



MINUTES FOR THE
ORDINARY COUNCIL MEETING
HELD ON
WEDNESDAY
16TH JUNE 2010



SHIRE OF MINGENEW
MINUTES OF THE ORDINARY MEETING HELD IN THE COUNCIL CHAMBERS,
MINGENEW, ON WEDNESDAY THE 16TH JUNE 2010

1.0 DECLARATION OF OPENING/ ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr Michelle Bagley, declared the meeting open at 2:30pm.

2.0 ATTENDANCE

2.1 PRESENT

| | | |
|--------------|------------|------------|
| MA Bagley | President | Rural Ward |
| BP Horwood | Councillor | Rural Ward |
| JL Holmes | Councillor | Town Ward |
| PJ Ward | Councillor | Rural Ward |
| MP Pearce JP | Councillor | Town Ward |
| PJ Gledhill | Councillor | Town Ward |

STAFF

| | |
|------------------|-------------------------------|
| IB Fitzgerald JP | Chief Executive Officer |
| CG Jackson | Manager of Corporate Services |
| KA McGree | Senior Finance Officer |

Attending to present reports;

| | |
|------------|---|
| TB Brandy | Environmental Health & Building Officer |
| WL Borrett | Works Manager |

2.2 APOLOGIES

| | | |
|---------------|------------------|-----------|
| N ET Hathaway | Deputy President | Town Ward |
|---------------|------------------|-----------|

3.0 DECLARATION OF INTEREST

Nil

4.0 LEAVE OF ABSENCE

Nil

5.0 PUBLIC QUESTION TIME

Nil

6.0 VISITATIONS

Nil

7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

100601 **MOVED** CR PJ Gledhill
 SECONDED CR PJ Ward

That the Minutes of the Ordinary Meeting of Council held on Wednesday, 19th May 2010, be confirmed as a true and accurate record of proceedings.

CARRIED
Voting 7/0

100602 **MOVED** CR JL Holmes
 SECONDED CR PJ Gledhill

That the Minutes of the Special Meeting of Council held on Thursday, 10th June 2010, be confirmed as a true and accurate record of proceedings.

CARRIED
Voting 7/0

8.0 PETITIONS/ DEPUTATIONS/ PRESENTATIONS/ SUBMISSIONS

The Shire President welcomed Richard Harris and Kyle Jackson from Midwest Energy Pty Ltd who provide a presentation on the Perenjori Solar Project.

The Shire President then welcomed Jane Bradley from the Mingenew Irwin Group (MIG) who provided an update on the activities of MIG.

9.0 OFFICER REPORTS

9.1 HEALTH, BUILDING AND TOWN PLANNING

Report attached to Information Bulletin presented.

9.2 WORKS AND SERVICES

Report attached to Information bulletin presented.

9.3 FINANCE AND ADMINISTRATION

9.3.1 EXTENSION OF LEASE – NATIONAL AUSTRALIA BANK

Agenda Reference: CEO 06/10 - 01
Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 10th June 2010
Author: Ian Fitzgerald

Summary

This item is brought back to Council for their consideration, with more information provided, as resolved at the May 2010 meeting.

Council is requested to approve a three year lease extension for the National Australia Bank for a portion of Lot 73 Midlands Road being the premises currently operating as the National Australia Bank Mingenew Branch.

Attachment

Nil

Background

The original lease commenced in September 2004. The initial lease was for a 5 year period and includes three 3 year options commencing in September of 2009, 2012 and 2015. The original agreement saw the National Bank transfer the property to the Shire of Mingenew and enter into a lease back arrangement for the period mentioned above. The option to extend the lease has been granted to the Tenant (National Australia Bank) in the original lease agreement. The property was transferred to the Shire of Mingenew on the understanding that a lease back arrangement would be entered into and each party would bear their own legal expenses in preparing the appropriate documentation. The rent to be charged for the property is \$2.00 per annum for the term of the lease including the option period. At the time of executing the lease the National Australia Bank made payment of \$10 for the initial lease period. The original lease document clearly indicates that rent reviews are not applicable.

Comment

Council has received a request from Minter Ellison Lawyers acting on behalf of the National Australia Bank for a three (3) year extension to their lease – J011835 dated 4th September

2004. The lease fell due in September 2009 and the new extension will take the lease though until September 2012. The annual lease payment will be \$2.00 per annum inclusive of GST.

The request for a lease extension is an indication that the National Australia Bank intends to continue to provide a banking service to the Mingenew community.

There have been no issues raised by either the bank or Council in relation to the existing lease.

