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Minutes of the Ordinary Meeting of the Yalgoo Shire Council,
held in the Council Chambers, 37 Gibbons Street, Yalgoo,
on Thursday 28 January 2010, commencing at 11.04 am.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President declared the Ordinary Meeting of Council open at 11.04am.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS	Cr TK Iturbide, Shire President Cr EC Rowe, Deputy President Cr MR Valenzuela (from 11.10am) Cr LJ Terry
STAFF	Mr N Mitchell, Chief Executive Officer Ms VJ Rowe, Deputy Chief Executive Officer (from 11.06am) Mr K Hastie Ms H Duffey
OBSERVERS	None
LEAVE OF ABSENCE	None
APOLOGIES	Cr L Hodder Cr MJ Forster

3. DISCLOSURE OF INTERESTS

Disclosures of Interest made prior to the Meeting –

Cr EC Rowe

11.2.2 Yalgoo Water Protection Plan
Disclosure of Proximity Interest

Mr K Hastie

11.0.1 CEO Recruitment Matters
Disclosure of Financial Interest

Ms H Duffey

8.1 Ordinary Council Meeting Minutes
Disclosure of Financial Interest

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO QUESTIONS TAKEN ON NOTICE

None

4.2 QUESTIONS WITHOUT NOTICE

None

5. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Item 11.0.1 CEO Recruitment Matters
Item 14.1 Reserve 48915 – Complaint

6. APPLICATIONS FOR LEAVE OF ABSENCE

None

7. ANNOUNCEMENTS CONCERNING MEETINGS ATTENDED

7.1 PRESIDENT

None

7.2 COUNCILLORS

None

8. CONFIRMATION OF MINUTES

8.1 ORDINARY COUNCIL MEETING

NOTE Ms H Duffey declared a financial interest in this item, being an Acting Deputy CEO.

BACKGROUND

Minutes of the Ordinary Meeting of Council have previously been circulated to all Councillors.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0101 Confirmation of Ordinary Meeting

Moved Cr EC Rowe, Seconded Cr TK Iturbide

That the Minutes of the Ordinary Council Meeting held on 15 December 2009 be confirmed, subject to the following correction –

- **p.35, Resolution C2009-1221 – wording of second part should read “with the following package, pro-rata”.**

Motion put and carried 3/0

8.2 SPECIAL COUNCIL MEETINGS

None

9. MINUTES OF COMMITTEE MEETINGS

None

Cr MR Valenzuela entered the meeting at 11.10am.

Cr MR Valenzuela

- 11.2.1 Water Playground
Disclosure of Proximity Interest

- 11.2.5 Lot 73 & 74 Gibbons & Weekes Street
Disclosure of Financial Interest

- 11.4.9 Post Office Fixtures
Disclosure of Financial Interest

10. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

10.1 Mining and Minerals Group Golden Grove

- 11.30am Signing of Memorandum of Understanding
 - Mr Nick Mosenthal (General Manager)
 - Mr Scott Young (Environment and Community Manager)
 - Mr Craig Turley (Community Relations Advisor)

C2010-0102 Procedural Motion

Moved Cr EC Rowe, Seconded Cr LJ Terry

That Item 10.1 be dealt with after items 11.2.1, 11.2.2, 11.2.3 and 11.2.4.

Motion put and carried 4/0

11.2 DEVELOPMENT

11.2.1 WATER PLAYGROUND – Concept floor design

NOTE Cr Mr Valenzuela declared a proximity interest in this item and left the meeting at 11.15am.

File:

Author: Niel Mitchell, CEO

Interest Declared: No interest to disclose

Date: 21 January 2010

Attachments: p.6 Concept design for Water playground floor

MATTER FOR CONSIDERATION

To consider a concept for design of the water playground floor.

BACKGROUND

Tenders for the design and construction of the water playground have been called, and close on 9 February 2010 at the offices of Greenfield Technical Services

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Nigel Goode, Greenfield Technical Services

Helen Ansell, artist

Yalgoo Primary School

COMMENT

The tender closes on 9 February 2010 and GTS hope to be able to present a recommendation as a late item to the February meeting. However, as there will be a lot of work to prepare the final item for Council consideration, it may be the March 2010 meeting before a decision can be made.

A decision at the March meeting should not cause any real difficulty, as the contract call for a 92 day period from acceptance of tender to completion. A decision in March should therefore still result in completion prior to 30 June 2010.

The facility is being funded mostly through the Country Local Government Fund Year 1 grant, which has already been received. The CLGF Budget funds the basic facility (floor, plant room and equipment, water play equipment etc). Application has been made to CSRFF for an additional grant of \$140,000 approx. to fund landscaping, lighting, shade, seating etc.

In the process of consultation, Helen Ansell, an artist familiar with Yalgoo and to many residents through her work with TAFE, was contracted to assist with floor design, layout of spray equipment etc. She and Nigel Goode of GTS, myself, the Works Foreman and others met with the School children in early December regarding the type of equipment they would like to have there, as well as floor design.

The proposed design incorporates exact replicas of components of the drawings submitted by the children.

The design would be done by a thin layer of colour tinted 80mpa concrete laid on the floor, in the base colour sections, and then the black markings laid on the top. Being tinted concrete, fading should be minimal, and as it is in 80mpa, it will be significantly more wear resistant and harder than usual concrete used.

The colours initially suggested are for quite a deep blue, and a fairly heavy red, which overall, create an impression of being quite dark. It is suggested that lighter colours be used so that the perception is one more of openness etc. Lighter colours will also assist with ensuring cleanliness, as any mess or rubbish should be able to be more easily seen.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0103 Water Playground

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the concept water playground floor design as presented, be approved, noting that Council's preference is for lighter colours rather than dark/heavy colours.

Motion put and carried 3/0

Cr MR Valenzuela returned in the meeting at 11.16am.

11.2.2 YALGOO WATER PROTECTION PLAN

NOTE Cr EC Rowe declared a proximity interest in this item and left the meeting at 11.16am.

File:

Author: Niel Mitchell, CEO

Interest Declared: No interest to disclose

Date: 21 January 2010

Attachments: p.7 Current water reserve area and identified potential borefield

MATTER FOR CONSIDERATION

To note the identification of possible expansion of protected area for Yalgoo drinking water

BACKGROUND

The Yalgoo Water Reserve is a protected area in the Yalgoo Local Planning Scheme, and the possible significant expansion of it has the potential to impact on Shire works and any town expansion northwards.

There is also a possible very significant benefit, in that if the water resource is proven out, expansion of the town is less likely to be restricted.

STATUTORY ENVIRONMENT

Country Areas Water Supply Act 1947

WAPC Statement of Planning Policy 2.7 – Public Drinking Water Source Policy

Yalgoo Local Planning Scheme

Yalgoo Local Planning Strategy

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Bill Atyeo, Environmental Health Officer

COMMENT

Preliminary advice has been received from the Dept of Water of amendment to the water reserve north of the town that provides drinking water to Yalgoo. From the maps, it appears that the area could be increased 10-fold.

The plans provided are not the final plans, which will be advised to Council in the coming months.

At one level, the identification of the greatly increased resource may impose limitations –

- potentially on some roadworks, although unlikely
- on expansion of the town northwards

but also may have the effect of eliminating a potential limitation on expansion.

The boundary closest to the town runs along the northeast boundary of Lot 185 (under MOU to Ferrowest) and Lot 217 (Shire) both of which have been identified as potential high density accommodation for mining companies, then northwards along the North Road.

A change has proposed that instead of running along the North Road, the boundary of the Reserve would continue north west along the power station boundary, in a gradual curve to the water storage tank on the lookout hill. This extension may in time restrict any light industrial development, which this area has been identified as being appropriate for.

Given that Dept of Mines and Petroleum has advised that they will oppose any westward expansion of the town due to the current mine lease, but also it is presumed due to the risk of cyanide residue in the old State Battery tailings, the only possible residential expansion of town is therefore the area east of Campbell Street.

While this is unlikely to be a problem in the near future, the Local Planning Strategy, and the Local Planning Scheme No.2 (once approved by WA Planning Commission) will both definitely need to be amended to reflect the amended area for the water reserve, and the future limitations on expansion.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0104 Yalgoo Water Protection Plan

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That the advice of the Dept of Water concerning the probably increase in the Yalgoo Drinking Water Reserve be noted.

Motion put and carried 3/0

*Mr N Mitchell left the meeting at 11.20am and returned at 11.20am.
Cr EC Rowe returned in the meeting at 11.20am.*

11.2.3 LOT 68 GIBBONS ST – Relocation of Units

File:
Author: Niel Mitchell, CEO
Interest Declared: Person whose appointment is being revoked
Date: 21 January 2010
Separate: p.11 proposed layout of Lot 68

MATTER FOR CONSIDERATION

To approve the layout of relocated units on Lot 68 Gibbons Street

BACKGROUND

The time is approaching when the units are likely to be relocated, subject to timing of other building works.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

As per budget

CONSULTATION

Nigel Goode, Greenfield Technical Services

Violet Rowe, Deputy CEO

Bill Atyeo, Environmental Health Officer

COMMENT

The timing of these works will be rather critical, as they will not be able to be relocated without provision being made for accommodation of the people currently in residence, completion of maintenance on two houses, and the readiness for occupancy of the new house at the caravan park.

In addition, some works do need to be carried out prior, and have been arranged already.

Works done or about to be done –

- preparation of pads – already done for the new Health Centre and caravan park house
- trenches for power, water, phone – in conjunction with those needed for the caravan park house, water playground, new Health Centre and Fire Brigade Shed / St Johns Ambulance Sub-centre
- rockbreaker arranged for 2 February to do septic tanks and leach drains for both units – and the same work for septic and leach drains also for the new Health Centre, caravan park house, and excavation for batteries and poles for the solar power entry lights.

The proposed layout –

- allows for no work to be done on the existing laneways, as although these are to be closed, the matter is still not quite finalised
- the shed for 68B will therefore not be built until the laneway is incorporated into Lot 68
- access for a car to the back yard for both units
- provision for a single load transportable extension to be made to the rear of both units, should Council decide to pursue this further
- reasonable separation between the two units
- 68A to be set slightly further back on the block to reduce the similarity of design, and incorporate some individuality for each unit. 68B can't be set further back without preventing access to the rear of the block if an extension is added, or the shed is built to the side of the unit, rather than the back
- although 68A is set back further, it is considered there is still sufficient room for a truck to get in with an extension (to be confirmed)

The other decision to be made is in relation to which units are to be relocated. Unit 18A on the corner of Shamrock and Stanley Streets (currently occupied by Bob Richardson) is a definite, both as it the most accessible, but also due to subsidence issues reported in the past caused by a natural ground water source.

The second unit to be relocated would be either Unit 19A Stanley Street (Richard Hall) or Unit 18B Shamrock Street (Brad Hodder and Sirina Simpson).

In discussion with the EHO it was suggested that 18B is relocated, rather than 19A as originally intended. His reasons for this, are –

- we have had consistent problems with the ATUs servicing the 6 units. if 18B is relocated, the whole of the front on the block from the ATU compound to Stanley St could be used to install leach drains, avoiding the additional costs and complications of having to cross a public laneway, to install them in a public park
- from an amenity point of view, it would be preferable to retain Unit 19A.

Both units have identical floor plan, so this is not a factor.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the proposed layout of Lot 68 as presented be approved.

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0105 Lot 68 Gibbons Street – Relocation of Units

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the units to be relocated to Lot 68 Gibbons Street, be Units 18A and 18B Shamrock Street.

Motion put and carried 4/0

11.2.4 OLD RAILWAY STATION – Works assessment

File:
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 21 January 2010
Attachments: p.12 email – Tanya Henkel
p.13 emails – to/from Bruce Sherwood

MATTER FOR CONSIDERATION

To consider a proposal for a works assessment and schedule to be prepared by a conservation architect.

BACKGROUND

Funds were set aside in the 2009-2010 Budget to commence work on the repairs needed to the badly fretting walls of the Old Railway Station.

STATUTORY ENVIRONMENT

Heritage Act –

- s.10 and s.11 – requirement to consult with Heritage Council regarding any works
- s.78 – requirement to advise Heritage Council of proposed works

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Tanya Henkel, Mid West Regional Advisor, WA Heritage Council
Bruce Sherwood, Eastman Poletti Sherwood

COMMENT

This matter is referred from the October 2009 meeting, when quotes for some repair works were considered by Council. \$30,000 of own resources funding was set aside in the 2009-2010 budget for tuckpointing and replacement of the visible sandstone blocks that have deteriorated. Given the expressed concerns of the two firms that submitted quotes (The Wall Doctor and Keboda Stone), Council resolved not to proceed with the work immediately, but to consider the possibility of a full work assessment made by a heritage architect.

