



MINUTES FOR THE ORDINARY COUNCIL MEETING

19 FEBRUARY 2020

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**MINUTES FOR THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON
19 FEBRUARY 2020 COMMENCING AT 4.30PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President GJ Cosgrove declared the meeting open at 4:30pm and welcomed all in attendance.

**2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
COUNCILLORS**

GJ Cosgrove	President	Town Ward
RW Newton	Deputy President	Rural Ward
JD Bagley	Councillor	Rural Ward
CV Farr	Councillor	Town Ward
HR McTaggart	Councillor	Rural Ward
HM Newton	Councillor	Town Ward
AR Smyth	Councillor	Town Ward

STAFF

N Hay	Chief Executive Officer
J Clapham	Finance Manager
E Greaves	Governance Officer

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME

Nil.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

**7.1 SPECIAL COUNCIL MEETING HELD 20 NOVEMBER 2019 (held over from 18 December 2019
Ordinary Council Meeting)**

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 20 November 2019 be confirmed as a true and accurate record of proceedings.

OFFICER RECOMMENDATION AND COUNCIL DECISION ENBLOC - ITEMS 7.1, 7.3 AND 11.1 - Resolution 19022001
Moved: Cr RW Newton
Seconded: Cr AR Smyth

That:

1. the Minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 20 November 2019 be confirmed as a true and accurate record of proceedings; and
2. the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 18 December 2019 be confirmed as a true and accurate record of proceedings; and
3. Council receives the Minutes of the Annual General Meeting of Electors held 10 February 2020 and notes there were no motions raised or resolved at this meeting.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

7.2 ORDINARY COUNCIL MEETING HELD 20 NOVEMBER 2019 (held over from 18 December 2019 Ordinary Council Meeting)

OFFICER RECOMMENDATION - ITEM 7.2

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 November 2019 be confirmed as a true and accurate record of proceedings.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.2 - Resolution 19022002
Moved: Cr JD Bagley
Seconded: Cr CV Farr

That Council, subject to the action of swearing in the President and Deputy President being moved to follow after Item 4.0, resolves that the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 November 2019 be confirmed as a true and accurate record of proceedings.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

7.3 ORDINARY COUNCIL MEETING HELD 18 DECEMBER 2019

OFFICER RECOMMENDATION - ITEM 7.3 – MOVED ENBLOC AT ITEM 7.1 - Resolution 19022001

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 18 December 2019 be confirmed as a true and accurate record of proceedings.

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

9.0 DECLARATIONS OF INTEREST

Cr McTaggart disclosed an Impartiality Interest in relation to Item 11.2 as a member and Vice President of the Mingenew P & C.

10.0 RECOMMENDATIONS OF COMMITTEES
Nil.

11.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER
11.1 ANNUAL GENERAL MEETING OF ELECTORS 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0118
Disclosure of Interest: Nil
Date: 10 February 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To receive the Minutes of the Annual General Meeting of Electors and consider any motions of the meeting.

Key Points

- The Annual General Meeting of Electors for 2019/20 was held on Monday, 10 February 2020
- The Annual Report 2019/20 was received with no questions raised
- No motions were presented or resolved at this meeting
- A number of questions were raised by members of the public / electors and are outlined within the Minutes.

OFFICER RECOMMENDATION – ITEM 11.6 - MOVED ENBLOC AT ITEM 7. 1 - Resolution 19022001

That Council receives the Minutes of the Annual General Meeting of Electors held 10 February 2020 and notes there were no motions raised or resolved at this meeting.

Attachment

Attachment 11.1.1 Minutes of the Annual General Meeting of Electors 10 February 2020

Background

The Local Government Act 1995 (the Act) requires a local government to accept an annual report by 31 December after the relevant financial year and no later than two months after the auditor's report becomes available. The Council accepted the annual report on 18 December 2019.

A local government is required to hold a general meeting of electors of the district once every financial year. This meeting is to be held no more than 56 days after the local government accepts the annual report for the previous financial year.

The Annual Meeting of Electors was held on Monday, 10 February 2020.

Section 5.33 of the Local Government Act 1995 requires all decisions made at an elector's meeting to be considered at the next Ordinary Council meeting or if that is not practicable at the first Ordinary Council meeting after that meeting.

Comment

The decision to hold the Elector's Meeting in February, rather than December (as with the previous meeting) did result in an improved turn-out at the meeting (four attendees, versus none).

Statutory Environment

The Local Government Act 1995 Section 5.27 and 5.29 provides:

5.27 Electors' general meetings

(1) A general meeting of the electors of a district is to be held once every financial year.

- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*

5.29. Convening electors' meetings

- (1) *The CEO is to convene an electors' meeting by giving —*
- (a) *at least 14 days' local public notice; and*
 - (b) *each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.*
- (2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan:

Strategy 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

11.2 FREEDOM OF INFORMATION ACT 1992 – INFORMATION STATEMENT

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	ADM0076
Disclosure of Interest:	Nil
Date:	8 January 2020
Author:	Erin Greaves, Governance Officer
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

This report includes a copy of the revised Shire of Mingenew Information Statement (IS) and recommends that Council review and endorse the Information Statement as amended.

Key Points

- This item was presented at the December 2019 Ordinary Council meeting, at which Council requested that the item lay on the table for consideration at the next meeting in order a few minor amendments to be made.
- The Shire is required to annually publish an Information Statement under the *Freedom of Information Act 1992*
- The proposed Information Statement 2020 has only been changed minimally to reflect the current workforce and Council structure

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.2 - Resolution 19022003

Moved: Cr HR McTaggart
Seconded: Cr HM Newton

That Council endorses and publishes the Information Statement 2020, as presented in Attachment Booklet – February 2020, in accordance with the *Freedom of Information Act 1992*.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

Attachment 11.2.1 Information Statement 2020

Background

Part 5 of the *Freedom of Information Act 1992* (WA) (the FOI Act) requires each agency to prepare and publish an information statement within 12 months after the commencement of the FOI Act, and to update the statement at intervals of not more than 12 months (sections 96 and 97 of the FOI Act).

Further, the Act requires that all Local Governments have an information statement made available for inspection and/or purchase by members of the public.

The Information Statement can be published electronically on Council's website, as a stand-alone hard copy or incorporated into Council's Annual Report or a combination of all the options. A copy of the Information Statement must also be provided to the Information Commissioner when first produced and when any amendments are made.

Comment

Information Statements are an important part of FOI legislation. They assist members of the public to exercise their rights under the FOI Act, by describing the information and records available, together with a summary of the responsibilities and functions carried out by each agency.

Given that it has been 12 months since the Information Statement's last review, and that the Shire has had significant staff changes since adoption, I have again updated sections 5.4, 5.5 and 6.3. All the other sections remain relevant. Once adopted, the updated version will be sent to the Information Commissioner as per the Freedom of Information Act 1992 and displayed on the website for access.

Since the last meeting some minor amendments have been made to the Information Statement, as presented, including:

- The inclusion of a section for credit card payments on the application form
- The inclusion of Fees & Charges information on rear of application form
- Provision for email applications to be made
- Provision for making the Statement available in alternative formats; generally, rather than specifically listing formats such as Compact Disc (CD)
- Social media listed as a means for sharing information and communicating with the community
- Update to staff lists / organisational chart
- Minor formatting improvements

Statutory Environment

Freedom of Information Act, 1992

s.94 Publication of information about agencies

A reference in this Act to an information statement, in relation to an agency, is a reference to a statement that contains —

- (a) a statement of the structure and functions of the agency;*
- (b) a description of the ways in which the functions (including, in particular, the decision-making functions) of the agency affect members of the public;*
- (c) a description of any arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the performance of the agency's functions;*
- (d) a description of the kinds of documents that are usually held by the agency including —*
 - (i) which kinds of documents can be inspected at the agency under a written law other than this Act (whether or not inspection is subject to a fee or charge); and*
 - (ii) which kinds of documents can be purchased; and*
 - (iii) which kinds of documents can be obtained free of charge;*
- (e) a description of the agency's arrangements for giving members of the public access to documents mentioned in paragraph (d)(i), (ii) or (iii) including details of library facilities of the agency that are available for use by members of the public;*
- (f) a description of the agency's procedures for giving members of the public access to the documents of the agency under Part 2 including —*
 - (i) the designation of the officer or officers to whom initial inquiries as to access to documents can be made; and*
 - (ii) the address or addresses at which access applications can be lodged;*
- (g) a description of the agency's procedures for amending personal information in the documents of the agency under Part 3 including —*

- (i) the designation of the officer or officers to whom initial inquiries as to amendment of personal information can be made; and*
- (ii) the address or addresses at which applications for amendment of personal information can be lodged.*

s.96 Information statement, each agency to publish annually

1) An agency (other than a Minister or an exempt agency) has to cause an up-to-date information statement about the agency to be published in a manner approved by the Minister administering this Act —

- (a) within 12 months after the commencement of this Act; and*
- (b) at subsequent intervals of not more than 12 months.*

s.97 Information statement and internal manual, each agency to make available etc.

(2) An agency has to provide a copy of its information statement to the Commissioner as soon as is practicable after the statement is published under section 96.

Policy Implications

Nil

Financial Implications

There are costs associated with producing copies of the Information Statement, however the FOI Act allows Council to charge members of the public for a copy of the Information Statement and other documents that may be requested.

