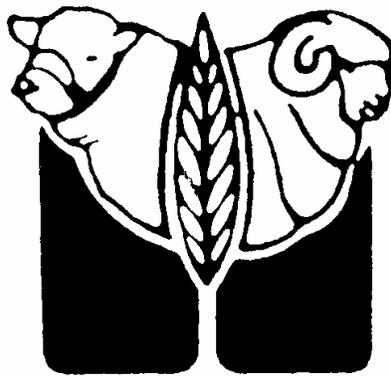


MINUTES



ORDINARY MEETING

HELD

THURSDAY 18 MARCH 2010

COMMENCED AT 3.30PM

AT

SHIRE OF BOYUP BROOK CHAMBERS
ABEL STREET – BOYUP BROOK

TABLE OF CONTENTS

1	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED	3
1.1	Attendance.....	3
1.2	Leave of Absence.....	3
2	PUBLIC QUESTION TIME	3
2.1	Response to Previous Public Questions Taken on Notice	3
2.2	Public Question Time	3
3	APPLICATIONS FOR LEAVE OF ABSENCE	3
4	PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS	4
5	CONFIRMATION OF MINUTES	4
6	PRESIDENTIAL COMMUNICATIONS	4
7	REPORTS OF OFFICERS	4
7.1	MANAGER WORKS & SERVICES	5
7.1.1	Local Government Guidelines for Subdivisional Development 2009 – Edition 2	5
7.2	MANAGER – FINANCE	8
7.2.1	Accounts for Payment.....	8
7.2.2	February 2010 Monthly Statements of Financial Activity.....	9
7.3	CHIEF EXECUTIVE OFFICER	11
7.3.1	Local Government Reform – Minister’s invitation to form a Regional Transition Group.....	11
7.3.2	Refurbishment of 1 Rogers Avenue.....	18
8	COMMITTEE REPORTS	21
8.1.1	Youth Advisory Committee Minutes.....	21
8.1.2	Boyup Brook Tourism Association Minutes	21
8.1.3	Minutes of the WA Local Government Association South West Zone.....	22
8.1.4	Minutes of the Forward Planning Committee.....	22
8.1.5	Minutes of the Audit & Finance Committee	25
	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	26
9.1.1	Industrial and Residential Land	26
10	MATTERS THAT LAY ON THE TABLE	26
11	LATE ITEMS	26
11.1.1	Boyup Brook Club Inc – Self Supporting Loan Agreement.....	27
12	CONFIDENTIAL MATTERS	30
12.1.1	Industrial Sites Study.....	30
13	CLOSURE OF MEETING	30

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

1.1 Attendance

Cr T Ginnane – Shire President
Cr T Doust – Deputy Shire President
Cr E Biddle
Cr R Downing
Cr M Giles
Cr P Marshall
Cr E Muncey
Cr B O’Hare
Cr T Oversby

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr John Eddy (Manager of Works and Services)
Mr Keith Jones (Manager of Finance)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Ms Shirley Broadhurst – arrived at 3.30pm and departed at 3.52pm
Mrs Sue White – arrived at 3.31pm and departed at 3.52pm

Apologies

1.2 Leave of Absence

Nil

2 PUBLIC QUESTION TIME

2.1 Response to Previous Public Questions Taken on Notice

Nil

2.2 Public Question Time

3 APPLICATIONS FOR LEAVE OF ABSENCE

Leave of absence for the April 2010 Ordinary Council meeting was requested by the Shire President, Cr Ginnane.

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Ms Shirley Broadhurst and Mrs Sue White gave a presentation on the Warren Blackwood Trails Project and requested that sufficient support be recognised in the Shire budgetary deliberations and that the "Promotional Trust Fund" be supplemented to meet the anticipated need.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council Thursday 18 February 2010.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 5.1

MOVED: Cr Marshall

SECONDED: Cr O'Hare

That the minutes of the Ordinary Meeting of Council held on Thursday 18 February 2010, be confirmed as an accurate record subject to the voting record relating to item 11.1.1 on page 53 being amended to read as follows:

For	
Cr Biddle	Against
Cr Doust	Cr Giles
Cr Downing	Cr Marshall
Cr Ginnane	
Cr O'Hare	
Cr Oversby	

CARRIED 9/0

Res 030/10

6 PRESIDENTIAL COMMUNICATIONS

5th March – Attended Function introducing Premier Hon Colin Barnett.

Shire President met with Kevin Henderson and Cr Giles regarding FESA Matters.

Shire President met with Mark Bombara, Deputy Shire President, CEO and Geoffrey Lush (Planning Consultant) regarding subdivisions and rural strategy.

7 REPORTS OF OFFICERS

Cr Oversby attended the Ulysses Club AGM in Albany, representing BRVMA at the Australia's South West promotional stand.

