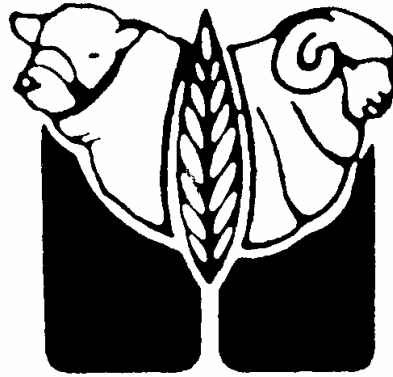


MINUTES



ORDINARY MEETING

HELD ON

THURSDAY, 19 APRIL 2006

AT

SHIRE OF BOYUP BROOK

ABEL STREET – BOYUP BROOK

COMMENCEMENT AT 3.30PM

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1 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

1.1 Attendance

Cr T Ginnane – Shire President
Cr S Broadhurst
Cr R Downing
Cr J Florey
Cr P Marshall
Cr K Moir
Cr T Oversby
Cr A Piper

Mr T Doust – Chief Executive Officer
Mr K Jones – Manager of Finance and Administration
Mr J Eddy – Manager of Works and Services

Mr J Sapienza – Manjimup Bridgetown Times
Mr R Paull – Consultant (4.16pm to 4.34pm)

2 PUBLIC QUESTION TIME

1.2 Apologies

2.1 Response to Previous Public Questions Taken on Notice

2.2 Public Question Time

3 APPLICATIONS FOR LEAVE OF ABSENCE

Cr Oversby advised that he would be away for the ordinary council meeting on 17 May 2007, as he will be in Sydney.

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Nil

5 CONFIRMATION OF PREVIOUS MINUTES

5.1 Minutes of the Ordinary Meeting of the Council held on 15 March 2007.

MOVED: Cr Oversby

SECONDED: Cr Downing

That the minutes of the previous Ordinary Meeting of the Council held on Thursday 15 March 2007, be confirmed as an accurate record.

CARRIED 8/0

6 PRESIDENTIAL COMMUNICATIONS

The Shire President advised that he would be attending a Sustainability Workshop with the CEO on Friday 19/4/2007.

7 REPORTS OF OFFICERS AND COMMITTEES

7.1 WORKS AND SERVICES

7.1.1 **Boyup Brook Townsite – Entry Statements**

<i>Location:</i>	<i>Boyup Brook – Donnybrook Road</i>
<i>Applicant:</i>	<i>Townscape (Waters Edge) Advisory Committee</i>
<i>File:</i>	<i>PA/46/001</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>11th April 2007</i>
<i>Author:</i>	<i>John Eddy – Manager of Works and Services</i>
<i>Appendices:</i>	<i>1.1 Minutes of the Townscape (Waters Edge) Committee Meeting 2/4/2007 and Attachments</i>

SUMMARY

To obtain Council's approval for the location of the entry statement to the townsite Boyup Brook on the Boyup Brook Donnybrook Road.

BACKGROUND

Council has previously approved the funding for the design and construction of a sculpture, incorporating a "Farmer, Sheep and Dog" for placement on an entry to the townsite of Boyup Brook. Len Zuks was commissioned to provide the sculpture and it is proposed to locate this on the Boyup Brook Donnybrook Road entry to Boyup Brook.

At the ordinary meeting of the Council held on 15 March 2007, Item 7.1.1 was presented with the recommendation from the Townscape Committee:-

“That the ‘Farmer, Sheep and Dog’ entry statement be located on the Boyup Brook/Donnybrook Road Reserve adjacent to the ‘Roo Gully’ sign subject to the prior approval of Main Roads WA.”

The Council resolved:-

“That the matter of the location of the ‘Farmer, Sheep and Dog’ entry statement be referred back to the Townscape (Waters Edge) Advisory Committee, awaiting Main Roads response on the sites identified, for further consideration and recommendation.”

The Townscape (Waters Edge) Advisory Committee re-considered this matter on the 2 April 2007 and the following information was provided to the Committee:-

- Cr Broadhurst and Mary Whitehead re-visited the preferred sites on the Boyup Brook/Donnybrook Road adjacent to the “Roo Gully” sign and adjacent to Powertrak opposite Bank Road.
- Cr Broadhurst provided the Committee with the “Entrance Statement” criteria and a comparison between the preferred sites to promote discussion (See Appendices 1.1).
- Cr Broadhurst advised the meeting that the original site location of the sculpture was on the rail reserve and would require approval from the relevant authority as well as Main Roads WA.

After discussion on the entrance statement criteria and comparison of the preferred sites the Committee resolved:-

“The Townscape (Waters Edge) Advisory Committee recommends to Council that the ‘Farmer, Sheep and Dog’ entry statement be located on the Boyup Brook / Donnybrook Road adjacent to the ‘Roo Gully’ sign subject to Main Roads WA approval.”

COMMENT

Further to investigations by the Manager of Works and Services the proposed location of the “Entry Statement” is actually within the ‘Rail Reserve’ or ‘Rail Corridor’ under the control of Westnet Rail.

The positioning of the ‘Entry Statement’ will therefore require the approval of Main Roads WA and Westnet Rail.

CONSULTATION

Townscape (Waters Edge) Advisory Committee Members

STATUTORY ENVIRONMENT

Main Roads WA approval required for placement of a sculpture on a road under their control.
Westnet Rail approval and agreement required for placement of a sculpture on a rail corridor under their control.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Funding for the ‘Entry Statement’ has been approved by Council and funds are available to place the sculpture at the approved position.

STRATEGIC IMPLICATIONS

The provision of the entry statements will provide benefit with the promotion and development of the Shire.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Broadhurst

SECONDED: Cr Oversby

The Council approve that the “Farmer, Sheep and dog” entry statement be located on the Boyup Brook / Donnybrook Road Reserve adjacent to the ‘Roo Gully’ sign subject to the prior approval of Main Roads WA and Westnet Rail.

CARRIED 7/1

7.1.2 **Terrace Road – Boyup Brook / Cranbrook Road Works 2006/07**

<i>Location:</i>	<i>Terrace Road – Boyup Brook/Cranbrook Road</i>
<i>Applicant:</i>	<i>Shire of Boyup Brook</i>
<i>File:</i>	
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>11th April 2007</i>
<i>Author:</i>	<i>John Eddy – Manager of Works and Services</i>

SUMMARY

To obtain Council’s approval to re-allocate the budgeted funds of \$24,723 for re-sheeting works on Terrace Road to complete re-sheeting works on the Boyup Brook/Cranbrook Road.

BACKGROUND

Council has approved funds of \$24,723 for re-sheeting works to Terrace Road in the current 2006/2007 budget. Increased heavy vehicle traffic from the Shires of Cranbrook and Kojonup have caused pavement and base course damage to the Boyup Brook / Cranbrook Road in several places within the Boyup Brook Shire.

The Manager of Works and Services has received several complaints regarding the condition of the Boyup Brook/Cranbrook Road.

COMMENT

The Manager of Works and Services recommends that remedial re-sheeting works be carried out to the Boyup Brook / Cranbrook Road as soon as possible to prevent further damage to the roads base course. Funds provided for Terrace Road be reallocated for this purpose.

In several places the heavy vehicle traffic has broken through to the roads sub-grade which will increase the rate of the roads deterioration.

CONSULTATION

Chief Executive Officer
Works Supervisor

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The proposed re-sheeting works will contribute to the maintenance and upkeep of a regionally significant road and the Shire of Boyup Brook's infrastructure and asset management.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Piper

SECONDED: Cr Florey

That the Council approve the re-allocation of \$24,723 budgeted for re-sheeting works to Terrace Road in 2006/07 to complete re-sheeting works on the Boyup Brook / Cranbrook Road.