A quote from Mr Bruce Sherwood was therefore sought. No other quotes have been sought, as Mr Sherwood is based in Geraldton and therefore has improved accessibility and reduced costs, has been involved with many heritage restoration projects in the region, is known to the Heritage Council, and is the only such person known in the region.

Mr Sherwood has estimated that 3 visits would be required, for an estimated cost of approx.\$10,300. He has also noted that similar works in Mullewa cost in the order of \$80,000.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0106 Old Railway Station – Works Assessment

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the allocation of \$30,000 in the 2009-2010 Budget be used in the first instance to engage Mr Bruce Sherwood of Eastman Poletti Sherwood, to –

- carry out an assessment of the building,
- produce a scope of works with drawings and specifications,
- submit documentation to and negotiate approvals with the Heritage Council of WA,
- assist the Shire with tendering and
- carry out contract administration of the works

for an estimated cost of \$10,296.00 excl GST, based on 3 visits to Yalgoo, be approved.

Motion put and carried 4/0

Ms VJ Rowe returned in the meeting at 11.26am.

C2010-0107 Procedural Motion

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That item 10.1 be resumed.

Motion put and carried 4/0

10.1 Mining and Minerals Group Golden Grove

11.30am Signing of Memorandum of Understanding
 Mr Nick Mosenthal (General Manager)
 Mr Scott Young (Environment and Community Manager)
 Mr Craig Turley (Community Relations Advisor)

Ms VJ Rowe left the meeting at 11.31am and returned at 11.32am with MMG group

Cr Terry Itrbide

Expressed Council's delighted and pleasure to have reached this moment and welcomes the marriage between Council and Golden Grove and look forward to a long and successful future.

Cr Itrbide also wished to extend Council's thanks to Turley Craig for all his effect, support and willingness to assist the community of Yalgoo.

Thanks were also extended to management of Golden Grove for arranging the mine visit which was very well received by the Councillors able to attend and disappointment by those not able to make this visit.

Nick–

Expressed pleasure in being a part of this memorable occasion.

Nick continued by highlighting the importance to MMG and their commitment to the MOU between Yalgoo Council and MMG.

At this point it appears the Mine is in a positive position and has a life expectancy of approx 9 years.

However, subject to further exploration and profitability MMG were exploring every opportunity to extend the life span of Golden Grove.

ADJOURNMENT

The meeting adjourned for lunch break at 11.43am and resumed at 12.58pm with all who were in attendance before the adjournment being present at the resumption with Mr Mike Fitz Gerald, except Ms VJ Rowe.

Former Councillor L O' Connor

Cr Itrbide requested that Council observe a minute silence in memory of former Councillor Lorraine O'Connor, an elected member from 2005 to 2009, who passed away in December 2009.

11. REPORTS OF OFFICERS

11.1 WORKS

11.1.1 WORKS ACTIVITY REPORT

File: N/A
 Author: Cliff Hodder, Works Foreman
 Niel Mitchell, CEO
 Interest Declared: No interest to disclose
 Date: 21 January 2010
 Attachments: p.1 MRWA – verge maintenance
 p.2 MRWA – Speed zoning
 p.3 Minister – Speed zoning
 p.5 Greenfield Tech Services – intersection design

MATTER FOR CONSIDERATION

Works Report for the past month

BACKGROUND

Overview of works for the past months

STATUTORY ENVIRONMENT

None

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

None

COMMENT

Annual works crew shut down – finished 17 December 2009 re-commenced 4 January 2010

a) Construction –

- form up and gravelling work until such time as CLGF Regional Funds are approved
- preseal repairs to commence first week of January –
 - o Yalgoo Ninghan Rd estimated at \$127,000
 - o Town streets estimated at \$20,000
- bitumen works –
 - o final form up, trim and water binding now underway in preparation for bitumen
 - o commencing 28 January – 2 coat seal on Morawa Road, and reseal 60% of town streets
 - town streets to be done – all except Gibbons St (some trenches are still likely) on 4/2/2010.
 - estimated to be \$6,000 or so under budget
 - o first week of March – 4 km of 2 coat seal near Thundelarra, and reseal of further 13km of Ninghan Rd

b) Maintenance –

- maintenance done or underway –
 - o Morawa Rd – end of bitumen to south of Gullewa
 - grader relocated to Ninghan Rd early, due to complaints received
 - graders doing construction work to complete maintenance grade once water binding is ready for bitumen
 - o Yalgoo-Ninghan Rd – particularly Warriedar Hill, then moving south
 - initially, single grader shifted from Morawa Rd
 - once Morawa Rd done after construction work, will be relocated to Warriedar Hill then work northwards to do the final trim and water binding for bitumen near Thundelarra

- maintenance work due –
 - o Yalgoo-Morawa Rd – particularly through Mellenbye, and at the end of the bitumen
 - o Yalgoo-Ningham Rd
 - pipes needed in Maranalgo Rd (near homestead) and some distance south of homestead
 - guidepost and sign replacement recommenced
- c) Plant
- new semi side tipper – delivery due late January
 - service truck – fuel transfer tank fitted
 - grader YA-420 – mould board repairs, new sleeves and shims for blade slide
 - air-con service on all plant
 - Volvo – new front tyres
 - old water tanker – 8 new tyres
 - UD – first service, bulbar repairs under warranty, hydraulic tank split replaced under warranty
- d) Prices being obtained for the regular service and maintenance of plant and vehicles from a number of firms. The intention is that the mechanic would visit once a fortnight for 2 days, repairing and checking all plant, vehicles and equipment, and carrying out preventative maintenance and inspections.
- Force Equipment – ne response to emails
 - Pemco Diesel – used by CJD for their work in the area
 - o frequently at Golden Grove
 - o \$90 for ordinary time, \$115 beyond 8 hrs per day, \$1.20 per km
 - o able to do all plant and light vehicles
 - Riggs Mechanical, Morawa –
 - o has done some work for us previously – good standard
 - o \$100 per hour, no travel cost
 - o Would need to get approval to warranty work on some vehicles
 - Westrac –
 - o \$137.50 per hour labour, \$122.50 per hour travel, \$1.55 per km
- Currently being considered by Foreman and CEO.
- e) Other
- Yalgoo town works –
 - o airstrip graded and other maintenance done
 - DCEO continuing discussion with Aerodrome Management Services regarding training
 - AMS also contacted for advice regarding unserviceable markings etc
 - o mowing and additional firebreaks done before shut down
 - o fencing at Anglican Church done
 - o work for septic tanks and leach drains to commence first week in February for –
 - new Health Centre
 - new house at caravan park
 - two units to be relocated to Lot 68
 - o some work also needs on the pads for the buildings
 - Paynes Find maintenance –
 - o fencing around water tank and pump done
 - o replacement air con for doctors room
- f) Main Roads WA
- After months of waiting and reminders, MRWA has finally given their approval for Council to carry out maintenance of the road verge of the Geraldton-Mt Magnet Road in the 80km/hr zone only. This gives the Shire authority to clear any vegetation obstructing the view of drivers, mow the area, plant appropriate flowers or shrubs etc. The principal intentions of obtaining the authority is to maintain sightlines and mowing.
- g) Minister for Transport
- In summary, has not agreed with the request to reduce the speed limit through town, and has upheld MRWA point of view
 - A petition is still circulating, and will be sent off shortly
- h) Concessional Loading
- a concessional loading for triple road trains for Northcoast Fuels to cart fuel to Golden Grove has been approved, as they have taken over the contract previously held by Mitchells West.

- i) Gibbons Street / Highway corner
 - part of the requirements placed on the footpaths constructed last year by MRWA was that where it adjoins the Geraldton Mt Magnet Road, a short length of kerb is required on each side of the road. As the kerb is set wider than the existing roadway the seal area needs to be widened so that the bitumen underneath stabilises the kerbing. Since the seal is widened, it changes the “shape” of the corner, necessitating an extension of the pipe under Gibbons St, to allow the widening to be done. This has the effect of markedly improving the shape of the corner for trucks and cars getting around, as it has always been a difficult and sharp turn. Roadtech will be carrying out the work for an estimated cost of \$19,000 (waiting on confirmation). MRWA have approved the design prepared by GTS. Work should be complete prior to Council meeting.

- j) Towed multi-tyre roller
 - enquiries through WA have not revealed any manufacturer of towed multi-tyre rollers. Dongara Body Builders indicated that they probably could build one, but there would be issues with the brakes required by new regulations, and accessing some of the required parts. A price wasn't given, and they were reluctant to continue their efforts, given that there did not seem to be a reasonable chance of success or placement of an order. They also indicated that their design engineer did not seem to think that brakes were necessary.
 - purchase of a towed multi-tyre roller from the only Australia manufacturer I have been able to find is in the order of \$68,000
 - a further enquiry has been made with WALGA and Heavy Haulage regarding the requirements for brakes, as the Senior Vehicle Examiner has confirmed that towed rollers do not require brakes for them to be licensed. However, the indication is that the towed rollers must have brakes in order for the graders to be licensed to tow them.
 - in discussion with the Foreman, purchase of a new towed roller has not been acted on. Rather, it is suggested that a new self-propelled multi-tyre roller be listed for the 2010/2011 Budget (CJD indication is a price of about \$170,000 to purchase, trade in of \$10,000 +/-). The main time the roller is used all the time is during water binding prior to bitumen, when a casual person could be put on to operate it full time for the 2-3 months it is required (as is the case right now), and the rest of the time, while it would be used more if it had improved reliability, generally we have enough staff for operation.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0108 Works Activity Report

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That the Works Report to 21 January 2010 be received.

Motion put and carried 4/0

Mr N Mitchell, the departing CEO expressed gratitude to the Works Foreman, Cliff Hodder and his works crew for their support and hard work during his tenure as CEO at the Shire of Yalgoo.

11.0 MATTERS BROUGHT FORWARD

11.0.1 CEO RECRUITMENT MATTERS

1.00pm Recruitment Consultant
Mr Mike Fitz Gerald

STATUTORY ENVIRONMENT
Refer attached GOLD coloured page

Motion to Close the Meeting to the Public

Ms H Duffey left the meeting at 1.09am

VOTING REQUIREMENTS
Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0109 Meeting closed to the public

Moved Cr MR Valenzuela, Seconded Cr EC Rowe

That the meeting be closed to the public to discuss CEO recruitment and associated matters

Motion put and carried 4/0

NOTE Mr K Hastie declared a financial interest in this item, being an Acting CEO.

The meeting was closed to the public at 1.09am.

Remaining in the meeting were –

MEMBERS	Cr TK Iturbide, Shire President Cr EC Rowe, Deputy Shire President Cr MR Valenzuela Cr LJ Terry
STAFF	Mr N Mitchell, Chief Executive Officer Mr K Hastie, Acting Chief Executive Officer
OBSERVERS	Mr Mike Fitz Gerald (Consultant)

Motion to Open the Meeting to the Public

VOTING REQUIREMENTS
Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0110 Meeting re-opened to the public

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the meeting be re-opened to the public.

Motion put and carried 4/0

The meeting was reopened to the public at 2.04pm.

Present at the re-opening of the meeting were –

MEMBERS	Cr TK Iturbide, Shire President Cr EC Rowe, Deputy President Cr MR Valenzuela Cr LJ Terry
STAFF	Mr N Mitchell, Chief Executive Officer Mr K Hastie, Acting Chief Executive Officer
OBSERVERS	Mr Mike Fitz Gerald (Consultant)

VOTING REQUIREMENT

Simple majority

COUNCIL DECISION

C2010-0111 CEO Position Interview in Yalgoo

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

Council to invite Ms S Daishe and Mr H Rhee to Yalgoo for the Interview.

Motion put and carried 4/0

VOTING REQUIREMENT

Simple majority

COUNCIL DECISION

C2010-0112 Council to Meet Travel and Accommodation Expenses

Moved Cr LJ Terry, Seconded Cr EC Rowe

Council to meet travel and accommodation expenses as negotiated or arranged with by Acting CEO.

