

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
AND FINANCE**

**LOCAL GOVERNMENT ACT 1995**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
ON MONDAY, 27 OCTOBER 2003**

**SESSION 2**

**Members**

**Hon Barry House (Chairman  
Hon Ed Dermer (Deputy Chairman)  
Hon Murray Criddle  
Hon John Fischer  
Hon Dee Margetts  
Hon Ken Travers  
Hon Sue Ellery**

[11.00 am]

**DELAHAUNTY, MR LINDSAY**  
**Chief Executive Officer, City of Stirling,**  
**examined:**

**The CHAIRMAN:** Welcome once again. I think everybody knows the rules. On behalf of the committee I welcome you to the meeting.

You have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Delahaunty:** Yes, I have.

**The CHAIRMAN:** These proceedings are being recorded by Hansard, and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please speak into the microphones. I remind you that your transcript will become a matter for the public record. If, for some reason, you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee

**Mr Delahaunty:** Thank you for the opportunity to give evidence before this committee. I have made available a full copy of the statement I wish to make. I will read it out and then I will be more than happy to answer questions on any area on which the committee might like to ask me.

I have requested the opportunity to give evidence to this inquiry after being advised while I was overseas that the former mayor of the City of Joondalup, John Bombak, had made derogatory statements to this inquiry about me while I was in the position of Chief Executive Officer of the City of Joondalup. I seek to clarify a number of misleading statements and will provide the committee with my version of events that led to me leaving the city's employment. I also wish to advise the committee that I have read evidence given to the inquiry open to the public only on Friday 3 October. I seek to reserve the right to make further comment once I have had the opportunity to read the transcripts of further sessions of the inquiry.

I will commence by outlining my credentials: I have been a serving officer of local government for some 33 years serving in both country and metropolitan councils, on nine local governments. I am currently Chief Executive Officer of the City of Stirling, having been appointed in December 2001. I am currently National President of Local Government Managers Australia and immediate past president of the Western Australian division of the same body. My trip overseas was in the capacity of president of the national body to address conferences in both America and England. I am a board member of the Stirling Business Enterprise Centre as part of the Stirling Business Association, with my continued interest in those areas. Having heard the previous evidence, I think it is worthwhile mentioning that I am also the inaugural chairman of the Roles and Relationships Working Committee on Local Government, which is made up of representatives of elected members from WALGA, the LGMA and the Department of Local Government. They are undertaking actions on inquiries and proactive measures so that we may prevent things happening in the future. We have been actively involved in recommending and researching information regarding the local

government disciplinary tribunal proposal. I am a fellow of the Australian Institute of Management and a fellow of Local Government Managers Australia and a member of the International County Managers Association, an American-based professional organisation.

I have served in senior positions under four shire presidents, five mayors, four lord mayors and two chairmen of commissioners. I have always been proud of my professional ethics, distinguished record and the quality of relationships I have maintained during that time. I have had only one unfortunate incident in which I experienced deterioration of a relationship while serving at the City of Joondalup under former mayor John Bombak. I would like to comment on the environment and culture that existed at the city prior to my leaving the council's employment and some communication I have had with numerous staff since my departure. Let me first say that at the time, and still today, I viewed Joondalup as having the ability to be a model local government in not only Western Australia but also Australia.

[11.10 am]

I believe that the quality of its rate base, its infrastructure and its location give it those credentials. To go with the mix, I also believe that it is and has been blessed with very high quality staff who have won numerous awards and who have supplied and continue to supply high quality service to the community. The city won the leadership and best practice award in November 2000, which is an annual award presented by the Western Australian Local Government Association to the leading council in the State. Joondalup also won seven category awards in that year.

The first elected council was sworn in during December 1999 with its first mayor, John Bombak. Of the 14 new councillors, nine had no experience whatsoever in local government. Although substantial induction training was provided, it became very obvious that those with experience were seeking to dominate the direction and operations of the council, particularly Mayor Bombak. Mr Bombak, a man of limited skills or knowledge for his role, had a substantial ego to feed and a leadership style which did not foster a team approach for elected members but was more aligned to a dictatorship. He often berated individual councillors with whom he was unhappy and refused team building training, which I offered to council on more than one occasion. Mr Bombak also had limited knowledge of meeting procedure, which regularly caused problems at council meetings. This style of leadership soon bred factions on the council, disharmony amongst the staff and disenchantment within the community, especially among those who took an interest in council affairs. I think it is fair to say that his total term of office brought only turmoil to the council and caused a great deal of acrimony and stress for all who had to work with him.