Fees and Charges relating to information requests are in accordance with the Freedom of Information Act 1992 or set annually as part of Council's Fees and Charges.

Strategic Implications

Community Strategic Plan:

Strategy 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

Prior to discussion and voting on Item 11.3, Cr HR McTaggart, disclosed an Impartiality Interest, as a member and Vice President of the Mingenew P & C.

11.3 MANAGEMENT OF LAND BEQUETHED FOR CHILDREN OF MINGENEW (PARENTS AND CITIZENS ASSOCIATION – MINGENEW)

Location/Address: Lot 444 Mingenew South Road, Mingenew 6522
Name of Applicant: Mingenew Parents and Citizens Association (P&C)
File Reference: A69
Disclosure of Interest: Cr HR McTaggart – Impartiality Interest
Date: 8 January 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

This report proposes to clarify the rating and management arrangements of Lot 444 Mingenew South Road, Mingenew to comply with a bequeath made by Mrs Temple Russell for the property to be held by the Mingenew Road Board under the auspices of the Mingenew Parents and Citizens Association (Mingenew P & C) for the benefit of the children of Mingenew, and to ensure the sustainability of the educational and social benefits this arrangement provides the Mingenew community.

Key Points

- Lot 444 Mingenew South Road, Mingenew was bequeathed to the Mingenew Road Board in the 1950's by Mrs Temple Russell "for the benefit of the children of Mingenew".
- The Mingenew P & C was deemed the most appropriate organisation to manage the land and its cropping program, subject to the above condition being maintained.
- Mingenew P & C have historically been paying rates on the property, which is inconsistent with other community groups under agreement to crop Shire-owned land.
- It is recommended that a more formal agreement be established to clarify the arrangements and fees payable (if any).

OFFICER RECOMMENDATION – ITEM 11.3

That Council, in regard to Lot 444 Mingenew South Road, Mingenew;

- 1. Confirms the Mingenew Parents and Citizens Association's control of the property for the approved use of broadacre cropping that is strictly charitable for the benefit of the children of Mingenew.**
- 2. Removes the Mingenew Parents and Citizens Association (Mingenew P & C) from the rate record for Lot 444 Mingenew South Road, Mingenew (Assessment No. 69), returning the record to the Shire of Mingenew as the rightful landowner;**
- 3. Authorises the Chief Executive Officer to enter into a formal agreement with the Mingenew Parents and Citizens Association, that sets out the management responsibility and financial obligations to apply, including management of firebreaks, weed control, fencing, access and any other terms identified and agreed upon by both parties based on a 5 year term with option to extend for further 5 years at \$0 annual rent/lease fee.**

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.3

Moved: Cr HM Newton

Seconded: Cr JD Bagley

That Council, in regard to Lot 444 Mingenew South Road, Mingenew;

1. Confirms the Mingenew Parents and Citizens Association's control of the property for the approved use of broadacre cropping that is strictly charitable for the benefit of the children of Mingenew.
2. Removes the Mingenew Parents and Citizens Association (Mingenew P & C) from the rate record for Lot 444 Mingenew South Road, Mingenew (Assessment No. 69), returning the record to the Shire of Mingenew as the rightful landowner;
3. Authorises the Chief Executive Officer to enter into a formal agreement with the Mingenew Parents and Citizens Association, that sets out the management responsibility and financial obligations to apply, including management of firebreaks, weed control, fencing, access and any other terms identified and agreed upon by both parties based on a 5 year term with option to extend for further 5 years at \$0 annual rent/lease fee.

VOTING DETAILS:

LOST: 0/7

Cr HR McTaggart presented an Alternative Motion and provided some background information which is included as an additional Attachment to these Minutes.

ALTERNATIVE RECOMMENDATION PUT BY CR HR MCTAGGART- ITEM 11.3

That Council, in regard to Lot 444 Mingenew South Road, Mingenew;

1. Confirms that control of Lot 444 (also known as the 'Children's Block') be vested in the Mingenew Parents and Citizens' Association Incorporated (Mingenew P&C) in perpetuity or until Mingenew P&C ceases to exist.
2. Mingenew P&C has approval to manage and control the land as defined by the zoning (UV Mining & Rural) and with the understanding that the proceeds of management must be utilised solely for the benefit of the children of Mingenew.
3. In removing the Mingenew Parents and Citizens Association (Mingenew P & C) from the rate record for Lot 444 Mingenew South Road, Mingenew (Assessment No. 69), and returning the record to the Shire of Mingenew as the landowner, the Shire of Mingenew acknowledge: Mingenew P&C as the sole controller and benefactor of the land in perpetuity; and its annual lease fee will be \$0.
4. Authorises the CEO to enter into a formal agreement with the Mingenew P&C that sets out the management responsibility and maintenance obligations to apply, including management of firebreaks, weed control, fencing, access and any other terms identified and agreed upon by both parties. This management agreement and terms will be reviewed every five years.