Motion put and carried 4/0

VOTING REQUIREMENT

Simple majority

COUNCIL DECISION

C2010-0113 Date of Interview

Moved Cr EC Rowe, Seconded Cr TK Iturbide

Council to allow for the interview date to be arranged by Mr Mike Fitz Gerald and the target date is between 11/02/2010 to 18/02/2010 except 16/02/2010.

Motion put and carried 4/0

11.2.5 LOTS 73 & 74 – Gibbons & Weekes Sts

NOTE Cr MR Valenzuela declared a financial interest in this item, having expressed an interest in purchasing one of the lots, and left the meeting at 2.04pm.

Ms H Duffey returned in the meeting at 2.05pm.

File:

Author: Niel Mitchell, CEO

Interest Declared: No interest to disclose

Date: 21 January 2010

Attachments: p.15 map of Lot 73 (No.19) Gibbons St and Lot 74 (No.12) Weekes St

MATTER FOR CONSIDERATION

To consider the disposal of Lot 73 Gibbons Street and Lot 74 Weekes Street, Yalgoo

BACKGROUND

In August 2007, Council accepted a tender for the purchase of the two lots, and accepted the tender of M & MF Lambert of Geraldton.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.58 – disposing of property

Functions and General Regulations 1996 –

- r.21 and following – requirements for Expressions of Interest

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Mr Mick Lambert

Cr Raul Valenzuela

COMMENT

Tenders were called in July 2007 and accepted in August 2007, with the conditions of sale including –

- a) title in the land will not be transferred until satisfactory proof of development is produced
- b) development of the Lot must commence within two years, or other such timeframe as agreed by Council at time of acceptance of tender
- c) on acceptance of tender a non-refundable deposit of 10% of the accepted tender price is due within 14 days, or other arrangement as accepted by Council
- d) Council will consider tenders for each lot separately, and is not bound to award the purchase to a single tenderer.

Lot 73 (No.19) Gibbons Street is zoned commercial, and may be used for a residence or other purposes subject to the Town Planning Scheme and Council approval. Lot 74 (No.12) Weekes Street is zoned Residential R10.

There were three tenders received –

- Ferrowest
- M & MF Lambert
- R & I Valenzuela

The two year period has now well and truly expired. Mr Lambert was contacted regarding his intentions, and has verbally advised that he is no longer interested in completing the purchase the property, as his business circumstances have altered. Mr Lambert was requested to confirm his advice in writing, but this has not yet been received. Given the amount of time over the due date for commencement of development, Council

would be justified in terminating the agreement, regardless. Mr Lambert's deposits for the two blocks of \$879.90 (2 x \$439.95) is currently held in Trust and could be transferred to Municipal Fund.

Cr Valenzuela has advised that he remains interest in acquiring at least Lot 73 Gibbons St, and there may be others who have an interest also.

Council may also wish to consider retaining either or both of the blocks if a suitable purpose is known or anticipated.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0114 Lot 73 & 74 Gibbons & Weeks Street

Moved Cr EC Rowe, Seconded Cr LJ Terry

That Messrs M and MJ Lambert, be advised that as development of Lot 73 Gibbons St and Lot 74 Weekes St has not commenced within the required two year period, the agreement to sell the lots to them is now cancelled, and the deposit paid on both lots forfeited, in accordance with the terms of the tender.

Motion put and carried 3/0

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 2

That tenders be called for the purchase of Lot 73 Gibbons St and Lot 74 Weekes St, with the following conditions –

- a) title in the land will not be transferred until satisfactory proof of development is produced
- b) development of the Lot must commence within two years, or other such timeframe as agreed by Council at time of acceptance of tender
- c) on acceptance of tender a non-refundable deposit of 10% of the accepted tender price is due within 14 days, or other arrangement as accepted by Council
- d) Council will consider tenders for each lot separately, and is not bound to award the purchase to a single tenderer, and
- e) tenderers to satisfy themselves prior to tender, that the proposed use for Lot 73 Gibbons Street complies with the requirements of Shire of Yalgoo Local Planning Scheme.

Officer recommendation 2 has been defer to February Council Meeting.

Cr MR Valenzuela returned in the meeting at 2.09pm.

ADJOURNMENT

The meeting adjourned at 2.09pm and resumed at 2.21pm with all who were in attendance before the adjournment being present at the resumption except Ms VJ Rowe.

11.3 FINANCE

11.3.1 Deputy CEO – ACTIVITY REPORT – Month of December 2009

File: N/A
 Author: Violet Rowel, Deputy CEO
 Interest Declared: No interest to disclose
 Date: 15 January 2010
 Attachments: None

Investments

Fund	Institution	Invested	Due	Interest Rate %	Amount Due	Govt guarantee
Municipal	NAB	varying		Up to 3%		Yes
Reserve	Suncorp	1,032,296.13	15 April 2010	5.95	1,047,441.33	Yes except \$47,441.33
Reserve	Suncorp	1,051,224.71	23 February 2010	4.63	1,067,226.37	Yes

Comparative investment rates

WA Treasury (Overnight):	3.75
WA Treasury 30 days:	3.95
NAB 30 Days	4.51

Superannuation

The Shire of Yalgoo has recently reviewed its superannuation payable on overtime from 1 July 2006 until 30 September 2009. This is a result of the ATO private ruling 90765 dated 27 March 2009. Consequently, a total of \$30,731.76 has been paid to affected past and present employees last known superannuation funds. Letters have been sent to affected employees stating what amounts have been paid for the applicable years. We are awaiting advice from the WA Local Government Superannuation Plan for details relating to the period from 1 July 2003 to 30 June 2005, as they were the compulsory fund over this time.

Further investigation will have to be made in order to determine the payments to be made for the year 1 July 2005 to 30 June 2006, as this year was the first year where choice of funds was available to staff members, but it was also the year where many of our records were lost due to a computer crash late in the financial year.

We are still working to obtain the information required for these two periods, and when available, should be able to finalise any back payment of superannuation.

Budget

Budget review for current financial year has been completed and will be presented to council at January council meeting.

Input for the 2010/2011 Budget from councillors, staff members and community members has been sought. This has been done by way of memo for councillors and staff and advertisements in newsletter and notice board notices for community members. Closing date for all submissions is Friday the 5th February 2010. Submission will be presented at the February 2010 council meeting.

The Environmental Health Officer will be inspecting all public buildings and staff houses in April. This will help determine what needs to be included in the budget.

Remission of Interest

I have applied to the ATO to be granted a remission of interest paid from 2004-2007. We should hear back from the ATO within the next month. Amount sought is \$20,942.25

Contractor Ranger Duties

-Patrols conducted 15 December 2009 and 14 January 2010

Bush Fire Brigade Appliance update

FESA have informed the Shire that the handover of the Bush fire brigade truck is due to occur on the 18th February 2010. The Bush fire brigade members will be offered training with the new truck on the day of handover.

FESA are hopeful of a handover of the light tanker for Payne's Find Bush Fiore Brigade in March or April 2010.

Meetings

14th December, Local Government Award training with Payroll/Rates Officer

Future meetings

26th January 2010 Australia Day celebrations

1st February 2010 Airstrip inspection training for several members of staff

8th February 2010 Server Installation

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0115 Deputy CEO Activity Report

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the Deputy CEO's Activity Report for December be received.

Motion put and carried 4/0

Mr N Mitchell left the meeting at 2.23pm and returned at 2.24pm.

11.3.2 FINANCIAL ACTIVITY STATEMENTS –DECEMBER 2009

File:

Author: Violet Rowe, Deputy Chief Executive Officer

Interest Declared: No interest to disclose

Date: 21 January 2010

Finance p.1 Financial Activity Statements for December 2009

(green) p.20 Balance Sheet

p.25 Income Statement Summary by Program

p.26 Income Statement by Nature & Type

p.27 Income Statement Detail

p.39 Material Variance

MATTER FOR CONSIDERATION

Council to consider adopting the monthly financial statements for December 2009.

BACKGROUND

Amendments to the Local Government (Financial Management) Regulations 1996 that were gazetted on 20 June 2008 and became effective from 1 July 2008 have resulted in regulations 34 and 35 relating to monthly financial reports and quarterly/triennial financial reports being repealed and substituted with a new regulation 34. The new regulation 34 requires that local government report on a monthly basis and prescribes what is required to be reported with the intention of establishing a minimum standard across the industry.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.4–Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management) Regulations 1996

Regulation 34 states:

(1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:

(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);

(b) budget estimates to the end of month to which the statement relates;

(c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;

(d) material variances between the comparable amounts referred to in paragraphs (b) and (c);

(e) the net current assets at the end of the month to which the statement relates.

Sub regulations 2, 3, 4, 5 and 6 prescribe further details of information to be included in the monthly statement of financial activity.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Reports showing year to date financial performance allow monitoring of actual expenditure, revenue and overall results against budget targets.

CONSULTATION

None

COMMENT

A copy of the Statement of Financial Performance is attached to this item including additional information that council deemed appropriate to receive.

The area's where material variances have been experienced, i.e. either 10% or \$5000 above or below budget, are commented on in the material variance attachment which will be given to council as a late item

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0116 Financial Activity Statements

Moved Cr EC Rowe, Seconded Cr LJ Terry

That Council adopt the financial statements and material variances for the period ending 31 December 2009, as attached.

Motion put and carried 4/0

11.3.3 ACCOUNTS PAID DURING THE MONTH OF DECEMBER 2009

File: N/A
Author: Violet Rowe, Deputy Chief Executive Officer
Interest Declared: No interest to disclose
Date: 14 January 2010
Finance: p.42 Listing of accounts paid
(green)

MATTER FOR CONSIDERATION

Authorisation of accounts paid during the month of December 2009

BACKGROUND

Accounts paid are required to be submitted each month.

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996

Reg 13(1)–Requires that where the Chief Executive Officer has delegated power to make payments from the Municipal or Trust funds a list of accounts paid is to be prepared each month.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Payment from Council's Municipal Account

CONSULTATION

None

COMMENT

Payments made during the month of December 2009 as per attached schedule.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0117 Accounts Paid during the month of December 2009

Moved Cr EC Rowe, Seconded Cr LJ Terry

That:

1. **The Cheque Detail of payments covering vouchers EFT 1 - 97 totalling \$620,025.28 paid during the month of December 2009, be received;**
2. **Cheque payments covering cheque numbers 11314-11350 totalling \$76196.2 paid during the month of December 2009, be received; and**
3. **Salaries and Wages totalling \$73,530.55 paid during the month of December 2009, be received.**
Motion put and carried 4/0

11.3.4 WRITE OFF – SUNDRY DEBTORS

File:
 Author: Violet Rowe, CEO
 Interest Declared: No interest to disclose
 Date: 4 January 2010
 Attachments: none

MATTER FOR CONSIDERATION

Write off of sundry debtors

BACKGROUND

Several debtors currently exist considered unrecoverable as well as interest on one rate assessment.

STATUTORY ENVIRONMENT

Local Government Act 1995 –
 - s.6.12 (1)(c) – a Local Government may write off monies due to them.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

The write off of \$172.89 will more accurately reflect Council’s rate debtors’ balance in the financial statements for the year 2009/2010

CONSULTATION

COMMENT

Council has delegated authority to the CEO to write off minor fees, charges and interest in relation to rates, and sundry debtors, to a value of \$30.00.

Sundry Debtors write-off

Rebecca Simpson	\$51.40	DVD’s hired and never returned. Several reminder notices have been sent to Rebecca.
Phynea Simpson	\$32.35	DVD’s hired and never returned. Several reminder notices have been sent to Phynea.
Total	\$83.75	

Rates Interest write-off

Assessment 543 Telstra	\$89.13	The assessment holders paid rates in mid 2008 but these were credited to a general income account instead of rates. I believe this was due to the vagueness of the remittance advice. If the funds were credited to the assessment when they were actually received no interest would have occurred this interest occurring is due to admin error.
Total	\$89.13	

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0118 Write Off Sundry Debtors

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the following amounts be written off-

- a). Rebecca Simpson \$51.40 as unrecoverable**
- b). Phynea Simpson \$32.35 as unrecoverable**
- c). Telstra assessment 543 interest of \$89.13 as charged in error**

Motion put and carried by Absolute Majority 4/0

11.3.5 BUDGET REVIEW FOR JULY 2009 UNTIL DECEMBER 2010

File: B3-2
 Author: Violet Rowe, Deputy Chief Executive Officer
 Interest Declared: No interest to disclose
 Date: 14 January 2010
 Finance: p.66 Budget Review 2009/2010
 (green)

MATTER FOR CONSIDERATION

Council to consider adopting the results of the mid year Budget review.