For one who had to work closely with Mr Bombak, I was forced to take a very professional approach and ensure, where possible, that proper governance policy was followed. This was difficult at times, because he was a very determined person. I had some concerns at times as to his moral standards and ethics. Regardless of these concerns, I still felt that for the majority of my time working with him we had a satisfactory relationship, which deteriorated only when my contract was coming to an end. Mr Bombak and some other councillors were of the view that my contract provisions were too favourable for the position. When discussions on renewal were undertaken, it was seen as an opportunity to reduce the remuneration amount. A subcommittee consisting of Mayor Bombak, Councillor Carlos and Councillor Barnett was authorised by the city to negotiate an extension of my contract with me. The committee had trouble working together. Again, Mayor Bombak continually took matters into his own hands and failed to keep the other councillors informed of his actions. I am sure the other two councillors would confirm the ongoing problem. I had suggested that we review the position description and have the position re-evaluated by a Sydney-based professional firm, Mercer Cullen Egan Dell, which had worked with the council for many years. I had given my word that I would accept the result and suggested that council do likewise. Evaluations were received first from Mercer Cullen Egan Dell and then from the Hay Group Pty Ltd, which is a Melbourne-based firm to whom Mr Bombak spoke personally on a visit

to Melbourne. An approach was then made to the Salaries and Allowances Tribunal. All evaluated the position description higher than my existing package. These results were unacceptable to Mr Bombak, who even questioned the Salaries and Allowances Tribunal findings with Mr Brian Moore, then Executive Officer of the tribunal.

It was following these protracted negotiations and the obvious souring of my relationship with Mr Bombak that I withdrew my interest and there was talk of advertising for a new chief executive officer. The process was completely taken over by Mr Bombak, who sought meetings direct with the human resources manager, Mr Mark Loader. Mr Loader found these meetings distressing and reported his concerns to me, as CEO, and his executive manager, Mr Ray Fischer. He was advised to record all meetings in detail for his own protection. Mr Bombak had Mr Loader seek advice from solicitors Freehills on the need to advertise the CEO position. I was informed by Mr Loader that they had discovered a loophole in the Local Government Act which did not require the position to be advertised. I advised Mr Loader at the time that I did not agree with not advertising the position and questioned any benefit that could be gained from such action.

[11.20 am]

I also stated that a loophole may have been found but the intent of the Act was clear, in requiring the remuneration package and salary component to appear in the advertisement of senior positions. I direct the committee's attention to section 5.36(4) of the Local Government Act. A company, Management Recruiters Australia, was appointed by the council to undertake the recruitment process of a new CEO, and a selection committee was appointed. Management Recruiters Australia commenced research for likely candidates by direct telephone approach. All progress reports on the matter requiring the council's consideration were written by Mr Loader and presented direct to council. I became aware of the recruitment method when CEO colleagues from other States rang me and advised that they had been approached, and that they found the experience bizarre for the local government industry. In the remaining term of my contract, I did not get involved in the recruitment process, which was primarily handled by Mr Bombak, Mr Warren Reynolds of Management Recruiters Australia and Mr Mark Loader, human resource manager. I was aware that council authorised expenditure for Mr Reynolds and Mr Loader to undertake an extensive trip to the eastern States to interview candidates. I left the council's employment on 5 September 2001, and commenced as Chief Executive Officer of the City of Stirling on 7 January 2002.

Having read the evidence of the committee, held open to the public on Friday, 3 October 2003, I have noted a number of inaccuracies, and wish to comment on some of the specific issues. Firstly, I find it interesting that Mr Bombak stated that he welcomes changes to the Local Government Act, yet was happy to go against the intent of the Act in order to avoid advertising the position of the CEO. Mr Bombak also made comments about my contract renewal negotiations and performance review, to which I would like to respond. It was obviously a process of which Mr Bombak had no experience or knowledge. He saw it as his role, rather than one that the whole council should be involved in. Anne Lake, a well-respected human resource consultant, known in the local government industry as offering many councils advice and guidance through recruitment and review processes, was hired to assist the council. Ms Lake did express a great deal of concern at the time regarding her dealings with Mr Bombak for his manner and lack of professionalism. I am sure she would be more than happy to elaborate on her experience and the process she recommended and followed with the council. Mr Bombak also raised some concerns about what he termed a performance bonus. I believe he received legal advice at the time that clarified that it was not a bonus but a predetermined increment payment offered and included in my contract by the former City of Wanneroo, and worded by their lawyers of the day, Kott Gunning. As Mr Bombak admits, the whole council did approve the review, and it was only his tardiness to sign off the documentation that made it an unpleasant conclusion.

Mr Bombak raised the matter of e-mails being read. Mr Bombak had a laptop computer supplied by the council in his mayoral office, but to the best of my knowledge, it was not used by him. He dictated all communications through his personal assistant. The personal assistant was part of the council's intranet, and under the State Records Act any official communications would become part of the council's official records. This was explained to Mr Bombak. He did raise the matter at an audit committee, seeking an investigation by the council's external auditors into who was reading his e-mails. He even wanted to know whether the council's information technology staff could gain access when servicing the server that ran the Internet function. A councillor at the time, and also a member of the audit committee, Councillor Tanya Barnett, who was an information technology manager for the commonwealth solicitor's office, advised Mr Bombak that the system, as explained by staff, was perfectly normal, and asked Mr Bombak what he had to hide, as equipment supplied by the council, under adopted policy, should be confined to council business. Mr Bombak made reference to the mayoral office computer having a bounce-back system that allowed staff to read documents sent to the mayoral office. I am not sure what he means by the term "bounce-back", but surely these documents are part of the public record under legislation, if dealing with council business. Members of the inquiry would be aware that the Public Records Act is currently under review, proposing changes in the area dealing with communications by local government councillors, requiring all correspondence, including faxes, e-mails, meetings, and even certain phone conversations to be recorded and become part of council's public records.

