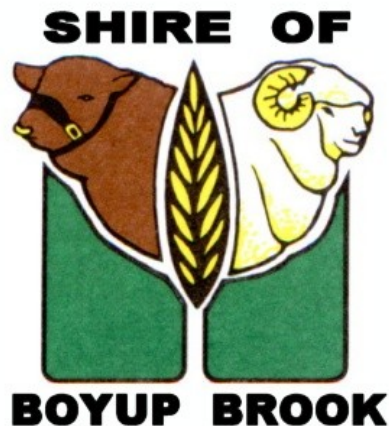


MINUTES



ORDINARY MEETING

HELD

THURSDAY 13 DECEMBER 2012

COMMENCED AT 3.31PM

AT

SHIRE OF BOYUP BROOK CHAMBERS
ABEL STREET – BOYUP BROOK

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

1.1 Attendance

Cr M Giles – Shire President
Cr K Moir – Deputy Shire President
Cr G Aird
Cr E Biddle
Cr J Imrie
Cr P Kaltenrieder
Cr B O'Hare
Cr T Oversby
Cr R Walker

STAFF: Mr Alan Lamb (Chief Executive Officer)
Mr Rob Staniforth-Smith (Manager of Works & Services)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Mr T Ginnane

1.2 Apologies

1.3 Leave of Absence

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

Nil

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Cr Biddle attended the Boyup Brook District High School for the Official Opening of the Early Childhood Education Building on 22nd November 2012.

Cr Biddle attended a training seminar at WALGA regarding Meeting Procedures and Debating on 26th November 2012.

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 15 November 2012

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr O'Hare

SECONDED: Cr Kaltenrieder

That the minutes of the Ordinary Meeting of Council held on Thursday 15 November 2012 be confirmed as an accurate record.

CARRIED 9/0

Res 170/12

6 PRESIDENTIAL COMMUNICATIONS

Cr Giles attended the Official Opening of the Early Childhood Education Building on 22nd November 2012.

Cr Giles attended the SW Zone Meeting held at the Shire of Manjimup on 23rd November 2012.

Cr Giles attended the Bunbury Wellington Group of Councils at the Shire of Capel on 26th November 2012.

Cr Giles attended the Community Christmas Celebrations on 7th December 2012.

Cr Giles attended the Regional Road Group meeting held on 10th December 2012.

7 COUNCILLORS QUESTIONS ON NOTICE

Nil

8 REPORTS OF OFFICERS

8.1 MANAGER WORKS & SERVICES

Nil

8.2 FINANCE

| |
|------------------------------------|
| 8.2.1 List of Accounts Paid |
|------------------------------------|

| | |
|--|--|
| 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>7 December 2012</i> |
| Author: | <i>Kay Raisin – Finance Officer</i> |
| Authorizing Officer: | <i>Alan Lamb – Chief Executive Officer</i> |
| Attachments: | <i>Yes – List of Accounts Paid</i> |

SUMMARY

In accordance with the Local Government (Financial Management) Regulations the list of accounts paid is presented to Council.

BACKGROUND

Invoices received for the supply of goods and services, salaries and wages and the like have been paid during the period

COMMENT

The attached listing represents accounts paid by cheque and by electronic means during the period 10 November 2012 to 6 December 2012.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Local Government (Financial Management) Regulations 1996, Regulations 12 and 13 apply and are as follows:

12. Payments from municipal fund or trust fund

(1) A payment may only be made from the municipal fund or the trust fund —

(a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or

(b) otherwise, if the payment is authorised in advance by a resolution of the council.

(2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

13. Lists of accounts

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

- (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing —*
- (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction;*

and
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be —*
- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

POLICY IMPLICATIONS

Council's Authority to Make Payments Policy has application.

BUDGET/FINANCIAL IMPLICATIONS

Account payments are in accordance with the adopted budget for 2012/13 or authorised by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Oversby

SECONDED: Cr Walker

That the list of accounts paid in November 2012 as presented totalling \$536,116.39 and as represented by cheque voucher numbers 19084 – 19108 totalling \$16,103.66 and accounts paid by direct electronic payments through the Municipal Account totalling \$520,012.73 be received.

CARRIED 9/0

Res 172/12

Note: Due to time constraints with the Council Meeting being brought forward, outstanding accounts to be paid in December 2012 totals \$81,135.00.

8.2.2 November 2012 Monthly Statements of Financial Activity

| | |
|--|-------------------------------------|
| Location: | Not applicable |
| Applicant: | Not applicable |
| File: | FM/10/003 |
| Disclosure of Officer Interest: | None |
| Date: | 6 December 2012 |
| Author: | Kay Raisin - Finance Officer |
| Authorizing Officer: | Alan Lamb – Chief Executive Officer |
| Attachments: | Yes – Financial Reports |

SUMMARY

Report recommends Council receive the Statement of Financial Activities and the Net Current Assets for the month ended 30 November 2012.

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 reports. Details of items of Material Variances are also listed.

The various data are included as separate attachments.

COMMENT

It is a statutory requirement that the Financial Activities Report be presented for every month.

As at the close of the month Boyup Brook Shire Council had \$3,799,667 invested in "At Call" accounts with the Commonwealth Bank. The interest rates have dropped, and the current rate is now approximately 3.2%pa.

For the information of Councillors, the Annual Financial Report for the 2011/12 year states that there was \$70,438 owing to Council by ordinary debtors, \$8,126 in Accrued Income, \$23,054 by the ATO (relating to the GST), and \$63,506 for Rates. The Outstanding Rates Ratio was 3%, which is a good position as anything under 5% is considered an acceptable result. There were no doubtful debts owing to Council.

The position at the end of the month just past for outstanding amounts is that rates debtors is currently high, with \$766,901 owing for Rates as at the end of the past month. The amount paid was \$1,320,624 which is 62.26% of that collectable. There are 248 Rate Assessments being paid by Instalments.

Budget Allocation Change – (1) In the budget there was \$6,000 allocated in the Donations [Account E041070] for the Tourist Centre Garden Works, but this was for staff and machinery costs “In Kind”. The actual charges have now been allocated to Boyup Brook Tourist Centre – Grounds [Account E132026]. Council’s authorisation is now sought to transfer the budget allocation of \$6,000 from account E041070 to account E132026.

Budget Allocation Change – (2) In the budget there was an extra ordinary allowance for extra materials and contract work on various Gardens [Account E113068] of \$16,694. Individual amounts should be distributed to the specific accounts, and this will be done within the near future. The amendments will be included in the Budget Review.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

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

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

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

As listed on the attached reports

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr O'Hare

SECONDED: Cr Oversby

(a) That the November 2012 Monthly Statements of Financial Activity and Statement of Net Current Assets as presented, be received.

(b) That the amounts listed as material variances be authorised;

CARRIED 9/0

Res 173/12

8.3 **CHIEF EXECUTIVE OFFICER**

8.3.1 Beauty Therapist Harrison Road Mayanup

| | |
|--|---|
| Location: | <i>Lot 5231 P138808</i> |
| Applicant: | <i>L Martin</i> |
| File: | <i>AS8250</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>3 December</i> |
| Author: | <i>Geoffrey Lush (Council Consultant)</i> |
| Authorizing Officer: | <i>A Lamb</i> |
| Attachments: | <i>1 Location Plan</i> |

SUMMARY

This report is to consider an application for home occupation (beauty therapist) on Lot 5231 Harrison Road Mayanup.

The application is supported subject to conditions.

BACKGROUND

The subject land is Lot 5231 P138808 Harrison Road Mayanup. The site is situated approximately 15kms east of Boyup Brook townsite as shown in Attachment 1. The subject land has an area of 80 hectares and is used for general farming.

There is an existing residence on the property. Access to the site is from Harrison Road via R18255 which is a Timber Reserve.