BACKGROUND

The Local Government (Financial Management) Regulations 1996 (as amended) require local governments to conduct a budget review between 1 January and 31 March each year and to report the results of the review to Council. After Council has made their determination a copy is to be provided to the Department for Local Government and Regional Development.

A mid year budget review has been conducted with staff reviewing actual expenditure at 31 December 2009, compared to the budget for the year and assessing whether the remaining budget for the year needs to be amended.

STATUTORY ENVIRONMENT

Local Government Act 1995

- Section 6.4–Specifies that a local government is to prepare such other financial reports as are prescribed.

Local Government (Financial Management Regulations) 1996

- Regulation 33A – Outlines the requirements for the conduct of a Budget review including its submission to Council and provision to the Dept of Local Government & Regional Development.
- Regulation 34 – states:
 - (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month in the following detail:
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c);
 - (e) the net current assets at the end of the month to which the statement relates.
 - (2), (3), (4), (5) and (6) prescribe further details of information to be included in the monthly statement of financial activity.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Reports showing year to date financial performance allow monitoring of actual expenditure, revenue and overall results against budget targets.

CONSULTATION

Niel Mitchell, CEO

COMMENT:

A copy of the budget review is attached. As per council policy, the area’s where material variances have been experienced, i.e. either 10% or \$5000 above or below budget have been commented on.

VOTING REQUIREMENT

Absolute majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0119 Budget Review

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

**That Council adopt the results of the mid year budget review for 2009/2010 that has been completed.
Motion put and carried by Absolute Majority 4/0**

11.3.6 RATES – Errors in charging

File:
 Author: Niel Mitchell, CEO
 Interest Declared: None
 Date: 21 January 2010
 Attachments: none

MATTER FOR CONSIDERATION

To further consider corrections of errors in rating system

BACKGROUND

Referred from November 2009.

When valuations are supplied by the Valuer General, the details need to be entered manually into Rate Book On Line, and the categories according to the differential rating adopted applied.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.6.39 – Rate record – may amend for up to 5 years past
- s.6.40 – where refund due, must be paid or credit allowed

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Amendments to Policy

FINANCIAL IMPLICATIONS

Refund of \$5,891.81 to be made

Rates of \$27,230.58 are eligible to be charged

CONSULTATION

Peter Hayes, Dept of Local Government

COMMENT

This matter was originally raised in November 2009, where it was resolved –

C2009-1117 Refund of Overcharged Rates

That refund of rates overcharged totalling \$5,891.11 be made to the following assessments –

17 – Aurox Resources	\$ 414.11	
171 – Prosperity	\$ 855.48	
299 – Base Iron	\$ 311.31	
541 – Royal Resources	\$2799.93	
1475 – Aurox Resources	\$1510.98	Motion put and carried 5/0

C2009-1118 Rates Book not to be amended

That Council does not amend the Rate Records for the following assessments –

17 – Krama P/L	\$ 93.79	
1439 – Oz Minerals	\$ 3624.30	
1439 – MMG Golden Grove	\$ 3351.32	
1440 – Ferrowest	\$ 692.52	
1442 – Brosnan/Young	\$ 138.90	
1444 – Aurox Res	\$ 15566.52	
1498 – Zen Minerals	\$ 128.90	
1499 – Extension Hill	\$ 3634.33	Motion put and LOST 3/2

NOTE Motion declared LOST as Absolute Majority of 4 was not obtained, as required by the Local Government Act 1995 s.1.4 Definitions.

C2009-1119 Rates Book to be amended

That Council does amend the Rate Records for the following assessments –

17 – Krama P/L	\$ 93.79
1439 – Oz Minerals	\$ 3624.30
1439 – MMG Golden Grove	\$ 3351.32
1440 – Ferrowest	\$ 692.52
1442 – Brosnan/Young	\$ 138.90
1444 – Aurox Res	\$ 15566.52
1498 – Zen Minerals	\$ 128.90
1499 – Extension Hill	\$ 3634.33

Motion put and LOST 3/2

NOTE Motion declared LOST as Absolute Majority of 4 was not obtained, as required by the Local Government Act 1995 s.1.4 Definitions.

C2009-1120 Referral to Department of Local Government

That Council to refer the matter concerning the error in charging of rates to Department of Local Government for advice.

Motion put and carried 5/0

In summary, as a result of reviewing the rates raised and checking the details to ensure their accuracy, errors in the charging category were discovered for a number of rate assessments.

The Shire has a number of rating categories for the purpose of differential rating –

- GRV
- UV Pastoral
- UV Mining
- UV Exploration / Prospecting

The error resulted from entry of an incorrect differential rate category for the assessments, and the errors discovered go back several years –

Asst No.	2006/07		2007/08		2008/09		2009/10		REFUND to be made	CHARGE may be raised
	Charged	Correct	Charged	Correct	Charged	Correct	Charged	Correct		
17 - Krama P/L	68.60	82.10	777.03	419.67	15.57	460.15	14.89	7.96		93.79
17 - Aurox Res							890.14	476.03	414.11	
171 - Prosperity	74.11	39.63	541.58	288.79	594.67	317.90	626.42	334.98	855.48	
299 - Base Iron	19.42	13.70	298.84	210.00	313.68	220.00	348.07	225.00	311.31	
541 - Royal Res	149.18	79.77	1800.72	962.83	1978.70	1057.69	2088.39	1116.77	2799.93	
1439 - Oz Minerals					3867.37	7235.05	294.95	551.57		3624.30
1439 - MMG G/Grove							3851.99	7203.31		3351.32
1440 - Ferrowest					257.64	481.99	538.11	1006.28		692.52
1442 - Brosnan/Young					199.51	259.11	225.00	304.3		138.90
1444 - Aurox Res					8630.26	16145.44	9254.08	17305.42		15566.52
1475 - Aurox Res			0.00	219.08	1823.49	1097.49	2158.11	1154.05	1510.98	
1498 - Zen Minerals					0.00	24.67	225.00	329.23		128.90
1499 - Extension Hill					0.00	408.21	3708.05	6934.17		3634.33

Refund of \$5,891.81 to be made
Rates of \$27,230.58 are eligible to be charged

The Local Government Act 1995, stipulates –

s.6.39. Rate record

(2) A local government –

- (a) is required, from time to time, to amend a rate record for the current financial year to ensure that the information contained in the record is current and correct and that the record is in accordance with this Act; and
- (b) may amend the rate record for the 5 years preceding the current financial year.

s.6.40. Effect of amendment of rate record

(1) Where the rate record in relation to any land is amended under section 6.39(2) as a result of a change in –

- (a) the rateable value of;
- (b) the rateability of; or
- (c) the rate imposed on,

that land, the local government is to reassess the rates payable on the land and to give notice to the owner of the land of any change in the amount of rates payable on the land.

(3) If, as a result of a reassessment of rates under subsection (1), a rate on any land is –

- (a) reduced, and that rate has already been paid to a local government, the local government –
 - (i) may, and if so requested by the current owner of the land is required to, make a refund to that owner of the amount overpaid; or
 - (ii) is required to allow a credit of the amount overpaid in relation to the land against future liabilities for rates or service charges in respect of that land; or
- (b) increased, that increased rate is the rate to which section 6.44 applies.

Referral to the Department

Mr Peter Hayes has advised –

The best course of action is to amend the rate record for all the affected ratepayers, and as the decision to apply the refund was passed by Council, it remains for Council to decide whether or not to waive and write off the additional rates.

A new motion needs to be put to Council seeking their direction and explaining that they have to decide whether or not to waive and write off any additional rates.

Irrespective on whether an adjustment is the result of an administrative error or not, best practice dictates that the application of any adjustment should apply across all the affected ratepayers.

In discussion clarifying this matter, Mr Hayes noted that the best procedure would be to –

- 1) revoke Resolution C2009-1117 approving refund – this decision was effectively made without a motion to correct the rate book, and applies to only some of the errors identified
- 2) new resolution to correct the rate book for all errors noted, specifying either –
 - a) immediate effect – corrections made now, refunds therefore made now, additional rates raised now
 - b) alternative effective date – corrections made now, no refund, no additional rates raised, and changes apply from that date (usually 1 July following)
- 3) refunds or credit on their rates account is automatic, at the option of the ratepayer, no decision of Council needed
- 4) Council makes a decision whether or not to waive the rates raised in accordance with the Act as per 2(b).
 - If a decision to write off rates is not approved, the rates automatically become due and payable, and an amended rates notice requiring payment will be issued, without further direction of Council.

The Department has further advised that –

Looking at sections 6.39,6.40 and 6.44 of the *Local Government Act 1995* there is reference to "giving notice to the owner" or to "the owner for the time being" indicating that notice is to be given to the current owner.

The legislation is poorly worded, but it appears that the current owner is responsible for the back rating.

In this case, to be consistent, the refund should then also made to the current owner. Resolution C2009-1117 has not been acted on, as it was felt appropriate to wait on Departmental advice.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0120 Revoke of Resolution C2009–1117

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That Resolution C2009-1117 – Refund of Overcharged Rates, be revoked.

Motion put and carried by Absolute Majority 4/0

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0121 To Amend Differential Rates in the Rate Book

Moved Cr MR Valenzuela, Seconded Cr LJ Terry

That differential rates category in the Rate Book be amended for the following years –

- **2006-2007**
- **2007-2008**
- **2008-2009**
- **2009-2010**

for the following assessments, apportioned according to period of ownership, as necessary –

- **171 - Prosperity**
- **299 - Base Iron**
- **541 - Royal Res**
- **1439 - MMG G/Grove**
- **1440 - Ferrowest**
- **1442 - Brosnan/Young**
- **1444 - Aurox Res**
- **1475 - Aurox Res**
- **1498 - Zen Minerals**
- **1499 - Extension Hill**

with the amendments to apply for the appropriate financial year to which they relate.

Motion put and lost 3/1 as Not Absolute Majority

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 3

That Council writes off the back rates raised on the following assessments, for the amount noted. –

1439 – MMG Golden Grove	\$ 6,975.62
1440 – Ferrowest	\$ 692.52
1442 – Brosnan/Young	\$ 138.90
1444 – Aurox Res	\$ 15,566.52
1498 – Zen Minerals	\$ 128.90
1499 – Extension Hill	\$ 3,634.33

Not Applicable

11.3.7 COUNTRY LOCAL GOVERNMENT FUND

File:

Author: Niel Mitchell, CEO

Interest Declared: No interest to declare

Date: 21 January 2010

Separate: p.69 Minister – letter re deferral of Year 2

(green) p.71 Current project listing and program

p.73 WALGA State Council Agenda – Extract

MATTER FOR CONSIDERATION

To consider further adjustments to the intended Country Local Government Fund projects

BACKGROUND

The Minister for Local Government advised on 4 January 2010, that the full Country Local Government Fund Year 2 grants is deferred to July 2010. The Minister also advised that the amount will be reviewed.

STATUTORY ENVIRONMENT

Local Government Act 1995

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

All CLGF projects not yet commenced or committed.

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

A likely loss of funding of up to \$150,000, based on very preliminary figures available, but this estimate could be substantially awry in either direction.

CONSULTATION

Fiona Colbeck and Annique Gray, Dept of Local Government

COMMENT

All grant funds for Year 1 of \$760,662 have been received, but the announcement removes in the order of \$487,600 from the 2009-2010 CLGF funding from Yalgoo. The funding appears to be only “deferred” until July 2010, but it will also be reduced, possibly around 30% or so (my estimate).

Council has previously adopted a project list, revised it at least twice, and must now do so again. The current project list is attached for information. This program had been adopted by Council on the basis of Government commitments, now “deferred”.

Without the commitment, or perhaps the funds in the bank account given the chaos at the moment, it is suggested that no Year 2 funds be committed.