7.1 **MANAGER WORKS & SERVICES**

7.1.1 Local Government Guidelines for Subdivisional Development 2009 – Edition 2

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>Works & Services</i>
File:	<i>GR/31/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>8 March 2010</i>
Author:	<i>John Eddy – Manager of Works & Services</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>“Local Government Guidelines for Subdivisional Development Edition 2 – 2009.”</i>

COUNCIL DECISION – MOVE INTO COMMITTEE

MOVED: Cr Giles

SECONDED: Cr Oversby

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.

LOST

Res 031/10

COUNCIL DECISION – ITEM 7.1.1

MOVED: Cr Downing

SECONDED: Cr Muncey

Proceed to next item of business.

LOST 4/5

Res 032/10

SUMMARY

The Institute of Public Works Engineering Australia (WA Division) has compiled a set of Local Government guidelines for subdivisional development.

This report recommends that the Council adopt the “Local Government Guidelines for Subdivisional Development Edition 2 – 2009” as a minimum standard for subdivision and development works in the Shire of Boyup Brook.

BACKGROUND

The Shire of Boyup Brook has had limited policies for approval of subdivision engineering documentation to allow construction of subdivision civil infrastructure.

In July 2009 the Institute of Public Works Engineering Australia (I.P.W.E.A) WA division issued revised "Local Government Guidelines for Subdivisional Development 2009 Edition 2."

These guidelines are intended to underlie and support subdivisional conditions applied by the Western Australian Planning Commission (WAPC) pursuant to the Planning and Development Act 2005.

The guidelines encompass current legislation and best practice minimum engineering standards which are intended to provide consistency through engineering specification, construction and post construction subdivisional approvals.

COMMENT

These guidelines are based on the latest industry standards and will be updated on a continual basis. The first review will occur in mid 2010 and then biennially. Specific requirements of the Shire or areas that require further clarification will be detailed in Shire development annexure to align existing Shire policies and the guidelines as a review process. As these guidelines have been funded with the assistance of the WAPC they are available free of charge to Local Authorities and developers. They can be downloaded from the IPWEA website and will be loaded onto the Shire website.

While the guidelines do not cover all details they do represent a large step forward from existing policies and will allow a more consistent approach to development applications within the Shire.

The adoption of these guidelines will provide a sound minimum standard for developers to comply with when constructing subdivision infrastructure in the Shire of Boyup Brook.

CONSULTATION

In development of the guidelines IPWEA consultants sought comments from all WA Local Authorities and input from developers and the WAPC.

STATUTORY OBLIGATIONS

Local Government Act 1995
Planning and Development Act 2005.

POLICY IMPLICATIONS

Existing Shire of Boyup Brook Policies will be reviewed and amended or deleted to align with the Local Government Guidelines for Subdivisional Development Edition 2 – 2009.

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Action Plan No – 6.2.
Establish policies and procedures to deliver quality services.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – ITEM 7.1.1

That the Council adopt the “Local Government Guidelines for Subdivisional Development Edition 2 – 2009” as a minimum standard for subdivision and development works in the Shire of Boyup Brook.

COUNCIL DECISION – ITEM 7.1.1

MOVED: Cr O’Hare

SECONDED: Cr Oversby

That administration review the “Local Government Guidelines for Subdivisional Development Edition 2 – 2009” against Council policies and practices and report back to a further meeting of Council.

CARRIED 9/0

Res 033/10

7.2

MANAGER – FINANCE

7.2.1 Accounts for Payment

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/1/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 March 2010</i>
Author:	<i>Keith Jones – Manager of Finance</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – List of Accounts Paid</i>

SUMMARY

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

BACKGROUND

Invoices have been received during the month of February 2010.

COMMENT

Accounts are presented for consideration (see appendix 7.2.1) or where paid by direct debit pursuant to the Council’s “Authorisation to Make Payments” policy.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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 “Authorization to Make Payments” policy.

BUDGET/FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2009/10 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.1

MOVED: Cr Doust

SECONDED: Cr Biddle

That the payment of accounts for February 2010 as presented totalling \$455,044.42 and as represented by cheque voucher numbers 17931 – 17975 totalling \$61,493.49, and accounts paid by direct electronic payments through the Municipal Account totalling \$339,550.93 be endorsed.

CARRIED 9/0

Res 034/10

7.2.2 February 2010 Monthly Statements of Financial Activity

<i>Location:</i>	<i>Not applicable</i>
<i>Applicant:</i>	<i>Not applicable</i>
<i>File:</i>	<i>FM/10/003</i>
<i>Disclosure of Officer Interest:</i>	<i>None</i>
<i>Date:</i>	<i>11 March 2010</i>
<i>Author:</i>	<i>Keith Jones – Manager of Finance</i>
<i>Authorizing Officer:</i>	<i>Not applicable</i>
<i>Attachments:</i>	<i>Yes – Financial Reports</i>

SUMMARY

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended February 2010 and Investment Schedule for the month ended 31 March 2010.