It is proposed to operate the business from the dwelling and also potentially to provide a mobile service.

CONSULTATION

Applicant

STATUTORY OBLIGATIONS

The subject land is zoned 'Rural' in Town Planning Scheme No.2. The surrounding area is also generally zoned 'Rural'.

The proposed application is defined as Home Occupation. A "Home Occupation" is an AA use meaning that it is a use which Council, in exercising the discretionary powers available to it, may approve under this Scheme.

There are a number of conditions that apply to "Home Occupation" that relate to:

- Amenity of the neighbourhood (e.g. noise, fumes, smoke etc.);
- Employment of other persons;
- Area of operations (less than 20m²);
- Provision of extra services;
- Signage not greater than 0.2m²;
- Compatibility with principle use of the area (farming) and generation of traffic; and
- Presence of commercial vehicles.

COMMENT

There is no objection raised to the proposal. However it is noted that the applicant should be advised that Council is not responsible for the maintenance of the current access through R18255. This matter has been discussed with them.

POLICY IMPLICATIONS

None

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

None

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

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Oversby

SECONDED: C Kaltenrieder

That Council approves the use of Lot 5231 P138808 Harrison Road Mayanup for the purpose of a beauty therapist (home occupation) subject to the following conditions:

- 1. The development hereby approved shall occur in accordance with the application submitted to Council and this shall not be altered or modified without the prior written approval of the Council.**
- 2. The use shall comply with the definition of Home Occupation in the Town Planning Scheme.**
- 3. An on-site sign having a maximum area of 0.2 square metres may be erected in accordance with the requirements of Council**
- 4. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.**

CARRIED 9/0

Res 174/12

8.3.2 Storage Area – Lot 42 Forrest Street

| | |
|--|---|
| Location: | <i>Lot 42 Forrest Street</i> |
| Applicant: | <i>Boyup Brook Co-Operative Company Ltd</i> |
| File: | <i>AS560</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>3 December</i> |
| Author: | <i>Geoffrey Lush (Council Consultant)</i> |
| Authorizing Officer: | <i>A Lamb</i> |
| Attachments: | <i>1 Site Plan</i> |

SUMMARY

This report is to consider an application for an outside storage area Lot 42 Forrest Street Boyup Brook.

The application is supported subject to conditions.

BACKGROUND

The subject land is Lot 42 P222159 Forrest Street Boyup Brook. The subject land has an area of 1,366 sqm.

There is an existing residence on the property and storage shed on the property. This is used in conjunction with the main Co-Operative building. There are no retail sales occurring from the site.

It is proposed to level the rear of the property to provide for a more useful working area and potentially to allow for an additional storage shed to be built. The application states that:

The works will provide us with a levelled site by use of retaining walls and includes all stormwater drainage as directed by Rob Staniforth-Smith of the Shire Works.

The levelled area will then be utilised for the storage of goods.

The yard will be compacted gravel in preparation for the possibility of having an asphalt surface in the future. The use of the "existing shed" will also be utilised for storage, with the "new shed" on the site plan being a possible consideration in the future.

A security fence will also need to be erected once site works have been completed. There will be gate access from the ROW at the rear of the site.

Please also note that the neighbours on either side have been contacted regarding the site works.

The proposed development plan is contained as Attachment 1. The retaining wall will have a maximum height of 1.6m on the south eastern corner and a height of 0.6m on the western boundary.

CONSULTATION

- Applicant;
- Building Surveyor; and
- Manager of Works and Services.

STATUTORY OBLIGATIONS

The subject land is zoned 'Commercial' in Town Planning Scheme No.2. The adjoining land to the east is zoned 'Residential.'

The existing use is best defined as a "Warehouse" which means a building wherein goods are stored and may be offered for sale by wholesale. A warehouse is a 'P' (Permitted) use in the Commercial zone.

In accordance with Clause 3.3.1 Council approval is required for any development of land, unless such development is exempted under Clause 3.3.2. These exemptions include Permitted uses. However these uses must still comply with the provisions of the Scheme especially in relation to setbacks, car parking requirements, landscaping etc.

Hence while no planning approval is required for the future warehouse, an approval is required for the development of the retaining wall and associated filling.

COMMENT

The primary concern with any proposal of this nature is the possible impact upon the neighbouring property. In this case the property on the downhill side of the development is a residential dwelling.

It is noted that the highest part of the retaining wall will be in the south eastern corner of the site which is away from the existing dwelling on the adjoining land. It will be in close proximity to existing outbuildings however as these are not habitable buildings there is no immediate concern.

The most likely implication of the development will be the storage of material along the eastern boundary and these may be visible to the neighbour. This would normally be addressed by requiring some form of screening along the boundary either as a solid fence or by landscaping.

POLICY IMPLICATIONS

None

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

None

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

Declare an Interest

All Councillors declared an interest as share holders of the Co-Operative.

Motion

MOVED: Cr O'Hare

SECONDED: Cr Moir

That it be resolved that the interest declared by Councillors is an Interest in Common.

CARRIED 9/0

Res 175/12

Note: Farming residents of the Shire hold shares with the Co-Operative

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Oversby

SECONDED: Cr Walker

A That Council approve the development of a retaining wall on Lot 42 P222159 Forrest Street Boyup Brook subject to the following conditions:

- 1. The development hereby approved shall occur in accordance with the application submitted to Council and this shall not be altered or modified without the prior written approval of the Council.**
- 2. The retaining wall shall be wholly contained within the boundaries of the subject land.**
- 3. The site shall be drained to the requirements and satisfaction of Council.**
- 4. This approval shall expire if the development hereby permitted is not completed within two years of the date hereof, or within any extension of that time which, upon written application (made before or within 21 days after the expiry of the approval) to the Council, is granted by it in writing.**

B That the applicant be advised that:

- A further approval may be required for the construction of the storage shed and that this will be required to comply with the Scheme provisions for car parking and landscaping; and**
- The use of the site cannot prejudicially affect the amenity of the neighbouring property by reason of appearance, dust, noise, vibration, lighting or otherwise.**

CARRIED 9/0

Res 176/12

8.3.3 Structure Plan – Rural Strategy Policy Area 7

| | |
|--|--|
| Location: | <i>Fern Valley Road</i> |
| Applicant: | <i>MPM Development Consultants</i> |
| File: | <i>AS15261</i> |
| Disclosure of Officer Interest: | <i>G.Lush has previously worked for several of the landowners.</i> |
| Date: | <i>5th December</i> |
| Author: | <i>Geoffrey Lush (Council Consultant)</i> |
| Authorizing Officer: | <i>A Lamb</i> |
| Attachments: | <i>1 MPM Submission</i> <i>2 Revised Structure Plan Map</i> <i>3 Road Contributions Plan</i> |

SUMMARY

This report is to consider a draft structure plan for the Rural Strategy Policy Area No 7.

The structure plan is being prepared in conjunction with Amendment No 14 which introduces the general provisions for the preparation of structure plans and it also includes Lots 8 & 9

It is recommended that Council determine that the Proposed Structure Plan is satisfactory for advertising and that such advertising occur in conjunction with Amendment 14.

