

SHIRE OF YALGOO

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Ordinary Council Meeting 14.06.07

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Minutes
of an Ordinary Meeting of Council held in the Council Chambers
on 14 June 2007

ORDER OF BUSINESS

DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President declared the Ordinary Meeting of Council open at 10:18am

RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

COUNCILLORS

Cr DE Anderson
Cr DJ Grey
Cr LJ O'Connor
Cr EC Rowe
Cr DP Morrissey (10:36am)
Cr L Hodder (1:05pm)

ALSO IN ATTENDANCE

Acting Chief Executive Officer	Mr RG Bone
Deputy Chief Executive Officer	Mr RJ Adams
Works Foreman	Mr CF Hodder

APOLOGIES

Nil

LEAVE OF ABSENCE

Cr EF Taylor

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

NOTICE OF ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS

Nil

CONFIRMATION OF MINUTES

OC0601 COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr LJ O'Connor

That the Minutes of the Ordinary Council Meeting held on 17 May 2007, be confirmed as a true and correct record of proceedings, subject to the following correction:

- P.3 – second last paragraph – delete the name ‘Hugh Low’ and insert the name ‘Hugh Lavery.’

Motion put and carried 4/0

ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

ANNOUNCEMENTS CONCERNING MEETINGS ATTENDED

THE PRESIDENT

- Attended Murchison Zone Strategy Group meeting at Cue on 1 June. Items discussed included:
 - Zero Waste Management Plans.
 - Collective fuel purchasing – agreed this was not worth pursuing.
 - Shire Activity Reports to Cue Parliament – agreed no more verbal reports and the reports should be more macro orientated.
 - Executive Officer vacancy – this was advertised on 9 June.
 - Delivery of State Services – full detail of outcomes are reported at p. 11/13 in minutes of MZSG (1/6/07).
 - The next meeting of the MZSG will be held at Cue on 7 September 2007.
- Attended District Health Advisory Meeting at Mt Magnet on 6 June.
- Attended ACC meeting at Geraldton on 12 June.

Murchison Country Zone – Meetings with Ministers

The President also reported that two meetings on behalf of the Murchison Country Zone consisting of a delegation of Presidents from the Zone had been arranged with Ministers Kobelke and Ellery, both for 5 July 2007 in Perth. The purpose of the meetings is to push the case for better resourcing of the Department of Community Development and also Police services in the District.

OC0602 COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr LJ O'Connor

That Council approve travelling and accommodation expenses to enable Cr DE Anderson to attend meetings in Perth with Ministers Kobelke and Ellery on 5 July 2007.

Motion put and carried 5/0

Cr DP Morrissey joined the meeting at 10:36am

MRVC

No activity this month.

ACEO

- Attended MZSG meeting at Cue on 1 June with the President.
- Met with Fred Shier from the Water Corporation on 13 June regarding progress on the Yalgoo water treatment plant.

REPORTS OF OFFICERS

WORKS FOREMAN

(11.1.1) GRIDS

File: R11
Author: Cliff Hodder, Works Foreman
Interest Declared: No interest to disclose
Date: 1 June 2007
Attachments: Photo of Grids (sand colour page)

MATTER FOR CONSIDERATION

Council to consider approving the upgrading of existing grids for use on Shire roads.

BACKGROUND

There are 94 grid sections on roads in the Shire of Yalgoo. The Yalgoo/Morawa and Yalgoo/Ninghan Roads each have 24 grid sections, whilst the Yalgoo/North Road has 12 grid sections.

With increased mass and size of the road trains using these roads the existing grids in their current design are suffering from fatigue and need upgrading.

Grids on other roads in the Shire are in reasonable condition and only require routine maintenance.

The Yalgoo/Ninghan Road carries the most road train activity and grid replacements are of high importance. There are enough grids in stock that can be upgraded by welding additional bearers in the middle for support – three extra bearers for the inside grids and two for the outside sections. The extra bearers (100 x 100 x 5–8 RHS) will enable the grids to withstand longer periods of the increased mass. The upgraded grids can then be directly swapped for existing grids which can be returned to the workshop for similar upgrading.

The Yalgoo/Ninghan Road is the top priority, followed by the Yalgoo/Morawa Road. The Yalgoo/North Road has three grids requiring extra width (currently 3.6m) and these will be done after the priority roads. The cost to widen the three grids is estimated at \$19,845.

Insofar as the 24 grids on the Yalgoo/Ninghan Road, it is estimated the cost to weld three extra bearers into the inside panels and two extra bearers into the outside panels is \$21,000. The 2006/07 budget has a provision of \$17,000 (not utilised) to purchase one grid for the Yalgoo/Ninghan Road. Upgrading of the grids would replace the purchase approach.

STATUTORY ENVIRONMENT

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

All grids on the Yalgoo/Ninghan Road could be upgraded for a similar cost to the 2006/07 budget allowance for the replacement of one grid on the same road.

CONSULTATION

Nil

COMMENT

Nil

VOTING REQUIREMENTS

Simple majority

OC0603 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr LJ O'Connor, Seconded Cr EC Rowe

That Council:

- 1. Approve the replacement of grids on Shire roads with grids from stock upgraded to include extra bearers.**
- 2. Make provision in the draft 2007/08 budget for grid upgrades to the following roads:**
 - Yalgoo/Ninghan (24 grids) \$21,000**
 - Yalgoo/Morawa (24 grids) \$21,000**
 - Yalgoo/North (widen 3 grids) \$19,845**

Motion put and carried 5/0

Note: The meeting proceeded to item 11.3.2 to deal with this matter while Mr Hodder was still available.

(11.3.2) STAFF (RAY WINFIELD) – ADDITIONAL PAYMENT

File: S90–55
 Author: Glenn Bone, Acting Chief Executive Officer
 Interest Declared: No interest to disclose
 Date: 29 May 2007
 Attachments: Nil

MATTER FOR CONSIDERATION

For Council to consider whether it will make an additional payment to Mr Ray Winfield who recently left the employment of the Shire.

BACKGROUND

Cr D Grey has proposed that Council look at the possibility of making an additional payment (beyond his wages entitlements) to Ray Winfield in recognition of his service to the Shire and also the community.

Mr Winfield was employed by the Shire from 13 May 1991 to 30 April 2007, a period of some 16 years.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.50(2)–A local government may make a payment –

- a) to an employee whose employment with the local government is finishing; and
- b) that is more than the additional amount set out in the policy prepared under subsection (1) and adopted by the local government,

but local public notice is to be given in relation to the payment made.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy 3.10–Severance and Redundancy Pay

Clause 3.10.2.3 of the Policy provides that Council may determine in special circumstances to pay additional monies to terminating employees or provide additional benefits where justified. Details of such severance pay and benefits are to be published in accordance with section 5.50(2) of the Act.