To this day, I am not aware of any reasons for Mr Bombak to continue with what I term a personal vendetta against me, as he received dedicated professional service right to the end of my contract, even at times under very difficult circumstances. He was kept fully informed of all council activities on a daily basis. He is correct in stating that he personally made a verbal offer to me to renew my contract on the same conditions for a 12-month extension, which I refused. I did not believe it was correct for him to singly attempt to renew my contract. That should have been a decision for the whole council. I did not, however, later express any interest in the position, as reported, even though I had received a letter asking me to apply. I was already involved in discussions at that stage with future prospective employers. I did get memoranda and phone calls from both Mr Bombak and Mr Reynolds requesting me to put my response in writing, which I felt was unnecessary.

From a professional point of view, contrary to the apparent problems experienced with this appointment, this instance should not taint the industry, or impose unnecessary conditions on a process that has worked successfully for so many years in many local governments. From the information available, it appears that accepted human resource procedures have not been adhered to in this instance, which obviously had an unfortunate effect on the result. From my own experience with both the former City of Wanneroo and the City of Stirling, the recruitment, appointment and contract negotiations were undertaken in a truly professional manner, and properly ratified by the full councils involved. I would, however, urge the committee to recommend to the minister that the Local Government Act 1995 be amended to close the loophole that allows senior managers of local government to be appointed without the position being advertised. Thank you for the opportunity to appear before you today, and allowing me to present my point of view.

**The CHAIRMAN:** Thank you, Mr Delahaunty. I have a few questions on behalf of the committee. Some of the questions you have already referred to in part, and you may wish to comment further or to indicate that you have said all you wish to. Why did you not reapply for the position of chief executive officer at the City of Joondalup at the conclusion of your contract in 2001?

**Mr Delahaunty:** I went through a lengthy process with the committee. I believe that two members of that committee were making a definite attempt to negotiate a contract that we could all agree to, but I do not believe that Mayor Bombak was the slightest bit interested. I believe that the

relationship, for reasons unknown to me, had deteriorated to a stage at which I did not consider it was in my best interest to continue employment with the City of Joondalup.

**The CHAIRMAN:** Do you regard the current situation at the City of Joondalup as an extraordinary and isolated case, or do you believe that the same problems could arise in any local government in Western Australia?

**Mr Delahaunty:** I believe such problems obviously could arise, depending on the events and the responsibility accepted by the various stakeholders.

[11.30 am]

I do not believe in what I have read that normal practices have taken place in Joondalup. I certainly was concerned and could not understand what benefit whatsoever could be gained in not advertising the position. I feel that the council must be involved in a process like that. I also believe that if you hire skilled consultants to do a job for you, they should do a complete job.

**The CHAIRMAN:** What do you think of the practice adopted by the City of Joondalup of appointing a recruitment consultant to headhunt its CEOs rather than advertising the position more widely?

**Mr Delahaunty:** I think it is fair to say that private enterprise obviously headhunts certain people, and there are no problems there. We are a public organisation, and I think it should be advertising publicly. That is the intention of the Act. I think the idea of headhunting can still take place, even though advertising has taken place. You would end up with the best possible result there: if you want to tap people on the shoulder and invite them, you could do that. Also, you never know who might be out there who might be ready for a move or interested in the position you advertise. I think you restrict yourself if you do not advertise.

**The CHAIRMAN:** What would you regard as the essential attributes and skills of a chief executive officer of a large metropolitan local government? Do you think it would be possible to impose minimum qualifications by way of regulations that would satisfy these essential attributes and skills?

**Mr Delahaunty:** Mr Chairman, I find that a very interesting question. I have discussed it with my colleagues and there are even differing views among my peers. From a personal point of view, I think there could be a way in which you could state a generic situation in which you state a minimum qualification. It seems funny that we have people answerable to us who are required to have various qualifications - they are required for us to hire them. The CEO may sit over the top and may not necessarily have any academic qualifications. I think management qualifications are essential, and certainly a general knowledge of the law is important. People may come from various disciplines. Provided they have a base degree, if not a management degree, you could easily say that those who do not have a base management degree are required to undertake postgraduate studies, or it is preferred to have a postgraduate qualification that is management-specific. I think there are opportunities in that area to do that.

**The CHAIRMAN:** As an aside, Mr Delahaunty, what are your qualifications?

**Mr Delahaunty:** I have a post-graduate qualification.

**The CHAIRMAN:** Do you think the number and quality of applicants for positions as local government CEOs will decrease if their employment contracts are made public?

**Mr Delahaunty:** My answer is no. For the majority of situations, I certainly was of the opinion that they are generally open and public documents. Certainly, I have experienced cases where I even had ratepayers seek to read my contract. To be perfectly honest, I think it is pretty public when you are appointed, and I do not see any reason why it should not be a public document.

**The CHAIRMAN:** Other members of the committee have some questions. We have a copy of your opening statement that you read. We also have in front of us another one-page document. Do you wish to refer to it at this stage or -

**Mr Delahaunty:** Yes. Thank you, Mr Chairman. I submit as evidence a memo dated 31 August 2001, in which I saw fit -

**Hon KEN TRAVERS:** Was that 31 or 13 August 2001?

**Mr Delahaunty:** It was 13 August 2001 - sorry. It was to the then Mayor of the City of Joondalup, Mayor Bombak. It dealt with my concerns about the role he was playing in the council's administration. I think it illustrates those matter. I submit that as evidence pointing out to the committee the concern I had with the environment in which we were working.