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 reports are attached – see appendix 7.2.2

COMMENT

Cheque 17906 – Cancelled due to printing error

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.2

MOVED: Cr Doust

SECONDED: Cr Oversby

That the February 2010 Monthly Statements of Financial Activity as presented, be received.

CARRIED 9/0

Res 035/10

7.3 **CHIEF EXECUTIVE OFFICER**

7.3.1 Local Government Reform – Minister’s invitation to form a Regional Transition Group

Location:	N/A
Applicant:	Minister for Local Government
File:	GR/31/009
Disclosure of Officer Interest:	The author declares an interest in that his employment may be affected by an amalgamation of this Shire Council with others.
Date:	10 March 2010
Author:	Alan Lamb – Chief Executive Officer
Authorizing Officer:	Not Applicable
Attachments:	Letter from Minister dated 02/02/10 (includes a flow chart for the progress to amalgamation and a copy of the draft deed of agreement), letter from Minister’s Chief of Staff dated 18/01/10.

COUNCIL DECISION – MOVE INTO COMMITTEE

MOVED: Cr Downing

SECONDED: Cr Giles

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 9/0

Res 036/10

COUNCIL DECISION – MOVE OUT OF COMMITTEE

MOVED: Cr Downing

SECONDED: Cr O’Hare

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

CARRIED 9/0

Res 037/10

SUMMARY

The purpose of this report is to put the Minister for Local Government’s invitation to form a Regional Transition Group (RTG) with a recommendation that it be declined.

BACKGROUND

The Minister commenced a process of Local Government Reform last year with an announcement made at a WALGA Zone meeting and followed up by a circular that set out his plan for reform. Amalgamations of Local Government Councils were the key component of the process.

The Minister set a course that required Councils to complete a checklist, establish a project team and then to develop a submission (that included a preferred amalgamation structure; number of elected members of the new entity, the date amalgamation was to take effect, etc). More recently, and after the submissions had been lodged, the Minister called on Local Governments to either join a RTG or a Regional Collaborative Group (RTG). The Minister made it clear at the WALGA Forum held at the Ascot Race Course in February that he considered that Kimberly and Pilbara Shires only would be suitable for his RCG model and that all other Councils were to consider a RTG.

In February, the Department for Local Government invited the Shire President and CEO from this Shire Council to meet with its representatives, counterparts from Donnybrook/Balingup and Bridgetown/Greenbushes in Donnybrook to provide more information and discussing forming a RTG. This meeting was attended and was reported on at the last Council meeting briefing session (as was the WALGA Forum).

The Minister's letter regarding the RTG asked Council to respond to him by 26 March 2010 on Council's willingness to an RTG.

Council's reform submission set out that Council, and the community did not favour amalgamation but that it would seek to work with the Shires of Donnybrook/Balingup and Bridgetown/Greenbushes in a collaborative was to improve services. Council subsequently passed the following resolution to better clarify its position on the Minister's reform proposal:

That given the recent election of new Councillors, the Council confirms it is opposed to the amalgamation of the Shire of Boyup Brook with any neighbouring Local Governments and will work towards achieving what is required to show that the Shire has the organisational and financial capacity to meet current and future community needs.

COMMENT

It is understood that many Councils which were asked to join a RTG have declined or will be considering a recommendation along these lines.

It is noted that whilst the RTG agreement that the Minister has proposed has opportunities to opt out it does have as its goal amalgamation and this is at odds with Council's position on the matter. This being the case Councillors may see merit in some aspects of the proposed process to amalgamation but may also see difficulty in entering into an agreement which has amalgamation at its end result.

Based on Council's previously stated position it is recommend that the Minister be advised that it does not intend to proceed to a RTG but will continue to work with other Shire Councils in a collaborative way to improve services to the community.

CONSULTATION

The author has spoken with Council and others on this matter over the past year.

STATUTORY ENVIRONMENT

In relation to amalgamation, the Local Government Act provides as follows:

Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts

[Section 2.1(2)]

1. Terms used

In this Schedule, unless the contrary intention appears —

affected electors, in relation to a proposal, means —

- (a) electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- (b) where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;

affected local government means a local government directly affected by a proposal;

notice means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;

proposal means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.2. **Making a proposal**

- (1) A proposal may be made to the Advisory Board by —
 - (a) the Minister;
 - (b) an affected local government;
 - (c) 2 or more affected local governments, jointly; or
 - (d) affected electors who —
 - (i) are at least 250 in number; or
 - (ii) are at least 10% of the total number of affected electors.
- (2) A proposal is to —
 - (a) set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments;
 - (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
 - (c) comply with any regulations about proposals.

[Clause 2 amended by No. 49 of 2004 s. 67(2).]

3. Dealing with proposals

- (1) The Advisory Board is to consider any proposal.
- (2) The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board's opinion —
 - (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made;
 - (aa) where the proposal was made by affected electors under clause 2(1)(d), that the majority of those electors no longer support the proposal; or
 - (b) the proposal is frivolous or otherwise not in the interests of good government.