ALTERNATE RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.3 - - Resolution 19022004

Moved: Cr HR McTaggart

Seconded: Cr HM Newton

That Council, in regard to Lot 444 Mingenew South Road, Mingenew:

1. Confirms that control of Lot 444 (also known as the 'Children's Block') be vested in the Mingenew Parents and Citizens' Association Incorporated (Mingenew P&C) in perpetuity or until Mingenew P&C ceases to exist.
2. Mingenew P&C has approval to manage and control the land as defined by the zoning (UV Mining & Rural) and with the understanding that the proceeds of management must be utilised solely for the benefit of the children of Mingenew.
3. In removing the Mingenew Parents and Citizens Association (Mingenew P & C) from the rate record for Lot 444 Mingenew South Road, Mingenew (Assessment No. 69), and returning the record to the Shire of Mingenew as the landowner, the Shire of Mingenew acknowledge: Mingenew P&C as the sole controller and benefactor of the land in perpetuity; and its annual lease fee will be \$0.
4. Authorises the CEO to enter into a formal agreement with the Mingenew P&C that sets out the management responsibility and maintenance obligations to apply, including management of firebreaks, weed control, fencing, access and any other terms identified and agreed upon by both parties. This management agreement and terms will be reviewed every five years.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Background

In late 2019, when investigating firebreak responsibility on Lot 444 Mingenew South Road, Mingenew, it was discovered that the rate record showed the Mingenew P & C as the responsible landholder and that they had been paying rates on the property. However, the official owner of the property is the Mingenew Shire.

In consultation with previous and current members of the Mingenew P & C, it has been established that the property was bequeathed to the Mingenew Road Board in the 1950's by Mrs Temple Russell on the provision that the land be held for the benefit of the children of Mingenew. It seems that the Mingenew P & C initiated a cropping program for this purpose and were naturally the choice to manage the property and project.

A transcription of Mrs Russell's handwritten letter, dated 17 August 1959, to the Mingenew Road Board has been prepared by Mingenew P & C President, Annette Thomas, which states:

"Thank you for your letter of the 12th August. The controlling body of the block of land must of course be the Parents and Citizens Assoc. of Mingenew - they were the ones to start the project in the first place and secondly, they would in any case appear to be the most suitable. Should they ever cease to function I presume the Roads Board would then assume control, but I am afraid that will just have to be left to the future.

I certainly did mean the block of land to be for the benefit of "all" the children of Mingenew and I find it hard to understand what you mean by saying "that the Convent might deem it their right to grow a crop of wheat and take the proceeds". I did not give the land for any body of people to put it under a crop of wheat. The benefit of such a proceeding to the children would appear to me to be very indirect.

I understand you were contemplating making a certain portion available for growing "experimental" plots of wheat, surely a very different (prospective/perspective?).

In such a case it seems to me it should be a communal effort, or certain plots of different wheat to be given by the different bodies if they wished to participate but under one definite scheme."

The Mingenew P & C have been paying minimum rates for the property each year, which is unique to this group. The Mingenew Football Club have an agreement to May 2021 to crop Rifle Range Reserve (No. 16335), as do the Mingenew Sports Club and Turf Club for the cropping of Airport Reserve (No. 27425) but pay no rates or fees.

Comment

The Mingenew P & C have established a positive and effective record for the management of the land for its intended purpose.

It is now proposed that a more formal agreement be established to ensure that records reflect the intended and ongoing management of the property, similar to the agreements with the Mingenew Football Club, Mingenew Sports Club and Mingenew Turf Club for cropping land as a means of fundraising.

Consultation

Mingenew Parents and Citizens Association

The Mingenew P & C have confirmed that their constitution provides for the association to rent, lease or own property and administratively, has the capacity and willingness to continue managing this property on an ongoing basis.

Statutory Environment

Local Government Act 1995

3.58. Disposing of property

(1) In this section — dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not; property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

(a) it gives local public notice of the proposed disposition —

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Local Government (Functions and General) Regulations 1996

30. Dispositions of property excluded from Act s. 3.58

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

- (2) A disposition of land is an exempt disposition if —
- (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions

Local Government Act 1995 and Rates and Charges (Rebates and Deferments) Act 1992

6.47. Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

** Absolute majority required.*

Due to the charitable nature of the use, the Shire is considered exempt from Section 3.58 of the Local Government Act 1995 to dispose of the property by public auction, tender or giving local notice.

Policy Implications

Nil

Financial Implications

Council have historically collected rates based on UV Rural rate. Should Council grant the full rates concession, it will reduce rates income by approximately \$1,000 - \$1,500 per annum. Noting that this is an additional \$1,000-\$1,500 that the P&C will have available to spend on initiatives for Mingenew's school children.

