



GLEN EIRA CITY COUNCIL

SPECIAL COUNCIL MEETING

7 FEBRUARY 2005

**Notice and Agenda for Meeting
to be held in the Council Chamber,
Corner Hawthorn & Glen Eira Roads, Caulfield
at 7.00 pm**

Council's Statement of Purpose:

Council works with and for the Community:

- *To provide quality facilities, services, safeguards and supports*
- *Beyond the capacity of individuals, but achievable when working together*
- *According to overall community values, needs and priorities*
- *In a caring accountable and professional manner*
- *That provides value for money*
- *For present and future generations.*

Councillors:

His Worship the Mayor, Cr Margaret Esakoff
Cr Robert Bury
Cr Noel Erlich
Cr Peter Goudge JP
Cr Alan Grossbard JP
Cr Jamie Hyams
Cr Veronika Martens
Cr Dorothy Marwick
Cr Rachelle Sapir

Chief Executive Officer: Andrew Newton



MEMORANDUM

To Chief Executive Officer

From Cr Bob Bury
 Cr Noel Erlich
 Cr Veronika Martens

Date 25 January 2005

Subject Special Council Meeting – 7 February 2005

In accordance with section 84(1) of the Local Government Act 1989, we hereby call a Special Council Meeting of the Glen Eira City Council to be held on **Monday, 7 February 2005 commencing at 7 pm** in the Council Chamber, corner Hawthorn Road and Glen Eira Road, Caulfield.

The business to be transacted at this meeting will be as follows:

To consider

- the CEO's Statement to Councillors of 29 September 2004 concerning reappointment
- each step in Councillors' consideration of the reappointment of the CEO during 2004
- the Mayor's memo to Councillors of 11 November 2004
- the Mayor's memo to Councillors of 7 December 2004
- the article on reappointment in the Moorabbin Leader of 14 December 2004

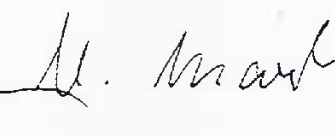
To put a resolution to reappoint the CEO for a five year term from 26 April 2005, following the giving of Public Notice as resolved on 15 November 2004.

We intend that the Meeting will be open to the public.

Please call the Special Meeting as detailed above in accordance with section 84(3) of the above Act.


 BOB BURY
 COUNCILLOR


 NOEL ERLCH
 COUNCILLOR


 VERONIKA MARTENS
 COUNCILLOR



**AGENDA for the SPECIAL MEETING OF THE
GLEN EIRA CITY COUNCIL to be held on MONDAY, 7 FEBRUARY 2005**

PRAYER

1. APOLOGIES

2. DISCLOSURE OF DIRECT OR INDIRECT INTEREST

Councillors are reminded of the requirement for disclosure of an interest in relation to items listed for consideration on the Agenda, or which are considered at this meeting, in accordance with Sections 77 to 79 of the Local Government Act.

3. PRESENTATION OF OFFICER REPORTS

- 3.1** Reappointment of the Chief Executive Officer under S94(4) of the Local Government Act, following the giving of public notice.

Item 3.1

REAPPOINTMENT OF THE CHIEF EXECUTIVE OFFICER UNDER S 94 (4) OF THE LOCAL GOVERNMENT ACT, FOLLOWING THE GIVING OF PUBLIC NOTICE**Enquiries:**
Director, Community Relations**1. Purpose**

To put a resolution to reappoint the Chief Executive Officer, following the giving of Public Notice, as resolved on 15 November 2004.

2. Community Plan

Objective 3: Advance the Public Interest by Good Governance and responsible management of Community Assets, Finances and Risks.

3. Background

The employment contract between Council and the Chief Executive Officer, Mr Andrew Newton, expires in April 2005. This presented two options:

- Reappointing Mr Newton for a further term as Council's CEO under s94 (4) of the Local Government Act or
- Deciding to advertise the position.

The option to reappoint was included in the Local Government Act with the support of both the Liberal Party and the ALP. The reasons given in the Parliament were that where a Council wishes to retain its CEO, reappointment avoids the costs of advertising and selection and months of organisational instability.

Surrounding Councils which have reappointed their CEOs include

- Kingston,
- Monash,
- Stonnington,
- Boroondara.

A Council which has advertised and appointed a new CEO is Bayside.

Since the option to reappoint the CEO was introduced into the Act, there does not appear to have been a case where a Council has advertised the position of CEO and has appointed the incumbent.

Item 3.1 (cont'd)

4. Process

The Council has followed a staged and deliberate process to consider this matter.