** Absolute majority required.*

- (3) If, in the Advisory Board's opinion, the proposal is —
 - (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited,

the Board may, in a written report to the Minister, recommend* that the Minister reject the proposal or that an order be made in accordance with the proposal.

** Absolute majority required.*

- (4) Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.

[Clause 3 amended by No. 64 of 1998 s. 52(2); No. 49 of 2004 s. 67(3).]

4. Notice of inquiry

- (1) Where a formal inquiry is required the Advisory Board is to give —
- (a) notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) a report to the Minister.
- (2) The notice and report under subclause (1) are to —
- (a) advise that there will be a formal inquiry into the proposal;
 - (b) set out details of the inquiry and its proposed scope; and
 - (c) advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —
 - (i) the proposal; or
 - (ii) the scope of the inquiry.
- (3) If, after considering submissions made under subclause (2)(c), the Advisory Board decides* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —
- (a) another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
 - (b) another report to the Minister.
- (4) The notice and report under subclause (3) are to —
- (a) set out the revised scope of the inquiry; and
 - (b) advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.

** Absolute majority required.*

5. Conduct of inquiry

- (1) A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
- (2) In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
- (a) community of interests;
 - (b) physical and topographic features;
 - (c) demographic trends;
 - (d) economic factors;
 - (e) the history of the area;
 - (f) transport and communication;

- (g) matters affecting the viability of local governments; and
- (h) the effective delivery of local government services,

but this does not limit the matters that it may take into consideration.

6. Recommendation by Advisory Board

- (1) After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend* —
 - (a) that the Minister reject the proposal;
 - (b) that an order be made in accordance with the proposal; or
 - (c) if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.

** Absolute majority required.*

- (2) The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —
 - (a) given* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;
 - (b) afforded adequate opportunity for submissions to be made about the intended order; and
 - (c) considered any submissions made.

** Absolute majority required.*

7. Minister may require a poll of electors

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

8. Electors may demand poll on a recommended amalgamation

- (1) Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts (*the districts*) and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.
- (2) The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).
- (3) If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.
- (4) This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.

[Clause 8 amended by No. 64 of 1998 s. 52(3).]

9. Procedure for holding poll

- (1) Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —
 - (a) the Advisory Board is to —

- (i) determine the question or questions to be answered by electors; and
 - (ii) prepare a summary of the case for each way of answering the question or questions;
- and
- (b) any local government directed by the Minister to do so is to —
 - (i) in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and
 - (ii) subject to subclause (2), declare* the Electoral Commissioner, or a person approved by the Electoral Commissioner, to be responsible for the conduct of the poll under Part 4, and return the results to the Minister.

** Absolute majority required.*

- (2) Before making a declaration under subclause (1)(b)(ii), the local government is to obtain the written agreement of the Electoral Commissioner.

[Clause 9 amended by No. 49 of 2004 s. 67(4) and (5).]

10. Minister may accept or reject recommendation

- (1) Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.
- (2) If at a poll held as required by clause 8 —
 - (a) at least 50% of the electors of one of the districts vote; and
 - (b) of those electors of that district who vote, a majority vote against the recommendation,the Minister is to reject the recommendation.
- (3) If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.

10A. Recommendations regarding names, wards and representation

- (1) The Advisory Board may —
 - (a) when it makes its recommendations under clause 3 or 6; or
 - (b) after the Minister has accepted its recommendations under clause 10,in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.
- (2) In making its recommendations under subclause (1) the Advisory Board —
 - (a) may consult with the public and interested parties to such extent as it considers appropriate; and
 - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

[Clause 10A inserted by No. 64 of 1998 s. 52(4).]

11. Transitional arrangements for orders about districts

- (1) Regulations may provide for matters to give effect to orders made under section 2.1 including —
 - (a) the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;
 - (b) the extinguishment of rights of a local government;
 - (c) the winding up of the affairs of a local government;

- (d) the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;
 - (e) the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;
 - (f) if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;
 - (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.
- (2) Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.
- (3) Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).
- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —
- (a) compensation acceptable to the person is made; or
 - (b) a period of at least 2 years has elapsed since the order had effect.
- (5) The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.
- (6) If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —
- (a) any written law made after the order was made; and
 - (b) any order made by the Governor under subclause (8).
- (7) Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).
- (8) The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Simple majority

4.26pm – Cr Muncey left the Chambers.

4.28pm – Cr Muncey returned to the Chambers.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.1

MOVED: Cr Doust

SECONDED: Cr Muncey

That Council advise the Minister for Local Government that it will not proceed to a Regional Transition Group because this has an amalgamation of Councils which form the group as its purpose. That Council will however continue to work toward collaborative arrangements with other Local Governments.