Current projects completed or committed –

- depot lunch room
- ADSL upgrade in the Telstra exchange
- caravan park house
- covered courts architect fees

About to be committed –

- new Health Centre – suggested that this not be considered in any way for deferment, due to the Commonwealth grant of \$550,000 approx.
- water playground – could be deferred, but strongly recommended that it not be

Projects that were about to commence, now on hold –

- hall upgrade works – other than the work able to be funded by \$30,000 Commonwealth grant (RCLIP)
- Cemetery – part gazebo/niche wall project, balance funded by Council

Projects not commenced, now to be deferred –

- Paynes Find development
- Paynes Find and Yalgoo airstrips – two thirds funded by RADS and RASP grants
- covered courts
- solar lighting of northern town entry statement
- Yalgoo caravan park development

Other projects for consideration –

- Paynes Find Volunteer Fire Brigade vehicle shed – will not be funded by FESA
- Paynes Find Community Centre – replace water tank
- Paynes Find Community Centre – replace generator shed
- Units complex – 4 x extensions
- Archival storage to State Records Office requirements
- Old Railway Station – relocate septic and leach drains

It is suggested that the projects be rearranged according to what is committed, and further projects only embarked on once the Government meets its own commitments.

Year 1 funding of \$760,662

- depot lunch room	35,000 est
- ADSL upgrade in the Telstra exchange	20,000
- caravan park house	300,000 to 336,700
- covered courts architect fees / engineering fees	35,000
- Health Centre (excl RMIF grant)	220,000 to 250,000
- Water playground (excl CSFFF grant)	<u>270,000</u>
	\$ 880,000
Projects over (under) funded	(119,338) to (186,038)

The Health Centre will also attract assistance from WA Country Health Service.

Year 2 funding of \$300,000 estimated

- Health Centre balance	119,338
- Cemetery gazebo / niche wall (net)	15,000
- Paynes Find and Yalgoo airstrips (net)	20,000
- Shire Hall upgrade works – part	<u>50,000</u>
	\$ 204,338
Projects over (under) funded	95,662
Cumulative over (under) funded	(23,676)

Until it is known what Year 2 funding amount will be, and when it will be paid, there is probably little point in trying to extrapolate too far ahead, other than to identify the preferred projects and their priority. With the changes, it is certain that some projects originally planned will now be deferred, possibly permanently.

The current challenge, is to get through the Year 1 works above, re-assess, approve Year 2 works once the quantum is known. The Year 1 works in the adjusted program includes previously anticipated Year 2 expenditure, in order to ensure that the full project can be completed, and works not left unfinished. The Year 1 works listed are expected to be complete in about October 2010, with the Health Centre being last.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0122 Country Local Government Fund

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the Year 1 program be amended to –

- depot lunch room	35,000 est
- ADSL upgrade in the Telstra exchange	20,000
- caravan park house	300,000 to 336,700
- covered courts architect fees / engineering fees	35,000

- **Health Centre (excl RMIF grant)** **220,000 to 250,000**
- **Water playground (excl CSRFF grant)** **270,000**

and subsequent programs be developed from the projects approved, subject to funding and priority at that time.

Motion put and carried 4/0

11.4 ADMINISTRATION

11.4.1 CEO – ACTIVITY REPORT – December 2009/January 2010

File: N/A
 Author: Niel Mitchell, CEO
 Interest Declared: No interest to disclose
 Date: 22 January 2010
 Attachments: p.16 Minister for Health
 p.17 Office of Auditor General

Use of Common Seal

28 January 2010 Memorandum of Understanding – MMG Golden Grove
 Authorised by Council Resolution C2001-1215

Use of Delegated Authority not elsewhere reported

Write offs as per Delegation 2.6 –

- 4 Jan – interest on rates from 15 assessments, smallest amount of \$0.02, highest \$0.68, average of \$0.23, totalling \$3.41
 Reversal for raised in error – 4 assessments totalling \$15.86
- 4 Jan – library costs for DVD not returned of \$5.00
 Reversal for aised in error – 3 assessments totalling \$13.94

Meekatharra Rangelands Biosecurity Association

Following last Council meeting, an enquiry was made regarding the cost of associate membership for the Shire. Ashley Dowden, Chairman MRBA, gas advised that there is no membership fee, that all Board vacancies are currently filled, and that it is their intention to keep Shires informed of issues being considered.

Paynes Find Bush Fire Brigade

FESA has advised that the light tanker for Paynes Find should be ready in the next few months, and is hoping to arrange formal handover during an RFDS clinic day, and possibly some training for those interested.

Yalgoo Nursing Post

On 4 January, I was advised by WACHS that the person appointed to fill the position, had withdrawn her acceptance. WACHS arranged for a full time agency nurse who commenced on Friday that week, who will be here for a month. As I understand it, it is their intention to keep the position fully staffed, using agency nurses, until a full time appointment can take up the position.

The situation with the Yalgoo Nursing Post was notified to both Government Ministers and Opposition spokespeople, and local Parliamentarians, and to the Office of the Auditor General.

The Auditor General investigates not only the financial matters of Government departments, but is also required to assess and review procedures. The Auditor General has advised that he has taken note of our concerns, and “directed that they be incorporated into our current topic selection process”.

Health Centre

Confirmation of change of purpose of Reserve 3225 from Public Utility to Health Centre has been received.

Meetings

17 December Works crew close down
 23 December Office close
 4 January Office and Works crew recommence
 26 January Australia Day community functions

Future commitments

1 February Vince Catania MLA with President
 5 February Hon. Murray Criddle, Chairman and Brendin Flanigan, Mid West Development Commission
 5 February Chris Berry, DLG with President and Deputy President in Mt Magnet regarding Structural Reform
 8 February Inter Agency Meeting (unavailable)
 9 February WALGA Forum – Structural Reform in Perth

16 February Regional Road Sub-Group Mtg in Mullewa
25 February Regional Road Group in Geraldton
18 February OPR – request to address Council, and will be making a presentation to the Shire and MEEDAC at the School in support of School lunch program.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0123 CEO Activity Report

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the CEO's Activity Report for the month to 22 January 2010 be received.

Motion put and carried 4/0

11.4.2 DELEGATION – Appointment of Authorised Officers

File:
Author: Niel Mitchell, CEO
Interest Declared: Person whose appointment is being revoked
Date: 30 December 2009
Attachments: p.18 Draft Delegation 2.8 – Appointment of Authorised Officers

MATTER FOR CONSIDERATION

To consider a draft Delegated Authority for Appointment of various officers of Council

BACKGROUND

STATUTORY ENVIRONMENT

Local Government Act 1995

- s.5.42 to 5.46 – Delegations to CEO, limitations, register etc

Dog Act

Bushfires Act

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

None

COMMENT

Various legislation requires appointments of people to various roles to exercise statutory authority on behalf of Council or to undertake statutory functions.

Appointments generally

It must be noted that appointment to undertake statutory authority means that the person is an officer of Council, and is able to commit Council to particular actions, represents the authority of Council with particular tasks, and Council has an obligation to support, resource, insure, train etc as appropriate or necessary. The appointment and exercise of authority must be within the limits set by Council.

A particular problem with appointments is the need to keep them current, despite the ease with which they may be overlooked. Often these appointments are irrespective of whether or not the person is an employee of the Shire. For instance –

- the Shire has a contract ranger who exercises statutory authority on behalf of the Council, who is outside the Shire, and even if he relinquished his business, would still be an authorised officer
- appointment as a Fire Control Officer remains in force, even if the person resigns as an employee (such as now) or moves out of the district etc

Some functions, despite being a statutory role, are administrative in nature, with the function of the role being well defined by the enabling legislation. Generally, these functions are closely linked to a position, such as Pensioner Rates Determining Officer and Review Officer.

Accordingly, it is suggested that all appointments be delegated to the CEO, except the appointment of Fire Control Officer, and Fire Weather Officers.

Dog Act

At the moment, appointments under the Dog Act are –

Registration Officers – D Hodder, H Forrester, Violet Rowe

Authorised Officers – P Smith, R Hall, N Mitchell, D Williams, V Rowe

If the draft Delegation is adopted, Council will not need to resolve further appointments and revocations under this Act.

Bush Fires Act

Current appointments under the Bush Fires Act are –

Position	Area of responsibility	Current Appointees
Chief Bush Fire Control Officer	Whole of Shire	Niel Mitchell
Deputy CBFCO	North	Vacant
	South	Tom Morrissey
	Town and 3km surrounding (Volunteer Bush Fire Brigade Captain)	Richard Hall
Bush Fire Control Officers	No appointment	None
Fire Weather Officer/s	No appointment	None

A separate Agenda item deals with appointments and revocation of Fire Control Officers appointments.

Summary

Please note that the draft Delegation Schedules are not exhaustive, and that other appointments may be required in time. Any amendment to the Schedules is required to be approved by Council, as they are part of the primary Delegation Statement. Where an initial appointment is therefore required to be made, it will need to be referred to Council for decision, and for amendment of the delegated authority if appropriate.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0124 Delegation – Appointment of Authorised Officers

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That draft Delegation 2.8 – Appointment of Authorised Officers as presented, be adopted, and incorporated into the Delegations Register for 2010.

Motion put and carried by Absolute Majority 4/0

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0125 Inclusion into Delegations Register and Policy Manual

Moved Cr EC Rowe, Seconded Cr LJ Terry

That for the period 15 February 2010, until 12 February 2011, reference to “Deputy CEO” in both the Delegations Register and Policy Manual is to include reference to ‘Acting Deputy CEO’ and ‘Senior Administration Officer’.

Motion put and carried by Absolute Majority 4/0

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION 3/ COUNCIL DECISION

C2010-0126 Revocation of all positions which were under Mr Nielsen Mitchell

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the appointment of Nielsen Mitchell to all positions under the following Acts, be revoked effective from 29 January 2010 –

- Local Government Act
- Dog Act

Motion put and carried by Absolute Majority 4/0

11.4.3 MEMORANDUM OF UNDERSTANDING – Centacare

File:
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 9 December 2010
Attachments: p.22 Draft MOU with Centacare Geraldton

MATTER FOR CONSIDERATION

To consider a draft MOU with Centacare Geraldton

BACKGROUND

In the first half of 2009, the options for transferring some of the functions of the Healthy Community Project from Council to another organisation were explored. In April tentative agreement was reached with FaHCSIA and Centacare (Ref C2009-0407), with FaHCSIA transferring the funding from the Shire to Centacare in anticipation of final decision/approval by Council.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

Continuation of services to the community

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Commitment in future budgets to providing funding for Centacare's activities

CONSULTATION

Sr Mary Ryan, Director, Centacare Geraldton

COMMENT

The MOU has been in discussion between the Centacare Director and myself for some months, and the final version is attached for review and comment by Council.

The Centacare Board is due to meet on Tuesday 19 January 2010, and a response should be available by the Council meeting on Thursday 28 January 2010.

Please note that the wording of the draft MOU does differ substantially from that in the resolutions adopted by Council in April 2009, being –

Resolution C2009-0408

Should an acceptable proposal be received, the following funding will be transferred to the organisation –

- Dept of FaHCSIA funding, and
- a minimum of 60% of the OZ Minerals Community Benefit community benefit contribution (\$30,000 in 2008-09)

Resolution C2009-0409

That Council continue to support children's service / family support activities undertaken by providing free of charge to the organisation –

- office – space, consumables and utilities at the Hall
- vehicle – maintenance and operation
- accommodation – excluding electricity

In June 2009, Council further resolved –

Resolution C2009-0633 Shire Support for Centacare – Scope

That Council –

- enter into the appropriate tenancy agreements to provide office space and a 2 bedroom unit, at nil rental to Centacare Geraldton,

- tenancy of the office space and the unit is for the duration of the funding from FaHCSIA to run deliver services under the Indigenous Children's Program or Family Support Program –
 - o initially to 30 June 2011,
 - o renewable by mutual agreement at that time
 - o Council to have regard to the impact on the services and therefore community, of non-renewal of either office space or residential accommodation,
- rental charge on both office and unit to be nil, with all out-goings met by the Shire other than electricity consumption at the unit

Resolution C2009-0634 HCP Vehicle and Equipment – Use and Ownership

That –

- all equipment, including the vehicle, purchased by grant funding remain in the ownership of the Shire for the specific use by Centacare for delivery of the activities, for the duration of their useful life
- replacement of equipment purchased with grant funding, except the vehicle, to be the responsibility of Centacare at the appropriate time, as Council cannot exercise rights of ownership over these items,
- future replacement of the vehicle is to be negotiated at the appropriate time, in good faith, having regard to the financial contributions made to the vehicle by various funding organisations, and by the Shire,

Note – Vehicle use should not be unrestricted private use, and some guidelines will need to be negotiated/ agreed. While recognising that some private use may be permitted by Centacare as the responsible organisation, the intent of this is to ensure –

- *maximum access is maintained for HCP use, staff and volunteers, and*
- *maximum funding for activities is available.*

Resolution C2009-0635 Shire Support for Centacare – Budget Provision 2009-2010

That Council

- a) make an allocation of \$20,000 in the 2009-2010 budget, indexed each successive year according to the rates increase, for the purpose of funding –
 - office – space, consumables and utilities at the Hall
 - vehicle – maintenance and operation
 - accommodation – excluding electricity
 - various activity expenses – hire of hall facilities, hire of Community Bus etc
 - balance to be available for the general activities of Centacare in Yalgoo, not met by FaHCSIA, OZ Minerals, or other grants or sponsorship,
- b) request Centacare that provision be made for a brief written or in person report be made to Council every two months, so as to be able to remain informed of activities, developments or issues, as they arise.