BACKGROUND

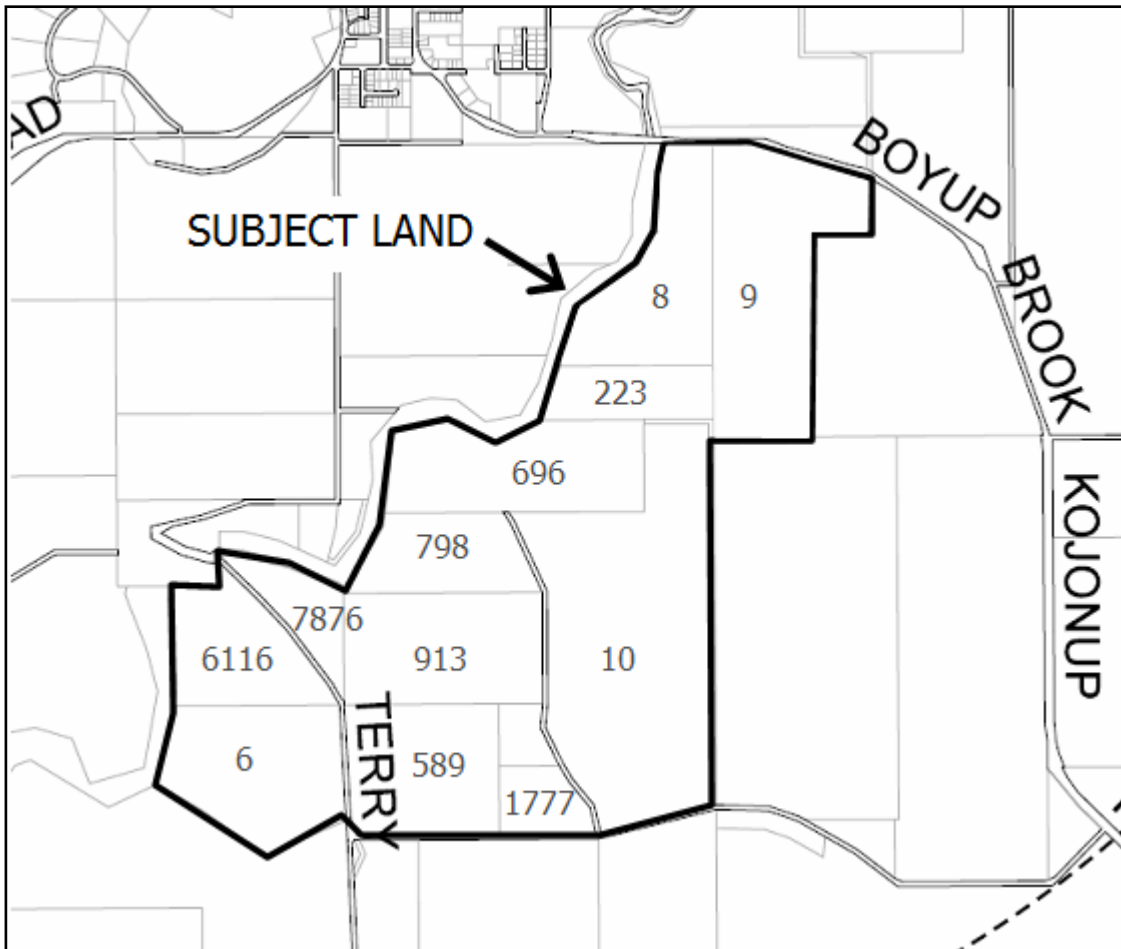
The subject land is Policy Area No 7 within the Rural Strategy as shown in the following diagram. It comprises of thirteen separate allotments with a total area of 452 hectares.

Council considered this matter at its Meeting of the 18th October 2012 at which time it resolved

That Council determine that the proposed SPA4 Structure Plan as submitted by MPM Development Consultants dated 21st September 2012 is not to be advertised until further details have been provided or modifications undertaken as follows:

- 1 That the structure plan must define if the Kojonup Road intersection will increase beyond a "simple intersection" for the ultimate development of SPA4. This must also include any future land requirements.*
- 2 Any additional land requirements for the intersection must then be provided for in the Detailed Structure Plan for Lots 8 & 9.*

- 3 *The draft Road Contributions Plan needs to generally reference Council's W07 Road Contributions Policy and recognize that this will evolve over time.*
- 4 *That the structure plan provide for public access to the river in an appropriate location with an associated POS reserve.*
- 5 *That the structure plan recognize that there should be an identified location for a strategic water supply for fire fighting.*
- 6 *The issues and modifications as contained in Attachment 2.*



Amendment No 14 to the Scheme introduces the Rural Small Holdings zone and the proposed as Structure Plan Areas. In these provisions the subject land will be referred to as Structure Plan Area No 4 (SPA4).

In considering the proposed structure plan Council acknowledged the following issues:

- 1 That the connection of the main subdivision road to Fern Valley Road is rather than to Terry Road is acceptable.
- 2 That in the absence of Council being able to define what any upgrading of the Terry Road crossing would consist of and having any preliminary design or costing for this, then it is not possible to prepare a contributions plan for any future subdivision.

- 3 That the structure plan must define if the Kojonup Road intersection will increase beyond a “simple intersection” for the ultimate development of SPA4. This must also include any future land requirements.
- 4 Any additional land requirements for the intersection must then be provided for in the Detailed Structure Plan for Lots 8 & 9.
- 5 The draft Road Contributions Plan needs to generally reference Council’s W07 Road Contributions Policy and recognize that this will evolve over time.
- 6 That Council needs to further review and refine its W07 Road Contributions Policy to recognize potential cost implications for Council.
- 7 That the structure plan provide for public access to the river in an appropriate location with an associated POS reserve.
- 8 That the structure plan recognizes that there should be an identified location for a strategic water supply for fire fighting.

A revised structure plan report has been submitted and the covering letter is contained as Attachment 1. The proposed structure plan map is contained as Attachment 2.

CONSULTATION

- Applicant’s consultant town planner.
- Department of Planning.

STATUTORY OBLIGATIONS

Town Planning Scheme (Amendment 14)

Amendment 14 is introducing the standard provisions for the preparation and approval of structure plans.

Clause 10.1.5.2 is proposed to state the following:

Upon receiving a Proposed Structure Plan, the local government is to either:

- (a) determine that the Proposed Structure Plan is satisfactory for advertising;
- (b) determine that the Proposed Structure Plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the Proposed Structure Plan is not satisfactory for advertising and give reasons for this to the Proponent.

Local Rural Strategy

Within the Rural Strategy the subject land is contained within Area 7 of Townsite and Surround Planning Precinct (BBR5).

The objective for this area is to encourage the development of rural small holding subdivision in appropriate locations. The Development Guidelines (Table 1 of the Strategy) recommends that:

- Granite ridge areas are unlikely to be suitable for development, except as part of a larger lot.
- Requires an overall structure plan to identify appropriate development locations addressing:-
 - Land capability;
 - Flood levels, river corridor; and public access;
 - Possible road connection from Kojonup Road to Fern Valley Road.
 - Landscape protection and view sheds;
 - Upgrading of the river crossing at Terry Road.
- Low key tourist development.

Recommendations 23, 24, 25 and 26 of the Strategy reinforce the need for detailed plans of the site addressing the same issues as is normally required for a Special Rural zone.

COMMENT

The revised structure plan report and design has been modified generally in accordance with Council's previous resolution.

Kojonup Road Intersection

The applicant has consulted with Main Roads WA, which has confirmed that a potential road widening and turning lane is required for the final intersection design.

This will potentially affect the land on either side of the proposed subdivision road. The specific details of this are to be confirmed when a preliminary design is prepared as part of the subdivision guide plan for Lots 8 & 9. Main Roads has also indicated that the full intersection will be required for the first stage of the subdivision.

This will be the responsibility of the owners of Lots 8 & 9 unless there is a provision for other owners within the structure plan area to contribute to the cost.

The revised road contributions plan provides for the other owners to contribute proportionally to the cost of the intersection. This can be determined using the same principles contained in Council Policy W07 Road Contributions which is based upon the total lot yield. This still needs to document the threshold between a "simple" intersection which would be required if only Lots 8 & 9 were developed and the full intersection.