**The CHAIRMAN:** We now have questions from members.

**Hon ED DERMER:** Mr Delahaunty, I would like to take you back to the stage where Mr Loader was human resources officer of the council and he and Mayor Bombak were working together on the process of finding your replacement. You said, as I recollect, that Mr Loader was finding the experience distressing. Can you tell us any more of what was the cause of Mr Loader's distress in that process?

**Mr Delahaunty:** I think it is fair for me to say, through the Chair, that Mr Loader was fairly loyal to me and had worked closely with me. He felt that the situation that arose with the negotiations of my contract and the role that Mayor Bombak had played had caused him some concern. To be then placed in the situation of having to be the main instigator to replace me was one with which he felt difficulty. He also felt difficulty with the dominance of the individual in issuing orders to him.

**Hon ED DERMER:** Was that in terms of Mr Loader's requirement to take orders from Mr Bombak?

**Mr Delahaunty:** Sorry - no, in terms of Mr Bombak's attitude and the way he dealt with Mr Loader.

**Hon ED DERMER:** So that was in terms of Mr Bombak's issuing orders to Mr Loader.

**Mr Delahaunty:** Yes.

**Hon ED DERMER:** Would the mayor normally be seen to be authorised to give orders in that sense to the human resources manager?

**Mr Delahaunty:** No; it was not normal. Although Mr Loader was still reporting to me on a day-to-day basis, it was considered at that time that I may have a conflict of interest as I had not been discounted as a possible applicant for the position. Therefore, it was reasonable that it was kept at arm's distance. For those reasons, I accepted that role.

**Hon ED DERMER:** With the continuing CEO, the human resources manager normally would report to the CEO - is that correct?

**Mr Delahaunty:** That is correct. Except for a CEO position, all other positions on a local government staff are appointed by the CEO. This is the only time that elected members have a role to play with the appointment of a position.

**Hon ED DERMER:** In those circumstances that you were leaving, and the other situation surrounding your departure, it was seen that the normal reporting of the human resources manager to the CEO was perhaps inappropriate in the circumstances - is that what you are saying?

**Mr Delahaunty:** It was only when dealing with this subject. For all other reasons, he reported to me. Even on this subject, he was keeping me informed and abreast of what was happening. As I mentioned in my submission, even reports he was writing were still passing through my office.

**Hon ED DERMER:** We have established it was not normal to have the human resources manager taking direct order from the mayor - was it appropriate?

**Mr Delahaunty:** In the circumstances, if you consider that this could arise for various reasons at local governments, it is normal that the president or mayor of the local government has a role to play in representing the council in getting a replacement CEO.

**Hon ED DERMER:** Does that involve giving orders to the human resource manager in that context?

**Mr Delahaunty:** In normal circumstances - one would think also in this situation - where a consultant was appointed, it would normally be the mayor and the elected appointment committee working with the consultant. In that situation, the human resources manager would have a role in supplying relevant information to that forum.

**Hon ED DERMER:** Do you think that the then mayor's conduct with respect to working with Mr Loader was appropriate?

**Mr Delahaunty:** It concerned me at the time, and certainly it concerned me that Mr Loader felt uncomfortable about it.

**Hon ED DERMER:** You made reference in your statement to the high-quality staff in the City of Joondalup. I was not 100 per cent clear of the time you were talking about in that reference to the propensity of high-quality staff?

**Mr Delahaunty:** It was certainly during my time. It is fair for me to say, as I mentioned, that it won the Leadership in Best Practice Award in 2000. I was CEO at that time. The comments made by the independent judges who went right through the building and questioned various staff members was that they were most impressed with the standard and commitment of the staff.

[11.40 am]

**Hon ED DERMER:** The staff that received that commendation, are they still with the City of Joondalup or have large numbers of them left?

**Mr Delahaunty:** As Mr Turkington alluded, some of the senior members have left but there is still a certain number of the staff who are still there.

**Hon ED DERMER:** The high-quality staff you were referring to.

**Mr Delahaunty:** Yes, I believe.

**Hon KEN TRAVERS:** I want to follow on from that point. If you had a conflict then, surely the other senior directors in the organisation would be potential candidates?

**Mr Delahaunty:** That is correct.

**Hon KEN TRAVERS:** On that basis, it strikes me that one of the areas we would look at is the need for councils, when appointing a CEO and taking advice from an outside organisation, to ensure that that organisation had a good understanding of the Local Government Act. Would that be a good process?

**Mr Delahaunty:** Yes, I would agree with that.

**Hon KEN TRAVERS:** Mr Loader is only a fairly middle-level manager. Is that a fair comment?

**Mr Delahaunty:** Yes, that is true. Although a human resources manager is considered very important in the industry, it places a human resources manager in that role in a difficult position because the person selected will be his future boss.

**Hon KEN TRAVERS:** I also wanted to just touch on a couple of things. You mentioned Freehills being used to provide advice. Was there ever any approval given for that that you are aware of?