CARRIED 9/0

Res 038/10

7.3.2 Refurbishment of 1 Rogers Avenue

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>N/A</i>
File:	<i>AS2261</i>
Disclosure of Interest:	<i>None</i>
Date:	<i>9 March 2010</i>
Author:	<i>Geoff Carberry Senior Administration Officer</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Richard Wittenoom & Associates report Works Required Spread sheet</i>

SUMMARY

Following the end of the lease on 1 Rogers Avenue the outlined works are required to be carried out to the premises, to restore the property to an appropriate standard. This work has become substantial due to age of the property and the amount of maintenance performed in recent years.

BACKGROUND.

The property located at 1 Rogers Avenue was purchased for the sum of \$200,500 on 2 December 2005 as a provision for senior officer accommodation. The property was leased

by the Government Employees' Housing Authority at the time of purchase. A continuance of lease was signed with the Government Employees' Housing Authority on 18th February 2005, with this lease ceasing in November 2009.

The building was built in 1989 by owner builder K. Miller. The building appears structurally sound in accordance with the report by Richard Wittenoom & Associates commissioned at the time of the council purchasing the property. One point raised in this report was the "Water leaking from the shower recess", it would appear that this fault was not properly investigated nor was a satisfactory repair made, hence the current requirement to totally refurbish the water damaged ensuite.

During the period of the lease, only minimal maintenance had been carried out. The floor coverings, window treatments and paint work are now showing their age. Currently the estimated market value after the work is completed is \$290,000 to \$300,000.

COMMENT

The proposed work will restore the building to an appropriate condition and level of fit out for which the property was purchased. The works and costing listed in the appendices fall into three categories.

- Legal required – Smoke Alarms, RCD upgrade
- Asset Preservation – Ensuite Damage, Floor coverings, Window Treatments, Painting, Replacement of tile fire with R/C Air conditioning and Retic/Gardens,
- Asset Improvement – Patio upgrade.

Due to recent change in the building laws the building cannot be leased or sold without the smoke alarms and RCD upgrade being carried out.

The asset maintenance category items are required to maintain the premise in good condition and standard.

The asset improvement item, is not only an upgrade of the patio area, it will also alleviate some short term maintenance issues.

In the longer term (future budgets) the Council may well like to consider further improvements to the property such as:

- Bed room air conditioning which due to the design of the house may require individual units in each bedroom. (up to \$10000)
- Replacing current poorly constructed "garden sheds" with one larger unit (\$5000)
- Paving/concreting side access to property and shed. (\$4000)

CONSULTATION

Anthony Cooper - AJ & DS Painting – Registered Painter

Darren Peck – BBG Plumbing

Bridgetown Carpets

Calvin Brown – Shire of Boyup brook –Garden Staff

Derek Lloyd – Agrilec – Licensed Electrician

Gary Rose - Tiler

Manjimup Outdoor World

Peter Joyce – Bridgetown Refrigeration

Todd Williamson – Boyup Brook Gardening Service

STATUTORY ENVIRONMENT

Western Australian Electricity regulations 1947 Reg 12
Building Code of Australia.
Local Government Laws and Regulations - Various

FINANCIAL IMPLICATIONS

In the 2009/2010 budget \$15,566 was allocated for operating costs of this property, to date \$7,331 has been used leaving \$8,235.
The required works total between \$48,000 and \$50,000 leaving a shortfall of approximately \$41,765 of unallocated funds.

STRATEGIC IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority is required

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 7.3.2

MOVED: Cr Doust

SECONDED: Cr Downing

That the 2009/2010 budget be amended by increasing the provision for operating costs (E092035) for Councils property at 1 Rogers Avenue by \$9,331 and that Council approve the required works for refurbishment of the property so as to maintain the property at an appropriate standard.

NOTE

Council noted that during the budget review \$24,434 was notionally added to the expenditure requirements for 1 Rogers Avenue and that this largely came from reduced expenditure on other buildings. Proposed works on the patio were deferred for consideration in the 2010/11 Budget.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 039/10

4.40pm – Cr Giles left the Chambers.

8 COMMITTEE REPORTS

8.1.1 Youth Advisory Committee Minutes

Location:	N/A
Applicant:	N/A
File:	IM/37/004
Disclosure of Officer Interest:	Nil
Date:	10 March 2010
Author:	Annie Jones – Youth Officer
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Minutes

BACKGROUND:

A meeting of the Youth Advisory Committee was held on 16th February 2010, 23rd February 2010 and 2nd March 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.1*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.1

MOVED: Cr Biddle

SECONDED: Cr Downing

That the minutes of the Youth Advisory Committee Minutes held on 16th February 2010, 23rd February 2010 and 2nd March 2010 be received.

CARRIED 8/0

Res 040/10

8.1.2 Boyup Brook Tourism Association Minutes

Location:	N/A
Applicant:	N/A
File:	IM/37/009
Disclosure of Officer Interest:	Nil
Date:	2 March 2010
Author:	Daly Winter – Community Development Officer
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes - Minutes

BACKGROUND:

A meeting of the Boyup Brook Tourism Association was held on 19th January 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.2*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.2

MOVED: Cr O’Hare

SECONDED: Cr Ginnane

That the minutes of the Boyup Brook Tourism Association held on 19th January 2010 be received.