General Road Contributions

A revised road contributions plan has been provided (Attachment 3) and the applicant has submitted that Council has two options in relation to road costs being:

1. Require the developer to undertake the full construction of all roads internal of their development and undertake full construction of all shared roads abutting their development. The Planning and Development Act 2005 contains provisions relevant to the recovery of shared road construction costs in certain circumstances; or
2. Require the developer to undertake the full construction of all roads internal of their development and to make a contribution to the Shire of Boyup Brook based on the value of the construction/upgrading costs for shared road frontage. The Shire could then allocate these funds to upgrading any road within the Structure Plan area, as it saw fit.

Previously it has been suggested that the landowners are only required to contribute to 50% of the construction of the roads which adjoin the development i.e. Fern Valley Road. As there will be development on both sides of the road then the total cost is effectively borne by the developers. The issue with this has been that when one side of the road is subdivided Council would have to incur 50% of the cost which is the contribution of the opposite landowner.

Option 1 above makes it clear that this is the responsibility of the first subdivider who can recoup the costs from the other landowner when they develop at a later date. While this is unlikely to be favoured by the developers, it is a simpler option which reduces Council's liability.

Option 2 is not favoured as it would require significant administration by Council.

River Access

The proposed location of the river access point has not been confirmed on site and this will be done during the advertising period.

The recommendations have been modified to require the provision of a recreation reserve within Lot 696.

It has also been acknowledged that the proposed subdivision roads shall occur have a finished trafficable levels no less than the 1 in 100 year Annual Recurrence Interval (ARI) storm event flood level.

Bush Fire Water Supply

The structure plan proposes that each subdivider will be responsible for providing water supplies for fire fighting. This is likely to be from existing dams as has occurred with previous Special Rural subdivision.

The structure plan references that the river access will also serve for access to water for fire fighting.

The method of providing the central water tank on the proposed river reserve still needs to be further examined and can be a requirement of the subdivision guide plans for subsequent subdivision.

Subdivision Guide Plan – Lots 8 & 9.

A revised “detailed” structure plan (subdivision guide plan) for Lots 8 & 9 has not been submitted. The overall structure plan for the policy area documents the matters to be addressed in the preparation of the “detailed” structure plan for Lots 8

& 9. This is further referenced in the provisions of Amendment 14 which includes Lots 8 & 9 in the Rural Small Holdings zone.

The “detailed” structure plan for Lots 8 & 9 will be subject to separate advertising and consideration by Council.

Advertising

The intention is that the structure plan be advertised in conjunction with Amendment No 14. Excluding Lots 8 & 9, the balance of the structure plan area remains in the Rural zone but is designated as requiring the approval of a structure plan.

Each landowner will be provided with:

- A short explanatory statement;
- The formal notification of Amendment 14;
- The structure plan map; and
- The road contributions plan.

The EPA has now granted consent for Amendment 14 to be advertised for public comment.

Other Matters

There are a number of technical issues and minor modifications which are required to the structure plan report. Rather than delay the advertising of the structure plan, these matters will be further discussed with the applicant and included in the revisions to the structure plan when Council consider it for final adoption.

POLICY IMPLICATIONS

The introduction of the Rural Small Holding zone is a major step forward for the planning of the municipality.

Council Policy W07 Road Contributions applies to the structure plan.

BUDGET/FINANCIAL IMPLICATIONS

None

STRATEGIC IMPLICATIONS

The development of the structure plan area will require consideration in Council's forward planning and provision of services.

VOTING REQUIREMENTS

Simple Majority

Proximity Interest

Cr Kaltenrieder declared a proximity interest in the item 8.3.3 and departed the Chambers the time being 3.42pm.

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Oversby

SECONDED: Cr Aird

- 1 That Council determine that the proposed SPA4 Structure Plan as submitted by MPM Development Consultants dated October 2012 is suitable to be advertised.**
- 2 That the advertising of the structure plan occur in conjunction with Amendment No 14.**
- 3 That the applicant be advised that prior to Council considering the structure plan for final adoption the following issues need to be clarified:**
 - a) Confirmation by site inspection of the proposed river access point;**
 - b) Inclusion of the river access point as a POS Reserve on the structure plan map;**
 - c) Clarify the proportional costs or method to determine these, by landowners to the Kojonup Road intersection;**
 - d) Inclusion of Option 1 in the revised road contributions plan;**
 - e) Clarification that the land use provisions for the Rural Small Holdings only apply once the land is rezoned;**
 - f) Inclusion of a section relating to low intensity tourist development as stipulated in the Rural Strategy. This can simply document that Amendment 15 is introducing a broader range of discretionary tourist uses within the Rural Small Holdings zone;**
 - g) Provision of a potential fire service access route on the structure plan map from Terry Road to the subdivision road on the western side of Fern Valley Road in the vicinity of Lot 913.**
 - h) Inclusion of all recommendations on the structure plan map;**
 - i) Inclusion of the endorsement statement on the structure plan map; and**
 - j) Other minor text corrections and modifications as directed.**

CARRIED 8/0

Res 177/12

Cr Kaltenrieder returned to the Chambers at 3.52pm

8.3.4 Council Meeting Dates for 2013

| | |
|--|--|
| Location: | <i>Shire of Boyup Brook</i> |
| Applicant: | <i>Not Applicable</i> |
| File: | <i>N/A</i> |
| Disclosure of Officer Interest: | <i>none</i> |
| Date: | <i>3 December 2012</i> |
| Author: | <i>Alan Lamb – Chief Executive Officer</i> |
| Authorizing Officer: | <i>N/A</i> |
| Attachments: | <i>Nil</i> |

SUMMARY

The purpose of this report is to put before Council proposed meeting times and dates for the Ordinary Council meetings for the 2013 year.

BACKGROUND

At the Chief Executive Officer's review last year it was recommended that regular Council briefing sessions be conducted before Ordinary Council Meetings.

COMMENT

Nil

CONSULTATION

Nil

STATUTORY OBLIGATIONS

The following sections of the Local Government Act have relevance:

5.3. Ordinary and Special Council Meetings

- 1) A council is to hold ordinary meetings and may hold special meetings.
- 2) Ordinary meetings are to be held not more than 3 months apart.
- 3) If a council fails to meet as required by subsection (2) the Chief Executive Officer is to notify the Minister of that failure.

5.4. Calling Council Meetings

An ordinary or a special meeting of a council is to be held –

- (a) if called for by either-
 - (i) the mayor or president; or
 - (ii) at least 1/3 of the councillors;
in a notice to the Chief Executive Officer setting out the date and purpose of the proposed meeting; or
- (b) if so decided by the council

5.5. Convening Council Meetings

The Chief Executive Officer is to convene an ordinary meeting by giving each Council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.

- (1) The Chief Executive Officer is to convene a special meeting by giving each Council member notice, before the meeting, of the date, time, place and purpose of the meeting.

The Local Government (Administration) Regulations provide:

Public notice of Council or Committee Meetings – s. 5.25(1)(g)

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which –
 - (a) the ordinary council meetings; and
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).
- (3) Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.
- (4) If a special meeting of a council is to be open to members of the public but, in the Chief Executive Officer's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the Chief Executive Officer's opinion, is practicable.

The Local Government Act provides that local public notice is as follows;

1.7. Local Public Notice

- (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be –
 - (a) published in a newspaper circulating generally throughout the district;
 - (b) exhibited to the public on a notice board at the local government's offices; and
 - (c) exhibited to the public on a notice board at every local government library in the district.
- (2) Unless expressly stated otherwise it is sufficient if the notice is –
 - (a) published under subsection (1) (a) on at least once occasion; and
 - (b) exhibited under subsection (1) (b) and (c) for a reasonable time, being not less than –
 - (i) the time prescribed for the purpose of this paragraph; or
 - (ii) if no time is prescribed, 7 days.

