

Save Perth Hills says: We recently received this letter from Mundaring Shire CEO Jonathan Throssell criticizing our coverage of the recent Mundaring Council election. We make good on our promise by running the letter verbatim. Our item-by-item response is in this orange text throughout the body of the letter.

Dear Editor/Author of the Save Perth Hills Website

You have stated that your promise is to correct anything on your site which you believe is untrue and, if this is so, you will remove or modify it. I presume that you will act on this promise, otherwise there is not much point in stating it.

I was directed to your website recently as I was advised a number of items had been raised regarding the elections. Having read the front page, I note that there are a number of factual errors.

1. Under 'Episode 5' you make a number of opinionated statements. That is your right. I don't agree with them. However, you do state that "Six months from now things will either have changed significantly or will be *"business as usual"*, which means ...little accountability for actions taken *behind closed doors*".

I am not sure if you are aware of the legislation relating to the decision making process of local government. It is very clear. I refer you to section 5.23 of the Local Government Act. This section states that meetings are generally open to the public except in certain circumstances. I won't list all of those circumstances but some are matters affecting employees, the personal affairs of a person, or matters that if disclosed would impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law. You would agree that it is appropriate and reasonable for such matters not to be discussed in public.

The legislation is clear on when councils can consider such matters. To state that there is little accountability for matters discussed without members of the public present ('behind closed doors') is misleading.

Save Perth Hills reply: [Is it not common that some Councillors consult each other outside meetings and presumably discuss how they will vote?]

It seems this usual majority always appears to know how each other intends to vote. To us that suggests they are deciding before the meetings, out of the public eye.

Furthermore, if the agenda item [DAC7.10.07] that delegates certain Council approval powers to the CEO (which was voted on but set aside on a technicality), is passed at a future meeting when an absolute majority is present, the CEO will be empowered to approve some building permits. These include: Refusal of Subdivision Applications, Extension to a Non-Conforming Use, Change of Non-Conforming Use, Buildings Outside Building Envelopes. These decisions will presumably be made in his office behind closed doors.

2. Under 'Episode 4' you refer to the last council meeting before the election. You refer to an report seeking delegation of authority to the CEO on a number of matters.

You are **incorrect** to state that "The majority then voted to "delegate" decision-making power to the Shire CEO..." and further "The vote went 9-3, with councillors Davies, Daw and Black voting against."

The facts are that the vote was 6-5 (CR James was an apology for the meeting) in favour of the motion. However, due to the fact that an absolute majority was not obtained the motion was lost. Crs Davies, Black, Daw, Cuccaro and Hall voted against the motion.

Save Perth Hills reply: We got the vote numbers wrong, we apologise. But that agenda item was noted as passed that night. It wasn't until the next day that the CEO learned that an *absolute majority* was needed, and since there was only a *simple majority*, the decision was reversed. The Shire's correction was published on page 5 of the Hills Gazette ([view article](#)

below) the next week, and we missed it. The Councillors were not notified, and it wasn't until one of them saw the correction in the paper that it became common knowledge. Whether this agenda item was temporarily put back because of a parliamentary technicality is not the point. The important point is that an agenda item delegating Council approval authority to the CEO - who will act in private - is on the table at all.

3. Under 'Episode 3' "Another Legal Threat "

You have quoted me as stating "Shire CEO Throssell was quoted in the latest Hills Gazette threatening an investigation against the anonymous publisher of the *Shire Watch*".

The Hills Gazette newspaper quotes me as stating that I am considering obtaining legal advice over accusations made in a publication I considered to be defamatory. Nowhere have I stated that I am threatening an investigation into the publisher of the 'Shire Watch'. Therefore the quote you have attributed to me is incorrect.

Save Perth Hills reply: This is what was printed in the *Hills Gazette* Oct. 6-12 2007 edition, front page article: "**CEO in legal threat**", regarding councillors and staff members deciding whether or not to bring a defamation case against the publisher(s) of *Shire Watch*:

Mr. Throssell said he would take legal advice.

"When I seek that advice is all important. I don't want to be accused of getting in the way of a fair election, so it will probably be after the election," he said.

(view article below)

That sounds like he intends to investigate whether or not he should investigate who is publishing *Shire Watch*. The word "threat" was employed by the Hills Gazette in its headline *(view article below)*.