**Mr Delahaunty:** My understanding is that it was undertaken through the HR manager. I heard the evidence and questions earlier. Although a council selects a panel of legal companies from which it may seek advice, it is not unusual for specific reasons - that a particular legal company has a conflict of interest - that it may have to go outside that on isolated occasions. I believe that in this instance - I am not sure where the information came from - Mayor Bombak had been given information that indicated Scott Ellis, an industrial lawyer at Freehills, was a specialist in the field. Suddenly, advice was given over the negotiations of my contract. I assumed that was authorised by the HR manager.

**Hon KEN TRAVERS:** Right. It was normal for the HR manager to have that authority?

**Mr Delahaunty:** That is correct.

**Hon KEN TRAVERS:** You make the comment that the Mercer Cullen Egan Dell and the Salaries and Allowances Tribunal's comparison of your salary came out higher than your then salary. What was your total remuneration package at the time?

**Mr Delahaunty:** It was in the vicinity of just under \$200 000.

**Hon KEN TRAVERS:** Right. The advice we have received was that the recommendation from the Salaries and Allowances Tribunal was around \$180 000.

**Mr Delahaunty:** I read that advice. The figure quoted in the salary base was misunderstood by the council at the time. I think it was queried and that Mr Brian Moore had to clarify that. He said that if you appointed a new CEO, this is the salary package but, in actual fact, it was an increased salary package if it was a renewal situation and the CEO had at least three years experience in the role previously. That document is available and I am more than happy to make it available to the committee to read. Mr Moore sought the opportunity to talk to the committee negotiating with me to clarify the issue because it did upset him at the time. I arranged for him to come to a meeting but Mr Bombak rang Mr Moore and said he did not need him at the meeting.

**Hon KEN TRAVERS:** Apart from being a CEO in that organisation, if a person is a CEO in an equivalent organisation, the salary would be \$200 000 or so rather than \$180 000?

**Mr Delahaunty:** The remuneration package will vary from local government to local government. When I mention Mercer Cullen Egan Dell, it is a respected company based in Sydney. It is one of the only companies in Australia that deals with exclusive surveys in local governments. We continue to use them. They used to be known as a company called OCR, and were commonly known. The funny part about this is when the Salaries and Allowances Tribunal sought information, Mercer Cullen Egan Dell is a firm that it uses regularly for sizing in its area. A position description needs to give details of the main points of a position. That can then be fed through a software package to give a range, from an Australia-wide point of view, as to the pegging of the remuneration package.

**Hon KEN TRAVERS:** In terms of the requirement to advertise, would it be your view that a range rather than a specific figure would be a better way of advertising positions?

**Mr Delahaunty:** Yes. That is the case in certain times. The conditions to advertise were imposed under the Local Government Act and I do not know whether I condone or agree with the advertising of the figure. It is all right to quote a figure because that is the starting point. So often I have heard of an advert that might go out stating the salary and remuneration package but, of course, once you go through the process of negotiations, it could be quite different when you come to the appointment and contract stage.

**Hon KEN TRAVERS:** I understand that but, in terms of the protection of the public interest and the money that will be spent, surely there is benefit in having a top figure as well. Lots of executives earning \$350 000 a year could apply. It is a matter of making a judgment whether or not

the community will get enough value. I think you need to make that decision before, rather than after, the applicants have come forward.

**Mr Delahaunty:** Yes, I think that is fair comment.

**Hon KEN TRAVERS:** What was your reaction when you found out that the new CEO was employed on \$225 000?

**Mr Delahaunty:** I would have to say that I was rather shocked and found it difficult to understand, particularly with the lengthy evaluations that we went through with my own negotiations. The Hay group, which is based in Melbourne, do general surveys across all industries. They are known generally as high in their estimations. Even they did not come up with that figure. I must admit, I was surprised. Again, it depended on the negotiations that happened with the individual at the time, which I was not privy to.

**Hon KEN TRAVERS:** Do you recall how, with your contract with the City of Joondalup, the annual performance review was required to be conducted? Was it specified in the contract how it would be conducted?

**Mr Delahaunty:** Yes, the contract with Wanneroo is worth mentioning because I think the council of the day elected a committee. It went through the process very thoroughly with me at the time. They appointed their solicitors, which I mentioned was Kott Gunning, and I had my solicitor advising at the same time. We constructed a contract, which we all agreed to. At their suggestion, one area of negotiation with the contract was, as I was moving from the City of Perth to Wanneroo, they indicated that I was not familiar with the area and the workings of the council and, therefore, for them to immediately put me at the top of the band they had been given by OCR - in those days - they felt they would like to negotiate so there was an increment situation over the years of the contract as I became more familiar with the role. I accepted that. That is why it was an increment payment in that band to move as I became more proficient in the role. It was not a bonus payment. That is the way it was constructed.

**Hon KEN TRAVERS:** Was there an annual performance review requirement in the contract?

**Mr Delahaunty:** There was. The Local Government Act requires every officer employed by any local government to have an annual performance review as a minimum.