The draft MOU meets the intentions of the above resolutions, but changes the processes in order to –

- a) simplify the accounting requirements for both Shire and Centacare
- b) clarify methods of claim and payment
- c) improve accountability and audit trail
- d) ensure that full costs and subsidies are able to be reported by Shire and Centacare

In summary, the mechanics of the processes have changed so that –

- on presentation of a quarterly invoice, the following amounts will be paid by the Shire –
 - o 60% of the MMG Community Benefit Contribution, pro-rata
 - o Shire contribution as provided for in the Annual Budget, pro-rata
- the Shire to invoice Centacare for –
 - o lease of office and accommodation
 - o actual costs of vehicle operation and maintenance
 - o other costs incurred – e.g. bus hire, hall use etc
- surplus funds of either MMG or Shire contribution components is to be retained in a Centacare Trust for “starter” funding for the following financial year
- full accounting is required from Centacare for both Shire and MMG records.

The MOU start date is 1 July 2009, and a termination date is not set, but linked to Centacare's continuing presence and activities under the Indigenous Children's Program as funded by the Commonwealth Government Dept of Families, Housing, Children's Services and Indigenous Affairs.

As an MOU, while it does have some legal standing, it is not a contract and therefore unenforceable in law.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0127 To approve the MOU between the Shire of Yalgoo and Centacare Geraldton

Moved Cr EC Rowe, seconded Cr LJ Terry

That the draft Memorandum of Understanding between the Shire of Yalgoo and Centacare Geraldton be approved, and the President and CEO authorised to affix the Common Seal of the Shire of Yalgoo to the Memorandum of Understanding.

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0128 MMG Golden Grove to be advised of the MOU between Shire of Yalgoo and Centacare

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That once the draft Memorandum of Understanding between the Shire of Yalgoo and Centacare Geraldton is signed and sealed, MMG Golden Grove be advised of the MOU, and the appreciation of the Shire for their commitment be conveyed.

Motion put and carried 4/0

11.4.4 TELSTRA – Public phone contract

File:
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 22 January 2010
Attachments: none

MATTER FOR CONSIDERATION

To consider accepting a contract for the cleaning and clearing of the public telephone

BACKGROUND

After more than 12 months, Telstra has reinstalled a public phone that takes coins as well as phone cards, rather than phone cards only. The phone box has also been changed over to the remote style.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Minor income to offset minor expense

CONSULTATION

Perry Raison, Telstra
Violet Rowe, DCEO

COMMENT

Telstra has requested that the Shire contract to clean the phone box fortnightly and to clear coins as required, but not less than at least quarterly. As cash is involved, they prefer the Shire to undertake the role due to their auditing standards, and similar requirements on the Shire.

The contract is very basic, provides a small income, and the expected cost is also minimal –

- income –
 - o cleaning – \$7 per occasion or \$182 per year
 - o collection – 5% of value collected
- costs –
 - o cleaning – estimated 15 minutes or about \$7 per occasion
 - o collection – none, banking done in conjunction with usual Shire banking

There is certainly no real financial benefit to be obtained, although the community benefit of having coin access to a telephone is important.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0129 Telstra– Public Phone Contract

Moved Cr EC Rowe, seconded Cr LJ Terry

That the contract with Telstra for the cleaning of the telephone box, collection and banking of coins be approved, and the President and CEO be authorised to affix the Common Seal and sign the contract.

Motion put and carried 4/0

11.4.5 ANNUAL ELECTORS MEETING – Recommendations

File: E5
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 22 January 2010
Attachments: p.30 Annual Electors Meeting Minutes

MATTER FOR CONSIDERATION

To consider the recommendations of the Annual Electors Meeting, as required.

BACKGROUND

The Annual Electors Meeting was held on 15 December 2009. The Local Government Act 1995 requires that any decisions from an Electors Meeting must be considered at the next Meeting of Council.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.5.2 – Council is to ensure an appropriate structure for administration of the local government
- s.5.33 – decisions of an electors meeting must be considered at the next ordinary meeting of Council or a special meeting called for that purpose

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Annual Electors Meeting of 15 December 2009

COMMENT

Two recommendations came out of Annual Electors Meeting that must be considered formally by Council –

5.2 UNSAFE BUILDINGS

Cr Valenzuela noted that he considers the building next to his shop on the corner of Milligan Street is in a dangerously run-down condition with stones being dislodged from time to time, and the walls being so unstable that they move in the winds.

The CEO advised that he had met with the owners recently, and advised them of concerns with the very poor condition of the building, the issues of access and often insecure fence, and that they have the responsibility and liability for the property. The CEO also noted that other buildings for which the Shire has responsibility are also deteriorating and need to be addressed.

E2009-1203 Unsafe building

That it be recommended to Council that immediate action be taken to make the building on the corner of Gibbons Street and Milligan St both safe and secure.

Motion put and carried

5.3 BMX TRACK

Cr L Hodder suggested that Council look at the construction of a safe accessible BMX track.

E2009-1204 BMX Track – Investigation

That it be recommended to Council that possibilities for location, costing and funding of a BMX track be investigated.

Motion put and carried

Other matters raised for discussion, but without recommendation.

Unsafe building

As noted at the meeting, other buildings around town and the Shire could also be considered unsafe –

- ruins of the former Emerald Hotel on Henty St
- ruins of the homestead corner of Bunnawarra Rd and the Yalgoo-Morawa Rd
- old Anglican Church, Selwyn St – now fenced

Several others are approaching serious dilapidation, and although not in Council's control, a works order could be imposed.

BMX Track

I also had a brief discussion along similar lines with Des Hodder perhaps 18 months or more ago, although not pursued at that time. His main concern was motorcycles on tracks, and had noted that children had been using the area east of Campbell St opposite his house. I have noted that the area around the old MRWA depot was also being used, although mainly by bicycles.

A basic BMX track would probably take only a couple days work for the crew – grading the track, carting dirt for jumps etc. Comparatively, it would be a very cheap facility to build, perhaps only \$4,000 to \$5,000.

Several issues that arise –

- if Council constructs a BMX track, there is liability and duty of care obligations that are created,
- the track would need to be on land formally controlled by Council
- location of the track needs to be in a safe area for travel to and from by bicycle, so a position near the Geraldton-Mt Magnet Road is definitely not preferable
- preventing use by motorcycles, particularly at the same time

The bicycle training track near the School is rarely used, but the land behind this to the north is Lot 195, a part of Reserve 6936, and is vested in the Shire for the purpose of Town Common.

Land east of Campbell St, once beyond the blocks not yet released, is also part of the common.

Lot 217 around the old MRWA depot is now controlled by Council, although not for recreational purposes.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0130 EHO to Inspect Property at Lot 69 Gibbons Street

Moved Cr MR Valenzuela, Seconded Cr LJ Terry

That the Environmental Health Officer inspect the property at Lot 69 Gibbons St, Yalgoo, with a view to issuing a works or demolition order.

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0131 EHO to Inspect Other Buildings too listed below

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the EHO inspect other identified buildings, including –

- ruins of the former Emerald Hotel on Henty St
- ruins of the homestead corner of Bunnawarra Rd and the Yalgoo-Morawa Rd
- old Anglican Church, Selwyn St – now fenced

to ascertain their structural integrity, and determine any work required to ensure public safety, either the building itself or fencing etc.

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 3/ COUNCIL DECISION

C2010-0132 To obtain designs or layouts for the construction of a small BMX track

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That possible designs or layouts be obtained for the construction of a small BMX track to be located to the north of the School oval and bike track on Town Common, Reserve 6936.

Motion put and carried 4/0

11.4.6 MARDU YOUTH CENTRE – Termination of Lease Agreement

File:
Author: Violet Rowe, DCEO
Interest Declared: None
Date: 21 January 2010
Attachments: none

MATTER FOR CONSIDERATION

To consider the termination of Mardu Youth Centre lease agreement between the Shire of Yalgoo and the Mardu Council Aboriginal Corporation.

BACKGROUND

July 2006 the Shire of Yalgoo entered into an agreement with the Mardu Council Aboriginal Corporation to lease what is known as the Mardu Youth Centre. The premises is both Number 39 and 41 Campbell Street, Yalgoo.

I believe the purpose of the lease originally was to provide an area where the youth of Yalgoo could hang out which and it's use was to work in conjunction with the Healthy Community Program.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

A reduction in the following Mardu Youth Centre specific expenses:

- All utilities including water, western power consumption.
- Insurance premiums
- Maintenance done by town crew

An increase in rate revenue as part of the lease was for the Shire of Yalgoo to pay Shire rates

CONSULTATION

Niel Mitchell, CEO

COMMENT

The lease of the Mardu Youth centre was originally for 12 months with the option of up to 4 renewals. As the lease was signed July 2006 for the initial 12 month period, four renewals would make leasing an option until July 2011.

The reason for recommending the termination of the lease of the Youth Centre is because it is not utilised by the Shire of Yalgoo and hasn't been for some time. As we have other public facilities that could be made available for a "Youth Centre" i.e. hall or Old Railway Complex it seems unnecessary and a waste of a building to have the Youth Centre as well.

Some time ago, MEEDAC approached the CEO about the possibility of utilising for art classes or a workshop, so ending the lease will also allow this option to be looked at by MEEDAC and Marddu.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0133 Mardu Youth Centre – Termination of Lease Agreement

Moved Cr EC Rowe, seconded MR Valenzuela

That council write to the Mardu Council Aboriginal Corporation requesting surrender of lease as soon as possible.

Motion put and carried 4/0

11.4.7 COMPLIANCE AUDIT RETURN – 2009

File: A14-3
Author: Niel Mitchell
Interest Declared: No interest to disclose
Date: 21 January 2010
Attachments: p.33 Completed Compliance Audit Return

MATTER FOR CONSIDERATION

To consider adoption of the Compliance Audit Return for 2009

BACKGROUND

The Local Government Compliance Return for the period 1 January – 31 December 2009 must be completed and returned to the Executive Director, Department of Local Government and Regional Development by 31 March 2009.

The Compliance Audit Return is to be –

- a) presented to Council at a meeting of the Council;
- b) adopted by the Council (along with comments or amendments);
- c) the adoption recorded in the minutes of the meeting at which it is adopted.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Audit) Regulations 1996 –

- r.14 – Requires a local government to carry out a compliance audit for the period 1 January to 31 December in each year.
- r.15 – A certified copy of the return together with a copy of the relevant section of the minutes at which it was adopted is to be submitted to the Executive Director by 31 March following.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

None

COMMENT

There are areas of non-compliance in this years return, and the details are noted in the Compliance Audit Return attached, with comment as required by the Department.

Each Councillor may make comments on the return to the Council and any matters of concern relating to the return will be recorded in the minutes of the meeting and will also be attached as an appendix to the return when it is submitted to the Department of local Government and Regional Development.

The Return shows a further reduced incidence of non-compliance in the areas of concern compared to the 2008 Return, which was a large reduction from the 2007 year.

Once adopted by Council, and lodged electronically. A hard copy with the certification signed, is to be lodged by 31 March, together with Councillors comments and an extract of the Minutes adopting the Return,

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0134 Compliance Audit Return – 2009

Moved Cr EC Rowe, Seconded Cr LJ Terry

That –

- **the attached Compliance Audit Return for 1 January to 31 December 2009 be adopted, and**
- **the Return be certified by the President and Acting CEO.**

Motion put and carried 4/0

11.4.8 DRAFT POLICY – Professional Development – Staff and Councillors

File:

Author: Niel Mitchell, CEO

Interest Declared: No interest to disclose

Date: 9 January 2010

Attachments: p.66 Current Policy
p.67 Draft Policy
p.72 Shire of Morawa Policy

MATTER FOR CONSIDERATION

To consider a draft Policy for Professional Development.