CARRIED 8/0

7.2 DEVELOPMENT AND COMMUNITY SERVICES

7.2.1 Flaxmill Charges – Request for Fee Reduction

<i>Location:</i>	<i>Boyup Brook Flaxmill Recreation Camp/Caravan Park</i>
<i>Applicant:</i>	<i>Southwood and Wheatbelt Forrest Regions of Guides WA</i>
<i>File:</i>	<i>CP/59/004</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>10th April 2007</i>
<i>Author:</i>	<i>Tony Doust, Chief Executive Officer</i>

SUMMARY

To consider a request received from the Southwood and Wheatbelt Forrest Regions of Guides WA for a reduction in the fees for the use of Flaxmill Recreation Camp.

BACKGROUND

The Regional leader Southwood has written to the Shire:-

“Southwood Region and Wheatbelt Forrest Region of Guides WA are combining for the occasion of Trailer Trekking, which involves numerous activities for guides 5-15 years, to participate in.

The Flax Mill in Boyup Brook is in a reasonably central location and would be large enough to cater for this activity.

The Mission Statement of Guides WA is “Helping girls and young women grow into confident, self respecting, responsible community members” and all Leaders have to meet Guides Australia’s requirement for Leadership Qualification.

I would like to make a booking from Friday 15 June 2007 to Sunday 17 June 2007. The aim is to have 100 plus girls and leaders attend. The younger girls would require indoor accommodation and the older girls would be camping outdoors.

It would be appreciated if a reduction in fees per night could be considered so we can keep the overall cost for this weekend to a minimum for the girls."

COMMENT

The charges for the use of the Flaxmill on this occasion would be:

Dormitory Accommodation	\$12.00 per person per night
Camping Powered Site	\$9.00 per person per night
Un-powered Site	\$6.00 per person per night
Kitchen	\$80.00 per day
Function Room	\$70.00 per day

Whilst it is recognized that the Guides movement is a very worthwhile organization it is important that the costs for operating the Flaxmill complex are not overlooked. The 2006/07 adopted budget shows that the operating loss for the year is estimated to be \$16479.

Given the numbers anticipated over the weekend it is recommended that the organization be offered a 20% discount on the adopted fee schedule for the weekend use 15th to 17th June 2007 provided the total numbers exceed 75 people per night. If the number is below this then the discount be 10%.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Section 6.12(1)(b) of the Local Government Act 1995 provides Council with the power to grant concessions / waive fees.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Outlined in the comment section of the report

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Oversby

SECONDED: Cr Florey

That the Southwood and Wheatbelt Regions of Guides WA be granted the following discounts on the 2006/07 adopted fee schedule for the Flaxmill Camp/Caravan Park for the use of the facility over the 15th to 17th June 2007 (Inclusive):-

**20% per person if the number of persons exceeds 75 per night
10% per person if the number of persons is less than 75 per night.**

CARRIED 8/0

7.2.2 **Alfresco Area, Boyup Brook Hotel, Lot 68 Abel Street Boyup Brook**

<i>Location:</i>	<i>Footpath Lot 68 Abel Street Boyup Brook</i>
<i>Applicant:</i>	<i>P Mansfield, Boyup Brook Hotel</i>
<i>File:</i>	<i>Ass 800</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>10th April 2007</i>
<i>Author:</i>	<i>Tony Doust, Chief Executive Officer</i>
<i>Appendices:</i>	<i>1.2 Copies of the Shire's letters to Boyup Brook Hotel</i>

SUMMARY

To consider an objection under Section 9.5 of the Local Government Act 1995 against the Council's decision not to approve the application submitted by the Boyup Brook Hotel to establish an alfresco area on the footpath in Abel Street , Boyup Brook.

BACKGROUND

This matter was first considered by Council at its meeting on the 16th November 2006. The following report was presented:-

"The proponent wishes to provide both fix cover and portable cover alfresco areas. It is the primary intent that this will used as a dining area with the serving of liquor being secondary.

The proposed 8 x 3m steel framed structure encroaches into public space over the footpath on Abel Street to provide for an additional service area for the hotel located on lot 68 Abel Street.

The roof will be covered with canvass.

The proponent wishes to also provide a further alfresco area using umbrellas adjacent to the proposed covered area.

The aesthetics of the proposed covered structure is a concern.

A further concern is the addition of another type of cover being placed over the footpath along this stretch of Abel Street, that is from Bridge Street to Inglis Street, where there have been a variety of styles used over the years.

The committee is encouraged to inspect the proposed alfresco site and the other commercial buildings along Abel Street prior to the meeting.

Should the proposal be approved, the following conditions would be appropriate-

- 1. structure to comply with the Building Code of Australia and have a minimum height of 2400mm and be setback 600mm from the kerb;*
- 2. building license required prior to construction;*
- 3. tables and chairs shall not interfere with pedestrian movement or parked vehicles by incorporating minimum 1500mm passing areas and 900mm 'footpath widths';*
- 4. the alfresco area shall be conducted strictly in accordance with provisions of the Health Act 1911 and subsequent regulations and local laws and Liquor Licensing regulations covering the conduct of an alfresco area;*
- 5. the alfresco area shall be kept free of litter, refuse, rubbish and all other disused materials at all times during its conduct;*

6. *the proprietor hereby agrees to indemnify the Shire of Boyup Brook and the Crown against any and all claims for compensation howsoever arising from the conduct of the eating area and further agrees to hold not less than \$10,000,000 public liability insurance at all times.*

Evidence of such insurance having been affected is to be submitted to the satisfaction of CEO prior to the establishment of the alfresco area. Evidence is to be provided on the annual renewal of transfer of a licence;

7. *surrounds, including tables, chairs and footpaths shall be kept in a clean and tidy condition at all times.*

The Development Services Committee at its meeting held on 06 November 2006 recommended that this item be referred to the Council for consideration.”

Council resolved on 16th November 2006:-

“That the proposal as submitted in item 7.2.8 be advertised inviting public comment and following the closure of this the item be referred back to council incorporating any comments received.”

The matter was again considered by Council on 15th February 2007 and the following comments were provided in the report presented at that time:-

“The proposal was advertised in the Donnybrook – Bridgetown Mail on 28th November 2006 inviting public comment. Only two submissions have been received. One submission is unsigned. Both submissions opposed the proposed development on the grounds that is not in the best interest of the town and it will allow drinking on the street.

There are a number of issues to be considered including:-

- The space available for this type of use is limited given that the footpath is approximately 3.8 metres wide, and the development would need to be 600mm from the kerb line and also allow a clear pedestrian access of 1.5 metres in width.*
- Whilst the use is primarily for dining is it not desirable to encourage drinking of liquor on the street.*
- The aesthetics of the proposed structure are not in keeping with the general ambience of the town.*
- The general principal and precedent that may follow if this development is approved.*

The Council has the power under section 17(2) Local Government (Uniform Local Provisions) Regulations 1996 to grant approval for the use of the footpath for the purpose outlined above, however in doing so it may impose conditions in respect to the use.

For the reasons outlined above it is recommended to Council that the application be refused.”

Council resolved (9/0) accordingly:-

“That the Planning/Development Application received from Mr P Mansfield Boyup Brook Hotel to develop an “Alfresco Area” on the footpath in Abel Street Boyup Brook be refused on the following grounds:-

- The space available for this type of use is limited given that the footpath is approximately 3.8 metres wide, and the development would need to be 600mm from the kerb line and also allow a clear pedestrian access of 1.5 metres in width.*
- Whilst the stated use is primarily for dining it is not desirable to encourage drinking of liquor on the street.*
- The aesthetics of the proposed structure is not in keeping with the general ambience of the town.*
- The general principal and precedent that may follow if this development is approved.”*

Mr Mansfield was advised of the Council's decision and his right of appeal under section 9.5 of the Local Government Act 1995. Subsequently the Shire President and Chief Executive Officer met with Mr Mansfield and endeavored to explain the reasons for Council's decision.

The Chief Executive Officer received an unsigned objection dated 17th March 2007 from Mr Mansfield, against the Council decision. Whilst the appeal is outside the 28 days required by legislation the Chief Executive Officer has advised Mr Mansfield that the matter will be placed on the agenda for consideration by the Council at its meeting on 19th April 2007. Mr Mansfield has also been advised that he is entitled to attend the Council meeting at 3.30pm to make a presentation.