**Hon KEN TRAVERS:** How was that constructed in the old contract? What was the process for that?

**Mr Delahaunty:** There were laid down performance indicators, which would guide any review committee. As you can appreciate, a council may change from time to time as members go off council and new members come on. It was there as a document as an appendix to the contract to guide anyone who reviews the contract. That was available to the councillors of the City of Wanneroo and then the commissioners. The commissioners undertook the evaluation of my contract using the same performance indicators; likewise the new councillors at the City of Joondalup used the same.

[11.50 am]

**Hon KEN TRAVERS:** However, did your contract specify that that review be done by the whole council, by a committee of the council or by an individual? Did it specify who should conduct the review and how it should be conducted?

**Mr Delahaunty:** I have to refresh my memory by looking at a contract. I think it suggested that a committee should be formed.

**Hon KEN TRAVERS:** But it did not specify who should be on that committee?

**Mr Delahaunty:** No, it did not.

**Hon KEN TRAVERS:** It would have then been up to the council to formally appoint. Was it then your view that that committee should then involve all councillors?

**Mr Delahaunty:** The acceptable way in which it is normally done is that the committee do all the preliminary work and then a circular go out to all councillors to allow them to make comments. They would normally put their comments to the committee and the committee would collate that together as an overall review document. That document is then redistributed, which includes being sent to the chief executive officer, and then there is normally a convened meeting of all the council with the CEO that allows the CEO to respond to comments made in the review.

**Hon JOHN FISCHER:** First, with regard to a question that I posed in an earlier hearing, in your submission you mentioned that you did not believe it was correct that the renewal of your contract was done on a singular attempt and that it should have been a decision of the whole council. In view of the legislation that we will be recommending, can you reiterate exactly what documentation you believe should be presented to councillors?

Secondly, in your submission, what were the bizarre experiences referred to by your CEO colleagues in the recruitment process? You noted that you became aware of the recruitment method when colleagues from other States rang you to advise that they had been approached and had found the experience bizarre for the local government industry.

**Mr Delahaunty:** With regard to the first question, the renewal of a contract normally stipulates that the person concerned needs to inform the council about 12 months out from the completion of the contract whether he wishes to open negotiations on renewal. It normally stipulates the period within which those negotiations should take place. The average, in most cases, is that they should be concluded in not less than six months prior to the conclusion of the contract. In other words, if the person wants to move on, they can then make arrangements to move on. Likewise, the council may need to recruit another person. It then has the possibility of an overlap period unless disruption is caused. That means that at the last review of a contract, with which the full council is involved, the CEO should also be faced with the question of whether he wishes to agree to negotiating for an extension of contract. I believe that at the City of Joondalup that situation was discussed by the council and it appointed a committee to discuss those renewal and negotiations with me. I hope that sufficiently -

**Hon JOHN FISCHER:** I was really getting at the accountability of the council through its councillors and professional staff employed there when it came to reviewing the documents of people applying for the job in the position as CEO outside of the other Local Government Act, which I believe covers other people employed there. I would like to know whether you believe that all the documentation pertaining to a new position should have been presented to councillors. Obviously, from the information given to this committee, there is a distinct possibility that some people were not shown anything at all while others were shown the documentation.

**Mr Delahaunty:** My view is that all councillors must get a copy of the documentation. That is the only way they can accept responsibility. For instance, in my practice as a CEO, I have senior officers appointed under me by my various directors. I ask that they supply me with a copy of the curriculum vitae with their recommendation on the appointment because then I can become familiar with the applicant's background. I still have to deal with them from time to time but it is important, whether I am a councillor or a CEO, for me to know what the person's qualifications and background are because it may help me form a relationship with that person, which is most important. Under the Local Government Act, the legal entity is the local government. The only authorisation to make a decision is the local government when it sits together in the council chamber. The only variation to that is when it does a delegation and it must do a delegation by absolute majority, which may apply to a committee in certain circumstance or to individuals. However, I believe that the best way is for the process to be open and that all councillors, if a CEO is being employed, must understand the person they have employed.

With regard to the word “bizarre” - I apologise for the terminology - I received at least three phone calls about that and I have had various discussions with individuals since because in my role as national president I have a fair bit to do with other States. These people were rung on their mobile phones by an anonymous person and asked whether they were interested in a position that was vacant in Western Australia and given a very brief description of it. They felt it was a very ad hoc way of approach. They were also concerned how those individuals might have got their contact details.

**Hon DEE MARGETTS:** I apologise if this question has been asked before. Given the time you spent at Joondalup, can you give some idea of your background of qualifications? What qualifications did you use most often or use occasionally but you were glad you had that kind of qualification or background? What were the most useful qualifications you used in doing that job?

**Mr Delahaunty:** I went to Curtin University of Technology and gained a postgraduate qualification. During that course I mixed with all sorts of business representatives. I found it stimulating and it taught me new trends on management techniques at the time of managing local government. I have an interest in Local Government Managers Australia because a part of its role is continuing professional development. Like any business, we are changing all the time and it is most important to keep abreast with techniques, and we are continually involved with those. The major areas are things like industrial law. General law overall is most important. We have to deal with many Acts of Parliament - not just the Local Government Act. There is a plethora of government legislation by which we must abide on a federal and a state level and it is important that we are able to understand and read the law. When it all boils down, the new Local Government Act 1995 placed the onus on the CEO for all areas. The old Local Government Act dispersed some of those responsibilities by naming other officers. However, the new Act requires them to be far more conversant right across the board. It also includes such things as planning and planning law. It is important that a CEO of a local government has a good general knowledge in those areas because although they may have specialised officers working under them, they must understand the disciplines that are working for them.