Keeping the Mingenew P & C on the rate record gives the Association some certainty regarding continued use of the property. However, it limits Council's options for future management, should they wish to consider alternative options. Reverting the rate record to the legal owner (the Shire) will reduce any administration costs associated with processing the annual concession.

Strategic Implications

Community Strategic Plan:

Strategy 1.1.2 Provide buildings, facilities and services to meet community needs

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

11.4 AUTHORISATION TO ENTER INTO NEGOTIATIONS FOR THE PURCHASE OF LAND TO BECOME ROAD RESERVE

Location/Address:	8.82 ha Portion of Lot 64 Yandanooka – North East Road, Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	A96
Disclosure of Interest:	Nil
Date:	8 January 2020
Author:	Erin Greaves, Governance Officer
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

In order for road works to commence at the intersection of the Mingenew – Morawa Road and Yandanooka North East Road, Council are asked to authorise the Chief Executive Officer to enter negotiations with the landowners for the procurement of the required portion of land on Lot 64 Yandanooka North-East Road, Mingenew to include in the road reserve to give effect to the realignment.

Key Points

- Project to realign intersection at Mingenew-Morawa Road and Yandanooka North-East Road to improve visibility and overall safety.
- Requires acquisition of land to incorporate into road reserve for realignment
- Proposed to be funded by a combination of State Black Spot and Roads to Recovery funds

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.4 - Resolution 19022005
Moved: Cr RW Newton
Seconded: Cr AR Smyth

That Council:

- 1) Delegates authority to the CEO to negotiate and make an offer to PC & AM Mitchell to purchase an 8.82ha portion of Lot 64 Yandanooka North-East Road shown in Attachment 11.3.1, based on an independent valuation conducted by a qualified valuer; and
- 2) Subject to an offer and acceptance
 - a. Agrees to pay the settlement fees associated with the purchased properties; and
 - b. Authorises the transfer of funds from the Land and Buildings Reserve to the Municipal Account for the purchase.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

The Transfer Fund name was amended from *Lands Transfer Reserve* to *Land and Buildings Reserve*.

Attachment

Attachment 11.4.1 Proposed Land Acquisition Map

Attachment 11.4.2 Yandanooka North East Road Realignment Project Plans

Attachment 11.4.3 Confidential - Property Valuation Report from Nutrien Ag Solutions (*provided under separate, confidential cover to Elected Members*)

Background

The Shire has been working with Main Roads WA on a proposed realignment project at the Mingenew-Morawa Road and Yandanooka North-East Road intersection for several years. They received State Black Spot funding to complete the design work for the project in FY18-19 and have been successful with a State Black Spot funding application for two-thirds of the project value for the 20-21 and 21-22 Financial Years.

Initial contact has been made with the Mitchell Family, who own the land required to complete Main Roads' preferred design. They are open to the sale of the property at a reasonable price. An initial valuation has also been sought from Harcourts Landmark WA to facilitate this process.

Comments

Because the project is not due to commence until next financial year, no amount has been budgeted for the purchase of the land. As such, it would be appropriate to confirm Council support for progressing the project, and a methodology for payment of the purchase if it were to occur in the current financial year, prior to entering into formal negotiations with the land-owners.

Consultation

- Simon Lancaster, Shire of Chapman Valley (planning advice)
- Yves Beagley, Harcourts Landmark WA (valuation advice)
- Peter and Anne Mitchell
- Gavin Ellery, Land Acquisition Officer, Main Roads WA

Statutory Environment

Local Government Act 1995

major land transaction means a land transaction other than an exempt land transaction if the total value of

—
(a) the consideration under the transaction; and
(b) anything done by the local government for achieving the purpose of the transaction,
is more, or is worth more, than the amount prescribed for the purposes of this definition;
Local Government (Functions and General) Regulations 1996

8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)

- (1) *The amount prescribed for the purposes of the definition of major land transaction in section 3.59(1) of the Act is —*
- (a) – does not apply to us (metro or large regional lg)*
 - (b) if the land transaction is entered into by any other local government, the amount that is the lesser of —*
 - (i) \$2 000 000; or*
 - (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.*
- (2) *A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —*
- (a) the total value of —*
 - (i) the consideration under the transaction; and*
 - (ii) anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed under subregulation (1); and*
 - (b) the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —*
 - (i) the total value of the transaction; or*
 - (ii) variations throughout the State in the value of land.*

8. Exempt land transactions prescribed (Act s. 3.59)

(1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —

(a) without intending to produce profit to itself; and

(b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.