1. In September 2004 Councillors informed the CEO that they were meeting to consider the decision on the CEO's position.
2. The CEO submitted a written statement to Councillors including his education and qualifications, short CV, achievements as CEO and the Council's assessments of his performance each year since 1999 (Attachment A).
3. Following several meetings of Councillors, including some assisted by the Municipal Association of Victoria, the Mayor (Cr Bury) informed the CEO on 26 October 2004 that Councillors had authorized him to inform the CEO that Councillors had decided to reappoint him, subject to finalising the details of terms and conditions.
4. Following a meeting of Councillors on 10 November, on 11 November the Mayor informed the CEO that Councillors had agreed on the key terms of the contract:
 - Term of five years from 26 April 2005
 - Remuneration (as set out in (Confidential) Attachment F).

The Mayor reported back to Councillors in writing on 11 November: "I have spoken to Andrew. He thanked me for the decisions we reached." (Attachment B). Cr Bury has advised that he did not receive any response to his memo from any Councillor.

5. On 15 November Council resolved to give Public Notice of its intention to reappoint the CEO. After the Resolution was passed, the CEO was invited to join the six Councillors remaining after the Meeting.

Each of the six Councillors (Cr Marwick, Cr Bury, Cr Erlich, Cr Martens, Cr Sapir and Cr Esakoff) made a brief speech of congratulations to the CEO on his reappointment. They asked the CEO to speak about the outlook for the Glen Eira Community and Council during the next five years, which he did.

6. The Public Notices were published in the Caulfield Glen Eira Leader and Moorabbin Glen Eira Leader in the week of 22 November (Attachment C).
7. Council engaged Freehills to prepare an employment contract. The Partner concerned had had no previous involvement with the Council, Councillors or with the CEO.
8. At the conclusion of the Council Meeting on 29 November 2004 Councillors met with Freehills to discuss the employment contract.

Item 3.1 (cont'd)

9. On 30 November the Mayor informed the CEO that Councillors had authorised him to give the CEO a copy of the Council's proposed contract (which he did) and ask the CEO to take it away and read it and advise the Mayor of his acceptance or otherwise.
10. The following day, 1 December, the CEO advised the Mayor that the CEO accepted the terms as proposed in Council's contract. In a memo to Councillors on 7 December, the Mayor advised Councillors "Andrew has accepted the contract as is" (Attachment D). Cr Bury has advised that he did not receive any response to his memo from any Councillor.
11. The Leader newspaper published on 14 December 2004 carried an article headed "CEO Newton reappointed" and quoting Councillors from the previous week.
 - "the Council decided not to advertise his position";
 - "all Councillors contacted by the Leader expressed confidence in Mr Newton as the best person for the job";
 - "Cr Noel Erlich said the council had taken extensive advice and Mr Newton was regarded as one of Victoria's top council executives";
 - "Cr Jamie Hyams also backed the decision to renew the contract saying that the confidential meetings were necessary on such a commercially sensitive topic";
 - "Cr Alan Grossbard said his only concern was the placement of the advertisement flagging the council's intention in a metropolitan classified column in The Age instead of being placed in the local media." ¹ (Attachment E)
12. The matter was submitted to the Council Meeting of 13 December 2004.

5. Recommendation

In order to effect the reappointment, an appropriate resolution would be:

That Council

- a. Having complied with the requirements of Section 94(4)(b) and (c) of the Local Government Act 1989 ('the Act'), hereby resolves to reappoint Mr Andrew Newton as the Chief Executive Officer of the Glen Eira City Council for a period of five years commencing 26 April 2005, in accordance with Sections 94(1) and 94(4)(a) of the Act.
- b. That the attached contract between Council and Andrew Newton be executed.

¹ The placement was subsequently supported by independent professional advice.

REAPPOINTMENT

I understand that the Council will be deciding whether to renew my appointment as CEO or seek a new CEO.

Process

The option to renew the contract was introduced into the Act with the support of both the Liberal Party and the ALP. Reasons stated were that under circumstances where a Council wishes to retain its CEO, reappointment avoids the costs of advertising and selection and months of organisational instability.

It is the Council's decision. (To the best of my knowledge, no CEO has ever been reappointed after the position was advertised. If they were going to be reappointed, the Council would not have advertised the job.)

Information

Information is set out in the Attachments concerning my:

- A. Performance to date
- B. Education & Qualifications
- C. Career to date.

2005 – 2010

I would appreciate an opportunity to discuss with Council what I would like to see achieved for Glen Eira over the next five years and the contribution which I could make.

As I wrote in the Binder on Election Night, March 2003, I am attracted to the description of the former Secretary of the Treasury and Governor of the Reserve Bank, Bernie Fraser:

"He did well in Treasury. He could get things done. He was calm and straightforward with Ministers. There was no bullshit with Fraser. He found that the quality Ministers [Councillors?] seek is not a flash intelligence or political sympathy but weight, reliability, steadiness, judgement, and the quality of command."