[12 noon]

**Hon DEE MARGETTS:** To follow that up, you have some basic qualifications in business and planning as an undergraduate -

**Mr Delahaunty:** Postgraduate.

**Hon DEE MARGETTS:** But you have also done -

**Mr Delahaunty:** Yes, I have local government specific qualifications.

**Hon DEE MARGETTS:** The committee has been asked to make recommendations to councils about how they can employ the right person for the position of CEO. Do you have any suggestions about how a council the size of Joondalup can find the best CEO?

**Mr Delahaunty:** A question was asked earlier about minimum qualifications. Earlier I said that I do not necessarily believe that a potential CEO of a large local authority must have graduate qualifications in management, because the CEO might come from various disciplines and be quite skilled. However, it might be advisable for those who come from certain areas to have postgraduate qualifications in management so that they have those skills. Management skills are the most important skills with which CEOs must be conversant.

**The CHAIRMAN:** You have been around senior management in local government for a long time. Have you ever been approached by a consultant or a recruiting agency? In other words, have you been headhunted?

**Mr Delahaunty:** Yes, but not for a local government position.

**The CHAIRMAN:** I am not asking for details.

**Mr Delahaunty:** I have been approached by other councils. However, consultants have approached me for positions, but not for a position in local government.

**The CHAIRMAN:** You finished work at the City of Joondalup in September 2002. The current CEO, Denis Smith, started soon afterwards. Was there a hand over period between you and Mr Smith in any way, shape or form at the expiration of your employment? He is now a colleague of yours in a sense that he is a CEO. At that stage, did you know Denis Smith and had you formed a view about his management style?

**Mr Delahaunty:** The quick answer to that question is no. I had no idea who Denis Smith was. I did not even know about any of his background information until it started to surface. I have had dealings with Mr Smith since and I have found him to be a competent person. We have a working relationship whereby we must work together on a number of across-the-boundary issues, and I have no problems with that.

**The CHAIRMAN:** You are obviously a keen observer of the City of Joondalup and other areas of local government. Have you formed a view or made any assessment about the job Mr Smith has done in the City of Joondalup since he has been employed there?

**Mr Delahaunty:** I am not in a position to do that. I am not aware of the day-to-day situation. I am not in a position to make those types of comments.

**The CHAIRMAN:** I refer to the committee's role of making some recommendations to Parliament to change or assess the Local Government Act. Do you think the Department of Local Government and Regional Development could or should have intervened in the events that happened at the City of Joondalup?

**Mr Delahaunty:** I was astounded that it had not. I agree with previous evidence given by Mr Turkington. Considering the minister's powers under the Local Government Act - particularly part 8 - I cannot understand why he did not act. Even the executive director of the department has investigation skills. Therefore, I cannot understand why it did not request documents or undertake an investigation, which it could have done. That is my view.

**The CHAIRMAN:** At the outset of this inquiry I asked the minister similar questions regarding the Act. My reading of the Act is that the minister and/or the department have the powers but did not use them. Is there a need to change the provisions in the Act or are the relevant powers already in the Act?

**Mr Delahaunty:** I agree with that. I read the evidence given by Mr Douglas, who had a similar view. I agree that the legislation provides adequate avenues and I am not sure why they were not used. The State Government's suggestion regarding the possibility of setting up a disciplinary tribunal for local government has a great deal of merit. One of the anomalies in the past has been that under the Act if a minister dismissed a council, all the councillors had to be dismissed. The innocent councillors were dismissed with the other councillors. In some instances, that has been considered harsh. One of the benefits of a disciplinary tribunal would be that if there was a rogue councillor or problems were confined to a specific area, they could be dealt with quickly and the innocent would be given far more protection than under the provisions of the current Act.

**The CHAIRMAN:** Does the Western Australian Local Government Association have an increased role in these types of events as they emerge? Should WALGA be more proactive? Should it draft some guidelines for the appointment of CEOs and other issues involving local government?

**Mr Delahaunty:** I have a lot to do with WALGA. Over the years I have worked on various committees with it. I heard a question Mr Fischer asked earlier. WALGA now supplies recruitment and other services in that area to local government. In my view, that is not right because I believe WALGA has a conflict of interest. It solicits membership from the councils and its members pay subscriptions to WALGA. That might tarnish its ability to be fully independent at times. There are adequate consultants in the private sector. Recruitment and some of the human resources practices

about which we talk are not specialised to local government; they are generic in any industry. They are best practice principles in industrial relations skills. Private companies can do the job adequately and advise councils correctly.

**Hon ED DERMER:** I refer to your opening statement in which you said that at times you had concerns about the former mayor's moral standards and ethics. What was the cause of that concern?