CARRIED 8/0

Res 041/10

8.1.3 Minutes of the WA Local Government Association South West Zone

Location: N/A
Applicant: N/A
File: IM/37/003
Disclosure of Officer Interest: Nil
Date: 4 March 2010
Author: Alan Lamb – Chief Executive Officer
Authorizing Officer: Not Applicable
Attachments: Yes – Minutes

BACKGROUND:

A meeting of the WA Local Government Association South West Zone was held on 4th February 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.3*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.3

MOVED: Cr Biddle

SECONDED: Cr Oversby

That the minutes of WA Local Government Association South West Zone held on 4th February 2010 be received.

CARRIED 8/0

Res 042/10

8.1.4 Minutes of the Forward Planning Committee

Location: Boyup Brook Shire Council Chambers
Applicant: N/A
File: IM/37/011
Disclosure of Officer Interest: Nil
Date: 10 March 2010
Author: Alan Lamb – Chief Executive Officer
Authorizing Officer: Not Applicable
Attachments: Yes – Minutes

BACKGROUND:

A meeting of the Forward Planning Committee was held on 4th March 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.4*)

4.44pm – Cr Giles returned to the Chambers.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.4

MOVED: Cr Doust

SECONDED: Cr Biddle

That the minutes of Forward Planning Committee held on 4th March 2010 be received.

CARRIED 9/0

Res 043/10

COMMITTEE RECOMMENDATIONS

The following recommendations relate to the Flax Mill Complex, lot 336 Jackson Street – freehold title;

Recommended to Council that the buildings numbered 3, 4, 5, 11 and 12 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be demolished with timbers and other salvageable materials to be recovered. That building number 6 to be removed and retained pending an alternative use being found.

Recommended to Council that buildings numbered 1, 2, 7, 8, 9 and 10 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be considered for upgrading for conversion to higher quality accommodation and that these buildings be listed in the asset management plan with provision being made for maintenance and replacement .

Recommended to Council that buildings numbered 13 and 14 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be maintained and that provision be made in the asset management plan for replacement of wall and roofing cladding and fencing only.

Recommended to Council that building (s) numbered 15 on the attached plan (page 97 of the Boyup Brook Flax Mill Conservation plan) be leased to the Pistol Club provided the Club is incorporated, and that the lease provide for the Club to be responsible for the maintenance and replacement of the building (s).

Recommended to Council that the Caravan Park be retained at its current site and that Council look at long term options for extensions and improvements.

NOTE

The Committee, in dealing with this matter, reviewed the various buildings at the Flax Mill Complex, their current and potential uses, current condition and options.

The following recommendation relates to Reserves 1454 and 23783 bounded by Bridge, Beatty and Jackson Streets;

Recommended to Council that in relation to the asset management plan for buildings:

- **Tennis Pavilion** – the provisions of the current lease be reflected in the plan.
- **Squash Courts** – that provision be made for maintenance only and that no provision be made for replacement. That in the event the building falls into disrepair, the plan provides for its removal.
- **Football Clubrooms** – that no provision be made for maintenance or replacement and that the building be leased to the Football Club and that the lease provide for the Club to be responsible for the maintenance and replacement of the building.
- **Oval Change Rooms** – that Council seek to formalise existing arrangements with the Football Club and make provision in the plan for replacement of this asset.
- **Oval Toilet Block (North End)** – that provision be made in the asset management plan for maintenance and replacement.
- **Oval Toilet Block (South End)** – that provision be made in the asset management plan for maintenance and replacement.
- **Oval Machinery Shed** - that provision be made in the asset management plan for maintenance and replacement.
- **Hockey Ground Shelter Storeroom** - that no provision be made for replacement and that the building be leased to the Hockey Club and that the lease provide for the Club to be responsible for the maintenance and replacement of the building.
- **Hockey/Basketball/Netball Ablution** – that no provision be made in the asset management plan for the existing building but that provision be made for a new building which could also service the Music Park area.
- **Basketball/Netball Store Shed/Shelter** – that no provision be made for replacement.
- **Lions Park Toilet** – that provision be made in the asset management plan for maintenance and replacement.
- **Music Park Shell** – that no provision be made for maintenance or replacement and that the building be leased to the Country Music Club and that the lease provide for the Club to be responsible for the maintenance and replacement of the building.

NOTE

The Committee reviewed each of the buildings listed and formulated a recommendation.

The following recommendation relates to the Plant Replacement Plan:

Recommended that the Forward Planning Committee recommend to Council that the attached Plan and Equipment Replacement Plan be adopted.

COUNCIL DECISION – ITEM 8.1.4

MOVED: Cr Doust

SECONDED: Cr Downing

That the Committee Recommendation from the Forward Planning Committee meeting held on 4th March 2010 be adopted En-Bloc in item 8.1.4.