The grounds of the objection are as follows:-

"I find the reasons given are ill thought out and have not been appropriately addressed. The following are my response to each objection. As not one person has even bothered to come and speak to me or other people in town, I also find to be objectionable.

- 1. The space given of 1.5 metres on the proposal, this should be measured properly. In the meeting I had with yourself and Mr Terry Ginnane he spoke about parking. Again if anyone came down I could show them with the trees on the road those parking bays have already been taken away. Also as I had two proposals on the issue, the one with the bollies would not even be an issue. That proposal would leave over 2 metres for pathway.*
- 2. On the issue of street drinking, I can only make the observation that people dining and seated would be no different than what happens in Subiaco, Leederville, Fremantle, Mandurah, Bunbury, Busselton, Dunsborough and just about everywhere else in the country. If that is an issue I will not seek approval for it to be unlicensed. In our discussions I indicated that I would seek to have an unlicensed area so that younger people can have a meal or soft drinks. It gives the town the opportunity to have a restaurant style eatery without having to go into the bars. Also a conduct and dress code would be introduced and the smoking area put out the back in the beer garden.*
- 3. I would really like for someone to explain to me the ambience of the town. I was watching TV on Sunday and an advert for tourism in Boyup brook came on and showed the Bluestone Deli with outdoor dining. This was as a feature of the town. Would that not be the ambience of the town we are trying to promote. If not pull the ad and don't mislead people.*
- 4. I also believe the precedent was set when permission was given in 1993 to the Bluestone café. I also believe being the only public place in town open after 6.00pm we need to offer alternatives to people. Whether it be locals, tourists, and I have also been told by the department of infrastructure 2-3 hundred more people over the next 10years.*

In closing I would like to say that the response from a majority of people in town has been more than positive. If I need to get a petition to show you these responses I am only to happy to do so. If the petition goes against my ideas I will drop the issue. I look forward to your response."

COMMENT

In response to the grounds for objection the following comments are provided:

- The general observation that the reasons are ill thought out and not properly addressed are not correct as the reports previously provided to Council outlined the issues involved.
- Mr Mansfield had the opportunity to expand on his proposal and or contact Councillors/Staff as the proposal was advertised for public comment. Mr Mansfield was advised in writing of this on the 21st November 2006 which included notification that if he required any further information please do not hesitate to contact the CEO.
- Point (1) refers to the width of the footpath and the area required for a pathway. Previous reports have clearly identified that the footpath is 3.8 metres wide and any area for 'alfresco dining' would need to be set back 600mm from the kerbline and allow 1500mm free of obstruction for pedestrians. These requirements are recommended by the Austroads Traffic Engineering Practice, Section (13). The letter provided to Mr Mansfield on 16 February 2007 does not advise the area available for 'alfresco dining' would be 1.5 metres rather than this is the area required for pedestrian use. The net area available for alfresco dining if approved would be 3.8 metres less 2.1 metres (600mm + 1500mm) leaving 1.7 metres.

Both proposals were considered including the umbrellas as the previous reports presented to Council show.

- Point (2) the Council when making its decision was very clear that it did not want liquor to be served/consumed on the footpath. Whilst other Local Governments may determine this is satisfactorily it is entirely the decision of each Local Government to decide what is considered best for their community. The report submitted to Council on 16th November 2006 indicated that the serving of liquor would occur although this was secondary to providing an alfresco dining area. The Council made the decision on the information provided.
- Point (3) the word “ambience” in the Macquarie dictionary means:- “Environment: surrounding atmosphere, mood, character, quality as of a place.” The use of this word in the reports and Council’s decision refers to the canvas roof structure which in Council’s opinion was not in character with the surrounding area and does not refer to the placement of chairs and tables that would have resulted if the proposal had been approved.
- Point (4) approval for the Bluestone Café to have tables and chairs on the footpath was granted in 1996 and any reference to this for the purpose of comparison with the application from the Boyup Brook Hotel should be limited to exactly what has been approved. The area approved for the Bluestone Café was 1600mm wide and 5500mm long and immediately adjacent to the property boundary. If the Boyup Brook Hotel wishes to make application for a similar size facility in a like position and for the purpose of dining not liquor, then Council will need to give the proposal the same consideration that was afforded to the Bluestone Café.

Given the above it is recommended that the Council’s decision be confirmed.

CONSULTATION

Shire President, Mr Peter Mansfield

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 9.5 Objections

Local Government Act 1995 – Schedule 9.1 section (8) Making of regulations private works on, or under public places.

Local Government (Uniform Local Provisions) Regulations 1996 section 17(2) – private works on, over or under public places.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The overall ambience, aesthetics of the town of Boyup Brook and utilization of public thoroughfare.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Florey

SECONDED: Cr Piper

1. That the Council reaffirms the decision it made at the Council meeting on 15th February 2007, that the application by Mr P Mansfield Boyup Brook Hotel dated 2nd November 2006 to develop an “alfresco area” on the footpath in Abel Street Boyup Brook be refused.
2. That Mr P Mansfield Boyup Brook Hotel be advised that if he makes a new application to establish an alcohol free “alfresco area” of a similar size to that approved for the Bluestone Café and located immediately adjoining the Hotel property line, then the proposal will be approved.
3. That the Chief Executive Officer be delegated authority to approve any application received from the Boyup Brook Hotel as per Item (2) of this resolution subject to the conditions that would normally be applicable.

CARRIED 8/0

It was agreed that the consideration of Item 7.2.3 be deferred until Mr Rob Paull was in attendance.

7.3 CORPORATE SERVICES

7.3.1 Accounts for Payment

<i>Location:</i>	<i>Shire of Boyup Brook</i>
<i>Applicant:</i>	<i>Shire of Boyup Brook</i>
<i>File:</i>	<i>EM/51/003</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>12 April 2007</i>
<i>Author:</i>	<i>Keith Jones – Manager of Finance and Administration</i>
<i>Appendices:</i>	<i>1.4 - Cheque Listings</i>

SUMMARY

Report recommends the acceptance and approval of the Schedule of Accounts for Payment.

BACKGROUND

Invoices have been received during the month of March 2007.

COMMENT

Accounts are presented for consideration (see appendix 1.3) or where paid by direct debit pursuant to the Council’s “Authorisation to Incur Debts and Make Payments” policy.

Cheques cancelled during the month were-

- Chq 14393 MIMS for \$230.00 issued 17/11/05. This account has been paid twice.
- Chq 15697 Karen Sheppard for \$338.11. This cheque was lost and the monies have been deposited to the creditors account on 22/03/07.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations Act 1009, Regulation 12; and Regulations 13(3)(a)(b); 13(1); and 13(4).

POLICY IMPLICATIONS

Accounts are presented for consideration or where paid by direct debit pursuant to the Council's "Authorisation to Incur Debts and Make Payments" policy.

FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2006/07 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Oversby

1. That the accounts for March 2007 as presented totaling \$434,997.79 as-
 - a.. cheque voucher numbers 15881 - 15964 be approved for payment;
 - b.. paid by-
 - i. direct electronic payments through the Municipal Account;
 - ii. cheque voucher number 2105 - 2107 paid through the Chief Executive Officer's Advance Account;

be endorsed.

CARRIED 8/0

7.3.2 February 2007 Monthly Statement of Financial Activity

<i>Location:</i>	NA
<i>Applicant:</i>	NA
<i>File:</i>	EM/51/003
<i>Disclosure of Interest:</i>	Nil
<i>Date:</i>	11 April 2007
<i>Author:</i>	Keith Jones – Manager of Finance & Administration
<i>Appendices:</i>	1.5 - Financial Report

SUMMARY

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended 28 February 2007, and Investment Schedule for the month end 31 March 2007.

BACKGROUND

Section 6.4 of the Local Government Act 1995 places financial reporting obligations on local government operations.

Regulation 34 (1)–(4) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare a ‘Monthly Statement of Financial Activity’.

The regulations also prescribe the content of the report.