Policy Implications

Nil

Financial Implications

The land valuation, settlement fees and any other associated fees will be borne by Council. This was budgeted for in the State Black Spot funding submission (which will cover two thirds of the project cost - \$660,000). A budget estimate of \$45,000 (being cost of land plus consideration for disruption to the landowner) was used in the funding application. Based upon the initial valuation received for the land, this figure appears reasonable.

The remaining \$330,000 is intended to be funded through Roads to Recovery grants. We will have approximately \$824,343 of Roads to Recovery funds to spend between FY20-21 and FY24-25. It is intended that the State Black Spot funding and Roads to Recovery grants will be incorporated into the draft FY20-21 budget in support of this project.

The purchase of this land has not been budgeted for in the 2019-20 Budget. If supported, and successfully negotiated, it is suggested that funds be moved from the land and building reserve to facilitate the purchase of the land, with those funds to be reimbursed upon receipt of grant funds in FY20-21.

Strategic Implications

Community Strategic Plan:

Strategy 1.1.2 Provide buildings, facilities and services to meet community needs

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

11.5 WALGA STATE COUNCIL AGENDA

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0118
Disclosure of Interest: Nil
Date: 10 February 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider recommendations for the 4 March 2020 WALGA State Council meeting and provide direction to the Shire's Northern Country Zone of WALGA delegates.

Key Points

- The next Northern Country Zone of WALGA meeting will be held on Monday, 24 February 2020
- Cr Karen Chappel (Shire President, Shire of Morawa) is the Northern Country Zone of WALGA's State Council representative.
- The Shire of Mingenew's nominated voting delegates are Cr Gary Cosgrove and Cr Justin Bagley, with Cr Carol Farr as proxy.

WALGA'S RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.5 - Resolution 19022006

Moved: Cr HM Newton

Seconded: Cr AR Smyth

That Council:

1. Supports WALGA's recommendations to be made at the 4 March 2020 WALGA State Council Meeting, as provided within the Agenda attached:

5.1 National Redress Scheme – Future Participation of WA local Governments

That State Council:

1. Acknowledge the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
2. Endorse the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government; and
3. Endorse by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

5.2 Submission on Aboriginal Empowerment Strategy

That the submission to the Department of Premier and Cabinet in response to the Aboriginal Empowerment Strategy be endorsed.

5.3 WALGA Submission on Independent Review of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

That the submission on the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC) be endorsed."; and

2. Notes the Information Reports, Key Activity Reports and Policy Forum Reports, as provided.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

Attachment 11.5.1 State Council Meeting Agenda – 4 March 2020

Background to Agenda Items

The recommendations outlined have been provided within the WALGA State Council Agenda, as attached. Relevant background information is provided within the report however a summary is provided below:

National Redress Scheme

In response to the Royal Commission into Institutional Responses to Child Sexual Abuse the National Redress Scheme has been established to provide opportunity to victims of institutional child sexual abuse to apply for a direct personal response from the responsible institution, accessing counselling and psychological care and be compensated up to \$150,000.

Council considered a position for local government participation in the Scheme at the July Ordinary Council meeting, at which it was resolved that Council would endorse the Northern Country Zone of WALGA's (NCZ) position to agree to join the National Redress Scheme as a State Government entity with a number of conditions. Following the consultation with the local government industry, the State Government has resolved to include local government in the Scheme under the State and have committed to cover costs relating to redress payments to survivors.

Please see page 6 of the Agenda (attached) to find out more.

Aboriginal Empowerment Strategy

The Department of Premier and Cabinet has released a Discussion Paper 'A Path Forward: Developing the Western Australian Government's Aboriginal Empowerment Strategy' and WALGA has prepared a submission regarding feedback on the Strategy for the Zone's consideration. Generally, the Strategy and its principles are supported by WALGA.

WALGA outlines "Supporting the development of an Aboriginal Empowerment Strategy by the State Government will benefit Local Government through the improvement of State Government processes; increased coordination between State Government, Local Government, Aboriginal people and community; local and regional place-based design and delivery of services and programs; enhanced local decision making; and, on a broader community level, improved health and wellbeing outcomes for Aboriginal people which benefits all Western Australians."

Please see page 9 of the Agenda (attached) to find out more.

Independent Review of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

WALGA are seeking support for the proposed submission on the Discussion Paper for the Independent Review of the EPBC Act. The submission reinforces the strong connection that local government has with environmental legislation and a desire to improve the assessment and approval processes including appropriate engagement with local governments on relevant issues.

Please see page 18 of the Agenda (attached) to find out more.