CARRIED 8/1

Res 044/10

NOTE

Committee recommendations are listed above.

8.1.5 Minutes of the Audit & Finance Committee

Location: Boyup Brook Shire Council Chambers
Applicant: N/A
File: FM/37/001
Disclosure of Officer Interest: Nil
Date: 12 March 2010
Author: Keith Jones – Manager of Finance
Authorizing Officer: Not Applicable
Attachments: Minutes & Financial Review Figures to Dec 2010

BACKGROUND:

A meeting of the Audit & Finance Committee was held on 10th March 2010.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 8.1.5*)

VOTING REQUIREMENTS

Simple Majority for Officer Recommendation
Absolute Majority for Committee Recommendation

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 8.1.5

MOVED: Cr Downing **SECONDED: Cr Doust**

That the minutes of Audit & Finance Committee held on 10th March 2010 be received.

CARRIED 9/0 **Res 045/10**

COUNCIL DECISION & COMMITTEE RECOMMENDATION – ITEM 8.1.5

MOVED: Cr Downing **SECONDED: Cr Doust**

That the committee recommends to Council

1. it be noted the Financial Committee has reviewed the documents presented and a number of adjustments are required indicating a slight deficit of \$40,000 and no action be taken other than what has been suggested in the review provided and a further review be done in June when considering the budget for next year.
2. That the amendments as listed below be made to the 2009-2010 budget.

Decrease Expenditure from:

E111040 Sporting complex planning costs	10,000
E112120 Lap pool Feasibility Study	10,000
E113120 Recreation – review of river levels study	5,000
E171005 Library building extensions (CLGF)	200,066

E171007 Ablution block at sports grounds	149,900
E171006 Ablution block at caravan park	100,000
E171102 R4R Town water harvesting (CLGF)	81,029
E171106 R4R Asphalt town streets (GLGF)	103,590

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 046/10

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

9.1.1 Industrial and Residential Land

Motion Withdrawn

Cr Marshall withdrew the motion.

Notice of motion Cr Marshall – 02/10

That prior to management doing any more work or expending more resources on the industrial land study, Council invite Mr. Peter Reid to give his views on the proposal.

Councillors Comment:

Mr. Reid is one of the most senior property Valuers in the South West with many years experience.

He is in a position to have, over many years, both valued and viewed development in and around south west towns. As such he would be able to comment on both successful and unsuccessful projects in the South West.

He has also been employed by council as a valuer.

I believe he would qualify as an expert and dare I say 'consultant' in his field.

Living locally and with a long term commitment to the district, council may well see his views as beneficial input to the process.

10 MATTERS THAT LAY ON THE TABLE

Nil

11 LATE ITEMS

Two late items were presented to Council for it to deal with at its option. Council does not have to deal with late items and in fact the first thing, in relation to this, is to consider whether or not to deal with them. Standing Orders provide as follows:

- 2.3 No business shall be transacted at any meeting of the Council other than that specified in the notice without the approval of the President or the approval of the majority of Councillors present determined by vote.

OFFICER RECOMMENDATION & COUNCIL DECISION – ITEM 11.1.1 & 12.1.1

MOVED: Cr Oversby

SECONDED: Cr O'Hare

That Council deal with the following late items:

- 1. Boyup Brook Club Inc – Loan Agreement**
- 2. Industrial Sites Study – Confidential Item**

CARRIED 9/0

Res 047/10

Note item 1 was dealt with under the heading of Late Items and item 2 under Confidential Items.

11.1.1 Boyup Brook Club Inc – Self Supporting Loan Agreement

Location:	<i>N/A</i>
Applicant:	<i>Boyup Brook Club Inc</i>
File:	<i>N/A</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>16 March 2010</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Copy of loan agreement</i>

SUMMARY

The purpose of this report is to put before Council a copy of the draft loan agreement with a recommendation that Council approve the terms of the agreement.

BACKGROUND

As part of the budget process Council made provision for a donation of \$50,000 to the Boyup Brook Club to assist with the cost of upgrading its bowling green to a synthetic surface (Other Recreation and Sport account E113098). Provision was also made to raise a \$25,000 loan over 20 years on behalf of the "Bowling Club" (Note 5 of the 2009/10 Budget). Councils often raise loans on behalf of community groups (i.e. clubs etc) and enter into an agreement with the funding body (generally the Treasury Corporation or a bank) to repay the debt. Councils then enter into an agreement with the community group for that body to repay the debt to Council. The loan repayment schedules for both agreements are generally the same. These types of loans are generally termed self supporting loans because whilst Council incurs a liability it passes this on to another entity and there is no net affect.

COMMENT

As will have been noted from the Manager of Finance's report to the briefing session, the rate of interest quoted by Treasury Corporation was 6.51% which is lower than the rate used for the budget (7%) and that the rate will no doubt change when the loan is raised.