The report is attached – see appendix 1.5

COMMENT

It is suggested that the recommendation be considered.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulations 1996, s34(1)(a)
Local Government (Financial Management) Regulations 1996, s19(1)(2)(a)(b)
Local Government (Financial Management) Regulations 1996, s34(2)(a)(b)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Broadhurst

That the February 2007 Monthly Statement of Financial Activity as presented, be received.

CARRIED 8/0

<i>Location:</i>	<i>Shires of Boyup Brook, Bridgetown – Greenbushes, Nannup and Manjimup</i>
<i>Applicant:</i>	<i>Warren Blackwood Strategic Alliance</i>
<i>File:</i>	<i>GR/31/006</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>4 April 2007</i>
<i>Author:</i>	<i>Tony Doust –Chief Executive Officer</i>
<i>Appendices:</i>	<i>1.6 Minutes Warren Blackwood Strategic Alliance 3/4/07 Strategic Plan Warren Blackwood Strategic Alliance</i>

SUMMARY

To provide Council with details of the Strategic Plan adopted by the Warren Blackwood Economic (Strategic) Alliance on 3rd April 2007 and the issues identified as priorities for action at this time.

BACKGROUND

At the meeting of the WBEA on 6th February 2007 it was agreed that a planning workshop be held to review the Alliance Strategic Plan.

The workshop was held on Saturday 10th March 2007 and was attended by representatives of all Shires which included the Shire President Cr T Ginnane and Cr S Broadhurst (Shire of Boyup Brook Community member).

The Alliance at its meeting on the 3rd April 2007 adopted the attached Strategic Plan and identified the following issues that need to be addressed from a regional perspective:-

- Education – Access to higher schooling and hostel accommodation
- Sustainability – Revenue Sharing
 - Non rate-able land.
- Road Infrastructure – Funding

It is proposed that further consideration will be given to developing the action plans required to achieve the outcomes identified in the Strategic Plan.

COMMENT

Members of the Alliance were requested to bring the plan to the attention of their Councils and seek feedback from the Councillors on the Strategic Plan, issues identified and any other matters that maybe considered on a regional basis.

CONSULTATION

Members of the Warren Blackwood Economic (Strategic) Alliance

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No special financial implications with the adoption of the strategic plan and or issues identified. Costs to be funded by the Alliance.

STRATEGIC IMPLICATIONS

The development of a new direction and strategic plan for the Alliance has the potential to provide the Warren Blackwood region with an improved co-ordination and unified position on matters of regional significance.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATIONS

1. That Council supports the action taken by the Warren Blackwood Economic (Strategic) Alliance, including the change in the name from Economic to Strategic, the adoption of a Strategic Plan 2007-10 and issues identified for action at the Board meeting on 3rd April 2007
2. That the Council identifies the following matters for inclusion on the issues list for consideration by the Alliance in the future.....

COUNCIL DECISION

MOVED: Cr Broadhurst

SECONDED: Cr Downing

That Council supports the action taken by the Warren Blackwood Economic (Strategic) Alliance, including the change in the name from Economic to Strategic, the adoption of a Strategic Plan 2007-10 and issues identified for action at the Board meeting on 3rd April 2007

CARRIED 8/0

7.3.4 **Housing 3 Rogers Avenue Boyup Brook**

<i>Location:</i>	<i>3 Rogers Avenue, Boyup Brook</i>
<i>Applicant:</i>	<i>Shire of Boyup Brook</i>
<i>File:</i>	<i>Ass 2012</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>4th April 2007</i>
<i>Author:</i>	<i>Tony Doust –Chief Executive Officer</i>

SUMMARY

To obtain Council's approval to proceed with the sale of the Shire house situated at 3 Rogers Avenue Boyup Brook.

BACKGROUND

The existing house was constructed in 1987 for the person occupying the position of (Shire Clerk) Chief Executive Officer. As the Shire Clerk at the time had his own home the Deputy Shire Clerk occupied the residence. This position continued with the residence being occupied by the Deputy up to the time Mr Will Pearce was appointed as Chief Executive Officer. The residence was vacated by Mr Pearce on his resignation from the position of CEO in November 2006. The house is presently unoccupied given that the Chief Executive Officer Mr Doust resides in his own residence.

During the process of appointing a new Chief Executive Officer the house was offered as a residence for the person in this position. Councillors will recall that the applicant chosen as the preferred candidate in December 2006, declined to accept the position on the basis that the residence was not acceptable. The interview committee inspected the residence at 3 Rogers Avenue Boyup Brook and felt it may be desirable to sell the house and use the proceeds to build a new house for the Chief Executive Officer.

COMMENT

Given the present position and that the Shire will not require a house for some time for a Chief Executive Officer it would seem to be appropriate to sell the house and place the proceeds in Reserve for "Housing Chief Executive Officer". When considering this matter the availability of the Shire House at 1 Rogers Avenue Boyup Brook, after the lease to GEHA expires in April 2008, needs to be borne in mind.

The other option is to rent the residence on a long term basis, say two to three years. The rental based on current market rates would be a maximum \$11,500 per annum. Outgoings such as insurance, water rates, rates and repairs/maintenance would need to be deducted from this amount.

If the residence is sold and the price is \$300,000 the return on the funds invested at 6% = \$18,000 with no outgoings to be deducted.

The options available to Council to sell the residence are by:-

- Auction (Highest Bidder)
- Tender (to the person who in Council's opinion makes the most acceptable tender whether or not the highest)
- Private Treaty (subject to prior public notice of the disposition. Consideration or any submissions and reasons for decision. Market valuation to be obtained)

The tender process will provide the opportunity to any person interested to put in a proposal. Sale by auction may result in a limited number of prospective buyers/interest on the date of the auction. Private treaty should only be considered when it is evident that the interest is minimal and the tender or auction options have been unsuccessful.

It is recommended that the residence is sold by tender.

CONSULTATION

Shire President, Western Districts Realty, LJ Hooker Bridgetown (Boyup Brook Representative)

STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 3.58 – Disposal of Property
Local Government (Function & General) Regulations 1995 – Part (4) Tenders

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As the residence is not required at this time and the need to upgrade, the sale of the residence will provide the Shire with funds to build a residence for the CEO at a future date. This will also result in a reduction in outgoings for the existing residence etc insurance, rates, water rates, maintenance.

STRATEGIC IMPLICATIONS

The sale and upgrade of the residence will assist with attracting suitable applicants for the position of Chief Executive Officer in the future.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

That the Council approves the proposal to sell the residence/property 3 Rogers Avenue, Boyup Brook, by tender and the Chief Executive Officer by authorized to implement the arrangements required to achieve this.

MOVED: Cr Oversby

SECONDED: Cr Florey

That the Council move into a committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.to allow members free discussion on the matter.

CARRIED 8/0

MOVED: Cr Moir

SECONDED: Cr Oversby

That the Council moves out of committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.

CARRIED 8/0

COUNCIL DECISION

MOVED: Cr Moir

SECONDED: Cr Piper

That the Council approves the proposal to sell the residence/property 3 Rogers Avenue, Boyup Brook, by tender and the Chief Executive Officer by authorized to implement the arrangements required to achieve this.

AMENDMENT

MOVED: Cr Downing

SECONDED: Cr Broadhurst

That the Council approves the proposal to sell the residence/property 3 Rogers Avenue, Boyup Brook, by tender and the Chief Executive Officer be authorized to initiate the arrangements required to achieve this.

CARRIED 6/2

AMENDMENT PUT AS MOTION AND CARRIED 7/1

Mr Rob Paull joined the meeting the time being 4.16pm

Mr Tony Doust provided the Shire President with a declaration of a proximity interest as he is the owner of land adjoining the proposed rezoning application under Item 7.2.3.

