



# Late Item

## Finance, Policy, Operations and Legislation Committee

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Wednesday, 12 June 2019, 6.00pm

## LATE ITEM

### 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

A member may raise at a meeting such business of the City as they consider appropriate, in the form of a motion of which notice has been given to the CEO.

#### **FPOL1906-16 NOTICE OF MOTION BY CR JENNY ARCHIBALD - FLY BY NIGHT CLUB REQUEST TO FUND LIQUIDATOR**

**Meeting Date:** FPOL 12 June 2019  
**Responsible Officer:** Director City Business  
**Decision Making Authority:** Council  
**Agenda Attachments:** Nil

### ELECTED MEMBER SUMMARY

A Notice of Motion by Cr Sam Wainwright was considered at the Ordinary Meeting of Council held Wednesday, 27 March 2019, to consider the proposal that the City fund the appointment cost of \$7,500 for the Liquidator and allow the Chair of the Fly to be refunded this element of the expense. This motion was Lost 4/5 and no further motion was considered, therefore no decision has been made on this matter. It has been requested that this matter be referred back to Council for further re-consideration.

### BACKGROUND

In November 2018 the Fly-By-Night Club located at Victoria Hall in Fremantle went into voluntary liquidation. Mr David Spencer of Business and Insolvency Solutions was appointed as Liquidator to oversee the process.

As the decision to commence this process was voluntary there is no pro-bono option and as such the current Chair of the Fly paid the contribution (\$7,500) for the cost of appointing the liquidator. This has been confirmed by email from Mr Spencer.

The Fly has been an iconic Fremantle institution for more than 30 years and after losing their tenancy at the Drill Hall moved to Victoria Hall in 2015. As this not for profit organisation has played such an important part in Fremantle's cultural history an argument could be made that the current Board shouldn't bear the burden of this process solely.

Mr Spencer has provided confirmation via email that he would be prepared to refund the Chair these funds if the City agreed to provide for this.

Email correspondence received from Mr Spencer stated the following;

*"I confirm that I am the liquidator of Fly by Night Musicians Club Ltd and I attach a copy of the ASIC notification.*

*As Liquidator of the Fly by Night Musicians Club Ltd, if the City of Fremantle pays \$7,500 into the Fly by Night account as security for my costs (to replace the previous funding), I agree to transfer the \$7,500 previously paid as security for my costs by Mr .....*"

## **OFFICER COMMENT**

The City has provided in-kind and financial support in the past to the Fly-By-Night Club. At the Ordinary meeting held in March, 2019, the same Notice of Motion was considered by Council with the motion lost at the time. This request for re-consideration is a matter for Council.

If council supports this request, funds can be allocated from the sponsorship budget (account 100003.5961).

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

## **NOTICE OF MOTION**

- 1. Council approves to contribute the amount of \$7,500 (from the sponsorship budget account 100003.5961) for the security of the Liquidator appointed to the Fly-By-Night Club, on the basis that the Liquidator refunds this value to the original funder.**
- 2. Requests the City enter into a written agreement with the Liquidator, prior to the contribution amount being paid, to require the amount of \$7,500 be paid to the former Director of the Fly-By Night Club.**