:

**Ovals – Gawler Oval, Princes Park, South Gawler Football Oval and Willaston Football Oval**

<table>
<thead>
<tr>
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Gawler Oval – SAPSASA Annual Fee of $1,210.00 to apply.

**Karbeethan Sporting Association**

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## ATTACHMENT 1

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<td>Daily or Part Day of</td>
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<td>Standard Area Hire – Personal Trainers</td>
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<td>Season Hire</td>
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<td>Damage Bond – Non-profit organisations</td>
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**Light Regional Council**

No fees declared in 2011/2012 Fees and Charges

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<td>Event Use of Ovals (incorporated or organised event – ad hoc or casual usage)</td>
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Item Number 10.4
Title GAWLER AMATEUR SWIMMING CLUB INC. – RENEW LEASE AGREEMENT/HOSTING COUNTRY CHAMPIONSHIPS IN 2013
Date 20 December 2011
Author(s) Director Corporate & Community Services (Vic Izzo)
File CC10/2503
Previous Reference/ Motion Nil

Background
The Gawler Amateur Swimming Club has a lease agreement with Council for the use of the Gawler Swimming Centre (previously known as the Trevor Bellchambers Community Swimming Centre).

The current agreement expired on 31 March 2011. The Club has been in negotiation with Council over the terms and conditions of the new lease agreement. In order to resolve matters of concern to the Club (in particular insurance cover by Clause 17) Council made available its lawyers Norman Waterhouse to meet directly with Club representatives. The Club is now satisfied that all matters of concern have been resolved to their satisfaction. Council has been advised by its lawyers that the interests of Council are safeguarded under the new agreement. A copy of the proposed new lease agreement is contained in Attachment 1 of this report.

As part of renewing the lease agreement the Club President, Mr Graeme Williamson, has provided a submission (refer Attachment 2) to Council requesting that the Council give consideration to reducing its current annual lease fee from $10,132 to $4,650 (Plus GST) citing lower Club membership and reduced Club income.

The Club has also requested (refer Attachment 3) the free hire of the Centre to host the Country Championships over a four day period in 2013.

The purpose of this report is for the Council to consider the new lease agreement, to consider the request from the Club for the reduction in their annual fees and to consider their request to host the Country Championships in 2013 waiving the hire fee.

Attachment(s)
Attachment 1 – New Lease Agreement
Attachment 2 – Gawler Amateur Swimming Club Inc. – Submission to the Council
Attachment 3 – Email requesting free use of Gawler Swimming Centre for 2013 to host Country Championships.

Comments/Discussion
The Gawler Amateur Swimming Club Inc. has used the Gawler Swimming Centre as its “home base” under a lease agreement since 2006. That agreement expired on 31 March 2011 and staff have been in negotiation with the Club over the terms and conditions of a new lease agreement contained in Attachment 1.
The Club trains at the Gawler Swimming Centre week nights 6pm – 7.30pm and has as part of the lease agreement a storage shed on Council premises. The shed was constructed and paid for by Council.

In negotiating the new agreement there are three (3) main issues:

1. **Insurance**
   The Club has been concerned over its liability covered by Clause 17 of the agreement. In order to facilitate this process the Director Corporate & Community Services arranged for the Club representatives to meet with Council Lawyers and those concerns have now been resolved to the satisfaction of both Club and Council.

2. **Shared Use**
   Under the existing lease agreement the Club would have shared use with Council when the ambient temperature reached 35 degrees Celsius or above at 4.00pm and the pool remains open to the public until 8.00pm. The Director Corporate & Community Services reached an arrangement with the Club that the shared use would come into play at 32 degrees Celsius. Based on an assessment undertaken the number of days during an average swimming season when the temperature is 32 degrees Celsius is approximately 17 days compared to approximately 7 days at 35 degrees.

   Under the new lease agreement allows Council to continue to have shared use once the temperature is 32 degrees Celsius.

3. **Annual Lease Fees**
   The Club has provided a submission (refer Attachment 2) seeking a reduction in annual fees from the current $10,132 to $4,650 (including GST). This represents a reduction of 55% and the Club has stated that without such a concession it would not be financially sustainable.

   The Club has provided its financial statements on a confidential basis for the last three years and although it has no objections for this information to be shared with Elected Members it does not wish for this information to form part of this report.