I am optimistic that the Council is well placed to deliver major benefits for our Community over the next five years and I would be delighted to contribute to that as CEO, if the Council so decides.



ANDREW NEWTON
CHIEF EXECUTIVE OFFICER

29 September 2004

Performance

My record as CEO to date is set out in the Performance Trends which were considered by Council on 27 September 2004.

I would particularly point to moving our community facilities and assets (on which the life of the community depends) onto a sustainable footing and having the financial base to do so. The results are on the ground in Packer Park and the five other parks which have gone through master plans and upgrading, playgrounds, shopping strips, roads etc.

Other themes during the period have been:

- Establishing a strategic direction through
 - the development of a more rigorous Community Plan involving widespread Community consultation and
 - permanent changes to the town planning scheme to redirect development away from traditional residential streets: more in keeping with Community values.
- Streamlining business processes, such as creating the Service Centre which now handles 70% of all calls; encouraging the Planning Office to adopt new work practices to achieve the fastest processing times of any Council in Victoria.
- Building a high quality senior management group (including the selection of the key staff who you know) and a robust Organisation, achieving continuous improvement in services and Community satisfaction, staff turnover, Occupational Health & Safety and WorkCover.
- Pro-active management of risk: Glen Eira has been the highest-ranked Council in Victoria over the last five years.
- Doing it all while keeping our operating costs and Rates well below average.

Council's own assessment of my performance under Key Result Areas set by Council have been:

1999-00	96% (part of the year when Acting CEO)
2000-01	90.3%
2001-02	85.67% (plus later offer of 4.5%, declined)
2002-03	100% (no KRAs had been set)
2003-04	87.5%
Average	<u>91.9%</u>

Evidence of the regard in which Glen Eira performance is now held include:

Indicator	Performance
Customer Satisfaction	86% Community Satisfaction, April 2004
	Australian Customer Service Award, 2000
Parks	1 st out of 21 Melbourne Councils (IOOS Survey, 2004), reported to Council 16.8.04.
Town Planning	Residents appealed against 1.8% of Council's decisions (2003-04)
	Fastest turnaround times in metropolitan Melbourne.
	Pre-certification is averaging 47 days and is demonstrating innovation to the Industry.
	"Failure-to-determine" 2 nd lowest of developed municipalities.
	Permanent controls in place in Activity Centres (C11 and C14)
Risk Management	Currently rated 1 st in suburban Melbourne and 3 rd in Victoria; rated the highest in Victoria over the last five years.
	2 nd out of 19 for building and property risk (2004)
Financial Management	Lowest operating cost of our neighbouring Councils.
	Lowest debt (saving \$1m interest pa)
	2 nd lowest average Rates (\$5.7m less per year)
	Lowest liabilities of any Council in Victoria (OLG, 2003)
	Highest infrastructure renewal and maintenance of any Council in Victoria (OLG, 2003)
Annual Report & Accountability to the Community	Silver Award, Australasian Reporting Awards
	1 st in Victoria for best report on Best Value (MAV)
	1 st in Victoria for best report on Corporate Governance (MAV).

Education & Qualifications

Higher School Certificate, Scotch College (Scholarship 1970-74)

- Top 20 HSC students in Victoria
- Top of the State in two subjects
- Distinction for General Excellence (equivalent to the current "Premier's Awards")
- Senior Government Scholarship (1975-79)

Monash University

- BA (Hons), 1979
- Honours in History
- Major in Law

Melbourne University

- MBA, 1995
- 1st place in a Class of 18
- Melbourne Business School Foundation Prize
- 1st place in the following subjects:
 - Economics and Public Policy
 - Managerial Economics
 - Managing Information Services
 - Human Resource Management
 - Employee Relations

Institute of Company Directors

- Company Directors Course graduated 1996
- Fellow since 1996

Career

1980: Recruited in the top intake of the Commonwealth Government, (Canberra). The Program aimed to recruit future Departmental Secretaries / CEOs. (Thirty graduates were selected nationally from 6,000 applicants). My contemporaries now include:

- Deputy Secretary of the Prime Minister's Department;
- National Manager, Medicare
- First Assistant Secretary, Attorney-General's Department.

I lived in Canberra for six years.

1980-84: Positions in the Department of the Prime Minister and Cabinet, Public Service Board, and Department of Finance

- Analysis of policy and finances
- I also represented the ACT in Inter-State Debating and public speaking during this period.

1984-85: Director, Budgeting, Department of Social Security Head Office, Canberra. Major financial, policy and employee relations responsibilities nationally.

- Frequent dealings with Ministers and Central Agencies
- Attendance at the Expenditure Review Committee of Cabinet

1986-89: Promoted to the Commonwealth Senior Executive Service (top 2% of the Commonwealth Public Service) at age 29.