BACKGROUND

A possible avenue for works staff to pursue relevant certification in civil construction and supervision was presented to Council for approval in principle at the October 2009 meeting.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

Occupational Health and Safety Act

Bush Fires Act – duty of care to volunteers

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

Adoption of replacement Policy

FINANCIAL IMPLICATIONS

Increased funding for professional development, and limitation of eligibility and expenses

CONSULTATION

Darrell Forrest, Dept of Local Government

Aaron Bowman, City of Stirling

COMMENT

The purpose of the proposal present in October 2009 was to obtain Council's approval in principle for expenditure to be made for the professional development of works staff.

In the context used for this draft policy, professional development is an all-encompassing term which includes –

- training,
- extending proficiency,
- relevant conferences, etc

but excludes –

- meetings attended at direction of Council
- personal development, etc

Professional development is expensive, since the costs of not only registration or course fees need to be included, but also, travel, accommodation, meals, out of pocket expenses etc.

At the moment, there are 3 quite different groups accessing professional development, and some consistency of expectations and equity of access needs to be determined –

- councillors – little use of function specific training
- executive staff – good access to all levels of professional development
- other staff – generally limited to function specific training

Councillors –

Generally there has been little uptake of training offered by WALGA and DLG, in large part due to the difficulty of access, time required away from employment etc. Both these organisations have invested significant resources in developing training, and WALGA now has units available on-line.

Attendance at WALGA Annual Convention averages out in the order of \$3,500 per person.

Brochures are placed on the side table as received, and both also publicise training in their weekly or month newsletters.

Executive staff

It is a usual feature of executive staff contracts that provide a contractual right to access training and development, attendance at professional association conferences and subsidies usually well in excess of that available to other staff.

A typical executive contract commits Council to \$4,000 to \$5,000 a year in addition to function specific training. An executive level employee could very easily incur training, proficiency, further development costs of \$10,000 to \$12,000 a year, through professional association membership and conference, other relevant conferences, contractual obligations and function specific training.

Other staff

Generally, other staff are limited to function specific training, or occasionally, if it very directly related to their role, other training may be accessed, eg: a MYOB course where no Quickbooks training is available.

By its very nature, this limited access to professional development is restrictive and offers little to an employee to encourage them to advance to a supervisory or some other role if they wish to pursue this. With competition in the workforce for many positions being quite high, formal qualifications are often demanded by employers and on the job training is often not considered good enough. This is particularly the case for works staff, where supervisors are expected to have a good knowledge of such matters as –

- supervision of works crews
- occupational health requirements
- traffic management etc

Access to professional development beyond the basic function specific training, needs to be seen as an investment in the individual and in the community.

At the October 2009 meeting, a number of factors were brought up for consideration in preparing a policy –

- tenure – a differentiation between part-time, casual, permanent, full-time does need to be made, and it is suggested that access to professional development in excess of that directly required, be limited to those whose substantive position is permanent full-time. Part-time and casual employees must retain access to the appropriate job specific training when available, as part of our duty of care.
- length of service –
- future service – these are very poor measures of eligibility to access proficiency and further development. A person can be in a role for many years, have reached their peak, and may aspire to a role well beyond their abilities. On the flip side, a new employee may be identified in very short order as having great potential, but could be limited by an unnecessarily imposed restriction. If these are to be imposed as criteria for consideration of requests of employees other than executive staff, it should be queried why the same criteria should not also be imposed on the senior officers and councillors.
- employee commitment to repay – it was suggested that if the full course was not attended or the person finished employment early, there should be a provision to recover a pro-rata proportion from the employee. It is again an inequitable imposition on non-executive staff, and one that is imposed on neither councillors nor executive staff. It is suggested that commitments to professional development be made for not more than a semester or 6 month period at a time, and that this applies to all levels of the Shire. For instance, someone enrolling in a course in town planning or a civil engineering, a commitment is not given for the full course, nor even a year, but only for the semester ahead.
- expenditure commitment – some years ago, the Government mandated a % of salaries and wages as being required to be spent on training. The legislation is still in force apparently, although the required expenditure is 0%. With a roughly \$1 million payroll, it is suggested that the following % be applied to the three categories, to cover all aspects of professional development –

- o Councillors 2.5% of budgeted employee wages
 - Estimated expenditure of \$25,000
 - o Executive staff 1.5% of budgeted employee wages, including contract obligations
 - Estimated expenditure of \$15,000
 - o All other staff 5% of budgeted employee wages
 - Estimated expenditure of \$50,000
- individual commitment – excluding contractual obligations, it is suggested that an allocation for staff for proficiency development be made equivalent to the average total cost of a person attending the WALGA State Conference.

Professional development sources

Obvious sources include –

- WA Local Government Association
- Department of Local Government
- Roads Foundation
- TAFE
- Australian Institute of Management

There a wide range of additional providers of all sorts of training and courses. It is suggested that Council not nominate specific providers, but that flexibility be allowed to make a judgement as to a proposals value, given the topics covered, persons attending, cost/budget etc.

Currently for outside staff, I have been investigating a joint program with Mid West TAFE to set up a program that runs every year covering the same main topics, and extending the topics in time as people near completion of the course. The concept being discussed, is that in Year 1, the range of topics would be consistent with a Certificate II. In Year 2, the same topics, with greater complexity and detail for those having done the same topic the previous year, and possibly one or two additional topics, for a Certificate III qualification, and similarly for Year 3. There are a number of significant benefits for the Shire from such an arrangement –

- the tutors come on site, resulting in a major travel and accommodation saving
- cost of the course will be offset against the “hiring “ of Shire plant to provide the training
- the program once set up, runs every year, without having to reinvent
- the tutors will be working alongside the staff as they do their job – machinery operation, laying out levels etc.
- assessment is not just written exam, but based on observed capability

Mark Sylvester of Mid West TAFE is due to contact the Shire again in February 2010 to further develop possibilities and options, provide greater detail as to costs etc.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0135 Draft Policy – Professional Development

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That the current Policy 3.2 Conferences and Training be revoked, and draft replacement Policy 3.2 Professional Development – Councillors and Staff, as presented be adopted

Motion put and carried 4/0

11.4.9 POST OFFICE FIXTURES

NOTE Cr MR Valenzuela declared a financial interest in this item, being an owner of Post Office business in town, and left the meeting at 3.10pm.

File:
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 22 January 2010
Attachments: None

MATTER FOR CONSIDERATION

To consider sale of Post Office fixtures no longer required.

BACKGROUND

This matter was previously considered by Council in February 2009, however, a request has been made that it be raised again.

STATUTORY ENVIRONMENT

Local Government Act –

- s.3.58 – disposition of property

Functions and General Regulations 1996 –

- r.30 – property to which s.3.58 does not apply
 - o includes property other than land, where the market value is less than \$20,000

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

Cr Raul Valenzuela

COMMENT

In February 2009, the Yalgoo General Store requested that a number of items in the Post Office area of the Old Railway Station, be sold to them. Council resolved at that time –

C2009-0234 Sale of Old Railway Station Fixtures (Post Office)

That all fixtures and fittings remain in the Old Railway Station (Post Office) and no sale of fixtures be made, except for the private mail boxes, and the CEO be authorised to negotiate the sale of these at an appropriate nominal purchase price, subject to no cost to the Shire for reinstatement of the door.

The reason for retaining all other fittings was that may be of use to a potential lessee of the premises.

Likely future uses for the area would most probably be as a shop, display, gallery or offices, and therefore considered unlikely to require the security screens installed for the Post Office (since they handle money, confidential papers in mail, negotiable items such as stamps etc).

The security screens and necessary fittings were purchased by Council in 2006 for \$773.60 ex GST.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0136 Post Office Fixtures

Moved Cr LJ Terry, Seconded Cr EC Rowe

That the security screens be sold to the Yalgoo General Store for \$700.00, or apportioned if all screens not required.

Motion put and carried 3/0

Mr K Hastie left the meeting at 3.11pm and returned at 3.12pm.

Cr MR Valenzuela returned in the meeting at 3.12pm.

11.4.10 SERVICE PERSONNEL RESEARCH

File:
Author: Niel Mitchell, CEO
Interest Declared: No interest to disclose
Date: 22 January 2010
Attachments: none

MATTER FOR CONSIDERATION

To consider the possibility of engaging a consultant to carry out research to ascertain the names of service personnel from Yalgoo and Paynes Find localities.

BACKGROUND

Some time ago, the previous President, Cr Don Anderson, suggested that a memorial be established in the Community Park adjacent to the Shire Offices having the names of all service personnel from the Shire recorded. Cr Iturbide, has also recently suggested a similar sort of memorial be created somewhere in town.

STATUTORY ENVIRONMENT

Local Government Act 1995 –

- s.3.1 – Provides that the general function of the local government is to provide for the good government of persons in its district.

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

Cost of consultant

CONSULTATION

Cr Don Anderson
Cr Terry Iturbide
Ms Diane Hodder, Customer Service Officer
Australian War Memorial
Peter Shaw, Military History Society of Australia
Sandra Playle, private military historian/researcher

COMMENT

In pursuing the request from Cr Anderson and Cr Iturbide, it was found that there is not a single database, place or location we can go to get the information required. Individual list exists for WW1, WW2, Korean and Vietnam conflicts, but adding to the difficulty is that records become more difficult to access and cross reference the further back in time.

Accordingly, the possibility of contracting an historian to carry out the research was investigated, and the most likely organisation for WA seemed to be the Military History Society of Australia. Contact with Peter Shaw, the WA Secretary requested information on any complete databases or sources that may exist, and also if he knew of historians/researchers who may be interested in undertaking this on Council's behalf.

He forwarded to request to his contacts, and so far there has been replies from the City of Fremantle Archivist, Mundaring District Museum, and several others making suggestions of sources, however, only Ms Playle has expressed an interest in undertaking the work.

Her quoted rate for the work is \$20 per hour, and she has undertaken research for a number of organisations, including a substantial project for Albany.

This concept has been raised informally on several occasions, but as yet no direction from Council has been given in relation to –

- is such a memorial desired?
- If so, where would it be placed, and what form would it take? (plaque on a rock placed near Community Park flagpole, honour board in the hall etc)
- which conflicts to be included? (all from Boer War to date, World Wars only)

- all service personnel or only active service or only those killed while in service or conflict?
- personnel enlisting from Yalgoo and Paynes Find only or those having any identifiable connection?

Funding of the project will be from the budgeted allocation for consultants.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0137 Memorial to Service Personnel

Moved Cr TK Iturbide, Seconded Cr LJ Terry

That –

- **the concept of a memorial to service personnel from the Yalgoo and Paynes Find communities be endorsed,**
- **the names to be engraved on a plaque affixed to a rock and placed near the Community Park flagpole.**

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0138 Service Personnel Research

Moved Cr TK Iturbide, Seconded Cr EC Rowe

That Ms Sandra Playle be engaged to research all service personnel having a connection with Yalgoo or Paynes Find, at a rate of \$20 per hour plus out of pocket expenses, to a maximum of \$1,000 subject to review if necessary, with the personnel to be identified by –

- **conflict**
- **whether returned or killed while in service**
- **place of enlistment**
- **other criteria considered relevant**

Motion put and carried 4/0

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION 3/ COUNCIL DECISION

Moved Cr TK Iturbide, Seconded Cr LJ Terry

C2010-0139 Inclusion on the Memorial

That following the report of Ms Playle, Council make a final determination as to criteria for inclusion on the memorial (all personnel, killed while serving, active service etc), style of plaque etc.