The Club has requested (and the Mayor has approved) the opportunity to address the Council during the deputation section of the agenda. The Club has provided a submission (refer Attachment 2) in support of their request for a reduction in fees.

It is clear from the Club submission that it plays a vital role within the Gawler swimming community and without their dedication over many years many children would not have had the opportunity to avail themselves of affordable swimming. It is also clear from the Club submission and the financial statements that the Club, in its quest to provide affordable swimming, cannot sustain the current lease fees imposed by Council. It is also noted from the submission that the Club provides services to the value of some $5,000 per year and has shared its equipment with other pool users as well as allowing shared use of the pool when temperatures have reached 32 degrees Celsius instead of the 35 degrees stipulated in the existing agreement.
However while there is sympathy to the plight of the Club, Members must also note that Council itself is operating at a deficit (predicted to be $3.2 million in 2011/12 Robin check with Paul), which itself is not financially sustainable and based on this, the Director Corporate & Community Services cannot recommend a reduction in existing fees, but is prepared to recommend that the current fee of $10,132 (excluding GST) remains fixed for the period of the lease agreement.

Members should be aware that a decision to reduce the current fees may set a precedent which in turn may encourage other organisations to make similar requests to Council.

It is however recommended that the Council approve the waiving of the hire fees or four (4) days to allow the Gawler Amateur Swimming Club Inc. to host the Country Championships in 2013.

**Communication**
Not Applicable

**Consultation**
Not Applicable

**Policy Implications**
Nil

**Statutory Requirements**
Nil

**Financial/Budget Implications**
The 2011/12 Budget allows for revenue from the Club of $10,000. Should the Council approve the reduction in fees by 54% to $4,650, there will be a budget shortfall of $5,000 which will be incorporated into the Second Budget Review 2011/12 which will be presented to the Council in February 2012.

**Strategic Implications**
Outcome 2.2 – Services and facilities that meet community needs
Outcome 2.3 – A Local Government that is financially viable
Outcome 3.4 – An active community
Outcome 3.5 – A community that is engaging and participating (welcoming)
Outcome 5.1 – Sustainable financial management
Outcome 5.4 – Good administration
OFFICER’S RECOMMENDATION

Item 10.4 – Gawler Amateur Swimming Club Inc. – Renew Lease Agreement/Hosting Country Championships in 2013 (CC10/2503)

1. That the Gawler Amateur Swimming Club Inc. – Renew Lease Agreement/Hosting Country Championships in 2013 report be received.

2. That Council authorise the Mayor and Chief Executive Officer to sign and apply the common seal of Council to all relevant documents in order to execute the documents pertaining to the Gawler Amateur Swimming Club Inc. and Council for a period of five (5) years from 1 April 2011 to 30 March 2016.

3. That the annual lease payments be fixed at $10,132 (excluding GST) for the period of the lease and is solely for the use of the swimming facility, excluding any other payments such as insurance.

4. That Council approves the waiving of the Gawler Swimming Centre hire fees to the Gawler Amateur Swimming Club Inc. to host the Country Championships in 2013.
Background

The Gawler pool has been the home of the Gawler Amateur Swimming Club for 50 years. The Club has worked with the Council over the entire period to the betterment of the Pool and Community.

The Club has always been community focused providing swimming instruction, training and interclub competition to a wide range of swimmers. The Club has promoted the summer sport of swimming for fun and exercise.

Part of the Club’s philosophy is that it does not pay its coaches or officials and the club is run solely by volunteers. This has been done to keep swimming affordable to as many children in the community as possible.

The cost structures and resources required to meet the needs of elite swimmer training for State and National Championships conflicts with the aim of the club to provide affordable swimming to children of Gawler. There are existing Clubs available in the State which cater for this section of the elite market and these clubs have the appropriate all year round facilities.

For many years the Club had a two page agreement with the Council and paid fees based on the number of users.

In 2006 the Council sought to provide a more formal agreement, increasing our yearly fee from ~$3000 to ~$8000, thence increased yearly. No consideration was given at the time as to whether or not this fee was sustainable in the long term by a Club orientated towards community swimming.