Matters for Noting / Information

The following matters are included within the Agenda for noting/information:

- 6.1 Draft Position Statement: Residential Aged Care – Submission (Page 30)
- 6.2 Managing Housing Health Risks in WA (Page 32)
- 6.3 Submission on Modernising the Environmental Protection Act (Page 34)

- 6.4 Submission to the Productivity Commission on the National Transport Regulatory Reform (Page 36)
- 6.5 Submission to Joint Select Committee on Road Safety (Page 38)
- 6.6 WALGA Submission on Native Vegetation in Western Australia Issues Paper (Page 40)
- 6.7 Proposed Amendments to the Planning and Development (Local Planning Schemes) Regulations 2015 for Container Deposit Scheme Infrastructure (Page 42)
- 6.8 Report Municipal Waste Advisory Council (Page 44)
- 6.9 2019 Annual General Meeting Status Update (Page 47)
- 7.1 Key Activity Reports (Page 52)
 - 7.1.1 Report on Key Activities, Environment Policy Unit (Page 52)
 - 7.1.2 Report on Key Activities, Governance and Organisational Services (Page 55)
 - 7.1.3 Report on Key Activities, Infrastructure (Page 58)
 - 7.1.4 Report on Key Activities, People and Place (Page 60)
- 7.2 Policy Forum Reports (Page 62)
- 7.3 State Council Status Report (Page 63)

Background to State Council and Northern Country Zone

Role of Northern Country Zone of WALGA

Zones have an integral role in shaping the political and strategic direction of WALGA. Not only are Zones responsible for bringing relevant local and regional issues to the State decision making table, they are a key player in developing policy and legislative initiatives for Local Government.

WALGA's Constitution outlines that the functions of Zones are to:

- Elect one or more State Councillors;
- Consider the State Council agenda;
- Provide direction and feedback to their State Councillor; and,
- Any other function deemed appropriate by the Zone.

Additional activities undertaken by Zones include:

- Developing and advocating on positions on regional issues affecting Local Government;
- Progressing regional Local Government initiatives;
- Identifying relevant issues for action by WALGA;
- Networking and information sharing; and,
- Contributing to policy development through policy forums and other channels.

Zones provide input into State Council's advocacy agenda in two critical ways: by passing resolutions on items contained in the State Council agenda, and by generating new agenda items for consideration by State Council.

Role of State Council

WALGA is governed by a President and a 24 member State Council, elected from the Local Government sector. Each State Councillor represents a WALGA Zone. There are 12 metropolitan zones and 12 regional zones. Elected Members are able to nominate to represent their Local Government on their zone and in turn, through the zone election process, to represent the zone on State Council.

State Council's primary role is to govern the successful operation of WALGA and broadly includes:

- i. Strategy formulation and policy making;
- ii. Development, evaluation and succession of the Chief Executive Officer;
- iii. Monitoring financial management and performance, including the annual budget;
- iv. Monitoring and controlling compliance and organisational performance;
- v. Ensuring effective identification, assessment and management of risk;
- vi. Promoting ethical and responsible decision making;
- vii. Ensuring effective communication and liaison with members and stakeholders; and;

- viii. Ensuring an effective governance framework and culture.

Consultation

State Council matters are shared with local governments state-wide.

Statutory Environment

Local Government Act 1995

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan:

Strategy 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

11.6 PROPOSAL TO PURCHASE LAND – 12 & 14 FOGARTY STREET, MINGENEW AND 28 MIDLANDS ROAD, MINGENEW

Location/Address: 12 & 14 Fogarty Street, Mingenew and 28 Midlands Road, Mingenew
Name of Applicant: Tracey Fennell (Executor) of the Estate of Gavin Peter Fennell
File Reference: A358, A359 and A792
Disclosure of Interest: Nil
Date: 14 February 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

Council are presented with a proposal to consider the purchase of vacant land at 12 & 14 Fogarty Street, Mingenew and 28 Midlands Road, Mingenew.

Key Points

- Correspondence has been received from Tracey Fennell seeking feedback on Council's interest to purchase the lots inherited through the Estate of Gavin Peter Fennell
- These properties are currently zoned residential (under Local Planning Scheme No.3 and No. 4)
- The approximate market value for similar properties is between \$7,000 each.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 11.6 - Resolution 19022007

Moved: Cr HR McTaggart

Seconded: Cr CV Farr

That Council authorises the Chief Executive Officer to advise Ms Tracey Fennell as Executor for the Estate of Gavin Peter Fennell, that Council declines the proposed offer to purchase vacant land at 12 & 14 Fogarty Street, Mingenew and 28 Midlands Road, Mingenew.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

11.6.1 Confidential – Correspondence from Tracey Fennell (*provided under separate, confidential cover*)

Background

The CEO received correspondence from Ms Fennell enquiring of Council's interest in purchasing vacant land at 12 & 14 Fogarty Street, Mingenew and 28 Midlands Road, Mingenew.

Although, no formal valuation of these specific properties have been conducted similar properties of the same size are valued at approximately \$6,000 - 7,000 (based on unconfirmed advice from Harcourts Dongara).