- Deputy Director of the Commonwealth Department of Social Security for NSW (1986-88) and for Victoria (1988-89)
- Up to \$5 billion pa and 5,000 staff in 100 locations
- Major issues of industrial relations and media management

1989-96: Senior Executive, Victorian Government (numerous name changes of Departments including Planning, Housing, Construction, Human Services)

- Line management of service delivery including up to 100,000 clients, 300 staff and budgets of over \$100m
- Frequent dealings with Ministers (eg Rob Knowles).

1996-1999: Director, Glen Eira City Council.

1999 onwards: CEO, Glen Eira City Council (Acting CEO December 1999 – April 2000; Appointed April 2000 – April 2005).

Summary: I have worked at Director level or higher since 1986. I enjoy leading complex community enterprises which

- operate in a political environment
- provide essential services to the Community
- involve large asset bases and finances.



MEMORANDUM

ATTACHMENT B

To All Councillors

Cc Andrew Newton, CEO & Paul Burke, DCR

From His Worship the Mayor, Cr Bob Bury

Date 11 November, 2004

Subject CEO'S REAPPOINTMENT

Dear Councillors,

I would like to thank you for your input into the outcome reached last night.

It has taken some time, but I believe the discussions were well worth it, it allowed us to come together on an issue that most of us have not been involved in.

It also gave us the opportunity to communicate without any of the bitterness that has been present over the past years.


I have spoken to Andrew. He thanked me for the decisions we reached.

He will make himself available to further discuss his reappointment after our Council / Briefing meeting next Monday evening.

Kind regards,

A handwritten signature in black ink, appearing to read "Bob Bury", written over a faint circular stamp or watermark.

CR BOB BURY
MAYOR



Reappointment of Chief Executive Officer

In accordance with Section 94(4) of the *Local Government Act 1989*, public notice is given that Glen Eira City Council intends to put a resolution at its Ordinary Council Meeting on Monday 13 December 2004 to reappoint Andrew Newton, BA (Hons) (Monash), MBA (Melb), FAICD as its Chief Executive Officer.

The passing of this resolution would result in the reappointment of the Chief Executive Officer without the position being advertised.

Glen Eira
City Council
Phone: 9524 3333
TTY: 9524 3466
Fax: 9523 0137
Email: enquiries@glenaira.vic.gov.au
www.glenaira.vic.gov.au



MEMORANDUM

ATTACHMENT D

To Councillors

Cc Andrew Newton, CEO and Paul Burke, DCR

From His Worship the Mayor, Cr Bob Bury

Date 7 December, 2004

Subject CEO'S CONTRACT

I refer to our Councillor only session last night with respect to Andrew's contract.

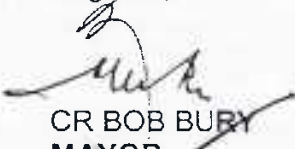
Andrew has accepted the contract as is. He stated he will not be seeking legal advice.

The contract does not require his signature at this stage.

Any amendments to the contract prepared by Freehills will need to be discussed further with Andrew.

The Council meeting of the 13 December is only dealing with the process. That is we need to pass a resolution to reappoint Andrew without advertising.

Regards,


CR BOB BURY
MAYOR

CEO Newton reappointed

Mathew Dunckley

GLEN Eira Council chief executive Andrew Newton looks set to renew his annual \$220,000-plus contract after the council decided not to advertise his position.

Councillors defended that decision last week ahead of a final closed meeting, scheduled for last night, to vote on his reappointment.

All councillors contacted by the *Leader* expressed confidence in Mr Newton as the best person for the job and defended the confidential process of his reappointment.

Under his previous contract, Mr Newton's salary was \$203,019. He also received superannuation of \$11,584, a \$9097 car allowance

and a bonus of up to 10 per cent.

Councillors told the *Leader* that private meetings had been held to discuss the reappointment and a notice of the "intention to reappoint" had been published as required under the Local Government Act.

Mayor Bob Bury said the decision saved ratepayers \$50,000 in recruitment costs and he pointed to similar reappointments at neighbouring councils.

It was "standard practice" to consider personal contractual matters in confidential council meetings, Cr Bury said.

"The CEO is accountable to the elected council, not directly to the community," he said.

Cr Noel Erlich said the council had taken extensive advice and Mr Newton was regarded as one of Victoria's top council executives.

"If we have got a really good CEO and the (Local Government Act) allows us to reappoint him and there is a process, what is wrong with that?" he said.

Cr Jamie Hyams also backed the decision to renew the contract, saying that the confidential meetings were necessary on such a commercially sensitive topic.

Cr Alan Grossbard said his only concern was the placement of the advertisement flagging the council's intention in a metropolitan classified column in *The Age* instead of being placed in the local media.

4. CLOSURE OF MEETING