This new agreement removed the obligation on Council to supervise the pool during training, put pool covers on and secure the facility at the conclusion of training. This responsibility was passed on to GASC which produced real savings to the Council.

In October 2009 the Council changed the Hot Weather Policy from 35 to 32 degrees without consulting GASC and effectively broke the agreement. This change reduced the clubs access to the pool lane space which was never recognized by council. In November 2009 the Club made a submission to the Council to address this issue, but to this date has not been resolved.
Gawler Amateur Swimming Club Submission to Gawler Council
November 2011

Issues

Fees

In the 2010/11 season the Club had to pay $161 per swimmer to pay council. This meant that about two thirds of the Club membership fees went directly to the Town of Gawler Council and left little to run the Club. By comparison the Council season pass for a Student is $150 and allows better access to the pool.

Indemnity

The Club feels that the indemnity clause is not appropriate for this type of arrangement with Council. and is concerned that it cannot comply with the indemnity clause as it is currently drafted.

The Club, through Swimming SA and JLT Sport, has a Public Liability cover for $20,000,000. The indemnity clause in the agreement extends far beyond Public Liability. The Club has sought advice from a local insurer and from the Council insuror and in both cases the advice is that there is no viable insurance to cover the gap. In fact, Vic Sport’s advice to sporting clubs, such as ours, would appear to support this assertion. The Club does not have the assets or capability to meet any event where it is only partially negligent or needs to mount a legal defence to the situation. The Club should not sign an agreement knowing that it cannot fulfill the obligations.

Submission

Fees

Council has proposed that the Fee’s for 2011/12 begin at $10,132.75 which is not sustainable for a small club like GASC. The club proposes instead that it pays Council $75.00 for every registered swimmer (half of the student seasonal pass) with census date of 31st January. There are currently 62 swimmers registered with GASC which would equate to a fee of $4650 at this time.

Indemnity intent

The Club proposes the following indemnity clause:

“The lessee agrees to provide cover to the council under their own public liability policy indemnifying the council as principal from all actions, costs, claims, charges, expenses, penalties etc arising from the lessees activities, but only to the extent the damage is caused by or attributable to the fault of the lessee or associated person(s).”

The proposed revised indemnity clause is in line with a Victorian Report on agreements between Councils and Club.
Supporting Data

What the Club provides to the Council
- No Council staff required during the training sessions.
- Club locks up the facility, puts the pool cleaner in and pool covers on the main pool and thus saves the Council about 2 man hours of labor per week. This could be equated to a saving of 100 man hours which is about $5,000.
- Over the years the Club has put into the pool facility. The following are two examples which have occurred in the last 10 years. The Club used to have a set of waveless lane ropes which it used for its carnival. In the spirit of co-operation with the Council it made these available for everyday use. These ropes purchased and the Council has replaced them as Council Property. The Club has erected a pair of lap time clocks on the building and these are used by all.
- Income from the Prize on the Carnival days

Direct Support to the Community
- The Club has hosted trials for the SAPASSA swimming and provided training to the selected members. The Town of Gawler team won last year.

Indirect Support for the Community
- The Club has hosted a carnival each season and this brings some 150 swimmers with their families into the town for day. This generates income for the Town Gawler.
- During the 2011/2012 season there will two such events.
- About every 3 years the Club also hosts Country Championship meet which bring some 300 swimmers plus families into the town for 4 days. The local businesses such as accommodation and fast food outlets do very well from this event.

Volunteer Club
The Gawler Swimming Club uses volunteers for all aspects to try and keep the costs down.

Value of Clubs Activity
- The Club offers training 5 nights per week for the summer season.
- The Club operates squads to cover all the types of swimmers:
  1. Beginners for those who water confident and need to learn to swim 25 metres in basic strokes.
  2. Juniors for those that need to develop their technique and strength in 25 metre environment
  3. Intermediates for those that need to develop their technique strength and stamina in a 50 metre environment and begin their competition focus.
  4. Seniors for those that are training for competition
  5. Parents and old swimmers are accommodated as required although they may not participate in all the training.
- Provides an activity which keeps the participants busy all summer and too tired to get into trouble.
- Attract a market which cannot afford the costs of paid coaches.
- Uphold the original aims of the people who built the pool and started the Club by providing an affordable swimming spot for the people of Gawler.
Gawler Amateur Swimming Club Submission to Gawler Council
November 2011
Supporting Data