Comment

Council were gifted a number of vacant properties in October 2019, and recently considered and declined a proposal to purchase vacant land in Wattle Street.

Whilst Council have identified the need to ensure the availability of land for future development, as residential lots they serve limited strategic benefit to Council (as owners of the land) and would result in the financial loss of rates to be collected for these properties (although minimal).

Alternatively, Council may wish to consider obtaining a valuation and enter negotiations with the Estate Executor to purchase the properties to hold for future use/benefit.

Statutory Environment

8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)

- (2) The amount prescribed for the purposes of the definition of major land transaction in section 3.59(1) of the Act is —
 - (a) – *does not apply to us (metro or large regional lg)*
 - (b) if the land transaction is entered into by any other local government, the amount that is the lesser of —
 - (i) \$2 000 000; or

- (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.
- (2) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if —
- (a) the total value of —
 - (i) the consideration under the transaction; and
 - (ii) anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed under subregulation (1); and
 - (b) the Minister has, in writing, declared the transaction to be an exempt transaction because the Minister is satisfied that the amount by which the total value exceeds the amount prescribed under subregulation (1) is not significant taking into account —
 - (i) the total value of the transaction; or
 - (ii) variations throughout the State in the value of land.

8. Exempt land transactions prescribed (Act s. 3.59)

- (1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —
- (a) without intending to produce profit to itself; and
 - (b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.

The land transaction is under the value, as prescribed, to be considered a major land transaction.

Policy Implications

Nil

Financial Implications

The purchase of these blocks would be unbudgeted and therefore, require a resolution by Absolute Majority to expend funds for the valuation, purchase and settlement costs.

Strategic Implications

Community Strategic Plan:

Strategy 3.1.1 Ensure pipeline of land available for development.

12.0 REPORTS BY THE FINANCE AND ADMINISTRATION MANAGER

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 JANUARY 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 12 February 2020
Author: Jeremy Clapham – Finance Manager
Voting Requirement: Simple Majority

Summary

This report recommends that the Monthly Financial Report for the period ending 31 January 2020 as presented to the Council be received.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 12.1 - Resolution 19022008

Moved: Cr HM Newton

Seconded: Cr CV Farr

That the Monthly Financial Report for the period 1 July 2019 to 31 January 2020 be received.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

12.1.1 Monthly Financial Report for period ending 31 January 2020

Background

The Monthly Financial Report to 31 October 2019 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Cash Reserves
- Other Current Liabilities
- Grants and Contributions
- Trust Fund
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 January 2020	
Municipal Funds	\$1,511,787
Cash on Hand	\$100
Restricted Funds – 3 Month Term Deposit @ 2.50%	\$147,814
Trust Fund	\$1
Reserve fund (3 Month Term Deposit) @ 2.50%	\$310,035

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2019/20 financial year.

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, 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); and
- (b) budget estimates to the end of the month to which the statement relates; and
- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
- (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- (e) the net current assets at the end of the month to which the statement relates.

(2) Each statement of financial activity is to be accompanied by documents containing —

- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
- (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity may be shown —

- (a) according to nature and type classification; or
- (b) by program; or
- (c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —

- (a) Presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
- (b) Recorded in the minutes of the meeting at which it is presented.

- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

No financial implications are indicated in this report.

Strategic Implications

Nil

12.2 LIST OF PAYMENTS FOR THE PERIOD 1 DECEMBER 2019 TO 31 JANUARY 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Attachment/s: List of Payments – December 2019 and January 2020
Disclosure of Interest: Nil
Date: 12 January 2020
Authorising Officer: Jeremy Clapham, Finance Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 December 2019 to 31 January 2020 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEMS 12.1 - Resolution 19022009

Moved: Cr HM Newton
Seconded: Cr JD Bagley

That Council receive the attached list of payments for the period of 1 December 2019 to 31 January 2020 as follows:

\$29,656.09	Municipal Cheques;
\$569,950.10	Municipal EFT's;
\$107,679.80	Municipal Direct Debit Department of Transport (Licencing) Payments;
\$113,553.88	Municipal Direct Debit Other;
\$2,926.92	Municipal Other Charges.

Totalling \$823,766.79 as per attached list of payments.

Net Salaries not included in the attached list of payments - \$132,909.26

Total of all payments - \$956,676.05.

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

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.

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4

Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 15

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN/FOR CONSIDERATION AT FOLLOWING MEETING

Nil.

14.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil.

15.0 CONFIDENTIAL ITEMS

Nil.

15.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 18 March 2020 commencing at 4.30pm.

16.0 CLOSURE

The meeting was declared closed at 5:14pm.

These minutes were confirmed at an Ordinary Council meeting on 18 March 2020.

Signed _____
Presiding Officer

Date: _____