7.2.3 **Rezoning Request - Lots 720 and 721 DP 100786, Boyup Brook – Bridgetown Road, Boyup Brook – from ‘Rural’ zone to ‘Special Rural’**

<i>Location:</i>	<i>Lots 720 and 721 DP 100786, Boyup Brook – Bridgetown Road, Boyup Brook</i>
<i>Applicant:</i>	<i>TME Planning Consultants (Owner C. Barron)</i>
<i>File:</i>	<i>Ass 3100</i>
<i>Disclosure of Interest:</i>	<i>CEO - as an adjoining land owner</i>
<i>Date:</i>	<i>5th April 2007</i>
<i>Author:</i>	<i>Rob Paull – Planning Consultant</i>
<i>Appendices::</i>	<i>1.3 Guide Plan of Subdivision and Development Plant</i>

SUMMARY

This report is presented to consider a request to Rezone Lots 720 and 721 DP 100786, Boyup Brook – Bridgetown Road, Boyup Brook – from ‘Rural’ zone to ‘Special Rural’ and to include special provisions into Schedule 3 ‘Special Rural’ zones.

BACKGROUND

The above lots have frontage to the Boyup Brook – Bridgetown Road and is currently developed as a mix of grazing and viticulture (‘Norwood Estate’) comprising 12ha. of chardonnay and shiraz grapes. The area of the lots is as follows:

- Lot 720 - 65.947ha.; and
- Lot 721 - 62.815ha.

The draft Subdivision Guide Plan that accompanies the Amendment (copy attached to this Report along with ‘Development Plan’)) identifies the potential for 28 lots with a minimum size of 4 ha. Access to the lots is via an internal ‘loop’ road. The documentation accompanying the Amendment has detailed the following matters:

- land capability analysis of the site;
- contour plan that also describes the various physical features including the north/south drainage line;
- potable water supply to be from on site 92,000l water storage;
- fire management to be via utilizing the existing dam as a strategic water supply and compliance of the Shire’s Firebreak order;
- staging of subdivision to commence with creation of 6 lots generally along the western boundary. The existing vineyard will not be subdivided while the vineyard is in operation.

The special provisions to be included in Schedule 3 ‘Special Rural’ zones reflect similar provisions associated with other Special Rural developments.

The Planning Consultant for the landowner advises that the draft Subdivision Guide Plan has been prepared based upon the following parameters:

1. *A minimum lot size of 4 hectares to provide opportunities for rural based activities while maintaining the existing rural character and landscape.*
2. *Providing a variety of lot sizes and configurations to avoid a rectangular design and corresponding regular setbacks of dwellings.*
3. *Restricting any direct access from the individual lots onto Boyup Brook – Bridgetown Road.*
4. *A minimum sight distance of 250m in both directions for the two access roads.*
5. *A 8m wide landscape buffer along the western boundary adjoining Lot 11. This will prevent direct access into Lot 11 and also contain a corner splay with Bridgetown Road within the subject land.*
6. *No cul-de-sac within the subdivision.*

7. *A joint battleaxe leg between Lots 7245 and 7246 to give more flexibility in the design and location of the driveway through the minor drainage line.*
8. *The road alignment deliberately curves around the existing dam.*
9. *Recognising where possible the lines of the existing trees and will be situated to provide a pleasant streetscape.*
10. *Providing for a 50 metre buffer/setback for effluent disposal from the drainage line.*

COMMENT

The Amendment reflects the provisions of the Scheme, the Shire's draft Rural Strategy and relevant WAPC polices (further discussed under 'Statutory Environment' and 'Policy Implications'). On the basis of this it is recommended that draft Amendment No. 12 be adopted for community consultation.

It should be noted that some relatively minor modifications to the draft Subdivision Guide Plan should be sought prior to Council considering the adoption of Amendment 12 as follows:

- proposed Lot 7244 being modified to locate the 'drainage line' in a position that is less central to the lot;
- inclusion of a Policy Statement that provides for the notification of the operation of the existing vineyard should subdivision take place while the vineyard is still operating;
- an additional Policy Statement be included that states that the design and construction of all battle-axe access shall be to the satisfaction of the Shire; and
- the 'Fire Fighting' Policy Statement be modified to refer to access to the strategic water supply to be clarified at the time of subdivision to the satisfaction of the Shire.

These modifications do not impact on the advertising Amendment 12, however the Proponent should address them during the advertising period.

CONSULTATION

There is no requirement under the *Planning and Development Act 2005* for advertising of a proposed amendment to the Scheme prior to it being initiated by Council. No advertising has therefore occurred to date.

If Council should resolve to initiate the draft amendment, the relevant documentation shall be forwarded to the Environmental Protection Authority for assessment prior to the statutory public advertising period of 42 days in accordance with the *Town Planning Regulations 1967*.

STATUTORY ENVIRONMENT

Shire of Boyup Brook Town Planning Scheme No. 2 ('Scheme')

Clause 1.5 of the Scheme contains its objectives and intentions. The following objective is relevant to the proposal:

- e) *To zone suitable land for Special Rural development and establish the conditions under which such land may be developed and maintained.*

The Scheme defines a 'Special Rural Policy Area' with the purpose of identifying the intended future development of land within the Area. The provisions of the 'Special Rural Policy Area' are included in Clause 3.2.2 of the Scheme as follows:

"Whereas this area has been partly developed as a 'Special Rural' area and whereas a plantation has been established on Nelson Location 734 Banks Road and whereas further 'Special Rural' development could take place within this area, the following planning policy shall apply:

- (i) *Special Rural development shall be the predominate use in the area and shall be in*

- accordance with those provisions laid down in Clause 5.3.
- (ii) Council shall not generally support proposals for the rezoning of land outside the policy area to the 'Special Rural' zone."

The land to the west and north-west of the site has already been included in Special Rural zone No. 6. The land to the east has been included in Special Rural zone No. 2.

Clause 5.3 of the Scheme contains the provisions for the Special Rural zone with the following objective:

"The Special Rural zone is intended primarily to accommodate rural residential retreats and hobby farms. Council's objective within the Special rural zone shall be to permit the progressive rezoning and subdivision of land included in the Special Rural Policy Area (as defined on the Scheme Maps) subject to such proposal being consistent with Council's overall planning requirements and planning objectives. All development in the Special Rural zone shall be conducted in a manner that preserves local amenity and the natural landscape or rural character of the zone".

Clause 5.3.1 of the Scheme requires the preparation of a submission that addresses the following:

- structure Plan that demonstrates how land is to be developed;
- reasons for selecting the particular area;
- land capability analysis of the site;
- contour plan that also describes the various physical features;
- method of potable water supply;
- staging of subdivision; and
- any other relevant matters.

As noted, the documentation accompanying the Amendment addresses these matters and the rezoning proposal is considered to be consistent with the provisions of the Scheme.

POLICY IMPLICATIONS

Draft Shire of Boyup Brook Rural Strategy (2002)

The draft Shire of Boyup Brook Rural Strategy states (page 63):

Council has conducted an analysis of landform and topography, land capability, access opportunities and landowner intentions to identify a Special Rural Policy Area within close proximity to the Boyup Brook townsite. This shows the general area within which Council will consider applications for 'Special Rural' rezonings and subdivision. Existing Special Rural zones are predominantly located within this policy area. There is no evidence to suggest that total demand, in terms of numbers of lots, could not be met by the extent of existing zoned land".

The site is included in the area identified by the draft Rural Strategy. Accordingly, the proposal is considered to be consistent with the policies and desirable uses set out for the Area.

WAPC - Statement of Planning Policy No. 2.5 – Agriculture And Land Use Planning

"Statement of Planning Policy No. 2.5 – Agriculture and Land Use Planning" (SPP No. 2.5) outlines the objectives and requirements for local strategic and statutory measures that should apply to the planning and development of rural and agricultural land in Western Australia. SPP No. 2.5 accepts that development is going to occur in rural areas, and states:

"Rural settlement opportunities should be provided if sustainable and have benefit to the community".

SPP No. 2.5 seeks to:

“.....foster economic well-being of rural communities particularly through economic diversification and value adding, specialised agricultural activities and tourist opportunities”.

This is the essence of the Amendment as it seeks to provide the opportunity for the subject land to developed for rural residential purposes reflecting the economic opportunities associated with such development.

“...discouraging development and/or subdivision that may result in land or environmental degradation...”

From the information provided in the Amendment documents, no land or environmental degradation is likely to occur as a result of the Scheme Amendment, subsequent development or subdivision. Development will be limited to a single dwelling per site, with effluent disposal to be to the requirements of the Shire.