POLICY IMPLICATIONS

Council Policy

BUDGET/FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
There are no known environmental issues at this stage.
- **Economic**
There are no known economic issues at this stage.
- **Social**
There are no known social issues at this stage.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

**That the following meeting dates and times apply for the 2013 year:
Council Meeting Dates 2013**

Held at 3.30pm in the Boyup Brook Chambers

| | |
|-------------------------|--------------------------|
| 21 February 2013 | 15 August 2013 |
| 21 March 2013 | 19 September 2013 |
| 18 April 2013 | 17 October 2013 |
| 16 May 2013 | 21 November 2013 |
| 20 June 2013 | 12 December 2013 |
| 18 July 2013 | |

COUNCIL DECISION

MOVED Cr Imrie

SECONDED Cr Aird

**That the following meeting dates and times apply for the 2013 year:
Council Meeting Dates 2013**

Held at 3.30pm in the Boyup Brook Chambers

| | |
|-------------------------|--------------------------|
| 21 February 2013 | 15 August 2013 |
| 21 March 2013 | 19 September 2013 |
| 18 April 2013 | 17 October 2013 |
| 16 May 2013 | 21 November 2013 |
| 20 June 2013 | 12 December 2013 |
| 18 July 2013 | |

AMENDMENT

MOVED: Cr Moir

SECONDED: Cr Walker

Council meeting start times be changed to 5pm.

MOVED INTO COMMITTEE

MOVED: Cr Oversby

SECONDED: Cr Moir

That the Council move into 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 178/12

MOVED OUT OF COMMITTEE

MOVED: Cr Walker

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 and that Standing Orders be resumed.

CARRIED 9/0

Res 179/12

AMENDMENT - adjusted following free discussion

MOVED: Cr Moir

SECONDED: Cr Walker

Council meeting start times be changed to 5pm and briefing meeting starts at 3.30pm.

CARRIED 5/4

Res 180/12

SUBSTANTIVE MOTION

That the following meeting dates and times apply for the 2013 year:

Council Meeting Dates 2013

**Council meetings to commence at 5pm, and the Council Briefing Sessions at 3.30pm,
in the Boyup Brook Chambers**

**21 February 2013
21 March 2013
18 April 2013
16 May 2013
20 June 2013
18 July 2013**

**15 August 2013
19 September 2013
17 October 2013
21 November 2013
12 December 2013**

CARRIED 7/2

Res 181/12

8.3.5 Six Mile Road – request to seal a section

| | |
|--|------------------------|
| Location: | <i>Six Mile Road</i> |
| Applicant: | <i>I G and J Bales</i> |
| File: | <i>RD009</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>6 December 2012</i> |
| Author: | <i>Alan lamb</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>Copy of letter</i> |

SUMMARY

The purpose of this report is to put before Council the residents' request with the recommendation that Council have administration review the matter of sealing sections of road where gravel roads meet sealed roads and where dust is a significant problem for occupied houses, with the intention that the findings be incorporated into Councils long term work planning.

BACKGROUND

The resident raised a number of issues relating to Six Mile Road near the intersection with the sealed Dinninup Road. The letter was co-signed by three other couples.

COMMENT

It is noted that the problems highlighted the letter are found in other locations and so perhaps Council should have a position/policy on looking to seal problem sections of gravel roads.

It is clear that with funding constraints there will not be the funds to look to seal whole lengths of roads any more but there may be an opportunity to reduce maintenance costs, improve safety and amenity by carefully selecting sections of roads for future sealing.

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time

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

OFFICER RECOMMENDATION

That Council acknowledge the letter on this matter and instruct administration to review the matter of sealing sections of road where gravel roads meet sealed roads, where safety is a factor and where dust is a significant problem for occupied houses and report back to Council by its March 2013 meeting.

COUNCIL DECISION

MOVED Cr Oversby

SECONDED: Cr Imrie

Council consider the request to seal the portion of 750 metres of Six Mile Road back from the junction of Arthur River Road in next years budget.

Amendment

MOVED: Cr Moir

SECONDED: Cr Walker

That Council acknowledge the letter on this matter and instruct administration to review the matter of sealing sections of road where gravel roads meet sealed roads with particular attention being paid to the 750 metres of Six Mile Road from the junction off Arthur River Road, where safety is a factor and where dust is a significant problem for occupied houses and report back to Council by March 2013 meeting.

CARRIED 9/0

Res 182/12

THE SUBSTANTIVE MOTION WAS PUT

That Council acknowledge the letter on this matter and instruct administration to review the matter of sealing sections of road where gravel roads meet sealed roads with particular attention being paid to the 750 metres of Six Mile Road from the junction of Arthur River Road, where safety is a factor and where dust is a significant problem for occupied houses and report back to Council by its March 2013 meeting.

CARRIED 8/1

Res 183/12

8.3.6 Reservoir Road – alignment adjustment

| | |
|--|---|
| Location: | <i>Reservoir Road</i> |
| Applicant: | <i>Regional Development and Lands</i> |
| File: | <i>RD045</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>6 December 2012</i> |
| Author: | <i>Alan lamb</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>Copy of letter dated 2003, Landgate imagery.</i> |

SUMMARY

The purpose of this report is to put before Council a request that was made in 2003 for Council agreement to have a deviation of a portion of Reservoir Road surveyed and dedicated, with the recommendation that Council agrees

BACKGROUND

In 2003 the process to have a piece of Unallocated Crown Land reserved for the Water Corporation for the purposes of Water Supply. DOLA (now RDL) wrote to Council in 2003 seeking Council's resolution to agree to have the deviation of a portion of Reservoir Road surveyed and dedicated. No response was received. Water Corporation is still keen to have the UCL reserved and the matter of the road is still holding this process up.

COMMENT

It is not clear what happened in 2003 but looking at the position now there appears to be no reason for Council to not agree to the request.

It is clear from the attached Landgate imagery that the constructed road does deviate quite markedly from the surveyed alignment.

CONSULTATION

The author has spoken with the Manager of Works

STATUTORY OBLIGATIONS

Nil

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

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Walker

SECONDED: Cr Oversby

That Council agree to the Department of Regional Development and Land's request for it to have the section of Reservoir Road that deviates from its surveyed and dedicated alignment.

CARRIED 9/0

Res 184/12

Proximity Interest

Cr Moir declared a proximity interest in the item 8.3.7 and departed the Chambers the time being 4.26pm.

8.3.7 Changing Boundaries

| | |
|--|---|
| Location: | <i>Various</i> |
| Applicant: | <i>N/a</i> |
| File: | |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>6 December 2012</i> |
| Author: | <i>Alan lamb</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>Spread sheet listing affected properties</i> |

SUMMARY

The purpose of this report is to provide Council with the information it sought at its October meeting with the recommendation that it do no more than receive the report.

BACKGROUND

Council passed the following resolution at its September meeting:

That the Chief Executive Officer investigate the number of lots divided by the Shire boundaries and minimum rated by Boyup Brook and the neighbouring Shires.

A specially prepared map was purchased from Landgate and relevant neighbouring Councils were contacted.

COMMENT

The investigation showed that there are 7 lots dissected by the Shire Boundary where the owners pay a minimum rate to this Shire. Three of these also pay a minimum rate to the adjoining Shire.

If the intention of gathering this information was to seek to amend the boundary then the recommendation is very strongly against this. The process will be long and so costly. It is expected that adjoining Shires will become predatory and seek to look to factors such as communities of interest to look further than what this Council may wish to do and Council faces the prospect of the added cost of trying to fend off its neighbours. Similarly, it may well prove an opportunity for the Advisory Council to look more broadly at boundaries and might then lead to changes that see an end to this Shire.

It is suggested that the cost and risks are not warranted and that there are many more matters that the organisation's efforts should be applied to.