The direct benefits of the agreement to the Club
- 3 Nights a week all 7 lanes for 1.5 hours = 31.5 lane hours
- 2 nights a week at 5 lanes for 1.5 hours = 15 lane hours
- The Council does restrict our use if the temperature exceeds 32 degrees and then we only have access to a minimum of 4 lanes that night. This does constrict the club training space and makes management of squads more difficult
- There are also 6 days lost to public holidays
- Morning training space of two lanes for 1 hour 3 mornings a week for 4 weeks is provided to enable the swimmers to train hard for the Country Championships in January
- Use of the shed to store equipment
- Use of the shared meeting room for meetings, storage of files and display of items
- The Free use of the facility for a carnival which can take up to 8 hours.

What the agreements costs the Council
Electricity for fridge and stove in the shed and lights during the shorter days of the season.

The Fee Requested by the Council
Prior to 2006 a Fee was agreed with the Council based on potential number of swimmers and was about $3,000.

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<th>Fee</th>
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Indexed by inflation

<table>
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<th>Indexed Fee</th>
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<tbody>
<tr>
<td>2011</td>
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</tbody>
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Club Swimmer Numbers
- 2008: 100
- 2009: 90
- 2010: 78
- 2011: 62

Two thirds of these swimmers are below the age of 15 years and this is consistent with National statistics.
Gawler Amateur Swimming Club Submission to Gawler Council
November 2011
Supporting Data

Club Fees
Club fee is charged as a single fee which incorporates money to run the club and fees that need to be paid to Swimming SA. Current Swimming SA fee is $65 per swimmer. Swimming SA also requires a parent/guardian to also be member and this fee is set at $20. The club structures its fees as follows:

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<th>Club</th>
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<tr>
<td>1st Swimmer</td>
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<tr>
<td>2nd Swimmer</td>
<td>$120.00</td>
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<tr>
<td>3rd Swimmer</td>
<td>$115.00</td>
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<tr>
<td>Each additional Swimmer</td>
<td>$65.00</td>
</tr>
<tr>
<td>Associate Member</td>
<td>$25.00</td>
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</table>

Water Space Fees Charged by the Club
Water space is charged as an additional fee on top of the club fee to pay for the agreement with the Council:
2008/09 $110
2009/10 $120
2010/11 $130
2011/12 $150

Overall Cost to a Swimmer
For a single child to join the parent will need to find $125+$25+$110−$300.

Revenue Base and Spectators
- The sport is heavily focused around children below the age of 16.
- There is only small spectator base which is heavily loaded with the parents and grandparents.
- There is no opportunity to raise income from operating bars and dining rooms as there are no facilities at the pool to permit this.
- The Club is raising its profile and cash reserve by doing sausage sizzles outside of Woolworths etc.
- The Club is also looking to sell more sponsorship signage at the pool.

Attachments
Financial statement 2008
Financial statement 2009
Financial statement 2010
Financial statement 2011
Letter to Council November 2009
Understanding Lease and Hire Agreements A guide for Sport and & Active Recreation Clubs by VicSport,
Item Number | 10.5  
Title         | OMBUDSMAN INVESTIGATION – CONFIDENTIAL PROVISION REPORT  
Date          | 20 December 2011  
Author(s)     | Executive Assistant (Cheryl Douyere)  
Reference     | CC10/2292; CR11/29224  
Previous Reference/ Motion | Council 6/12/2011 - 2011:09:258 – 260  

**Background**

On 25 March 2011 the South Australian Ombudsman received a complaint from Ms Carmel Rosier.

Ms Rosier’s allegations included reference to the confidential provisions of the *Local Government Act 1999* relating to the keeping of minutes and the release of documents.

At Council’s Special Meeting of 6 September 2011 Council considered a confidential Provisional Report from the Ombudsman and the following confidential motions were passed in relation to the Ombudsman Investigation.

**Motion No: 2011:09:258**

That

1. Under the provisions of Section 90(2) of the Local Government Act, 1999, an order be made that the public be excluded from attendance at the Meeting excepting the Chief Executive Officer, Director Corporate and Community Services and Director Asset Services in order to consider Item 8.4 in confidence, under the provisions of Section 90(3)(h) of the Act regarding information relating to:
   (h) legal advice;

2. Accordingly, on this basis, the principle that Meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

**Motion No: 2011:09:259**

That the Ombudsman’s Report be received.