FINANCIAL IMPLICATIONS

Examples might be:

- 3% of annual wage of \$31,497 = \$944.91
- 16 years @ \$50 = \$800.00
- 16 years @ \$75 = \$1,200.00
- 16 years @ \$100 = \$1,600.00

CONSULTATION

Nil

COMMENT

While the discretion to make an additional payment to a parting employee is certainly available, the nature of such a payment is subjective. Unfortunately, there are no established guidelines as to what extent such a payment might be. Options could include a percentage of the last year’s ordinary wage or an amount for each year of service (say, \$50 or even \$100 for each year of service).

Appreciation to employees may also be given in other ways, such as a farewell reception. An alternative to this could be the deemed value of such a reception.

Council may also reflect on its consideration last July when another employee of lengthy service (Robin Carnamah – 15 years service) departed. Council on this occasion resolved to send a letter of appreciation in recognition of his services.

Whatever the situation, Councillors in their long term presence are in a strong position to make a determination on the issue.

Lastly, if Council does resolve to approve a payment, this will need to be advertised in the *Geraldton Guardian* as per the requirements of Section 5.50(2) of the Local Government Act 1995.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION

That Council make an additional payment to Mr Ray Winfield of \$1,600 (16 years service x \$100 pa) pursuant to its powers under section 5.50(2) of the Local Government Act 1995, in recognition of his service to the Shire and the community.

OC0616 COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DE Anderson

That Staff prepare a Policy on gratuitous payments to departing longer term employees who have given satisfactory service.

Motion put and carried 5/0

Mr Cliff Hodder left the meeting at 11:23am.

DEPUTY CHIEF EXECUTIVE OFFICER

(11.2.1) ACCOUNTS PAID DURING THE MONTH OF MAY 2007

File: F8
Author: Ron Adams, Deputy Chief Executive Officer
Interest Declared: No interest to disclose
Date: 2 June 2007
Attachments: EFT & Cheque Detail for May 2007 (green)

MATTER FOR CONSIDERATION

Authorisation of accounts paid during the month of May 2007.

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

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Payment from Council's Municipal Account.

CONSULTATION

Nil

COMMENT

Payments made during the month of May as per attached schedule.

VOTING REQUIREMENTS

Simple majority

Crs Rowe and Grey declared financial interests – extent being:

Cr Rowe is a partner in the firm W & E Rowe Contractors– EFT 33.

Cr Grey is a director at Yalgoo Fuel Station – EFT 36 & EFT 100.

OC0604 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DJ Grey

That:

- 1. The Cheque Detail of payments covering vouchers EFT 1 to EFT 102 (except 33, 36 & 100) totalling \$402,301.23 paid during the month of May 2007, be received;**
- 2. Cheque payments covering cheque numbers 10482 to 10520 totalling \$158,083.61 paid during the month of May 2007, be received; and**
- 3. Salaries and Wages totalling \$89,281.70 paid during the month of May 2007, be received.**

Motion put and carried 5/0

Cr EC Rowe declared a financial interest and left the room at 11:27am. The nature of the interest being EFT 33.

OC0605 COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr LJ O'Connor

That the Cheque Detail of payment covering voucher EFT 33 for the amount of \$10,051.25 paid during the month of May 2007, be received.

Motion put and carried 4/0

Cr EC Rowe rejoined the meeting at 11:28am.

Cr DJ Grey declared a financial interest and left the room at 11:28am. The nature of the interest being EFT 36 and EFT 100

OC0606 COUNCIL RESOLUTION

Moved Cr DP Morrissey, Seconded Cr EC Rowe

That the Cheque Detail of payments covering vouchers EFT 36 and EFT 100 totalling \$1,356.56 paid during the month of May 2007, be received.

Motion put and carried 4/0

Cr DJ Grey rejoined the meeting at 11:30am

(11.2.2) FINANCIAL ACTIVITY STATEMENTS – MAY 2007

File: F8
Author: Ron Adams, Deputy Chief Executive Officer
Interest Declared: No interest to disclose
Date: 2 June 2007
Attachments: Financial Activity Statements for May 2007 (green)

MATTER FOR CONSIDERATION

Council to consider adopting the monthly financial statements for May 2007.

BACKGROUND

Amendments to the Local Government (Financial Management) Regulations 1996 that were gazetted on 31 March 2005 and became effective from 1 July 2005 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

Nil

POLICY IMPLICATIONS

Policy 4.9–Provides that as a base standard for preparation of monthly statements, staff are to prepare a Profit & Loss Vs Actual Report and make comment of items of a 10% variance or \$5,000 from the previous month.

FINANCIAL IMPLICATIONS

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

CONSULTATION

Nil

COMMENT

Nil

VOTING REQUIREMENTS

Simple majority

OC0607 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DJ Grey, Seconded Cr LJ O'Connor

That Council adopt the financial statements for the period ending 31 May 2007, as attached.

Motion put and carried 5/0

The meeting adjourned for lunch at 12 noon and recommenced at 1:05pm with those present before the adjournment present once again and with the addition of Cr Hodder.

(11.2.3) DONATION – COUNTRY MEDICAL FOUNDATION

File: M2
 Author: Ron Adams, Deputy Chief Executive Officer
 Date: 23 May 2007
 Interest Declared: No interest to disclose
 Attachment: Donations 2007 (blue)

MATTERS FOR CONSIDERATION

1. To approve or disapprove a donation from Council to the Country Medical Foundation.
2. Inclusion of further donations to the Country Medical Foundation for the 2007/08 and 2008/09 budgets.

BACKGROUND

The Country Medical Foundation (CMF) began life 18 years ago as an initiative of local government aiming to solve the shortage of doctors and nurses in rural and remote WA that emerged through the nineteen eighties, became critical in the nineteen nineties and persists today.

The CMF was set up to increase the country medical workforce.

The CMF has helped to place an average of 15 new professionals in country locations each year, or 221 in total. Attached is a list of the students who have come from, and returned to, Towns and Shires like ours.

The assistance offered is by way of a scholarship to assist students from rural and remote communities become medical professionals. Currently the CMF has a shortage of funds and is asking local governments to assist in their fundraising efforts.

At the August 2006 WALGA Annual General Meeting a motion was passed to support the CMF to continue its program.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.2–Requires that each year a local government prepare and adopt an annual budget.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There is an allowance in the 2006–07 budget for donations to be made. This allowance is at the discretion of members of Council. Should Council agree to a term longer than this financial year, the amount would be included in subsequent budgets.

COMMENT

As there is no direct Council policy on donations to assist members in their decision, consideration of the following may assist:

- Does the Organisation operate in the Shire of Yalgoo?
- Is there going to be any direct impact for the Shire of Yalgoo?