“...Proposals to rezone, subdivide or develop land within rural areas must have regard to both on-site and off-site impacts...”

No predicted on or off-site impacts will occur as a result of the proposed Scheme Amendment or subdivision.

WAPC - Development Control Policy No. 3.4 – Subdivision of Rural Land

The subdivision of rural land must comply with the measures set out in *Development Control Policy 3.4 (DC 3.4)*. DC 3.4 provides the framework for the achievement of the objectives of SPP No. 2.5 in relation to rural land subdivision.

There is a general presumption against the subdivision of rural land unless it is specifically provided for within a local town planning scheme or strategic document. However, notwithstanding the above, the WAPC may approve subdivision of land for the following specific reasons:

“The Commission shall only approve subdivision of rural land for rural residential and rural smallholdings where it is identified in an endorsed local planning strategy or local rural strategy or zoned in a town planning scheme;”

It is clear from the evidence provided with this Scheme Amendment that the land reflects DC 3.4.

WAPC- Warren-Blackwood Regional Planning Strategy (1997)

The Warren-Blackwood Regional Planning Strategy (WBRPS) was adopted by the WAPC in 1997 and is one of the first regional planning documents to embrace the principles of sustainability at its foundation. It aims to provide the best balance between social, environmental and economic factors.

In particular, it has brought together the natural resources themes of land, water and biodiversity, emphasizing their interdependence and the need to consider each in relation to development and land use outcomes. The WBRPS notes:

“A prerequisite to the endorsement of any local government strategy or policy that identifies Rural-Residential zones or policy areas will be an assessment of all rural land to identify the agricultural areas of State, regional and local significance. No Rural-Residential zones or policy areas will be supported within or adjoining those areas.

In addition, it will be necessary for the local government to demonstrate a demand for the scale and type of rural-residential development proposed. Generally, all rural-residential development should be located within 5km of a significant urban area”. (Page 53)

Importantly, the site is not included in the WBRPS ‘Conceptual Rural Zoning’ Map but is reflected in the Shire’s draft Rural Strategy as ‘Special Rural’.

State Water Strategy

The *Draft State Water Plan (SWP)* provides an overview of climate, water resources, availability and use and proposes frameworks to guide Government and the community's response to current and future pressures. In relation to the proposed rezoning, the draft SWP notes that the State's land use planning system is hierarchical.

"The planning process commences at the state level with the State Planning Strategy and becomes more detailed and prescriptive as it progresses through regional, district and local planning to subdivision, proposed development and construction planning. The integration of land use planning with the State Water Plan is primarily at a strategic level and supported by State Planning Policies released by the Western Australian Planning Commission.

- *State Planning Strategy*
- *State Planning Policy 1 (State Planning Framework)*
- *State Planning Policy 2.5 (Agricultural and Rural Land Use Planning)*
- *Draft State Planning Policy 2.9 (Water Resources)*
- *Regional Strategies and Structure Plans (non statutory policies).*

Water planning should inform and integrate with land use planning. Increasingly, it is intended that water planning should precede land use planning. This will not only provide an important natural resource management context for land planning, but will identify resource opportunities, constraints and incompatible land use activities." (Page 72)

The proposed Amendment seeks to lots sizes of 4ha. without reticulated water and reflects WAPC Policy.

FINANCIAL IMPLICATIONS

The requisite assessment and advertising fee of \$2500.00 will apply. There will be no other financial implications resulting from this rezoning unless the landowner decides to subdivide the subject site (after rezoning), in which case standard road upgrade and other contributions will apply.

STRATEGIC IMPLICATIONS

The Shire's Strategic Plan covers such areas as education and youth, health, aged accommodation, recreation and leisure, community groups, heritage and the environment, the plan and recognises five principle economic development objectives:

- *industrial development*
- *agricultural resource development*
- *tourism*
- *residential land development*
- *aged accommodation*

In achieving the ultimate purpose of the Strategic Plan Council must follow its strategic objectives and implement its strategic initiatives. The proposal is considered to be consistent with this objective of the Strategic Plan as it seeks to reclassify the land for Special Rural in accordance with the Shire's Scheme.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND CONSULTANT RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Oversby

1. That Council, in pursuance of Part V of the *Planning and Development Act 2005* ("Act"), adopt draft Amendment No. 12 ("Amendment") to Shire of Boyup Brook Town Planning Scheme No. 2 ("Scheme") for community consultation which proposes to rezone Lots 720 and 721 DP 100786, Boyup Brook – Bridgetown Road, Boyup Brook from 'Rural' to 'Special Rural' and to include specific provisions in Schedule 3 – 'Special Rural' zones.
2. That as the draft Amendment is in the opinion of Council consistent with Part V of the Act and regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by Part V of the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Town Planning Regulations 1967*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the draft Amendment.
3. That, at the close of advertising, the Amendment be referred back to Council for further consideration.
4. That the Chief Executive Officer be requested to advise the Proponent that the following modifications to the draft Subdivision Plan will need to be considered prior to the Amendment being referred back to Council:
 - Proposed Lot 7244 being modified to locate the 'drainage line' in a position that is less central to the lot;
 - Inclusion of a Policy Statement that provides for the notification of the operation of the existing vineyard should subdivision take place while the vineyard is still operating;
 - An additional Policy Statement be included that states that the design and construction of all battle-axe access shall be to the satisfaction of the Shire; and
 - The 'Fire Fighting' Policy Statement be modified to refer to access to the strategic water supply at the time of subdivision to the satisfaction of the Shire.

CARRIED 8/0

Mr Rob Paull left the meeting the time being 4.34pm

7.3.5 **Vacancy – Councillor – Benjinup Ward**

<i>Location:</i>	<i>Benjinup Ward – Shire of Boyup Brook</i>
<i>Applicant:</i>	<i>Chief Executive Officer</i>
<i>File:</i>	<i>GO/15/008</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>5th April 2007</i>
<i>Author:</i>	<i>Tony Doust –Chief Executive Officer</i>

SUMMARY

To advise Council of the resignation of Cr M Martin as from 30th March 2007 and seek Councils approval to apply to the Electoral Commission to allow the vacancy to be unfilled until the elections in October 2007.

BACKGROUND

Cr M Martin formally advised the Chief Executive Officer on 30th March 2007:-

“Further to our conversation on Wednesday 28th March, I have decided to tender my resignation as a councillor for the Boyup Brook Shire.

As I have relocated outside the boundary of the shire, I believe I am no longer eligible to represent the people of the Benjinup ward.

I thank you for your time and patience in relating the relevant sections of the Act in regards to my situation and I’m sorry I will not be able to work with you on council in the future.

I would ask, that you inform the staff, that I have had a wonderful time on council and that I have appreciated all the help given to me by them.

Also to my fellow councillors, I thank them all for an interesting time and I am sorry that I have to leave just when I am starting to get the hang of things.

I will still be in touch with council as the President of the Wilga Progress Association, so don’t all relax too much.”

Section 2.19 (1) (b) of the Local Government Act 1995 (“ the Act”) requires that a person is qualified to be elected as a member of the Council if the person is an elector of the district.

Section 2.27 of “the Act” outlines the requirements to determine qualification to retain membership of Council. Sub section (1) (a) of this section “disqualified” in relation to a member of Council means “Not qualified under Section 2.19 (1)(b) of “the Act” to be elected as a member of the Council.

Given the position Cr Martin has advised under Section 2.27(2) of the Local Government Act 1995, as he now resides outside the district (Shire of Boyup Brook) he is no longer eligible to be elector in the Shire. The Chief Executive Officer has acknowledged Cr Martin’s resignation and thanked him for his contribution to the Shire as member for the Benjinup Ward.

COMMENT

With the resignation of Cr Martin a vacancy as outlined in Section 2.32 (b) of the Local Government Act 1995 now exists and it will be necessary to determine the action required to either hold an extraordinary election or make a request to the Electoral Commissioner to allow the vacancy to remain unfilled until the annual elections to be held in October 2007.