CONSULTATION

Landgate, neighbouring Shires, Council staff

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

The cost of this exercise was covered by normal budget provisions because most of the costs related to staff time but it should be noted that whilst this project was being attended to other matters were not. It is strongly recommended that Council consider the importance of its requests before making them and that it puts a clear time line in as part of the resolution so that there is no confusion over the priority.

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

OFFICER RECOMMENDATION

That Council receive the report and makes no moves to adjust the Shire Boundary at this time.

MOTION

MOVED: Cr Walker

SECONDED: Cr Imrie

That Council request the CEO to contact the Donnybrook CEO to negotiate a resolution for boundary adjustment for crown grants 11859, 12087 and 4522. That the CEO also write to effected land holders to seek their agreement or otherwise and views on a possible boundary adjustment to be bought back to the March Council meeting 2013.

CARRIED 7/1

Res 185/12

Cr Moir returned to the Chambers at 5.01pm

8.3.8 Naming of a town park

| | |
|--|---|
| Location: | <i>Lot 59 Bridge Street Boyup Brook</i> |
| Applicant: | <i>Boyup Brook Tourism Association</i> |
| File: | <i>CR/31/008</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>6 December 2012</i> |
| Author: | <i>Alan lamb</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>nil</i> |

SUMMARY

The purpose of this report is to put before Council the Tourism Association request with the recommendation that Council ask the Association to come up with suitable names for the park, put them to the community in some manner then come back with its final recommendation for a name.

BACKGROUND

The Tourism Association wrote to Council seeking to name the park, suggesting some names and offering to do more work on a suitable name.

COMMENT

It is recommended that the Association is well placed to look at naming opportunities and come up with a recommendation to Council. Also that the group's membership is large and so representatives of the community so any further community consultation they might do need not be great.

There are constraints on the naming of places and Administration will provide the relative guidance.

CONSULTATION

Regional Development and Lands.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil at this time.

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

Impartiality Interest

Cr Biddle and Cr O'Hare declared an impartiality interest in the following item due to being a member of the Boyup Brook Tourism Association.

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Biddle

SECONDED: Cr Kaltenrieder

That Council ask the Boyup Brook Tourism Association to look into the appropriate name for the park at lot 59 Bridge Street, conduct some public consultation to the level it sees fit for the purpose and then come back to Council with a firm proposal for a suitable name that Council can then seek to have approved by the Department of Land Administration.

CARRIED 9/0

Res 186/12

8.3.9 Medical Centre – future expansion

| | |
|--|-----------------------------------|
| Location: | <i>Medical Centre Abel Street</i> |
| Applicant: | <i>N/A</i> |
| File: | <i>PH/46/001</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>10 December 2012</i> |
| Author: | <i>Alan Lamb - CEO</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>Nil</i> |

SUMMARY

The purpose of this report is to bring back to Council a matter from the November meeting with the recommendation that Council make an offer to purchase the property that adjoins the Medical Centre.

BACKGROUND

Council passed the following resolution at its November 2012 meeting:

- 1. That Council take steps toward the future expansion to the current medical service by authorizing the CEO to ascertain a firm price without making a formal offer to purchase the vacant premises adjoining the medical centre and report back to the December meeting.**
- 2. That the Chief Executive Officer confirms capacity of the current facility.**

COMMENT

Discussions with the owner revealed that he is looking to release \$275,000 to \$300,000 from the sale. The CEO noted to him that Council was looking more at the region of \$200,000. His initial hopes were for \$300,000 and it was suggested that \$250,000 was the middle ground and probably what the offer might be if it were to be made.

Regarding the Medical Centre's current capacity.

There are two rooms set up for Doctor Consultations and one room set up for the practice nurse and allied health. The current position is that there are student Doctors for 4 months of the year, a registrar for 2 days per week, a practice nurse and allied health people. During these 4 months all rooms are used to capacity and with the move to having a registrar 4 days per week the position will be that the practice could really use 5 rooms.

For 8 months of the year now two of the three rooms are used daily and the third is used occasionally.

On the face of things then the position is that the facility is adequate for its current use but would not be adequate when and if we move to having a registrar 4 days per week and

when and if we add to the allied health services. It should also be noted that the surgery has closed its books to new patients from outside the Shire indicating a capacity to grow.

The proposal for purchasing the lot next door was to allow for future expansion. Council could choose to not purchase now but runs the risk that the opportunity that is open now will not be there when and if the need to expand presents itself. It should also be noted that the success of the model used in Boyup Brook for Council provided health services is in a large part due to the level of autonomy afforded the Doctor and because of the profit share arrangements. The Doctor sees that there may well be a need to expand in the not too distant future and it is strongly put that Council should heed his advice. Frankly, he shares the risk of any expansion adversely affecting the profitability of the Centre on a 90 to 10 ratio (i.e. he carries the greatest risk).

Taking the cost of a loan, or the interest income forgone if reserves were used to make the purchase, rental income from the hairdresser and the opportunity to put other tenants in to other parts of the building, the rates and building maintenance costs etc it is expected that the annual cost to hold the lot would be in the order of \$4,000 to \$5,000 per year. It is suggested that this is a reasonable net cost to bear to secure the lot against a future need that is expected to come within the next 5 years.

It is recommended that Council authorise expenditure of up to \$10,000 to do a business plan for the future expansion of the medical centre so that all the potential costs and opportunities are pulled together to give a very clear picture of the proposal. The intention would be to have the plan completed for a report to Council early in 2013 so that the opportunity to purchase could be moved on.

The alternative recommendation is that Council authorise the CEO to make an offer of \$250,000 for the lot. It is possible that the opportunity to purchase might pass whilst the due diligence is being done.

CONSULTATION

The author has spoken with Council, the owner of the property and Council staff.

STATUTORY OBLIGATIONS

Section 5.23 of the Local Government Act has application because it is expected that publicising Council's potential interest in the lot, the discussion regarding price and the like, could prompt speculators to move in with an offer before Council has the opportunity to do so.

5.23. Meetings generally open to the public

(1) *Subject to subsection (2), the following are to be open to members of the public —*

- (a) *all council meetings; and*
- (b) *all meetings of any committee to which a local government power or duty has been delegated.*

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees;*
 - (b) *the personal affairs of any person;*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret;*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

The following sections of the Act relate to borrowings:

Subdivision 3 — Borrowings

6.20. Power to borrow

- (1) *Subject to this Act, a local government may —*
- (a) *borrow or re-borrow money; or*
 - (b) *obtain credit; or*

- (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,*

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

- (2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —*
 - (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
 - (b) *the resolution to exercise that power is to be by absolute majority.*

- (3) *Where a local government has exercised a power to borrow and —*

- (a) *it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or*
- (b) *after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized,*

the local government may resolve to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.*

** Absolute majority required.*

- (4) *A local government is not required to give local public notice under subsection (3) —*
 - (a) *where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or*
 - (b) *in such other circumstances as are prescribed.*
- (5) *A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.*

6.21. Restrictions on borrowing

- (1) *Where, under section 6.20(1), a regional local government borrows money, obtains credit or arranges for financial accommodation to be extended to the regional local government that money, credit or financial accommodation is to be secured only —*
 - (a) *by the regional local government giving security over the financial contributions of the participants to the regional local government's funds as set out or provided for in the establishment agreement for the regional local government; or*
 - (b) *by the regional local government giving security over Government grants which were not given to the regional local government for a specific purpose; or*
 - (c) *by a participant giving security over its general funds to the extent agreed by the participant.*

- (1a) *Despite subsection (1)(a) and (c), security cannot be given over —*
- (a) *the financial contributions of a particular participant to the regional local government's funds; or*
 - (b) *the general funds of a particular participant,*
- if the participant is not a party to the activity or transaction for which the money is to be borrowed by, the credit is to be obtained for, or the financial accommodation is to be extended to, the regional local government.*
- (2) *Where, under section 6.20(1), a local government borrows money, obtains credit or arranges for financial accommodation to be extended to the local government that money, credit or financial accommodation is only to be secured by giving security over the general funds of the local government.*
- (3) *The Treasurer or a person authorised in that behalf by the Treasurer may give a direction in writing to a local government with respect to the exercise of its power under section 6.20(1) either generally or in relation to a particular proposed borrowing and the local government is to give effect to any such direction.*
- (4) *In this section and in section 6.23 —*
- general funds** *means the revenue or income from —*
- (a) *general rates; and*
 - (b) *Government grants which were not given to the local government for a specific purpose; and*
 - (c) *such other sources as are prescribed.*

[Section 6.21 amended by No. 49 of 2004 s. 59.]