OC0608 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr LJ O'Connor, Seconded Cr EC Rowe

That:

1. **A donation of \$250 be made to Country Medical Foundation for 2006/07 year.**
2. **A donation be made to the Country Medical Foundation of \$250 for the subsequent years 2007/08 and 2008/09.**
3. **Staff develop a policy on donations to charitable organisations.**

Motion put and carried 6/0

(11.2.4) YALGOO/MORAWA YALGOO/NINGHAN ROADS SEALING

File: R11
Author: Ron Adams, Deputy Chief Executive Officer
Interest Declared: No interest to disclose
Date: 29 May 2007
Attachments: Nil

MATTER FOR CONSIDERATION

For Council to:

1. Authorise payment for additional sealing material to that in the tender and used for the extended sealing works on the Yalgoo/Morawa Road.
2. Sanction the purchase of additional sealing material to that in the tender for the extended sealing works proposed on the Yalgoo/Ninghan Road.

BACKGROUND

At the Ordinary Council Meeting in August 2006, (Item 10.2). Council was advised of the Supplementary Roads to Recovery Grant. This grant is to be expended over three years. Council resolved to spend the grant in 2006/07 by extending the seal on the Morawa and Ninghan roads.

Greenfield Technical Services handle the tendering process for supply of sealing material on behalf of the Shire. The tender process was carried out for the works program of 4km on each of these roads. However, the tender process did not take into account the decision by Council from the August 2006 meeting (Item 10.2).

STATUTORY ENVIRONMENT

There has been a change to the statutory environment from when this matter was considered by Council in August 2006. This is set out below:

Local Government (Functions and General) Regulations 1996.

Reg 11A(1)—A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100,000 or less or worth \$100,000 or less.

Previously the figure was \$50,000.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy 5.4—Purchasing

To deliver a best practice approach and procedures to internal purchasing for the Shire of Yalgoo.

This policy was adopted by Council at the Ordinary Meeting in February 2007 (Item 10.5.4).

FINANCIAL IMPLICATIONS

An amount of approximately \$80,890 for purchase of sealing material for additional sealing of the Yalgoo Morawa and Yalgoo/Ninghan Roads is to come from the supplementary Roads to Recovery program (\$262,868). This does not have any financial impact on the Shire's financial position as the grant has been received and is being expended as per the grant guidelines.

CONSULTATION

Nil

COMMENT

Nil

VOTING REQUIREMENT

Simple majority

OC 0609 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr DJ Grey

That Council authorise the expenditure of \$80,890 for the purchase of additional sealing material from Boral Construction for the completion of sealing of an extra 6km for both the Yalgoo/Morawa and Yalgoo/Ninghan Roads.

Motion put and carried 6/0

(11.2.5) SUNDRY DEBTOR WRITE-OFF

File: F8
 Author: Ron Adams, Deputy Chief Executive Officer
 Interest Declared: No interest to declare
 Date: 30 May 2007
 Attachments: Nil

MATTER FOR CONSIDERATION

To write off \$338.98 from the sundry debtor accounts.

BACKGROUND

The following sundry debtors have been outstanding for over twelve months. Attempts to recover monies have been exhausted.

Adrian Blair Comeagain	\$31.35 – Lost library books, dates back to prior 30-6-06, all attempts to recover monies have not been successful
Simone Day	\$53.23 – Ex employee who had an outstanding telephone account. Sent to debt collector, unsuccessful and recommended write off.
Claudine Simpson	\$132 – Pest control invoice from February 2006, attempts to recover monies not successful.
Marikka Hill	\$122.40 – This amount was picked up in the audit for the 2005/06 year in the debtor ledger. The resource to investigate the amount will far exceed any possible return that may be achieved.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.12–Provides a local government a power to grant discounts, waive or grant concessions in relation to any amount of money or write off any debt which is owed to the local government.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council has a provision for doubtful debts of \$2000 in its books. Writing off these debts totalling \$338.98 will be applied to that account. The write off of these debts will result in Council’s financial position being more accurately represented.

VOTING REQUIREMENTS

Absolute majority

OC0610 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DP Morrissey

That Council write off from its Sundry Debtor accounts:

Adrian Blair Comeagain	\$31.35
Marikka Hill	\$122.40
Claudine Simpson	\$132.00
Simone Day	\$53.23
Total	\$ 338.98

Motion put and carried 6/0

(11.2.6) LIBRARY – PURCHASE OF LOST BOOKS

File: L5
 Author: Ron Adams, Deputy Chief Executive Officer
 Date: 31 May 2007
 Interest Declared: No Interest to disclose
 Attachments: Nil

MATTER FOR CONSIDERATION

To authorise the purchase of lost and non–returned library items.

BACKGROUND

An internal audit of the library has revealed that the Shire is required to purchase a number of items that have been declared lost or not recoverable. Some of these items have had Sundry Debtors raised for the books but have subsequently been written off. (FM 15 June 2006 item 4.1.7) and (OC 15 February 2007 item 10.4.2).

The clients no longer reside in or around Yalgoo therefore raising a sundry debtor invoice will ultimately lead to the Shire writing these debts off.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.12–Provides a local government a power to grant discounts, waive or grant concessions in relation to any amount of money or write off any debt which is owed to the local government.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The amount of \$968.50 to replace the books and other library items is not allowed for in the 2006/07 budget. The amount will have a minimal effect on the Shire’s financial position.

COMMENT

The opportunity to clear up the library account will assist in the Shire’s financial position being reported more accurately.

VOTING REQUIREMENT

Absolute majority

OC0611 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr LJ O’Connor, Seconded Cr L Hodder

That Council approve:

- 1. Purchase of Library items to the value of \$968.50.**
- 2. Record an over budget expenditure to EII5015–Library and other Expenses.**
- 3. Sundry debtor invoices not be raised for library items as the clients are considered debt risk and little or no return will be achieved.**

Motion put and carried 6/0

(11.2.7) RATES – SUNDRY WRITE OFFS

File: R4
 Author: Ron Adams, Deputy Chief Executive Officer
 Date: 31 May 2007
 Interest Declared: No Interest to declare
 Attachments: Write Off Details (green)

MATTER FOR CONSIDERATION

To write off book entries from the Rate Book

- | | |
|---------------------|-------------|
| 1. Rate Charges | \$21,717.28 |
| 2. ESL Charges | \$1,514.74 |
| 3. Interest Charges | \$456.52 |

BACKGROUND

During the transfer of the Rate Book from Lynx Rating System to Ratebook online, several rate charges have been raised in error, and properties have had incorrect charges applied. This includes mining tenements which generally move two to three times a year. In balancing the Rate Book these incorrect charges need to be adjusted. The details of assessments are shown in the attached document.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.12–Provides a local government a power to grant discounts, waive or grant concessions in relation to any amount of money or write off any debt which is owed to the local government.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There will be no financial loss as the entries are simple journal entries to reverse fees and charges raised incorrectly.