The Local Government Act 1995 sets out the following requirements:-

“4.8 Extraordinary elections

- (1) *If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 or 2.33 an election to fill the office is to be held.*
- (2) *An election is also to be held under this section if section 4.57 or 4.58 so requires.*
- (3) *An election under this section is called an “**extraordinary election**”.*

4.9 Election day for extraordinary election

- (1) *Any poll needed for an extraordinary election is to be held on a day decided on and fixed*
—
 - (a) *by the mayor or president, in writing, if a day has no already been fixed under paragraph (b); or*

- (b) *by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
- (2) *The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approved or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*
- (3) *If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to –*
- (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with;*
- and*
- (b) *advise the CEO of the day fixed.”*

Section 4.16 of the Local Government Act 1995 sets out the case in which vacant offices can remain unfilled, subsection (4) of the act states:-

“If a member’s office becomes vacant under section 2.32 –

- (a) *after the third Saturday in January in an election year; but*
(b) *before the third Saturday in July in that election year,*

the Council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in that election year as the day for holding any poll needed for the extraordinary election to fill that vacancy.”

Given the timing of the vacancy it would appear that the most appropriate action to take would be to request that the vacancy be filled by holding an extraordinary election on the same day as the ordinary elections in October 2007. The impact on staff time and costs to hold an extraordinary election prior to the ordinary election in October 2007 is a matter Council needs to consider when making a decision on this matter.

CONSULTATION

Department of Local Government and Regional Development, Western Australian Electoral Commission, Shire President.

STATUTORY ENVIRONMENT

As detailed in the background and comment section of this report

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The estimated cost of conducting an extraordinary election including advertising, roll preparation, Administrative Officer time, election formalities and poll (if required) is \$4,000.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Moir

SECONDED: Cr Broadhurst

That an application be made to the Western Australian Electoral Commissioner as per Section 4.16(4) of the Local Government Act 1995 for approval for holding a poll for extraordinary election to fill the vacancy in the Benjinup Ward on the same day as the ordinary elections in October 2007.

CARRIED 8/0

7.3.6 Blackwood Basin Group – Nominations Member

<i>Location:</i>	<i>Blackwood River Catchment</i>
<i>Applicant:</i>	<i>Blackwood Basin Group</i>
<i>File:</i>	<i>CR/31/004</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>5th April 2007</i>
<i>Author:</i>	<i>Tony Doust –Chief Executive Officer</i>

SUMMARY

To consider nominating a person to represent the Middle Catchment Shires on the Blackwood Basin Group for the period 1/7/07 to 30/06/09.

BACKGROUND

The Shire of Boyup Brook, Bridgetown/Greenbushes and Donnybrook/Balingup are invited to nominate a person to represent the Middle Catchment Shires in the Blackwood River Catchment area, on the Blackwood Basin Group. The process involves inviting each of the Shires to make a nomination and if more than one nomination is received for this position a ballot is held. The current member for the Middle Catchment Shire is Per Christensan from Balingup whose term expires on 30th June 2007.

COMMENT

Per Christensan is eligible for re-nomination and I understand from the Executive Officer of the BBG that he is available and willing to continue. The nominee does not have to be a Councillor.

CONSULTATION

Executive Officer Blackwood Basin Group (Inc)

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

It is important to have a representative on the group from the Middle Catchment Area.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Moir

SECONDED: Cr Downing

That the CEO advise the Executive Officer of the Blackwood Basin Group that the Council supports the nomination of Per Christensen from Balingup for the position of Middle Catchment Shire representative for the period 1/7/07 to 30/06/09.

CARRIED 8/0

Cr Downing declared an impartiality interest due to him becoming the potential nominee as representative on the board of the South West Development Commission and left the meeting the time being 4.33pm.

7.3.7 South West Development Commission – Local Government Representative

<i>Location:</i>	<i>South West Area covered by the South West Development Commission</i>
<i>Applicant:</i>	<i>South West Development Commission</i>
<i>File:</i>	<i>GR/31/003</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>5th April 2007</i>
<i>Author:</i>	<i>Tony Doust –Chief Executive Officer</i>

SUMMARY

To consider nominating a Local Government Representative for a recent vacancy on the South West Development Commission Board.

BACKGROUND

The South West Development Commission has (10) members (3) of which are nominated by Local Governments in the region.

The Acting Chief Executive has recently advised:-

“That Ms Helen Shervington resigned as a Councillor with the Busselton Shire Council on 28 February 2007. Under the provisions of the Regional Development Commissions Act 1993, Ms Shervington is ineligible to continue as a Board Member of the South West Development Commission. The Commission is therefore seeking nominations from South West local governments to fill the vacancy.

Please note that the attached application form differs from previous years. A merit-based process will now be used for selecting local government representatives to the Board. Nominations, including a Curriculum Vitae, should be submitted on the attached pro-forma marked private and confidential to:

*Hon Mark McGowan MLA
Minister for Education and Training; South West
C/- South West Development Commission
PO Box 2000
BUNBURY WA 6231*

By 5pm on Friday, 27 April 2007.”

COMMENT

Cr Roger Downing has previously nominated for a position on the Board and has indicated to the Shire's Chief Executive Officer that he is willing to accept nomination should the Council decide accordingly.

CONSULTATION

Cr Roger Downing

STATUTORY ENVIRONMENT

Regional Development Commissions Act 1993
Regional Development Commissions Regulations 1994

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Having a person from the Shire on the Board of the South West Development Commission will allow input into Regional issues.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Broadhurst

SECONDED: Cr Oversby

That Council nominates Cr Roger Downing, Deputy President Shire of Boyup Brook, for consideration by the Minister to fill the vacant Local Government position on the South West Development Commission Board.

CARRIED 7/0

Cr Downing returned to the meeting the time being 4.40pm.

7.3.8 New Western Australian Electoral Boundaries

Location:	Western Australia
Applicant:	Office of Electoral Distribution Commissions
File:	GO/19/008
Disclosure of Interest:	Nil
Date:	5th April 2007
Author:	Tony Doust –Chief Executive Officer
Appendices:	1.7 Media Statement – One Vote One Value Electoral Boundary Review Begins Where will you be in 2009?

SUMMARY

To consider the existing Electoral Boundaries for the election of State Members of Parliament for the Legislative Assembly and Legislative Council and determine whether a submission should be made to the Office of Electoral Distribution Commissions on any changes considered desirable.

BACKGROUND

The Electoral Commission has advised accordingly:-

“The Western Australian Electoral Distribution Commissioners have confirmed that a distribution process will be conducted in 2007. The purpose of this seven-month process is to determine new electoral boundaries in Western Australia in preparation for the next State general election, due in early 2009.

The 2007 Electoral Distribution will commence on 4 April 2007, with the final boundaries expected to be published on 29 October 2007 in the Government Gazette. A media release and timetable with further details are enclosed.

In determining where to place electoral boundaries, the Commissioners are required to ensure that the number of electors in a district falls within the range of plus or minus 10% of the average district enrolment at 26 February 2007, which was 21,350. However, if a district has an area of 100,000 square kilometers or more, a large district allowance applies. The number of electors and the large district allowance must be within the range of plus 10% and minus 20% of the average district enrolment. The ‘large district allowance’ means 1.5% of the number of square kilometers in the area of the district and equates to 1,500 notional electors for each 100,000 square kilometers in the area of a district.

The Commissioners are required to consider a number of other matters in determining the boundaries. These include:

- *community of interest;*
- *land use patterns;*
- *means of communication and distance from the capital;*
- *physical features;*
- *existing boundaries of regions and districts;*
- *existing local government boundaries; and*
- *the trend of demographic changes.*

Due to changes in the legislation in 2005, the boundaries of most districts will change significantly. Therefore, I encourage you to think about the existing boundaries in your area and consider lodging a written suggestion if you have a view about where the new boundaries should be placed, bearing in mind that the Commissioners must consider all the above matters. You may also wish to pass this information on to interested community groups in your local area.”

COMMENT

Whilst the principles of "One Vote One Value" have been compromised by the final decision of the parliament the Shire has little choice but to accept the outcome and endeavour to achieve the best representation possible.