Motion put and carried 4/0

11.4.11 APPOINTMENT OF FIRE CONTROL OFFICER

File:
 Author: Niel Mitchell, CEO
 Interest Declared: Person whose appointment is being revoked
 Date: 22 January 2010
 Attachments: None

MATTER FOR CONSIDERATION

To consider the revocation and appointment of various officers

BACKGROUND

STATUTORY ENVIRONMENT

Local Government Act 1995
 - s.5.42 to 5.46 – Delegations to CEO, limitations, register etc
 Bushfires Act

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

None

COMMENT

Current appointments under the Bush Fires Act are –

Position	Area of responsibility	Current Appointees
Chief Bush Fire Control Officer	Whole of Shire	Niel Mitchell
Deputy CBFCO	North South Town and 3km surrounding (Volunteer Bush Fire Brigade Captain)	Vacant Tom Morrissey Richard Hall
Bush Fire Control Officers	No appointment	None
Fire Weather Officer/s	No appointment	None

In relation to appointments made under the Bush Fires Act, it is strongly recommended that Council consider the following –

- (i) identifying local people considered suitable to assume responsibilities under the Bush Fires Act once adequate training has been undertaken
 - o Reason –
 - local people will always have a much greater familiarity with the area
 - local people will generally have greater acceptance and recognition in emergency situations
 - o FESA comments –
 - there is no legislated requirement for training but fully agree with your OHS issues and would fully recommend training. I would recommend council make local laws regarding positional training requirements based on FESA’s Standing Operating procedures.
 - In most Shires, appointments are usually annual, and a vote amongst all FCO’s at the annual Bush Fire Advisory Committee regarding appoints to all positions is held. Then a recommendation to Council is made.
- (ii) a person not being a staff member be appointed for a 12 month period only, but once completing a Fire Control Officer’s Course, may be eligible for appointment without a specified term

- (iii) if a staff member is appointed, and the requisite training has not previously been completed, the CEO is instructed that the training is to be scheduled and completed within 12 months, taking priority over all other training
 - o *Reasons for (ii) & (iii) –*
 - *duty of care to the individual, volunteers being managed as well as to the community*
 - *significant changes over the past 10-15 years in the ways emergencies are managed*
 - *if a major incident, the need to integrate easily with other agencies*
 - *need for some familiarity with AIIMS*
 - o *FESA comment –*
 - *Suggest that following an appointment, the positions be reviewed by the Bush Fire Advisory Committee (BFAC) within 12 months, and all fire Control Officer positions will be reviewed every few years. Following positional reviews by BFAC, the Committee will make recommendations to Council regarding the appointments.*
 - *Council can revoke an appointment at any time, but rather than using a strong arm tactic a set of local laws for appointments and for position holders to abide by would serve the purpose*

NOTE – The Australasian Inter-Service Incident Management System (AIIMS) is the nationally adopted system of principles and structures used to manage emergencies, and is suitable for dealing with all manner of incidents and emergencies. AIIMS was introduced in the mid 1980s but has since been progressively adopted by the various emergency services and public safety organisations.

Council does not hold an annual Bush Fire Advisory Committee meeting.

Consideration could perhaps also be given to appointing people from MMG Golden Grove or Golden Stallion (Minjar Gold Mine) as Fire Control Officers.

After discussion with FESA and Mr Tom Morrissey, some changes to the structure of appointments is suggested. Mr Morrissey has had quite a bit of experience of the years, and has been the “on the ground Chief FCO” at fires while the CEO has remained at the office coordinating plant, equipment, supplies etc.

Several people in addition to those listed in the recommendation will be approached prior to Council meeting, to see if they would be willing to accept the responsibility as a Fire Control Officer.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0140 Appointment of Fire Control Officer

Moved Cr EC Rowe, Seconded CR LJ Terry

That the following appointments be made, effective 29 January 2010, and all prior appointments revoked –

Position	Appointees	Ranking	Term of appointment unless otherwise revoked
Chief Bush Fire Control Officer	Kim Hastie		Duration of employment
Deputy Chief Bush Fire Control Officers	Tom Morrissey	1	30 June 2011
	Violet Rowe	2	Duration of employment
	Heide Duffey	3	Duration of employment
Bush Fire Control Officers	Cliff Hodder (Snr)	1	Duration of employment
Fire Weather Officer/s	No appointment		n/a

Motion put and carried by Absolute Majority 4/0

NEW MOTION

C2010-0141 Fire Control Officer

Moved Cr EC Rowe, Seconded Cr LJ Terry

That the following appointments be made, effective 29 January 2010, and all prior appointments revoked –

Position	Appointees	Ranking	Term of appointment unless otherwise revoked
Chief Bush Fire Control Officer	Kim Hastie		Duration of employment
Deputy Chief Bush Fire Control Officers	Tom Morrissey	1	30 June 2011
	Violet Rowe	2	Duration of employment
	Heide Duffey	3	Duration of employment
Bush Fire Control Officers	Cliff Hodder (Snr)	1	Duration of employment
	Thomas Hodder	2	Duration of employment
Fire Weather Officer/s	No appointment		n/a

Motion put and carried by Absolute Majority 4/0

11.4.12 LOCAL EMERGENCY MGMT COMMITTEE – Appointment of Members

File:
Author: Niel Mitchell, CEO
Interest Declared: no interest to declare
Date: 22 January 2010
Attachments: None

MATTER FOR CONSIDERATION

To consider appointments to the Local Emergency Management Committee

BACKGROUND

Appointment of a Committee is required under the Emergency Management Act

STATUTORY ENVIRONMENT

Emergency Management Act
State Emergency Management Committee Policies
Shire of Yalgoo Delegation 1.2

STRATEGIC IMPLICATIONS

None

POLICY IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

CONSULTATION

None

COMMENT

In December 2007, Council appointed the core of a Local Emergency Management Committee. The Committee never met, and in November 2009, adopted a Delegation which noted an expanded membership.

Adoption of the Delegation by absolute majority is not the same as appointment to the LEMC, and accordingly, Council is requested to formally resolve those appointments.

All future attendees at LEMC meetings will have to be considered as observers, until such time as formally resolved by Council.

The recommended list is as per the attendance at the LEMC Meeting held on 1 December 2009.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0142 Local Emergency Mngt Committee – Appointment of Members

Moved Cr TK Iturbide, Seconded Cr EC Rowe

That the following appointments be made to the Local Emergency Management Committee, for a term expiring in October 2013, subject to the provisions of the Local Government Act –

- **President, Shire of Yalgoo, Chairperson**
- **Officer in Charge, Yalgoo Police, Deputy Chairperson**
- **CEO, Shire of Yalgoo / Chief Fire Control Officer**
- **Deputy CEO, Shire of Yalgoo / Deputy CFCO**
- **Works Foreman, Shire of Yalgoo**
- **President, Yalgoo St John Ambulance Sub-Centre**
- **Captain, Yalgoo Volunteer Bush Fire Brigade**
- **Principal, Yalgoo Primary School**
- **Representative, Fire and Emergency Services Authority**

- **Representative, MMG Golden Grove**
- **Representative, Dept of Children Protection**
- **Representative, Dept of Environment and Conservation**
- **Representative, WA Country Health Services**

Motion put and carried by Absolute Majority 4/0

12. NOTICE OF MOTIONS

12.1 PREVIOUS NOTICE RECEIVED

None

12.2 FOR CONSIDERATION AT THE FOLOWING MEETING

None

13. URGENT BUSINESS

None

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

STATUTORY ENVIRONMENT
Refer following page

Motion to Close the Meeting to the Public

VOTING REQUIREMENTS
Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0143 Meeting Closed to the Public

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the meeting be closed to the public to discuss the following matters –

14.1 Reserve 48915 – Complaint

Motion put and carried 4/0

The meeting was closed to the public at 3.17pm.

Remaining in the meeting were –

MEMBERS	Cr TK Iturbide, Shire President Cr EC Rowe, Deputy Shire President Cr MR Valenzuela Cr LJ Terry
STAFF	Mr N Mitchell, Chief Executive Officer Mr K Hastie, Acting Chief Executive Officer
OBSERVERS	Mr Mike Fitz Gerald

Mr K Hastie left the meeting at 3.19pm and returned at 3.21pm.

14.1 RESERVE 48915 – COMPLAINT

Reason for confidentiality –

- Local Government Act 1995 –
 - o s 5.23 (2)(a) – A matter affecting an employee or employees.
 - o s.5.23 (2)(f)(i) – if disclosed may impair effectiveness of investigations

Meetings being closed to the public – Statutory Environment

Local Government Act 1995 –

5.23. Meetings generally open to the public

- (1) Subject to subsection (2), the following are to be open to members of the public —
- (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.92. Access to information by council, committee members

- (1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.
- (2) Without limiting subsection (1), a council member can have access to —
- (a) all written contracts entered into by the local government; and
 - (b) all documents relating to written contracts proposed to be entered into by the local government.

5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

Local Government (Rules of Conduct) Regulations 2007

6. Use of information

- (1) In this regulation —
- “**closed meeting**” means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;
 - “**confidential document**” means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;
 - “**non-confidential document**” means a document that is not a confidential document.
- (2) A person who is a council member must not disclose —
- (a) information that the council member derived from a confidential document; or
 - (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —
- (a) at a closed meeting; or
 - (b) to the extent specified by the council and subject to such other conditions as the council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

Motion to Open the Meeting to the Public

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION/ COUNCIL DECISION

C2010-0144 Re–opened the Meeting to the Public

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That the meeting be re-opened to the public.

Motion put and carried 4/0

The meeting was reopened to the public at 4.45pm.

Present at the re-opening of the meeting were –

MEMBERS	Cr TK Iturbide, Shire President Cr EC Rowe, Deputy President Cr MR Valenzuela Cr LJ Terry
STAFF	Mr N Mitchell, Chief Executive Officer Mr K Hastie, Acting Chief Executive Officer
OBSERVERS	Mr Mike Fitz Gerald (Consultant)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION 1/ COUNCIL DECISION

C2010-0145 Ms Ann Jones Complaint Part I

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That Ms Ann Jones be advised that her complaint regarding Reserve 48915 is rejected for the following reasons –

- a) **The Shire’s actions in acquiring the management and control of Reserve 48915, and subsequent use for keeping of horses is entirely legal, having followed the necessary legislative requirements to acquire the vesting, and to subsequently amend the purpose of the vesting, in accordance with the procedures of State Land Services, and evidenced by their issue of an Order for the Management and Control of the Reserve,**
- b) **Any improper action in relation to the clearing of rubbish and discarded materials from Reserve 48915 is strongly denied,**
- c) **The keeping of horses on the block was approved by State Land Services subject to issue of a licence by the Shire and their approval.**
- d) **The Shire accepts no responsibility whatsoever for the condition of the building, as under the terms of the vesting, it is her responsibility to maintain it good order**
- e) **The Shire accepts no responsibility whatsoever for the security of the building, as under the terms of the vesting, it is her responsibility to fence the building**
- f) **The Shire considers that she is in breach of the terms of the vesting conditions, and would be entitled to request SLS to have her access to the building and a portion of the Reserve removed from the vesting conditions due to the fact that the portion of the Reserve intended for her use –**
 - **has not been fenced**
 - **has not been kept clear of rubbish, and**
 - **the building has not been maintained**

Motion put and carried 4/0

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION 2/ COUNCIL DECISION

C2010-0146 Ms Ann Jones Complaint Part II

Moved Cr EC Rowe, Seconded Cr MR Valenzuela

That Ms Ann Jones be advised that her complaint regarding discriminatory employment practices is rejected for the following reasons –

- a) **All Shire staff are very aware of and comply with their responsibilities under the Equal Opportunities Act, and aware that such comment is prohibited.**
- b) **Shire staff are aware that such a comment is prohibited.**
- c) **It is denied that the alleged discriminatory employment practices occurred.**

Motion put and carried 4/0

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION 3/ COUNCIL DECISION

C2010-0147 Ms Ann Jones Complaint Part III

Moved Cr LJ Terry, Seconded Cr MR Valenzuela

That Ms Ann Jones be advised that her remaining comments and complaints are rejected as complaints against the Shire, for the following reasons –

- a) **Matters such as the actions of individuals and community of Yalgoo, are outside of the Shire's responsibility and control.**
- b) **Matters such as the maintenance of Lot 199 Badja Woolshed Road, are entirely under her control and responsibility.**
- c) **Irrelevant, or**
- d) **Are without evidence or foundation.**

Motion put and carried 4/0

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION 4/ COUNCIL DECISION

C2010-0148 Ms Ann Jones Complaint Part IV

Moved Cr EC Rowe, Seconded Cr LJ Terry

That McLeods Solicitor be requested to respond to Ms Ann Jones as outlined in the previous resolutions.

Motion put and carried 4/0

15. NEXT MEETING

The next Ordinary Meeting of Council is due to be held in the Council Chambers in Gibbons Street, on Thursday, 18 February 2010, commencing at 11.00 am.

16. MEETING CLOSURE

There being no further business, the President declared the meeting closed at 4.52pm.

DECLARATION

These minutes were confirmed by Council at the Ordinary Meeting held on _____.

Signed: _____
Person presiding at the meeting at which these minutes were confirmed