



H a w k e s b u r y C i t y C o u n c i l

ordinary
meeting
business
paper
supplementary

date of meeting: 8 July 2003

location: Council Chambers

time: 7.00pm

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Ordinary Meeting - 8 July 2003

Appointment of General Manager

At the Extraordinary Special Meeting of 21 June 2003, following interviews for the position of General Manager, Council resolved:

"That Council authorise McArthur Management Services to make an offer to the preferred candidate and report back to Council."

Subsequently, contract negotiations have been commenced between Council and Mr Graeme Faulkner, former General Manager Wagga Council, with an expected start date of 8 September 2003. The common seal of Council is required to be affixed to the contract.

The terms and conditions of the contract are generally as follows:

- The contract of employment shall commence on 8 September 2003 and remain in force until 7 September 2008.
- The contract is renewable subject to the General Manager seeking reappointment and the Council accepting the General Manager's request.
- Total remuneration package including base salary, superannuation contribution, the cost of non cash benefits and the cost of fringe benefits tax will be \$185,000 (one hundred and eighty five thousand dollars).
- The total annual remuneration package must increase each year by 3% or other such percentage to maintain relativity with the market place, whichever is higher.
- A performance incentive bonus payment of 1%-3% of the total remuneration package be agreed to subject to performance.
- The Council shall supply and meet the General Manager's equipment needs, expenses and allowances in accordance with the contract (Schedule E, Part 7, expenses and allowances attached).
- The General Manager shall be entitled to leave with pay and reimbursement for reasonable expenses for undertaking higher education up to the value of \$5,000 (five thousand dollars) per annum.

The Council, as part of this contract, is required to provide Mr Faulkner with delegated authority to carry out the position of General Manager, a copy of this delegation is provided in Schedule D of the contract and is provided as an attachment. This delegation shall commence on the date of commencement of duties as General Manager.

I would like to congratulate Mr Faulkner on his appointment to the position of General Manager and look forward to working with him over the period of the contract.

Minute Recommendation

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The common seal of Council be affixed to the contract between Hawkesbury City Council and Mr Graeme Faulkner.

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ITEM: 130

Leisure Co. Australia

FILE NUMBER: 81191/CSV/ORG08LBX.C27

PREVIOUS ITEM: 82, GPC Section 3 - Organisation & Resources (24.09.2002)

PREVIOUS ITEM: 155, Ordinary (10.10.2002)

PREVIOUS ITEM: 78, Ordinary (13.05.2003)

REPORT:

At the General Purpose Committee meeting held on 24 September 2002, Council was advised of the financial position of Hawkesbury Leisure Centres Incorporated. As a result of this report, Council resolved the following:

"That:

- 1. The current financial position of Hawkesbury Leisure Centres Incorporated be noted.*
- 2. Negotiations commence with Leisure Co. to seek their advice or financial measures to reduce debt.*
- 3. The contract between Leisure Co. and Council be amended to update arrangements that have occurred since the original contract was put in place.*
- 4. The underwriting clause offered by Leisure Co. and agreed to in contract remain with Leisure Co. being reminded of their financial exposure."*

Subsequently, at the Ordinary Meeting of 10 December 2002, it was reported that:

"Leisure Co. have advised in correspondence that, in accordance with Clause 21 of the Management Agreement, a dispute has arisen between the parties in connection with the Management Agreement. In their correspondence Leisure Co. have indicated their belief that the underwriting of losses was limited to the seed funding of \$100,000 (one hundred thousand dollars)." The underwriting clause (as reported at the General Purpose Committee of 24 September 2002) provided that:

'underwriting means the provision of start-up funding, initial operational cash flow, support and payment of any operating loss at the termination of this deed or any extension thereof before the deduction of non cash items such as depreciation, provision and the like.'

In accordance with Clause 21 of the original agreement, Leisure Co. have nominated Mr Neil Butcher (Contract Manager) and Mr Graeme Alder (Chief Executive Officer) as their representatives for negotiation of the dispute. "

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It was resolved at the meeting:

"That under Clause 21 of the Management Agreement, between Hawkesbury City Council and Leisure Australia Incorporated (now Leisure Co.), dated 6 November 1995, Councillor Kevin Conolly and Mr Geoff Banting be nominated as Council's representatives for negotiation of dispute resolution."

Further, at the Ordinary meeting of 13 May 2003, it was resolved:

"That the delegation of Councillor Conolly and the Acting General Manager, Mr Geoff Banting, be extended for a period of one month, to allow further contractual negotiations be undertaken with Leisure Co. Australia."

A meeting was held on Tuesday 8 July 2003, outside of the delegation extension period, between Leisure Co. representatives, Mr John Dawson, Mr Mark Liddell and Mayor Rex Stubbs, Deputy Mayor Kevin Conolly and Mr Geoff Banting (Acting General Manager).

Discussions between parties ensued with agreement that Hawkesbury Leisure Centre Incorporated had not met financial expectations since operations began in 1996. It was agreed that although the underwriting of operations was offered at contract commencement, legal opinion had been sought by Leisure Co. that this condition had been removed. This has been denied by Council.

As at 31 May 2003, the accumulated operating losses of Hawkesbury Leisure Centres Incorporated prior to depreciation and Council contributions totalled \$1,174,892.62 (one million, one hundred and seventy four thousand, eight hundred and ninety two dollars and sixty two cents). Over the past three financial years, to 31 May 2003 Council has contributed \$462,036.62 (four hundred and sixty two thousand and thirty six dollars and sixty two cents). Losses before depreciation including Council contributions to date total \$712,856.00 (seven hundred and twelve thousand, eight hundred and fifty six dollars). If negotiations break down, it is anticipated that arbitration and legal expenses pertaining to same would be significant in defending Council's position in relation to the underwriting.

The meeting concluded with Leisure Co. representatives agreeing to and being advised that the matter would be reported to the Ordinary Meeting of Council on 8 July 2003 recommending that a deed of release from the current contract be prepared. This deed is on the basis that Leisure Co. agree to the payment of \$525,000 (five hundred and twenty five thousand) in lieu of the underwriting commitment with repayments to be made over a three year period. It was also agreed that an interim arrangement be entered into with Leisure Co. to manage the facilities for the 2003 / 2004 period whilst expressions of interest be prepared and invited for ongoing management support. Leisure Co. will be invited to participate as part of the expression of interest process.

RECOMMENDATION:

That:

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1. A deed of release be prepared to conclude the current contractual arrangements between Hawkesbury City Council and Leisure Co. with a deed of agreement accepting Leisure Co.'s offer of \$525,000 (five hundred and twenty five thousand) including payment instalments over a three year period.
2. An interim arrangement be entered into with Leisure Co. for the operation of Hawkesbury Leisure Centres Incorporated for the 2003 / 2004 financial year.
3. Council agree to call for expressions of interest for the operations of Hawkesbury Leisure Centres Incorporated from 1 July 2004.

ATTACHMENTS:

There are no supporting documents for this report.

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