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

The extension of the lease indicates a commitment by the National Australia Bank to continue to provide a banking service in Mingenew.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION – ITEM 9.3.1

100603 **MOVED** CR MP Pearce
 SECONDED CR BP Horwood

That Council:

- a) **Agrees to the three (3) year lease extension to the National Australia Bank of the portion of Lot 73 Midlands Road that is currently operating as a bank branch**

- b) **Authorizes the Shire President and Chief Executive Officer to sign the lease documents once prepared**

CARRIED

VOTING 6/0

9.3.2 FEES AND CHARGES 2010/11

Agenda Reference: CEO 06/10 - 02
Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 10th June 2010
Author: Ian Fitzgerald

Summary

Council is requested to adopt the draft Schedule of Fees & Charges for 2010/11 as presented.

Attachment

A copy of the Draft Schedule of Fees & Charges 2010/11 is attached

Background

Council is required to adopt a Schedule of Fees & Charges and include in the budget process.

Comment

There is a statutory obligation for Council to prepare and adopt a Schedule of Fees and Charges each financial year. The schedule also assists staff in calculating potential revenue amounts for inclusion in the annual budget.

All the fees and charges have been reviewed and the current and proposed fees are listed on the attached document. Council will note there have been small increases to the recommended fees and charges for 2010/11. Over the past 12 months there have been increases in the cost of power, insurances and wages. The recommended increases will help to offset these increased costs in providing the facilities. The fees and charges will continue to recoup only a small percentage of Council's actual costs as been the unwritten policy of Council for many years.

Consultation

Senior staff

Statutory Environment

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Financial Implications

The fees and charges will help in the framing of the 2010/11 annual budget with the raising of charges helping to offset Council's expense in providing services and facilities.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION – ITEM 9.3.2

100604 **MOVED** CR BP Horwood
 SECONDED CR PJ Ward

That Council adopt the 2010/11 Schedule of Fees and Charges as presented.

CARRIED

VOTING 6/0

9.3.3 MAIN ROADS – MID WEST COUNCILS SERVICES AGREEMENT

Agenda Reference: CEO 06/10 - 03
Location/Address: Mid West Regional Council members
Name of Applicant: Main Roads WA
File Reference:
Disclosure of Interest: Nil
Date: 10th June 2010
Author: Suzanne Ward (MWRC CEO) and Ian Fitzgerald

Summary

Council is being requested to advise Main Roads WA the position set out in the current draft of the Services Agreement issued to the Councils on 14 May 2010 in respect of the matters covered in that draft and the process for finalising any outstanding substantive matters under the Services Agreement in accordance with the MOU as set out in this letter.

The substantive matters are;

- a. the relevant services and the relevant roads to which the Services Agreement will apply;
- b. the standards to which the Councils must deliver those relevant services under the Services Agreement;
- c. the term of the Services Agreement;
- d. the obligations of each of the parties under the Services Agreement; and
- e. the commercial model which will apply under the Services Agreement.

Attachment

A copy of the proposed Service Delivery Structures is attached to this item.

Background

The working group comprised of Mark Hook, Stan Scott and Ian Fitzgerald have been working in conjunction with the Chief Executive Officer of the Mid West Regional Council, representatives of Main Roads WA, other MWRC CEO's and Staff (as required) on the proposed Main Roads Service Agreement and accompanying schedules.

Legal advice has been sought on behalf of Councils to comment on the draft agreement. Some drafting changes recommended by Civic Legal are agreeable to Main Roads, however

there still requires further negotiation on some points of the agreement. Schedules to the agreement have been constructed which set out at a high level the processes and organisational structure underpinning the agreement. Although a risk assessment has taken place, the insurance aspect is still to be workshopped and added as a schedule to the agreement.

Each Council received the following letter from Main Roads WA in relation to the Service Agreement with Main Roads:

I refer to the ongoing discussions between Main Roads and Council representatives in our attempt to reach an agreement on the above. In particular, I refer to:

(a) the Memorandum of Understanding entered into between Main Roads and the Shires of Coorow, Mingenew, Morawa, Mullewa, Perenjori and Three Springs dated 22 February 2010, under which Main Roads and the Councils agreed to use their best endeavors to reach agreement on a services agreement for the delivery by the Councils of certain road asset management services on a portion of Main Roads' road network; and

(b) the numerous discussions and workshops held between Main Roads and the Council representatives in respect of the development of the Services Agreement. Notwithstanding the works undertaken to date, clause 2(a)(2) of the MOU provides that, unless otherwise agreed, the MOU will terminate if the parties have not reached agreement in respect of all of the substantive matters of the Services Agreement by 25 June 2010.