**Motion No: 2011:09:260**

That:

1. An order be made under the provisions of Section 91(7) of the Local Government Act, 1999 that the further written report including the Minutes of the Council relating to discussion of the subject matter, having been dealt with on a confidential basis under Section 90(3)(h) of the Act, should be kept confidential for a period of up to twelve (12) months on the grounds that it involves:
   (h) legal advice;
2. The Chief Executive Officer be authorised to revoke the order made when the Ombudsman Final Report has been considered by Council.

3. The Chief Executive Officer advise the Council of the revocation of this order at the first Council meeting after such revocation has occurred.

And at the November Council meeting Council considered the Ombudsman’s Final Report and the following was resolved:

Motion No: 2011:11:327

That:-


5. The Chief Executive Officer continues to review and improve Council administration procedures in relation to Confidential Orders.

6. The Governance, Strategy & Economic Sustainability Committee or Corporate & Community Services Committee review the Ombudsman Investigation Report and recommend further improvements to Council Policy.

7. The Ombudsman be advised of Council’s decision in response to his final report and a copy be provided to the Minister for State/Local Government Relations.

Attachment(s)
Nil

Comments/Discussion
Following the November meeting, the Council having considered the final report of the Ombudsman can now review the confidential minutes from September 2011.

It is recommended to Council that the ‘Ombudsman’s Report’ report from the 6 September 2011 Special Council meeting and minutes be revoked including the report attachment – Ombudsman SA Provisional Report

The Ombudsman advised in his letter dated 26 August 2011 that:

‘the report contains information that was obtained in the course of an Ombudsman investigation that is subject to the confidentiality provisions in section 22 of the Ombudsman Act 1972. You should not disclose the information contained in this letter and report except for the purposes of the investigation’.

Council can now review the need to keep the minutes and report confidential. As there is no objection from the Ombudsman it would be transparent for the reports etc to be made public and included on the website.

Communication
Letters sent to Ombudsman and Minister
Telephone advice from Ombudsman on 7 December 2011

Consultation
Executive Team
Ombudsman (Mr R Bingham)
Policy Implications
Nil

Statutory Requirements
Local Government Act 1999

Financial/Budget Implications
Nil

Strategic Implications
Outcome 5.3 : Responsible government
Outcome 5.4 : Good administration

OFFICER’S RECOMMENDATION

Item 10.5 – Ombudsman Investigation – Confidential Provisional Report (CC10/2292; CR11/29224)

That:-

1. The Ombudsman Investigation – Confidential Provisional Report be received.

2. Having reviewed the confidential Ombudsman’s Report (6 September 2011) report Council determines the minutes and report (including the attachment - Ombudsman’s Provisional Report) should not be kept confidential.

3. The following minutes have been reviewed and Council believe they no longer need to be kept confidential
   Special Council   2011:09:259 and 260
Item Number 10.6
Title MONTHLY FINANCE REPORT (NOVEMBER 2011)
Date 20 December 2011
Author(s) Finance Manager (Paul Horwood)
File CC10/3355
Previous Reference/ Motion NIL

Background
Presentation of Monthly Finance Report, in accordance with Clause 4.1.4.6 of Council’s Budget Management Policy.

Attachment(s)
Monthly Finance Report as at 30 November 2011 – provided under separate cover

Comments/Discussion
An Executive Summary outlining performance financial performance against the 2011/2012 budget (as at the reporting date) is included within the report.

Communication
Nil

Consultation
Nil

Policy Implications
Policy 6.1: Budget Management Policy

Statutory Requirements
Nil

Financial/Budget Implications
The cost of preparing the Monthly Finance Report is accommodated within the Employee Costs budget for the Financial Services team.

The preparation of the report promotes financial accountability of the Council’s financial operations.