COMMENT

Nil

OC0612 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr DJ Grey

That Council write off from its Rate Book as per details in the attached document (green pages):

- | | |
|----------------------------|--------------------|
| 1. Rate Charges | \$21,717.28 |
| 2. ESL Charges | \$1,514.74 |
| 3. Interest Charges | \$456.52 |

Motion put and carried 6/0

(11.2.8) AUDIT – EXTRA CHARGES

File: A14-3
Author: Ron Adams, Deputy Chief Executive Officer
Interest Declared: No Interest to declare
Date: 31 May 2007
Attachments: Nil

MATTER FOR CONSIDERATION

To consider the payment of an additional amount to the Shire's auditors for extra work required to complete the 2005/06 Audit.

BACKGROUND

As Council is aware an accounting crash during May 2006 occurred with the Shire's software program Attache. Around May 2006 UHY Haines Norton were engaged to recover all of the invoices and receipts for the financial year. As this job was a considerable task in itself inevitably errors occurred during the process. This process was a total rebuild of the Shire's accounts for the whole year (2005/06).

The auditors experienced many difficulties in auditing the books for 2005/06, an example being a \$100,000 error in debtors. This error was subsequently fixed and a new set of financial statements processed.

There were three sets of financial statements prepared for the Shire and presented to the auditor. Each time a new set of financial statements was prepared for the auditor a considerable amount of work was required that could be considered to be outside the scope of the audit tender. Anderson Munroe & Wyllie have submitted an account for \$8,500 which is \$800 more than that accepted in the tender for the conduct of the 2005/06 audit.

Council had appointed an auditor following a recommendation from its Audit Committee as required by the Local Government Act 1995. Although not required to tender for these services, Council resolved to follow the tender process as provided by the Local Government (Functions and General) Regulations 1996, to assist in their decision.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 7.3(1)–States a local government is to, from time to time whenever such an appointment is necessary or expedient, appoint a person, on the recommendation of the audit committee, to be its auditor.

Local Government (Functions & General) Regulations 1996

Regulations 13-24–Provide the procedures for tenders to be used by local governments when tenders are used though not required to do so.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There is an amount of \$7,700 allocated in the budget for Audit Services. The extra charge over the budget amount of \$800 will have a minor impact on Council's financial position.

CONSULTATION

Billy Joe Thomas – Anderson Munroe & Wyllie
Mandy Wynne – Haines Norton

COMMENT

The contract to provide audit services to the Shire at Clause 5 Item 3 states that any additional invoice for work outside the scope of the audit will, when anticipated, only be raised with the consent of the Chief Executive Officer. Although Shire staff and the auditor were aware of additional work that would be considered to be outside the scope of the audit, due process had not been followed to arrange the authorisation of the extra charges.

I cannot disagree with the auditor's statement that the financial records and statements were in poor shape. The amount of work that UHY Haines Norton, the auditor and current Shire staff did to complete the statements was extremely time consuming and the result to have the statements completed when they did was an achievement in itself.

VOTING REQUIREMENT

Simple majority

OC0613 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DJ Grey

That Council approve the payment of \$800 to Anderson Munroe & Wyllie for extra services to complete the financial statements of 2005/06.

Motion put and carried 6/0

(11.2.9) MID WEST DEVELOPMENT COMMISSION – MEETING AT YALGOO

File: R 9–1
 Author: Ron Adams, Deputy Chief Executive Officer
 Interest Declared: No Interest to declare
 Date: 6 June 2007
 Attachments: Nil

MATTERS FOR CONSIDERATION

1. Nomination of members to attend the tour of Yalgoo with the Board of the Mid West Development Commission (MWDC).
2. Nomination of members to present a brief to the MWDC Board.
3. To determine the travelling expenses incurred by council members.

BACKGROUND

The Board of the MWDC meets six times per year and is keen to maintain a schedule of meetings and visits to regional communities. Accordingly, this year the Board has planned to meet in Dongara, Yalgoo and Kalbarri.

The members of the Board plan to visit Yalgoo on the afternoon of Thursday 21 June and would like to take the opportunity to tour the town with the A/CEO and/or the President [or councillor(s)]. This is currently proposed to take place at around 3:00pm.

On Thursday evening the President, Deputy President and the A/CEO are invited to dinner with the Board at the Yalgoo Hotel, commencing with drinks at 6:30pm, followed by dinner at 7:00pm.

The MWDC Board would meet in the Council Chambers from 8:30am to 3:00pm on Friday 22 June. The Shire is invited during this time to make a brief (30 minutes) presentation to the Board on key issues affecting the Shire. All councillors will be welcome to attend this session as well as to join the Commission Board for lunch.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.98(2)(b)–Provides for an expense which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement.

Local Government (Administration) Regulations 1996

Reg 32 (1)(c)–Provides for an expense incurred by a council member in performing a function in his or her capacity as a council member.

STRATEGIC IMPLICATIONS

Services – Key Area

Objective 3 – To advocate on behalf of the community the provision of State and Federal Services

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The estimated travel expense for members to be present on both days for this Board meeting is \$480.52. This amount is still within the allocated travel allowance in the 2006/07 budget.

CONSULTATION

Nil

COMMENT

Nil

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION

That Council:

1. Nominate members to attend the tour of Yalgoo with the Board of MWDC;
2. Nominate member(s) to present a brief to the MWDC Board; and
3. Approve travelling expenses for Council members to attend meetings with the MWDC Board on Thursday 21 and Friday 22 June 2007.

OC0614 COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr L Hodder

That Council:

1. **Authorise Cr Anderson, Cr Rowe and the Acting CEO to attend the tour of Yalgoo with the Board of MWDC;**
2. **Nominate Cr Anderson to present a brief to the MWDC Board;**
3. **Approve travelling expenses for Cr Anderson and Cr Rowe to attend the tour of Yalgoo with the MWDC Board on Thursday 21 June 2007; and**
4. **Approve travelling expenses for Cr Anderson, Cr Rowe, Cr Morrissey and Cr Hodder to attend the meeting with the MWDC Board on Friday 22 June 2007.**

Motion put and carried 6/0

ACTING CHIEF EXECUTIVE OFFICER

(11.3.1) YALGOO AIRSTRIP

File: A7-3
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 29 May 2007
Attachments: Nil

MATTER FOR CONSIDERATION

For Council to determine whether it wishes to fence the secondary strip at the Yalgoo Airstrip.