The substantive matters of the Services Agreement include:

(a) the relevant services and the relevant roads to which the Services Agreement will apply;

(b) the standards to which the Councils must deliver those relevant services under the Services Agreement;

(c) the term of the Services Agreement;

(d) the obligations of each of the parties under the Services Agreement; and

(e) the commercial model which will apply under the Services Agreement.

The details of a number of these matters are included in the current draft of the Services Agreement which was issued to the Councils on 14 May 2010 and additional information has been provided which is being included into the draft agreement. It is my intention that Main Roads will issue a revised draft of the Services Agreement that will address these additional matters later this week.

However, to date, Main Roads has not received any formal advice from your Council in respect to the content of current draft.

To enable Main Roads to understand your Council's acceptance of the content of the current draft agreement, can you please advise me as soon as possible of your Council's position with respect to its agreement of all of the substantive matters by 25 June 2010 as set by clause 2(a)(2) of the MOU.

A key outstanding matter to be included in the Services Agreement is the liability and insurance regime. Main Roads considers this to be a substantive matter requiring agreement prior to 25 June 2010.

As previously discussed, Main Roads would propose holding a workshop with the Council representatives and advisers as soon as practicable to agree and finalise the liability and insurance regime for insertion in the Services Agreement. However, until there is an understanding that the Councils are in agreement with the other matters, it is considered that there may not be value in holding this workshop.

Therefore, as a matter of urgency and given the timeframe set by clause 2(a)(2) of the MOU, would you please advise me in writing of your Councils position on the following:

(a) the position set out in the current draft of the Services Agreement issued to the Councils on 14 May 2010 in respect of the matters covered in that draft; and

(b) the process for finalising any outstanding substantive matters under the Services Agreement in accordance with the MOU as set out in this letter.

Comment

Council received the following email from the Chief Executive Officer of the MWRC on the 9th June 2010:

There have been some changes since our meeting with Main Roads last Tuesday (1st June 2010).

- a) Main Roads are to submit an application (today or tomorrow) to the Commissioner for Main Roads for a 2 week extension of time (from 25th June in acknowledgement of Brian's 2 week leave taking). Brian is to send me a copy of the application today and councils are going to be requested to endorse this action as well as reply that they have a basic understanding of the 5 main elements of the MOU we are seeking to bed down by the cut off date.*

- b) On receipt of our legal advice, Main Roads have instructed Freehills to make the drafting changes suggested by Civic Legal and will add comments on other sections of the agreement that need further discussion between all parties. The latest draft (with the changes and comments) will be circulated later this week.*

Council will be given the full documentation in relation to the Service Agreement when it is completed.

Response to Main Roads Correspondence

The position set out in the current draft of the Services Agreement issued to the Councils on 14 May 2010 in respect of the matters covered in that draft:

- (i) Mid West Regional Council instructed Civic Legal to review the draft service agreement (as of 18th May 2010) and identify clauses or other aspects of the agreement that might carry risks that the Council should be alerted to and propose action and alternative wording to the agreement to strengthen the Council's position.
- (ii) Civic Legal were also asked by MWRC to advise on whether competition policy or law would operate in relation to the agreement and whether the proposed prohibition against Council adding a

margin or profit could be construed as anti competitive conduct prohibited by law.

The advice provided by Civic Legal on both matters above has been conveyed to Main Roads who have instructed their legal representatives to make the drafting changes suggested by and also to add comments on other sections of the agreement that need further discussion between all parties. i.e. Main Roads do not necessarily agree with all of Civic Legal's recommendations for change and wish to have further dialogue with the working group on certain points.

Main Roads will forward the amended agreement later this week and it is planned to hold further discussion at the TAG meeting on 18th June 2010 to develop our position on the comments to the agreement before meeting with Main Roads.