You also state "'We have our suspicions," the CEO was quoted as saying." and "The CEO calls the *Shire Watch* publisher "...too much of a coward to put his/her name on it.'"

Nowhere in the Hills Gazette (or elsewhere) have I made these statements. Therefore the quotes you have attributed to me are incorrect.

Save Perth Hills reply: Mr. Throssell is correct; the quotation should have been attributed to former Cr John Beaton who made the "coward" statement. We apologise.

4. Under 'Episode 2' you make comment about Cr Black and voting. As this is a matter for the courts I have no comment at this stage.

Save Perth Hills reply: Cr Black is being accused of refusing to vote "yes" or "no", instead insisting on "dissenting". That very word, *dissenting*, was repeatedly used by Cr Dullard when asking for a vote when she chaired the October DAC meeting. Save Perth Hills believes these court cases are petty and waste the ratepayers' money. Are they intended to financially punish these councillors who have no choice but to hire lawyers to defend themselves in court against those accusations? Are the motivations for these accusations truly concerned with criminal activity or with *political strategy*?

5. Under 'Episode 1' you make the following two statements:

"...certain members of the Council who are up for re-election are choosing to sling mud and attack opponents' personalities, to the point of contriving legal charges against other Councillors."

and

"...two outspoken independent councillors have been brought up on "trumped up" two-year old legal charges by the majority pro-development leadership of the council."

Both of these statements are incorrect. The two councillors have been charged by the [Department of Local Government and Regional Development](#) for offences against the Local Government Act 1995. No council member, either individually or in a group, was involved in preferring these charges or in influencing the timing of the charges.

Save Perth Hills reply: Someone in state government decided to bring up dormant two-year old charges against two councillors who just happened to be in the middle of a hotly contested election campaign. We don't believe in coincidences like this. The description "trumped up" was used, inside quotation marks, in the *Hills Gazette* front page article **Two Crs to face charges** of Sept.29-Oct. 5 edition (*view article below*).

Further in 'Episode 5' you state:

"Remember two years ago when the Stoneville Progress Association filled the Council Chambers with over 125 ratepayers to press Shire President John Beaton to make good on his promise to pass a proposed Hills Protection Act on to the Minister for Planning and Infrastructure?"

You may not be aware that I was at the same meeting as John Beaton in Stoneville. My recollection and notes from that meeting are clear: John did not make a promise to pass on anything to the Minister. What he did do is advise the meeting of the process by which such a request could be made; and that was to seek support for a motion to be presented to council via the Ward Councillors. I recall that this motion was prepared by the Stoneville Progress Association and presented by Cr Sharon Davies. The minutes show that the motion went much further than merely 'passing on' a proposed Act to the Minister. The motion was debated and lost at Council, principally due to the fact that it contained other matters which council was not able to support.

It is incorrect and untrue to state that John Beaton reneged on a promise. There was no promise made.

Save Perth Hills reply: We were there too, and we remember your presence at the Stoneville Progress Assoc Meeting. We recall Cr Beaton being overwhelmed by community response from the approximately 100 ratepayers present, and finally agreeing to consider passing-on the "Hills Vision" Discussion Document to the Planning Minister's office. Cr Beaton said we should submit it at the next Council Meeting. 125 people packed that Council meeting, filling the chambers. The item was placed last on the Agenda so everyone had to sit through the entire three-hour meeting. When we finally had our say, we were speedily dismissed as "not representing the community". It was a dismissal of community sentiment and their trust which resonated for two-years and probably contributed to Cr Beaton being defeated at the next election.

Summary

Please make good on your promise to correct facts that are untrue immediately.

You might also care to note the results of the recent council meeting at which the President and Deputy President were elected. Cr Helen Dullard was elected as President and Cr Max Jamieson was elected as Deputy President. Both votes were 8-4.

Save Perth Hills reply: We expect we'll be seeing a few 8-4 votes, and more 7-5 votes. However, without Cr Beaton in the driver's seat, we expect more votes to stray. There will be another council election in two years.

We hope we have satisfied your objections.

Save Perth Hills

Jonathan Throssell
Chief Executive Officer

As I don't constantly check my email please call me on one of the telephone numbers below if you need an urgent response within 24 hours. Thank you.