BACKGROUND

As a lead up to using the Yalgoo Airstrip during April/May 2007, Oxiana, with the Shire's permission, fenced the main strip (12/30) as a safety measure against animal intrusion. This strip has an operational length of 1300metres.

The fencing exercise also included some 200metres of the secondary airstrip (02/20) which therefore necessitated the closure of the alternate strip in the meantime.

Oxiana's fencing works total some 3900metres and, including 2 gates, cost \$28,000.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 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

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

A quotation for \$8,281 to install 1900 metres of fencing has been received from Badja Pty Ltd (Roger Pitman).

Provision would need to be made in the draft 2007/08 budget.

CONSULTATION

Nil

COMMENT

The Yalgoo Airstrip is an unlicensed aerodrome which in practical terms means the Shire is not bound to numerous regulatory requirements and consequential expense to retain licensed status.

Without doubt an alternative direction strip offers pilots more choice but a secondary strip is by no means mandatory. Yalgoo's secondary strip (02/20) is shorter, has an operational length 900 metres, is in poorer condition and is seldom used.

For safety reasons it is not practical to open the existing fencing on the secondary strip as there is a strong likelihood animals will become trapped and therefore be a serious hazard to aircraft. The simple choices are to either extend the fencing around the remainder of the secondary strip (length 1900metres), or to retain the existing single strip operation.

The main strip is in excellent condition and with the added security of the fencing for animal control, will be more than adequate for the limited air traffic coming in and out of Yalgoo.

VOTING REQUIREMENTS

Simple majority

OC0615 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DJ Grey

That Council determine that it will only maintain the main airstrip at Yalgoo and as a consequence will not extend fencing to protect the secondary airstrip.

Motion put and carried 6/0

Cr O'Connor left the meeting at 2:05pm.

After discussion – agreed to hold over Item 11.3.3 to the end of the meeting (after Item 11.3.11).

(11.3.4) GENETICALLY MODIFIED ZEBRAFISH

File: E9-4
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 30 May 2007
Attachments: Questions and Answers on Licence Application (yellow)

MATTER FOR CONSIDERATION

For Council to indicate whether it has any comments or objections regarding an application to commercially release genetically modified zebrafish into Australia.

BACKGROUND

The Department of Health and Aging (Office of the Gene Technology Regulator), advises it has received a licence application from Yorktown Technologies Limited Partnership to commercially release genetically modified zebrafish (*Danio rerio*), known collectively as Glofish™.

The Gene Technology Act 2000 (the Act) sets out the process that the Gene Technology Regulator (GTR), must follow in evaluating the application. Following an initial assessment of the application, the GTR seeks advice from jurisdictions and organisations on matters relevant to the preparation of a Risk Assessment and Risk Management Plan (RARMP) in accordance with Section 50 of the Act.

Yorktown Technologies is seeking approval to import live GM zebrafish from the USA and market them for use in aquaria on an ongoing basis.

The three zebrafish lines contain genes derived from coral or anemone species that encode fluorescent proteins which result in the fish displaying red, green or yellow colouration under any light source.

The proposed dealings would involve importers, wholesalers and retailers within the ornamental fish industry as well as home aquaria owners. Yorktown Technologies is, therefore, requesting that all members of the Australian public be persons covered by the licence. No specific restrictions are proposed by the applicant in relation to the release.

Following a preliminary assessment of the matters set out in section 49 of the Act and the information provided in the application regarding the characteristics of the GM zebrafish and the introduced genes, the GTR goes on to advise that the dealings proposed by this application do *not* pose significant risks to either the health and safety of people or to the environment. The main reasons for reaching this conclusion are:

- the parent organism, non-GM zebrafish, is already approved for live import into Australia for use in aquaria under the Environment Protection and Biodiversity Conservation Act 1999 and Quarantine Act 1908.
- there are no known adverse effects on human health and safety or the environment from zebrafish in Australia or elsewhere;
- the proteins expressed by the introduced genes are unlikely to be allergenic or toxic to people or other organisms; and
- these GMOs were commercially released in the USA in 2003, with no reported adverse effects on human health and safety or the environment.

NB: Please note this preliminary assessment does not, in any way, pre-empt the conclusions of the detailed RARMP.

STATUTORY ENVIRONMENT
Gene Technology Act 2000

STRATEGIC IMPLICATIONS
Nil

POLICY IMPLICATIONS
Nil

FINANCIAL IMPLICATIONS
Nil

CONSULTATION
Nil

COMMENT

On the basis of the information contained in the above report and also the attached “questions and answer” paper, there does not appear to be any perceived need to lodge an objection.

The timeframe for any comments concludes on 4 July 2007.

VOTING REQUIREMENTS
Simple majority

Cr O’Connor returned at 2:10pm

OC0618 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr L Hodder

That Council not make any specific comments on the licence application to commercially release genetically modified zebrafish.

Motion put and carried 6/0

Cr Grey declared a financial interest and left the meeting at 2:13pm. The nature of the interest being he is the current lessee of the Fuel Station.

(11.3.5) YALGOO 24 HOUR FUEL STATION

File: F6-3
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 30 May 2007
Attachments: Nil

MATTER FOR CONSIDERATION

The approval of an assignment of the lease agreement and licence for the Yalgoo 24 Hour Fuel Station.

BACKGROUND

Corvino Pty Ltd is the lessee of the premises situated at 34 Piesse St Yalgoo and known as “Yalgoo 24 Hour Fuel Station.” The term of the lease is for one year commencing 28 July 2006, being the date of execution of the Deed. The lease document also provides an option for renewal of four terms of one year each.

Mr Darryl Grey, Director of Corvino Pty Ltd has given written notice of three months from 8 May 2007, (in accordance with clause 4(i) of the Lease) of intention to terminate the lease.

Mr Grey goes on to advise that there is a tenant who would be interested in the lease. This is Barry Horsman on behalf of Pingar Project Management Group (Aust) who has indicated via email a desire to take over the lease on the same terms as the present lessee, however that the term be varied to 5 years from the date of assignment plus an option to renew for a further 5 years.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 3.58–Sets out in detail the requirements for the disposing of property.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As identified in the “Comment” section, either the lessee or the assignee are to bear the cost of the deed of covenant (assignment).