The process for finalising any outstanding substantive matters under the Services Agreement in accordance with the MOU:

| Substantive Matters | Status | Process for Finalising |
|---|---|--|
| a. The relevant services and the relevant roads to which the Services Agreement will apply; | Finalised | |
| b. The standards to which the Councils must deliver those relevant services under the Services Agreement; | Have agreed at high level. | A number of operational plans and methods of operations will require development and/or finalisation prior to the execution of the agreement and will be developed with the assistance of Main Roads. Governance Plan to be developed / finalised following the execution of the agreement. |
| c. The term of the Services Agreement; | The draft suggests 5 years, with a 1 year | Individual Councils required to provide their |

| | | |
|--|---|---|
| | <p>extension option based on strategic reviews.</p> <p>The yearly strategic reviews will enable the term to be extended more than once if positive results are obtained from those reviews.</p> <p>There has been a suggestion of extending to a 10 year initial term, with a similar option to extend, with such extension being a joint review process and agreement between the Shires and MRWA (not at MRWA sole discretion).</p> | <p>preference for either:</p> <p>5years with a 1 year option for extension at MRWA discretion;</p> <p>or</p> <p>10 years initial term, with a similar option to extend, with such extension being a joint review process and agreement between the Shires and MRWA.</p> |
| <p>d. The obligations of each of the parties under the Services Agreement; and</p> | <p>Individual Councils required to accept arrangement as presented with this agenda item.</p> <p>(formal agreement required by each council that they agree with the arrangement as presented)</p> | <p>a) Litter collection – detail of how this is to be delivered to be finalised by councils and added to schedule of services.</p> <p>b) How works will be delivered: - i.e.</p> <ul style="list-style-type: none"> - Location of maintenance crews; - Which council would host / supervise / house and employ them; - Employment of Project Manager and Inspection Crews by MWRC. |
| <p>e. The commercial model which will apply under the Services Agreement.</p> | <p>Individual Councils required to accept arrangement.</p> | <p>Concept of Direct Cost plus overhead (no margin or profit) to be agreed to by</p> |

| | | |
|--|--|----------------------|
| | | Individual Councils. |
|--|--|----------------------|

Consultation

Members of the ISA Working Party, Main Roads WA, Legal Advisors

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

\$1,500 to \$2,000 per km is a rough guide to the MRWA annual budget for routine maintenance on the network.

Direct costs and overheads will be reimbursed. There is no margin or profit to be added however there is also no financial risk to bear as Main Roads will carry cost of any network required.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION – ITEM 9.3.3

100605 **MOVED** CR MP Pearce
 SECONDED CR PJ Gledhill

Council replies to the correspondence received from Main Roads WA advising that;

- 1) As a result of legal advice received in relation to the draft Service Agreement there remains some matters still to be determined and Council is committed to continuing negotiations to reach a mutual agreement. It is proposed that the working group will meet to establish a position on the matters to be resolved prior to meeting with Main Roads.
- 2) Council understands and agrees to the service delivery arrangements proposed by the working group as presented in attachment 1.
- 3) In relation to the outstanding substantive matters under the service agreement in accordance with the MOU, Council is proposing the following actions to finalise the process:
 - a) The relevant services and the relevant roads to which the Services Agreement will apply have been finalised.
 - b) The standards to which the Councils must deliver those relevant services under the Services Agreement – a number of operational plans and methods of operations will be developed and/or finalised prior to the execution of the agreement with the assistance of Main Roads while the Governance Plan is to be developed/ finalised following the execution of the agreement.
 - c) Term – an initial term of 5 years, with a 5 year extension option based on annual strategic reviews with such extension being a joint review process and agreement between the Shires and MWRA will be requested.
 - d) Council agrees to the service delivery arrangements/ structure proposed by the working group as presented in attachment 1.
 - e) The commercial model to apply under the Services Agreement being the concept of Reimbursement of Direct Costs plus overheads (no margin or profit to be included) is understood and agreed to by Council.

CARRIED

VOTING 6/0

The Shire President adjourned the meeting for afternoon tea at 3.30pm and reopened the meeting at 3.55pm.

9.3.4 NEW RECREATION WATER BORE

Agenda Reference: CEO 06/10 - 02
Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 10th June 2010
Author: Ian Fitzgerald

Summary

As Council would be aware, discussions have been taking place in relation to the installation of a new bore in the vicinity of the bowling club to help provide water for irrigating our recreation and park areas.

Authority is sought for the Water Licence application to be lodged with the Department of Water and for the Chief Executive Officer to continue negotiations with Karara Mining on installation and equipping of the proposed bore.

Attachment

Aerial photograph of Reserve 27134

Background

Council has been negotiating for some time now, on behalf of the community, to try and obtain an additional water service for irrigation of town sporting facilities and parks and gardens. The previously proposed water service from private land or Depot Hill Road has been found to be unsuitable for use on recreation areas.

Comment

In discussions with Karara Mining (Gindalbie Metals) it has been agreed they will provide a bore in town for the supply of water for our recreation areas.