Strategic Implications
Outcome 5.3 – Responsible Government

OFFICER’S RECOMMENDATION

Item 10.6 – Monthly Finance Report (November 2011) (CC10/3355)

That the Monthly Finance Report as at 30 November 2011 be received.
11. Recommendations from Committees

11.1 Elderly Centre Management Committee – 2 December 2011

That Council endorse the recommendations from the Elderly Centre Management Committee Meeting held on the 2 December 2011, being:

Item 6.1 - 2012 Planning Workshop
Motion No: ECMC:2011:12:13
That the Elderly Centre Management Committee undertake a Planning Workshop on Friday 3 February 2012.

11.2 Infrastructure & Environmental Services Committee – 13 December 2011

That Council endorse the recommendations from the Infrastructure & Environmental Services Committee Meeting held on the 13 December 2011, being:

Item 9.1 – Appointment of Deputy Chair to the Infrastructure & Environmental Services Committee (CC10/2268)
Motion No. IES:2011:12:34
That Councillor Paul Koch be appointed as Deputy Chair of the Infrastructure & Environmental Services Committee until November 2012 Council meeting.

Item 9.2 – Terms of Reference of the Infrastructure & Environmental Services Committee (CC10/2269)
Motion No. IES:2011:12:35
That Council adopt the Terms of Reference of the Infrastructure & Environmental Services Committee.

Item 9.3 - Traffic Management Flinders Street and Main North Road, Gawler (CC10/457)
Motion No. IES:2011:12:36
1. Council support the proposed minor modifications to the median island on Flinders Street, Gawler, including loss of approximately 3 - 4 car parking spaces on the southern side of Main North Road adjacent to the intersection;
2. Department of Planning, Transport and Infrastructure engage with affected residents and businesses prior to the removal of any parking.
Item 9.4 – Gawler Central Oval Grandstand (CC11/88)

Motion No. IES:2011:12:37

1. Council support the proposed minor modifications to the median island on Flinders Street, Gawler, including loss of approximately 3 - 4 car parking spaces on the southern side of Main North Road adjacent to the intersection;

2. Department of Planning, Transport and Infrastructure engage with affected residents and businesses prior to the removal of any parking.

Item 14 – Motions Without Notice

Motion No. IES:2011:12:38

That the draft By Laws proceed to Public Consultation and Council enact the normal procedures for adoption
16. Confidential Reports

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<tr>
<th>Item Number</th>
<th>16.1</th>
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<tr>
<td>Title</td>
<td>CHIEF EXECUTIVE OFFICER – EMPLOYMENT AGREEMENT &amp; KEY PERFORMANCE TARGETS (CONFIDENTIAL)</td>
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<tr>
<td>Date</td>
<td>20 December 2011</td>
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<tr>
<td>Author(s)</td>
<td>Chief Executive Officer (Stephen Kerrigan)</td>
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<td>File</td>
<td>SF:50101; PER/94</td>
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<tr>
<td>Previous Reference/ Motion</td>
<td>2009:06:245 (30 June 2009)</td>
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<td>PMP 2009:07:012; 016; 018; 020 (7 July 2009)</td>
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<td>PMP:2011:08:038 – 041 (1 August 2011)</td>
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<td>2011:09:263 to 266 – Council 6 September 2011</td>
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In accordance with the authority delegated to the Chief Executive Officer by the Council – pursuant to provisions of Section 44 of the Local Government Act, 1999 – the Chief Executive Officer has determined that this item is to remain confidential until the Council resolves how this item is to be classified.

Until the negotiations regarding the Chief Executive Officer’s employment arrangements are finalised, it is considered appropriate to keep the internal and working documents and the discussions confidential.

A further written report will be considered by Members at the Meeting after the following recommendation is carried.

### OFFICER’S RECOMMENDATION

Item 16.1 – Chief Executive Officer – Employment Agreement & Key Performance Targets (SF:50101; PER/94)

That

1. Until the negotiations regarding the Chief Executive Officer’s employment arrangements are finalised, it is considered appropriate to keep the internal and working documents and the discussions confidential.

2. Under the provisions of Section 90(2) of the Local Government Act, 1999, an order be made that the public be excluded from attendance at the Meeting excepting the Chief Executive Officer, Director Corporate and Community Services, and Director Planning & Infrastructure, Executive Assistant and Minute Taker in order to consider Item 16.1 in confidence, under the provisions of Section 90(3)(a) and (h) of the Act regarding information relating to:

   (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
(h) legal advice;
3. Accordingly, on this basis, the principle that Meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.