CONSULTATION

Nil

COMMENT

The lease agreement at clause 2.21 provides for Assignments:

The Lessee hereby covenants with the Lessor as follows:

Not to assign underlet or part with possession of or mortgage or charge the premises or any part thereof without the prior written consent of the Lessor such consent not to be unreasonably withheld in the case of an assignment or underletting of the whole of the premises to a respectable and responsible person the proof whereof shall lie on the Lessee at his expense but the Lessor is not bound to grant such consent to a proposed assignment unless the proposed assignee first executes a deed of covenant with the Lessor to be prepared by the Lessor's solicitors at the cost of the Lessee or the assignee whereby the assignee covenants with the Lessor to observe and perform the Lessee's covenants herein contained or implied as and from the date of such assignment AND the provisions of Section 80 and 82 of the Property Law Act 1969 are hereby excluded from and do not apply to this Lease provided always that in the event of an assignment the Lessor shall re-negotiate the terms and conditions of this lease and licence and may increase the rent as and of the date of Assignment.

The above of course, clearly sets out that an assignment is permitted. Unfortunately, the ability to assign does not extend to varying the tenure of the lease including the renewal option. Consequently, the proposal from Pingar Project Management Group (Aust) for an assignment with a term of 5 years plus an option to renew for 5 years is not available.

Council can only assign what is currently provided for in the lease agreement and no more.

The only alternative to this is to re-advertise the lease opportunity however on a timescale basis a new lease arrangement might not be in place by 28 July 2007. This could produce continuity problems notwithstanding that Corvino have given 3 months notice from 8 May 2007.

A corollary to the foregoing is a Licence agreement between the Shire and Corvino Pty Ltd which is supplemental to the Lease. The purport of the Licence is to provide the NON EXCLUSIVE use of the area known as the Old Yalgoo Railway Station, Ablution Block and all vehicle and pedestrian accessways thereto.

The Licence operates over the same period as the aforementioned lease.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION

That Council approve the assignment of the following documents:

- Yalgoo 24 Hour Fuel Station – Lease to Corvino Pty Ltd and Assignment to Pingar Project Management Group (Aust).
- Ablution Licence – Licence to Corvino Pty Ltd and Assignment to Pingar Project Management Group (Aust).

OC0619 COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr L Hodder

That Council via local public advertising seek interest from any other persons who are prepared to accept an assignment of the existing Yalgoo 24 Hour Fuel Station lease and that this matter be further considered at the July meeting.

Motion put and carried 5/0

The meeting adjourned at 3:07pm and recommenced at 3:20pm with all present once again, together with Cr Grey.

(11.3.6) ACTING CHIEF EXECUTIVE OFFICER

File: S7-24
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: I hereby disclose a financial interest. The nature of the interest is that I am the person who would receive the financial benefit
Date: 31 May 2007
Attachments: Nil

MATTER FOR CONSIDERATION

For Council to determine when the Acting CEO (Glenn Bone) will complete his duties.

BACKGROUND

Niel Mitchell has confirmed he will arrive in Yalgoo on 22 June 2007 and will commence duties as CEO on Monday 25 June 2007.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 3.1—Provides that the general function of the local government is to provide for the good government of persons in its district.

Section 5.36(1)(b)—A local government is to employ such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Provision will be made in the draft 2007/08 budget for any additional wage costs approved for Mr Bone beyond 25 June 2007.

For any extension of time beyond 25 June 2007, I would seek the same conditions of employment that I am currently based on.

CONSULTATION

Nil

COMMENT

As to the current operations of the Shire, a couple of days would be sufficient for handover duties to the incoming CEO.

However, some members of Council have mentioned/inquired about my availability to stay on for a few weeks and attend to additional tasks. In this context I am available until 6 July 2007 which would provide for an additional two weeks after Niel Mitchell's commencement.

In regard to any time sanctioned after Mr Mitchell's commencement, my present role of Acting CEO ceases and I would in effect become a "Project Officer" or something similar. Council will need to determine what tasks they want me to tackle.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION

That Council determine:

1. Mr Bone's completion date will be _____.
2. The tasks/projects they wish Mr Bone to address in the period post 25 June 2007 are:
_____.
3. Mr Bone will be engaged on the same conditions of employment as previously agreed for the period on and after 25 June 2007.

OC0620 COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr LJ O'Connor

That

1. **Mr Bone's completion date will be 6 July 2007**
2. **The tasks/projects Council wishes Mr Bone to address in the period post 25 June 2007 are:**
 - **Community Bus Grant application.**
 - **Standing Orders policy.**
 - **Legal Documents Register.**
 - **Policy Manual.**
3. **Mr Bone will be engaged on the same conditions of employment as previously agreed for the period on and after 25 June 2007. Whilst this will not include the CEO's vehicle, Mr Bone will be entitled to draw fuel during this period for travelling to and from Geraldton.**

Motion put and carried 6/0

(11.3.7) CEO EMPLOYMENT CONTRACT

File: S7-28
 Author: Glenn Bone, Acting Chief Executive Officer
 Interest Declared: No interest to disclose
 Date: 31 May 2007
 Attachments: Nil

MATTER FOR CONSIDERATION

Council to execute the Contract of Employment with Mr Niel Mitchell.

BACKGROUND

Mr Niel Mitchell has accepted Council's offer of employment as resolved at the Special Council meeting on 2 May 2007 and set out in correspondence to him dated 10 May 2007.

He has signed the Contract of Employment document which is now ready for execution by Council.

Mr Mitchell has also supplied a satisfactory medical certificate and a National Police Certificate.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.39(1)–The employment of a person who is a CEO or a senior employee (for a term in excess of one year) is to be governed by a written contract in accordance with this section.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As set out in Minutes of Special Council meeting of 2 May 2007.

CONSULTATION

Nil

COMMENT

The Contract of Employment document is as per the document adopted at the Special Council meeting on 15 March 2007.

VOTING REQUIREMENTS

Simple majority

OC0621 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr DJ Grey

That the Common Seal of the Shire of Yalgoo be affixed to the following:

- **Contract of Employment – Nielsen Mitchell**

Motion put and carried 6/0

(11.3.8) DRAFT LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS

File: L10-2
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 30 May 2007
Attachments: –Draft (Rules of Conduct) Regulations (yellow)
–WALGA comments on Draft 8 (yellow)

MATTER FOR CONSIDERATION

Opportunity for Council to make comments on the Draft Local Government (Rules of Conduct) Regulations 2007.

BACKGROUND

The Minister for Local Government and Regional Development has recently circulated a copy of the draft Regulations to all local governments with an opportunity to comment by mid-June 2007. In summary, the draft circulated is Draft 8 of the proposed Local Government (Rules of Conduct) Regulations 2007 and according to WALGA, makes significant variations to the content of Draft 6 which was previously endorsed by State Council.

The draft Regulations contain various matters that are already in the Shire's Code of Conduct, along with several additional matters identified by the Department of Local Government and Regional Development in association with the Western Australian Local Government Association and the Local Government Managers Australia.

Regulations 3–11 cover conduct relating to the standing orders, use of council information, obtaining personal advantage, misuse of council resources, restrictions on involvement in administration and directing council employees, disclosure of particular interests and obtaining and disclosing gifts.