Staff from Karara have been in discussions with the Department of Water on our behalf and have, in principle, agreed to a new licence for 8,5000KL per annum. The hydrology reports indicate there is a good water source in the area of the bowling club and this is acceptable to the Department of Water.

Karara are about to commence a drilling program on land to the south of Mingenew and are proposing to drill the new bore for Council at the same time.

To date firm discussions have not been held as to the level of contribution that will be made by Karara but it would appear they will drill and equip the bore. Council has one storage tank in the area but may need to fund the purchase of a second tank. There may be some funds remaining from the Royalties for Regions grant which could be used for this purpose.

The reticulation systems are already in place for the bulk of the areas to be watered and only relatively minor valve work should be required to hook into this new water source.

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

Council may need to find a storage tank and minor reticulation equipment to allow optimal use of this new water source.

Strategic Implications

The presentation of our parks, gardens and recreation areas is a high priority of Council and this new water source will help Council to meet this objective.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION– ITEM 9.3.4

100606 **MOVED** CR PJ Gledhill
 SECONDED CR BP Horwood

That Council;

- a) authorise the Chief Executive Officer to submit the Application for Water Licence for 8,500KL per annum.
- b) Authorise the Chief Executive Officer to continue negotiations with Karara Mining on the installation and equipping of the new bore.

CARRIED
Voting 6/0

9.3.5 FINANCE REPORT FOR MAY 2010

Agenda Reference: SFO 06/10 - 01
Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 9th June 2010
Author: Kylie McGree

SUMMARY

The Monthly Statement of Financial Activities report for the month ending 31 May, 2010 is presented to Council for adoption.

ATTACHMENT

Monthly Statement of Financial Activities report for the month ending 31 May, 2010

BACKGROUND

Financial regulations require a monthly statement of financial activities report to be presented to Council.

COMMENT

Council's operating surplus as at the 31 May, 2010 is \$827,049.00.

| SUMMARY OF FUNDS – SHIRE OF MINGENEW | |
|---|--------------|
| Municipal Funds | \$73,553.37 |
| Business Maximiser Fund (Municipal) | \$315,185.04 |
| Trust Account | \$29,494.65 |
| Reserve Account | \$536,434.08 |
| | |
| Rates Outstanding | \$16,340.49 |

It should be noted that Rates Outstanding as at end of May, 2009 was \$9,430.29.

Letters for outstanding rates are currently being sent out to ratepayers requesting payment for such.

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered. \$213,289.12 was owing to Council as at 31 May, 2010 with a couple of Debtors 60 days or more. Aimee Bendsorp is following up on these outstanding accounts.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2009 / 2010 financial year.

CONSULTATION

No consultation required

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY IMPLICATIONS

No policy implications

FINANCIAL IMPLICATIONS

Financial implications are outlined in comments.

STRATEGIC IMPLICATIONS

No strategic implications

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION-ITEM 9.3.5

100607 MOVED CR BP Horwood
 SECONDED CR MP Pearce

That Council adopts the Monthly Statement of Financial Activity for the month ending 31 May, 2010.

CARRIED
Voting 6/0

9.3.6 ACCOUNTS DUE AND SUBMITTED FOR PAYMENT

Agenda Reference: AO 06/10 - 01
Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 9th June 2010
Author: Julie Borrett

SUMMARY

Council to confirm the payment of creditors for the month of June in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

ATTACHMENT

Copy of list of accounts due (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13 (1).

BACKGROUND

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

COMMENT

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costings, and that the amounts shown were due for payment.

STATUTORY ENVIRONMENT

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 14

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION-ITEM 9.3.5

100608 MOVED CR JL Holmes
 SECONDED CR PJ Ward

That Council confirm the accounts as presented for May 2009 from the Municipal Fund totalling \$546,944.96 represented by Electronic Funds Transfers of EFT4141 To EFT4216 and Cheque No's 7203 – 7224 as well as Trust Cheque No 325.

CARRIED
Voting 6/0

10 **ANNOUNCEMENT BY PRESIDENT AND COUNCILLORS**

Nil

11 ELECTED MEMBERS/ MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 URGENT BUSINESS INTRODUCED BY DECISIONS OF THE MEETING

Nil

13 CONFIDENTIAL BUSINESS AS PER LOCAL GOVERNMENT ACT S5.23 (2)

Nil

14 CLOSURE

The Shire President thanked all for attending and declared the meeting closed at 4.25pm.

These minutes were confirmed at a meeting on 21st July 2010

Signed: _____

Presiding Officer

Date: 21st July 2010