**Mr Delahaunty:** It is important that a CEO liaise with the mayor of the council. The CEO must do that on a daily basis and it is set out under the Act. Because Mayor Bombak did not have the day-to-day demands of employment elsewhere, he spent a lot of time in the office. The mayor and the CEO had discussions on a daily basis. I was concerned in a number of areas. I work rather well with the mayor of the council with which I am currently employed. I am sure I told Mayor Bombak of a pet saying of mine, which is "you look after your flock and I'll look after mine." The mayor is responsible for the elected members of a council. He is responsible for their morale and for the strategic direction in which the team works together. The CEO has a similar role regarding the staff. When either party has a problem that crosses the boundary, it must be drawn to one another's attention and it must be dealt with properly. It became obvious soon after the council was elected that Mayor Bombak dealt with some councillors improperly and he did not foster the opportunity for the council to work together. I felt uncomfortable with some conversations I had with Mayor Bombak. I felt that the way in which he expressed his views to individuals, and in some cases council members - even outside the council - were not of a high standard.

[12.10 pm]

**Hon ED DERMER:** I am trying to gauge what you meant when you said "moral and ethical standards".

**Mr Delahaunty:** I tried to explain it then. I felt uncomfortable with comments made in some of the discussions about individuals and some of the suggested ways of solving some of the problems that council was having at the time. They were very personal.

**Hon ED DERMER:** When chief executive officers have their contract reviewed, do you think it is appropriate for the chief executive officer to be involved at all in deciding which councillors or other people are involved in reviewing their own contracts?

**Mr Delahaunty:** No, I do not

**Hon KEN TRAVERS:** One of the reasons for your attendance at the hearing today was to refute some comments made about the reading of e-mails. Did you or any of your staff ever regularly read the e-mails of the former mayor?

**Mr Delahaunty:** The short answer is no. We reported that to the audit committee at the time. The number of e-mails sent in and out and around the organisation on a given day is substantial. If anyone had time to read them, they would not be doing their normal job. There were times when e-mails that dealt with council records may have been discussed by staff because they had to deal with them. I can assure you that there was no deliberate attempt to read Mr Bombak's e-mails.

**Hon KEN TRAVERS:** When he appeared before the committee, Mr Bombak claimed in session 6 of Friday 3 October that he found that the mayor's office computer had a bounce-back system, which meant that a staff member was easily able to read documents that were sent to the mayoral office. Do you understand what that might be?

**Mr Delahaunty:** I think I said in my comments that I was not familiar with or could not understand what he meant by a "bounce-back" system. I described the intranet. As with most businesses, it is an internal Internet network within a business. In this day and age, it is most important to capture any records for audit trails. They might be faxes or e-mails because if ever an investigation is held, they are an important thread to understanding a process. They must go onto a

public record. The mayor's personal assistant used the intranet system. She forwarded information backwards and forwards that was put on the council's official records.

**Hon KEN TRAVERS:** Was that all explained to Mr Bombak when you discussed this matter at the audit committee?

**Mr Delahaunty:** I think Mr Bombak mentioned the audit committee and what explanations were given. We ended up going through the third degree on the situation and questioned staff involved with IT. I felt very uncomfortable at the thought of staff taking the time to look at e-mails that were not council business. If they were, they probably should not have been used on the council system.

**Hon KEN TRAVERS:** I want to be clear that it was explained to Mr Bombak at the audit committee that e-mails received by him were going to another destination for the purposes of keeping public records?

**Mr Delahaunty:** Yes, they were.

**Hon KEN TRAVERS:** Was he well aware that e-mails going to him were going to another point in the system for recording?

**Mr Delahaunty:** We presented details of the requirements of the public records Act.

**Hon KEN TRAVERS:** In the documentation you provided this morning, you referred to a range of issues that were raised. One was "incurred charges to the city with no authorisation". Can you provide some examples of the sorts of things you were talking about?

**Mr Delahaunty:** No, I am not able to come up with details at the moment. At the time I became gravely concerned about operations at the City of Joondalup, Mayor Bombak was regularly summoning staff to meetings in his office, of which I was unaware. Staff were reporting to me that meetings were being held. During those meetings, instructions were issued for people to do things that incurred costs. In my opinion, they were unauthorised costs. As I said before, the Local Government Act clearly provides that outside council meetings, the mayor, the president or elected members have no power to make decisions on behalf of the council.

**Hon KEN TRAVERS:** You claimed today that you have a range of qualifications. Are you happy to provide the committee or members of the public with copies of your qualifications to verify that?

**Mr Delahaunty:** Yes.

**Hon KEN TRAVERS:** Are you happy for your current contract to be provided?

**Mr Delahaunty:** Yes.

**The CHAIRMAN:** We have covered a fair amount of ground. Is there anything you would like to say in conclusion?

**Mr Delahaunty:** Yes. It is unfortunate that this sort of evidence has been given today because it appears that the majority of it is outside the scope of this committee and is probably getting away from the committee's major objectives. Regardless of the reason the information has been introduced, all I can say is that it was a very stressful time during which I did not enjoy my career in any way whatsoever. Since leaving Joondalup, I have had very little dealings with the city. I have not been back to meetings or any receptions to which I have been invited, mainly on the grounds that I wanted to leave it behind me. I have been forced to come forward today only because of the comments made in earlier evidence.

**The CHAIRMAN:** We have adopted a fairly flexible approach to our terms of reference because issues have come from here and there that are pertinent in some way. We thank you very much for your evidence today; you have been very helpful.

**Committee adjourned at 12.17 pm**