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

No provision has been made in the budget for the purchase of the lot or for the business plan. Funds have been provided for unspecified planning and Council has reserve funds and or loan fund opportunities to cover the purchase price. If Council opts for a loan then the intention to borrow has to be advertised before the loan is taken out.

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

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Aird

SECONDED: Cr Biddle

That Council authorise expenditure of up to \$10,000 to prepare a business plan for the future expansion of the Medical Centre.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 187/12

8.3.10 Potential purchase of land for development

| | |
|--|-------------------------|
| Location: | <i>N/A</i> |
| Applicant: | <i>N/A</i> |
| File: | <i>EC/28/005</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>10 December 2012</i> |
| Author: | <i>Alan Lamb</i> |
| Authorizing Officer: | <i>Not applicable</i> |
| Attachments: | <i>Nil</i> |

SUMMARY

The purpose of this report is to bring this matter back to Council following the mandatory advertising period with the recommendation that Council proceed to borrow the funds.

BACKGROUND

Council passed the following resolution at its October 2012 meeting:

That Council proceed to advertise, in accordance with section 6.20 (2) of the Local Government Act, the intension to borrow an amount of \$400,000 in order to purchase suitable land for development.

COMMENT

The required advertising period is one month. Council resolved on 18 October 2012 to advertise its intention to borrow funds. The November meeting was held 16 November 2012 and so the December meeting is the earliest possible date to report back following the required advertising.

The intention to borrow was advertised in the West Australian 27/10/2012. As of 27/11/2012 no comment was received (nor has any late comment been received as of 10/12/2012).

It is recommended that council proceed to take out the loan and that this been done early in the new year when interest rates might be expected to fall slightly.

CONSULTATION

This matter has been before Council.

STATUTORY OBLIGATIONS

Section 5.23 of the Local Government Act has application because Council may wish to keep the specific purchase it is contemplating confidential at this time.

5.23. Meetings generally open to the public

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
- (a) *all council meetings; and*
 - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) *a matter affecting an employee or employees;*
 - (b) *the personal affairs of any person;*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret;*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) *endanger the security of the local government's property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

The following sections of the Act relate to borrowings:

Subdivision 3 — Borrowings

6.20. Power to borrow

(1) *Subject to this Act, a local government may —*

- (a) *borrow or re-borrow money; or*
- (b) *obtain credit; or*
- (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,*

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

(2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —*

- (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
- (b) *the resolution to exercise that power is to be by absolute majority.*

(3) *Where a local government has exercised a power to borrow and —*

- (a) *it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or*
- (b) *after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized,*

the local government may resolve to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.*

** Absolute majority required.*

(4) *A local government is not required to give local public notice under subsection (3) —*

- (a) *where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or*
- (b) *in such other circumstances as are prescribed.*

(5) *A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.*

6.21. Restrictions on borrowing

(1) *Where, under section 6.20(1), a regional local government borrows money, obtains credit or arranges for financial accommodation to be extended to the regional local government that money, credit or financial accommodation is to be secured only —*

- (a) *by the regional local government giving security over the financial contributions of the participants to the regional local government's funds as set out or provided for in the establishment agreement for the regional local government; or*
- (b) *by the regional local government giving security over Government grants which were not given to the regional local government for a specific purpose; or*
- (c) *by a participant giving security over its general funds to the extent agreed by the participant.*

(1a) *Despite subsection (1)(a) and (c), security cannot be given over —*

- (a) *the financial contributions of a particular participant to the regional local government's funds; or*
- (b) *the general funds of a particular participant,*

if the participant is not a party to the activity or transaction for which the money is to be borrowed by, the credit is to be obtained for, or the financial accommodation is to be extended to, the regional local government.

- (2) *Where, under section 6.20(1), a local government borrows money, obtains credit or arranges for financial accommodation to be extended to the local government that money, credit or financial accommodation is only to be secured by giving security over the general funds of the local government.*
- (3) *The Treasurer or a person authorised in that behalf by the Treasurer may give a direction in writing to a local government with respect to the exercise of its power under section 6.20(1) either generally or in relation to a particular proposed borrowing and the local government is to give effect to any such direction.*
- (4) *In this section and in section 6.23 —*

general funds *means the revenue or income from —*

- (a) *general rates; and*
- (b) *Government grants which were not given to the local government for a specific purpose; and*
- (c) *such other sources as are prescribed.*

[Section 6.21 amended by No. 49 of 2004 s. 59.]

The following section deals with "local public notice"

1.7. Local public notice

- (1) *Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*
 - (a) *published in a newspaper circulating generally throughout the district; and*
 - (b) *exhibited to the public on a notice board at the local government's offices; and*
 - (c) *exhibited to the public on a notice board at every local government library in the district.*

- (2) *Unless expressly stated otherwise it is sufficient if the notice is —*
- (a) *published under subsection (1)(a) on at least one occasion; and*
 - (b) *exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —*
 - (i) *the time prescribed for the purposes of this paragraph; or*
 - (ii) *if no time is prescribed, 7 days.*

[Section 1.7 amended by No. 64 of 1998 s. 18(3).]

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

No provision was made in the current budget to raise this loan however Council has now met its obligation to advertise. Raising the loan after 31/12/2012 will result on there being no repayments in the current financial years. Also until the loan funds are expended the liability created will be offset by the additional cash at bank and so, until the funds are applied there will be no impact in the current year.

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

That Council proceed to borrow \$400,000 for the potential purchase of land for development.

COUNCIL DECISION

MOVED: Cr Oversby

SECONDED: Cr O'Hare

That Council proceed to borrow \$400,000 for the potential purchase of land for development.

MOVED INTO COMMITTEE

MOVED: Cr Moir

SECONDED Cr Biddle

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 188/12

MOVED OUT OF COMMITTEE

MOVED: Cr Walker

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 9/0

Res 189/12

Foreshadowed Motion

Cr Walker foreshadowed the following motion

That the CEO commence discussions with the Deputy President and the Planning Consultant and a potential partner for the purchase and development of land suitable for a park home development and that the CEO report back to the March Council meeting.

Motion Put

MOVED: Cr O'Hare

SECONDED: Cr Kaltenrieder

That the motion be put

CARRIED 9/0

Res 190/12

Council Resolution

That Council proceed to borrow \$400,000 for the potential purchase of land for development.

CARRIED 7/2

Res 191/12

MOVED: Cr Walker

SECONDED: Cr Biddle

Foreshadowed motion put

That the CEO commence discussions with the Deputy President and the Planning Consultant and a potential partner for the purchase and development of land suitable for a park home development and that the CEO report back to the March Council meeting.