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RELATED PRESS ARTICLES:

Hills Gazette, Oct 13, page 5

IN BRIEF

Plan to delegate decisions fails

A PROPOSAL to delegate, to the Shire of Mundaring's chief executive, decisions on some developments that would not have an adverse effect on its surroundings, was thrown out by councillors at a meeting last Tuesday.

Some feared it was nothing more than a power grab by the council's administration.

The recommendation was that approval of non-conforming uses could be made by the chief executive if the council was satisfied that the proposal would not have an adverse effect on the amenity; the proposal was consistent with the scheme objectives for the subject zone; and that affected people be invited to comment.

Chief executive Jonathan Throssell said the delegation was only for small developments and was seen as a way of lessening the heavy workload of the council.

If the scheme was thought to be not working, councillors could have voted to have responsibility returned to them.

CEO in legal threat

By HELEN PICKERING

MUNDARING Shire chief executive officer Jonathan Throssell is considering legal action over accusations in a controversial publication that he believes are defamatory to some staff members and councillors.

Mr Throssell, former chief executive officer Max Williams, shire president John Beaton and candidate Alan Pilgrim are all accused of improper conduct in the publication, Shire Watch.

The allegations include items such as allowing building contracts that do not meet the legal building code, illegal building permits being issued, and abuse of power and

position by council staff. Mr Beaton said the publication had been appearing around election time for at least the past six years.

"Each issue more or less repeats the previous year's," he said.

"We have our suspicions about who publishes it, but whoever does is too much of a coward to put his/her name on it."

He said the accusations mirrored ones previously raised with council which had been investigated by the shire – as it was required to do – and found to have no basis.

The investigation had come at considerable cost to ratepayers.

"The problem is that those who might be behind the allegations contained in the publication know that councillors and staff

members do not have the money necessary to bring a defamation case," he said.

"I certainly don't have \$50,000-plus for a defamation case. The trouble is, once the election is over the damage is done, and the risk has been worth it if it has bought someone a few more votes to get him or her re-elected."

Mr Throssell said he would take legal advice.

"When I seek that advice is all important. I don't want to be accused of getting in the way of a fair election, so it will probably be after the election," he said.

Mr Throssell said there had been accusations that the shire laid criminal charges against Crs John Daw and Kevin Black just

before the election, which was untrue.

"I am concerned that members of the community may be under the impression that the Shire of Mundaring, through its officers or councillors, have caused the charges to be laid at a time designed to discredit them in the lead-up to the election on October 20," Mr Throssell said.

"I categorically refute any claim or suggestion that the shire was in any way involved in determining the timing of this matter.

"The charges faced by the two councillors were laid by the Department of Local Government and Regional Development, and that department is responsible for the timing of the charges, not the shire."

Two Crs to face charges

By **HELEN PICKERING**

TWO Mundaring Shire councillors say the charges they face under the Local Government Act are "trumped up" and designed to discredit them in the lead-up to the election on October 20.

Councillors Kevin Black and John Daw questioned the timing of the charges, saying they related to events of two years ago.

Cr Daw faces a charge of improperly using council committee information to gain an advantage for a person. Cr Black faces four charges of presenting at a council and failing to vote and one charge of lodging an annual return outside of the timeframe.

Cr Daw said his alleged crime was to give a confidential council letter to an opponent of a development. He did not believe the letter was confidential.

"This matter was raised at the time and we presented a very compelling answer to the concerns then and we heard nothing more about it until now," he said.

"Part of a councillor's job is to communicate between the council and the community, not to be a lackey to the administration.

Cr Black said his charges related to allegations he refused to vote on a number of occasions, which he disputed. He also faces a charge of failing to hand in a council return for 2005.

Cr Daw said it was strange that of all the councillors in WA just two at Mundaring Shire were facing charges.

The charges were laid in the Midland Magistrates Court last Thursday. A hearing has been set for October 26. Both men intend to defend the charges.

Questions about the charges were raised at a Shire of Mundaring meeting last Tuesday but the council refused to accept the questions.

Chief executive officer Jonathan Throssell said councillors were unable to discuss it because they might be called as witnesses.

Mr Throssell said under the law he had to pass on to the Crime and Corruption Commission any suspected misconduct by councillors. He had done so in the case of councillors Daw and Black and the CCC had passed it to the Department of Local Government, who had laid the charges. He was surprised the process had taken so long.

-----Save Perth Hills-----