Also to hand is a copy of WALGA's comments on Draft 8 which propose that this version of the Local Government (Rules of Conduct) Regulations 2007 be endorsed, subject to the satisfactory resolution of concerns expressed therein.

The intent by the Minister is that the Regulations will be completed and finalised well in advance of the proposed operative date of 20 October 2007.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 9.59–The Governor may make regulations prescribing all matters that are required or permitted by the Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

Extensive consultation on the draft Regulations has already occurred with WALGA and LGMA.

COMMENT

The draft Regulations are actually an outcome of changes intended for the Local Government Act via the Local Government (Official Conduct) Amendment Act 2007.

The Amendment Act which has not yet been proclaimed, includes 23 new sections (Sections 5.104 to 5.126) broadly dealing with the conduct of council members.

The proposed inclusion of matters in the draft Regulations such as in the Code of Conduct amounts to a strengthening of provisions in these areas. Whereas the Code of Conduct contains no punitive measures, a breach of the Regulations could upon conviction lead to a fine of up to \$5,000.

Some of the more interesting parts of the proposed Regulations include the comments made by WALGA on the following:

- **Regulation 8 – Prohibition against involvement in administration**

Subregulation (1) seeks to prohibit the involvement of Council members in the administration of Council functions. While this clause appears appropriate, clarity needs to be provided about what behaviour constitutes a “task that contributes to the administration of Council function.” If it is intended that this regulation capture instances where a Council member is directly involved in the performance of management, technical, advisory or administrative functions that are normally undertaken by Council officers, then this is an appropriate prohibition as it reinforces the appropriate division in responsibility between the elected and administrative bodies. However, it may not be appropriate in all instances to prohibit Council members working with Council staff in the performance of appropriate duties, where such involvement does not contravene the separation of roles, accords with the Council’s established protocol (where applicable) for staff contact with Council members, and has been sanctioned by the CEO.

- **Regulation 9 – Relations with Local Government employees**

Subregulation (3) seeks to make it a breach for a Council member to make statements that demean the character of a Council employee or to use offensive or objectionable expressions in reference to a Council employee. The restriction on the application of this provision is that it only applies in Council or Committee meetings where members of the public are present. It is argued that this type of behaviour is inappropriate in any public context, and should only be permitted in closed meetings of Council or a Committee where the proceedings and the outcomes of proceedings remain confidential and not publicly accessible. The concern with the current wording of this provision is that it does not prohibit a Council member from this type of conduct in other public forums, including making public statements and contributing to media comment. It is argued that outside closed Council or Committee meetings, a Council member should be prohibited from making any critical or negative statements or expression about any Council employee in the manner prescribed when acting in any capacity as a Council member.

VOTING REQUIREMENTS

Simple majority

OC0622 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr L Hodder

That the Department of Local Government and Regional Development be advised Council endorses the same comment/concerns raised by WALGA on Draft 8 of Local Government (Rules of Conduct) Regulations 2007.

Motion put and carried 6/0

(11.3.9) YALGOO IRON PROJECT – DISPOSAL OF PROPERTY

File: M5-7
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 5 June 2007
Attachments: Nil

MATTER FOR CONSIDERATION

Determination of disposal values for lot 185 Shamrock St, lot 73 Gibbons St and lot 74 Weekes St, Yalgoo.

BACKGROUND

At the February meeting Council agreed to enter into an agreement with Ferrowest Limited for the sale of lot 185 Shamrock St, Yalgoo (2.1185ha). Ferrowest's intention is to construct an accommodation complex (for up to 125 people) if their project proceeds. They have forwarded a draft option Agreement and Memorandum of Understanding for Council's consideration.

Whilst Council is yet to establish the price for which it will release the land, the basis of the Agreement document includes a payment fee of 7.5% of the purchase price annually until they either exercise the option or determine the project is not proceeding. In the case of the latter, the Shire retains the 7.5% annual fees so paid.

The Option Period extends for a period of up to 5 years.

A further matter arising from the February meeting is Council's advice to Ferrowest that it is also prepared to sell lot 73 Gibbons St and lot 74 Weekes St.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 3.58—Provides that a local government can dispose of property (other than by public auction or by tender) if, before agreeing to dispose of property, it gives local public notice for at least 14 days inviting submissions on the proposal. The notice is to include:

- the names of all other parties concerned
- the consideration to be received
- the market value of the disposition

Any submissions made to it within the 14 day period are to be considered by the local government and the decision and the reasons are to be recorded in the minutes of the meeting at which the decision was made.

STRATEGIC IMPLICATIONS

The potential sale and consequential development of lot 185 Shamrock St will have a major impact on the population of the town.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Landgate have provided the following unimproved market values:

- Lot 185 Shamrock St – \$175,000 (\$159,090 excluding GST)
- Lot 73 Gibbons St – \$2,000 (\$1,708 excluding GST)
- Lot 74 Weekes St – \$500 (\$454 excluding GST)

CONSULTATION

Nil

COMMENT

Council's task now is to determine the consideration it requires for the disposition of the three lots. The market values (excluding GST) should offer strong guidance to Council however there would also be the option of adding a percentage on top of the supplied figures.

This would seem to be applicable with lot 185 Shamrock St particularly with the 5 year option period. This line of thinking is somewhat offset by the 7.5%pa option fee however a 10% margin on top of the market value would not be unreasonable. Similar margins could also be entertained for the other two lots but in the overall stage of things this would only amount to a little over \$200.

VOTING REQUIREMENTS

Simple majority

OC0623 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr DJ Grey, Seconded Cr LJ O'Connor

That Council establish disposition values as follows:

- **Lot 185 Shamrock St – \$175,000 (excluding GST)**
- **Lot 73 Gibbons St – \$2,000 (excluding GST) – (Commercial)**
- **Lot 74 Weekes St – \$500 (excluding GST) – (Residential)**

Motion put and carried 6/0

(11.3.10) TARDIE HOMESTEAD – PASTORAL LEASE 3114/1161

File: Ass. 1330
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 9 May 2007
Attachments: Sketch of proposal (yellow)

MATTER FOR CONSIDERATION

A proposal for the excision of portion of Victoria Location 11803, Pastoral Lease 3114/1161.

BACKGROUND

The Mid West Region of State Land Services has received an enquiry for the excision of portion of Victoria Location 11803, Pastoral Lease 3114/1161.

The owners of the Pastoral Lease 3114/1161 propose to have the Tardie Homestead excised from the lease in order to keep its unique facilities functioning. The area to be excised will be either 72ha or 250ha. The land is to be freeholded as part of a land exchange with Victoria Location 1695, a 40.4684ha freehold lot.

Comment on the proposal is sought from Council.