Looking at the present position the Shire is in the Legislative Assembly seat of "Wagin" that includes the Shires of Boyup Brook, Williams, Narrogin, West Arthur, Wagin, Dumbleyung, Woodanilling, Katanning, Broomehill, Tambellup, Kojonup, Part of Bridgetown/Greenbushes and the Town of Narrogin. The Shire of Boyup Brook is within the Legislative Council region "Agricultural Region" which includes the area from Kalbarri in the North to Esperance in the South; Gingin, Boddington, Boyup Brook, Kojonup, Tambellup, Gnowangerup to the West/South West and Mullewa, Mukinbudin, Hyden, Lake King in the East/North East.

Although the Shire traditionally has an agricultural base the employment, lifestyle, demographics and population changes today are somewhat different to those 50 years ago. There is no question that the regional centre for Boyup Brook is Bunbury and that as a Local Government the South West is the area that we share many common interests. The Shire of Boyup Brook Health, Education, Police road services/transport, Regional Authority, Local Government etc services/groupings are all maintained/delivered by Government/or regional organizations based in Bunbury and/or the South West.

Representation by Members of Parliament living in areas 1000kms from Boyup Brook is most unsatisfactory for people living in the most densely populated region outside the Perth Metropolitan Area. The Councillors must ask themselves how many times they have met with any of the members of the Legislative Council for the Agricultural Region. Do they know who they are? The following members are of elected representatives for the Agricultural Region:-

- Hon Kim Chance MLC
- Hon Murray Criddle MLC
- Hon Bruce Donaldson MLC
- Hon A Fels MLC
- Hon M Rowe MLC

It is extremely important that the Shire is in an electoral area that will allow residents reasonable access to its parliamentary members and that has a focus on the region in which we are geographically situated and serviced by.

The Council position should be clearly that the Shire of Boyup Brook should be included in electoral districts with strong links to South West Region.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

It is vitally important to be included in an electoral area that encompasses the South West region of the State.

VOTING REQUIREMENTS

Nil

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Marshall

That the Chief Executive Officer prepare a submission based on the need for the Shire of Boyup Brook to be included in an Electoral district that is part of the South West Region.

CARRIED 8/0

7.3.9 Boyup Brook Medical Service – Addition to Fee Schedule

<i>Location:</i>	<i>Medical Centre Abel Street Boyup Brook</i>
<i>Applicant:</i>	<i>Shire of Boyup Brook</i>
<i>File:</i>	<i>CM/42/003</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>10th April 2007</i>
<i>Author:</i>	<i>Tony Doust, Chief Executive Officer</i>

SUMMARY

To inform Council of a need to introduce an additional fee to cover the cost of providing reports for third parties and initiate the change necessary.

BACKGROUND

A recent situation has highlighted the need for the Medical Service to be able to charge for the cost of preparing reports for Insurance companies, legal matters etc. The work involved on most occasions has no relationship to the normal charges levied for medical attention and often requires providing a report on the medical history condition of a person.

COMMENT

The Chief Executive Officer has discussed the matter with Dr M Mel and it is agreed that the charge be levied on a hourly basis at \$180.00 + GST which equates to the rate currently charged for short (15 minutes) consultations.

CONSULTATION

Dr Michiel Mel, Shire President.

STATUTORY ENVIRONMENT

Local Government Act 1995 Sections 6.16, 6.17 and 6.19

Section 6.19 – requires a Local Government to advertise its intention to implement a fee structure that was not included in the Annual Budget before it introduces the new fee and also to advise as to the date it will apply from.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The introduction of the fee will have minimal impact on the income being received by the medical centre, however it is necessary to ensure a charges levied are in accordance with legislation.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Marshall

- 1. That the following fee be added to the existing fees and charges for the Boyup Brook Medical Centre:-
Reports for Third Parties - \$180 per hour plus GST**
- 2. The fee to apply from 1st May 2007.**

CARRIED 6/2

Cr Downing declared an impartiality interest in the following item due to owning a dam.

7.3.10 **Licensing Privately Funded Water Storage Facilities**

<i>Location:</i>	<i>South West Western Australia</i>
<i>Applicant:</i>	<i>Shire of Boyup Brook</i>
<i>File:</i>	<i>GR/31/009</i>
<i>Disclosure of Interest:</i>	<i>Nil</i>
<i>Date:</i>	<i>10th April 2007</i>
<i>Author:</i>	<i>Tony Doust, Chief Executive Officer</i>

SUMMARY

To raise concern with Premier of Western Australia and Minister for Water on behalf of the residents of Boyup brook as the recommendation of the Water Reform Implementation Committee to introduce licensing and metering fees for privately funded water storage facilities and bores in the South West.

BACKGROUND

A "Blueprint for Water Reform in Western Australia", the report of the Water Reform Implementation Committee published in December 2006 includes a number of recommendations including the following:-

"RECOMMENDATION 26

In recognizing that farm dams (wither large farm dams or a concentration of farm dams) can have a significant impact on water availability, particularly in high rainfall areas, that this water interception be accounted for and managed by:

- *Generally excluding from a licence, farm dams in those parts of the State receiving rainfall below a threshold (say 700 millimetres)*
- *Generally excluding from a licence, farm dams that are constructed for livestock and non-scheme domestic purposes below a volumetric threshold.*
- *Determining in statutory water management plans the form of water entitlement if farm dams are to be considered part of a consumptive pool*
 - *As a water access entitlement if farm dams are to be considered part of a consumptive pool*
 - *As a water licence if they are not part of a consumptive pool*
 - *As a basic right in those areas where there is no significant impact on the water balance in the area.*
- *Requiring water accounting for licensed farm dams through appropriate metering as prescribed through the statutory water management plan.*
- *Providing for water transfer to occur from licensed farm dams or water trading where a water access entitlement is provided*
- *Requiring the payment of a water licence administration fee if the dam is licensed*
- *Notwithstanding the points above, that statutory water management plans require farm dams to be regulated where their collective impact on water balance or water interception is significant.”*

COMMENT

Whilst the recommendation includes reference to excluding from license, farm dams in those parts of the State receiving rainfall below a threshold (say 700millimetres), this will require licensing in some areas of the South West which may include portions of the Shire of Boyup Brook.

The existing private water supplies have all been provided by the property owners and it would seem inappropriate to introduce a license requirement and or fee for water from these facilities. Cr Downing has raised this matter with the CEO and asked for an item to be included on the agenda for Councils consideration.

CONSULTATION

Cr R Downing

STATUTORY ENVIRONMENT

Proposals to amend/introduce legislation to implement water reform in Western Australia.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No specific implications on the Shire of Boyup brook as an entity

STRATEGIC IMPLICATIONS

The Shire's Strategic Plans includes identification and progress opportunities for the intensification and diversification of Agricultural resources to create a sustainable and expanding agricultural industry. The proposal to express concern about licensing of dams or bores provided through private means is in keeping with this strategic direction.

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION AND OFFICER RECOMMENDATION

MOVED: Cr Downing

SECONDED: Cr Broadhurst

That the Chief Executive Officer write to the Premier of Western Australia and the Minister for Water on behalf of the residents of Boyup Brook expressing concern at the recommendation proposing to introduce licensing/metering fees for privately funded water storage facilities in the South West and advise that the Council is of the opinion that water use for primary production should be considered in a different way from that used for domestic gardens and parklands. When considering this action the Council has noted that a high percentage of water proposed from the Yarragadee Aquifer will be treated to a drinking standard for use on gardens in the metropolitan area. The Council would also appreciate advice/information about any proposal to licence the 100,000 bores in the metropolitan area.

CARRIED 8/0

8. PETITIONS AND MEMORIALS

9. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10. URGENT BUSINESS – BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT

11. CONFIDENTIAL MATTERS

12.. CLOSURE OF MEETING

There being no further business the Chairman declared the meeting closed at 4.55pm.

These Minutes and Schedule of Accounts were confirmed by the Council at the Council Meeting held on the 2007.

Cr Terry Ginnane, Shire President