CARRIED 8/1

Res 192/12

8.3.11 Bunbury to Albany Tourist Route

| | |
|--|--|
| Location: | <i>Shire of Boyup Brook</i> |
| Applicant: | <i>N/A</i> |
| File: | <i>FM/25/046</i> |
| Disclosure of Officer Interest: | <i>None</i> |
| Date: | <i>10 December 2012</i> |
| Author: | <i>Daly Winter – Community Development Officer</i> |
| Authorizing Officer: | <i>Alan Lamb – Chief Executive Officer</i> |
| Attachments: | <i>copy of M.O.U document</i> |

SUMMARY

In April 2011 the Shire of Boyup Brook applied for a grant of \$10,000 through the South West Development Commission (SWDC) to support the Boyup Brook Tourism Association to promote the Bunbury to Albany tourist route via Boyup Brook. The grant application to SWDC was successful.

The Community Development Officer in his role has been working with the Boyup Brook Tourism Association on this project with other stakeholders including; Shires of Donnybrook/Balingup, Boyup Brook, Cranbrook, Plantagenet, Main Roads South West and South West Development Commission. A Route Development Plan and a Memorandum of Understanding have been developed for the project and signage is currently being finalised.

The Boyup Brook Tourism Association in association with the Boyup Brook Shire is now seeking formal support for the project from the Shires involved in the form of a signed Memorandum of Understanding (MOU). Shires are also asked to consider a financial contribution to the project.

To date the Shires of Plantagenet and Cranbrook have agreed and signed the MOU.

COMMENT

The Shire of Boyup Brook under the terms of South West Development Commission grant application will contribute the required initial contribution to the project. Some ongoing costs will be incurred in the future in the form of maintenance on the roadside signage. To formalise the agreement between the Shires and to accept the Memorandum of Understanding we seek authorisation for the Chief Executive Officer to sign the MOU on behalf of the Shire.

CONSULTATION

Chief Executive Officer and Community Development Officer

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Initial costs have already been included in the 2011/2012 budget.

Ongoing sign maintenance into the future estimated at approximately \$120 per annum.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

COUNCIL DECISION & OFFICER RECOMMENDATION

MOVED: Cr Walker

SECONDED: Cr Biddle

That Council authorises the Chief Executive Officer to sign the Memorandum of Understanding for the Bunbury to Albany Tourist route on behalf of the Shire of Boyup Brook.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 193/12

MOVED Cr O'Hare

SECONDED: Cr Oversby

That the Council adopts en bloc Items 9.1.1, 9.1.2 and 9.1.3.

CARRIED 9/0

Res 194

9 COMMITTEE REPORTS

9.1.1 Minutes of the WALGASW Zone

Location:

Applicant: N/A

File:

Disclosure of Officer Interest: Nil

Date: 30 November 2012

Author: WALGASW

Authorizing Officer: Alan Lamb – Chief Executive Officer

Attachments: Yes – Minutes

BACKGROUND

A WALGASW Zone meeting was held on 23 November 2012
Minutes of the meeting are laid on the table and circulated.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 9.1.1

That the minutes of WALGASW Zone meeting held on 23 November 2012 be received.

CARRIED BY ENBLOC RESOLUTION

9.1.2 AGM Minutes of the Blackwood River Valley Marketing Association

Location: Boyup Brook

Applicant: N/A

File:

Disclosure of Officer Interest: Nil

Date: 30 November 2012

Author: N/A

Authorizing Officer: Alan Lamb – Chief Executive Officer

Attachments: Yes – Minutes

BACKGROUND

A Blackwood River Valley Marketing Association Annual General meeting was held on 26th September 2012.

Minutes of the meeting are laid on the table and circulated (*refer to appendix 9.1.2*)

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 9.1.2

That the Blackwood River Valley Marketing Association Annual General Meeting was held on 26 September 2012 be received.

CARRIED BY ENBLOC RESOLUTION

9.1.3 Minutes of the Bunbury Wellington Group of Councils

Location:

Applicant: N/A

File:

Disclosure of Officer Interest: Nil

Date: 6 December 2012

Author: Alan Lamb - CEO

Attachments: Yes – Minutes

BACKGROUND

A Bunbury Wellington Group of Councils meeting was held on 13 September 2012. Minutes of the meeting are laid on the table and circulated.

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 9.1.3

That the minutes of Bunbury Wellington Group of Councils meeting held on 13 September 2012 be received.

CARRIED BY ENBLOC RESOLUTION

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

11 URGENT BUSINESS BY APPROVAL OF THE PRESIDENT OR A MAJORITY OF COUNCILLORS PRESENT
Nil

Mr Ginnane, Maria Lane & Rob Staniforth-Smith left the meeting at 5.34pm due to confidential matters.

12 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

12.1.1 Purchase of Motor Vehicle

COUNCIL DECISION

MOVED: Cr Aird

SECONDED: Cr Kaltenrieder

That Council determine that in relation to the changeover of the vehicle provided to the Chief Executive Officer the 2012/13 budget provisions take precedence over the employment contract.

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 195/12

12.1.2 CEO's Annual Performance Review

COUNCIL DECISION

MOVED: Cr Oversby

SECONDED: Cr Kaltenrieder

That Council:

- 1. Accept the assessment of the CEO's performance as being Satisfactory.**
- 2. Review the CEO's remuneration package being increased by 3.5% with this being backdated to 19 August 2012.**
- 3. Set criteria for the coming year at its February 2013 meeting.**

CARRIED 9/0

Res 196/12

12.1.3 CEO's Further Contract

MOVED INTO COMMITTEE AND MET BEHIND CLOSED DOORS

MOVED: Cr Moir

SECONDED: Cr Walker

That in accordance with Section 5.23 (2) (b) of the Local Government Act 1995 the next part of the meeting be closed to members of the public to allow the Council to consider a matter dealing with the personal affairs of a person and the Council go into committee to allow members free discussion on the matter, the time being 6.14pm

Alan Lamb left the Chambers at 6.14pm

MOVED OUT OF COMMITTEE

MOVED: Cr Aird

SECONDED: Cr Kaltenrieder

In accordance with Section 5.23 (2) of the Local Government Act 1995 the next part of the meeting is open to the members of the public and the Council come out of committee, the time being 6.45pm.

COUNCIL DECISION

MOVED: Cr Aird

SECONDED: Cr Walker

That:

- 1. Council agrees to enter into a mutually acceptable contract of employment with the current Chief Executive Officer for a term of five years.**
- 2. The Shire President be delegated to negotiate the terms of the contract with the CEO on the basis that the new agreement is no less advantageous to the officer than the current agreement is, the total remuneration package is suitably increased, and the balance of accumulated leave (that is annual, long service and personal leave) at the termination of the current contract be transferred to the new term of appointment or paid out (the option to be by agreement between the officer and the President).**
- 3. The negotiated agreement be presented to the February 2013 Council meeting for ratification and approval for the President to execute the document.**

AMENDMENT

MOVED: Cr Walker

SECONDED: Cr Moir

That part 1 be amended to read “Council agrees to enter into a mutually acceptable contract of employment with the current Chief Executive Office for a term of 3 year with a further option of 2 years by mutual agreement.”

LOST 3/6

Res 197/12

SUBSTANTIVE MOTION

The substantive motion as follows was put.

That:

- 1. Council agrees to enter into a mutually acceptable contract of employment with the current Chief Executive Officer for a term of five years.**
- 2. The Shire President be delegated to negotiate the terms of the contract with the CEO on the basis that the new agreement is no less advantageous to the officer than the current agreement is, the total remuneration package is suitably increased, and the balance of accumulated leave (that is annual, long service and personal leave) at the termination of the current contract be transferred to the new term of appointment or paid out (the option to be by agreement between the officer and the President).**
- 3. The negotiated agreement be presented to the February 2013 Council meeting for ratification and approval for the President to execute the document.**

CARRIED BY ABSOLUTE MAJORITY 9/0

Res 198/12

Alan Lamb returned to the Chambers at 6.50pm.

13 CLOSURE OF MEETING

There being no further business the Shire President thanked all for attending and declared the meeting closed at 6.55pm.