The raising of the loan is covered by provisions made in the budget but the matter of the details of the agreement with the club is not and so the matter is brought to Council for approval.

Attached is a copy of a fairly standard agreement that has been drafted by Council's legal advisers. Council's attention is drawn to the following:

- Whilst the budget provides for a self supporting loan to the Bowling Club, this Club is a subsidiary of the Boyup Brook Club Inc and so the loan agreement would be with that entity.
- The loan is not secured against any asset. Most community groups do not have sufficient assets to raise a loan and this is part of the reason they seek loan funds through their Council. In this case though the Club Inc does own real estate and this could be used as security. The Club is not keen on this occurring though. Given the relatively small amount of funds involved and so the relatively low level of exposure resulting from a default, and the fact that the Club has been in operation for some years it is suggested that Council not seek to secure the loan at this time. It is noted that the draft agreement provides for Council to take a charge over real or personal property of the Club on demand (Clause 3 (f) and that it is to be provided with a membership and financial report every six months (Clause 3 (c) which should provide Council with some forewarning of and default and the opportunity to secure the balance of the loan.

It is noted that the draft agreement will need changes regarding matters such as:

- the sealing clause for the Club (not known at the time of writing)
- the loan schedule (the loan schedule that Council receives from the Treasury Corporation will be included in the agreement)

Also that the Club has not seen the agreement as yet and so may seek some changes (it is hoped that any changes sought will be available to Council at the meeting).

It is recommended that Council approve of the Shire Seal being affixed to a loan agreement with the Boyup Brook Club INC that is, apart from the repayment schedule and sealing clause is not substantially different to the attached draft agreement.

CONSULTATION

The Author has spoke with Bowling and Boyup Brook Club representatives and other staff.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

The "Use of Common Seal and the Signatories for Contract Execution" policy applies and is as follows:

POLICY NO.	A.10
POLICY SUBJECT	Use of Common Seal and the Signatories for Contract Execution
ADOPTION DATE	17 June 2004
VARIATION DATE	22 December 2007

Objective

To set out the procedures to be followed when there is a requirement to use the common seal.

Statement

The following applies to the use of the common seal and signatures when a document requires this method of completion:-

- 1 is to be used only when Council has previously authorised the action contained within the document being signed;
- 2 be affixed in the presence of the Shire President and Chief Executive Officer.

The document is to be completed in the following manner:-

The common seal of Shire of Boyup Brook was hereunto affixed and signed by the authority of a resolution of the Council in the presence of:

Shire President

Chief Executive Officer

BUDGET/FINANCIAL IMPLICATIONS

Nil, the loan was provided for in the 2009/10 budget.

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known significant environmental issues.
- **Economic**
There are no known significant economic issues.
- **Social**
There are no known significant social issues.

VOTING REQUIREMENTS

Absolute majority

OFFICER RECOMMENDATION – ITEM 11.1.1

That Council approve the attached draft Self Supporting Loan Agreement between the Shire of Boyup Brook and the Boyup Brook Club Inc (the Club) subject to the sealing clause for the Club being amended to align with its Constitutional requirements, the loan repayment schedule being substituted for the loan repayment schedule that forms a part of the Shire of Boyup Brook’s agreement with the Treasury Corporation for the loan it raises with that entity to provide funds to lend to the Club, and any minor changes that may be required but do not change any of the rights or liabilities of either of the parties to the agreement.

COUNCIL DECISION – ITEM 11.1.1

MOVED: Cr Doust

SECONDED: Cr Oversby

That Council approve the attached draft Self Supporting Loan Agreement between the Shire of Boyup Brook and the Boyup Brook Club Inc (the Club) subject to the sealing clause for the Club being amended to align with its Constitutional requirements, the loan repayment schedule being substituted for the loan repayment schedule that forms a part of the Shire of Boyup Brook’s agreement with the Treasury Corporation for the loan it raises with that entity to provide funds to lend to the Club, and any minor changes that may be required but do not change any of the rights or liabilities of either of the parties to the agreement. That the draft document be amended to add a clause providing for Council’s interest to be registered as a caveat on the Boyup Brook Club Inc’s title to the land.

CARRIED 9/0

Res 048/10

12 CONFIDENTIAL MATTERS

12.1.1 Industrial Sites Study

COUNCIL DECISION – ITEM 12.1.1

MOVED: Cr Marshall

SECONDED: Cr Giles

Item 12.1.1 be referred to the Forward Planning Committee meeting on March 31st and Manager of Works be requested to update costing on the desk top study on an Industrial subdivision, with specific reference to the site in question, as presented to Council some six years ago.

NOTE: The matter was referred to the Forward Planning Committee meeting for further consideration.

CARRIED 5/4

Res 049/10

13 CLOSURE OF MEETING

There being no further business the Shire President, Cr Terry Ginnane declared the meeting closed at 5.49pm.