STATUTORY ENVIRONMENT

Land Administration Act 1997

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

Nil

COMMENT

Much of the former Tardie Station has either been absorbed into Yuin Station or has been acquired by CALM.

The proposal for the excision and freeholding of portion of Victoria Location 11803 is essentially to preserve the Tardie Homestead as an entity rather than face the prospect of its decay through abandonment and vandalism. It is likely the new lot will be sold off in the future by the Foulkes–Taylor family.

VOTING REQUIREMENTS

Simple majority

OC0624 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr L Hodder

That no objection be made to the proposal to excise a portion of Victoria Location 11803 (Pastoral Lease 3114/1161).

Motion put and carried 6/0

(11.3.11) STANDING ORDERS

File: L12-7
Author: Glenn Bone, Acting Chief Executive Officer
Interest Declared: No interest to disclose
Date: 6 June 2007
Attachments: Nil

Note: Councillors are requested to bring to the meeting the copy of the Model Standing Orders they were given in April 2007.

MATTER FOR CONSIDERATION

The development of Standing Orders for the Shire of Yalgoo.

BACKGROUND

At the March Council meeting interest was expressed in revisiting the subject of Standing Orders. Members were subsequently, in April, furnished with a copy of the Model Local Law (Standing Orders) 1998. This document has been published by the Governor in Executive Council as an official model local law under section 3.9(1) of the Local Government Act 1995.

The intent from this point was that the Acting CEO would then develop an item for Council's consideration at the June meeting.

By way of further background, the Shire previously had a set of Standing Orders however these were repealed and replaced with a Standing Orders Policy in 1998.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 2.7(2)–Provides that part of the role of the council is to determine the local government's policies.

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

Section 3.12–Sets out the procedure for making local laws.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy 1.5 – Standing Orders

FINANCIAL IMPLICATIONS

The alternative path of updating Standing Orders provisions via policy development will be far cheaper than the local law approach because of advertising and gazetting requirements.

CONSULTATION

Nil

COMMENT

The document circulated to councillors in April also contains some provisions of the Act and Regulations, boxed and hachured, and some margin notes. These are not an official part of the model standing orders local law which was gazetted. They are provided basically as reference material so that users of these local laws will have a more complete picture of procedural requirements, and to assist interpretation.

The Model Local Laws (Standing Orders) 1998 are extensive and provide for every eventuality and formality in the context of local government council or committee meetings. It may well be that something of a lesser nature and less formal will be adequate for Yalgoo's purposes. In evaluating the general ambit or thrust of Standing Orders, the following is a policy framework within which local laws might be considered:

That local laws only be made after applying the following tests –

- what is the particular mischief or nuisance that it is desired to control?
- can the control be exercised by other means?
- has Council the will and resources to enforce a local law?
- will a local law contribute to the good government of persons in the district?

Part of the foregoing can be addressed in setting out the purpose and effect of the proposed local law as required by the notice and advertising requirements of section 3.12 of the Local Government Act 1995. Consequently, the purpose and effect might be set out as follows:

Purpose: The purpose of these standing orders is to provide for the orderly conduct of the proceeding and business of the council, and for the safe custody and use of the Council's common seal.

Effect: The effect of these standing orders is that all council meetings, committee meetings, and other meetings as described in the Act, and the use of the Council's common seal, shall be governed by these standing orders unless otherwise provided in the Act, regulations or other written law.

However, the first two dot points above should also be understood and answered if meaningful progress is to be made.

There is no doubt in my mind that the conduct of meetings procedures will be more efficient and time saving with the effective use of Standing Orders. Put another way, there is no reason in regard to the business to be transacted at a typical meeting why the meeting time could not be reduced to between one and two hours. Under this concept councillors might therefore gather for lunch first with the meeting to start as say 2pm.

However, the foregoing digresses a little from the point and perhaps a more relevant question is dot point two – can the control be exercised by other means? The simple answer is in the affirmative and Standing Orders can be actioned by way of Council Policy. Most local governments now have local laws on standing orders however from information received from the Department of Local Government and Regional Development, some local governments are now using the policy approach for standing orders.

As mentioned in "Background," the Shire has a policy dating from 18 February 1998 on Standing Orders (Policy 1.5). It would seem that whilst the text of the policy covers the basics of what you would expect to find in Standing Orders, the provisions of same are not currently being utilised by Council.

What would be appropriate now is for Council to resolve whether it wishes to have a local law or a policy on standing orders.

In regard to the latter I have not had time to evaluate the ingredients of the 1998 policy and determine what changes might be desirable, save to say that I believe for Yalgoo the policy approach will be appropriate.

VOTING REQUIREMENTS

Simple majority

OC0625 OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr EC Rowe, Seconded Cr DJ Grey

That Council:

- 1. Determine that it wishes to implement Standing Orders by way of a policy; and**
- 2. Instruct the Acting CEO to review and revise the 1998 Standing Orders Policy (Policy1.5) for further consideration.**

Motion put and carried 6/0

Item 11.3.3 was held over for discussion at the end of the meeting.

(11.3.3) MID WEST DEVELOPMENT COMMISSION – LOCAL GOVERNMENT REPRESENTATIVE

File: R9-1
 Author: Glenn Bone, Acting Chief Executive Officer
 Interest Declared: No interest to disclose
 Date: 30 May 2007
 Attachments: Local Government Vacancy Information (yellow)

MATTER FOR CONSIDERATION

Council to determine if it wishes to submit a nomination for the local government vacancy on the Mid West Development Commission (MWDC) Board.

BACKGROUND

One local government position is available on the Mid West Development Commission Board due to the expiration of the term of Cr Pauline Forrester (Shire of Chapman Valley).

Details about the vacancy are shown on the attachment and include the requirement to attend bi-monthly meetings. There are no meeting fees however travelling allowances are as per public sector standards.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 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

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

Nil

COMMENT

Cr Forrester, who is eligible for re-appointment, is one of three local government representatives on the MWDC Board.

The Mid West area is significant in size and includes some 18 local governments.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION

That Council Nominate Cr _____ for appointment to the Mid West Development Commission Board.

OR

That Council decline to nominate a representative for appointment to the Mid West Development Commission Board.

OC0617 COUNCIL DECISION

Moved Cr DP Morrissey, Seconded Cr DJ Grey

That Council decline to nominate a representative for appointment to the Mid West Development Commission Board.

Motion put and carried 6/0

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

URGENT BUSINESS

ITEMS FOR CONSIDERATION BEHIND CLOSED DOORS

MEETING CLOSURE

The meeting closed at 4:17pm

I hereby certify that this report was confirmed at a meeting of the Council held on _____
as a true and correct record of proceedings.

Signature of Person Presiding