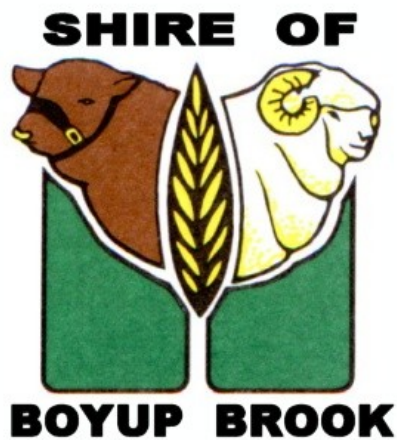


MINUTES



ORDINARY MEETING

HELD

THURSDAY 21 APRIL 2011

COMMENCED AT 3.30PM

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 T Ginnane JP – Shire President
Cr E Biddle
Cr T Doust – via telephone
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 & Services)
Mrs Maria Lane (Executive Assistant)

PUBLIC: Arrived at 3.30pm - left at 4.39pm
(Pool Supporters) Sue White
Dick White
James Mullen
John Fallon
Sue Abbey
Jo Niven-Clark
Jennie Cheney
Marjorie Shone
John Rich
Sandra Towndrow
Lyn Willett
Norm Blackburn
Marie Blackburn
Carmelita Dyer
Moya Reid
Ted Willett
G R Burns
Linda Daleboudt
Amy Mel
Zara Mel
Michiel Mel
Carol Lander
Steve Raisin
Shirley Broadhurst
Mary Sutcliffe
Bob Sutcliffe
M Bell
Deborah Chambers
Libby Bagshaw
Sandy Chambers
Jacqui Chambers
Erina Rohrlach
Leila Dickson

Shelley Bates
Catlyne Hos
Dana Zanders

Apologies: Peter Burns
Pool Supporters Genene Lloyd

PUBLIC: Richard Walker
Melissa Waller

1.2 **Apologies**

Cr Giles Deputy Shire President

1.3 **Leave of Absence**

Nil

2 **PUBLIC QUESTION TIME**

2.1 Richard Walker asked Council the following questions:

1. If the Shire graded a road on private property, is the Shire liable?
2. If Department of Environment and Conservation paid a certain amount per year for the Shire to do maintenance grading, would the Shire have a liability?
3. Has the Inventory been completed?
4. Maintenance grading practices have resulted in the surface of Shire roads being graded off to the sides with no surfacing material left on the running surface, will the Shire rectify this?

Responses

1. The CEO responded, every one has a potential liability with respect to their ownership or actions and so the Shire would have a potential liability with respect to work it had done.
2. The CEO responded, the Shire would have a potential liability with respect to the work it had done.
3. The Manager of Works responded, the inventory is completed and anomalies, with roads, he is aware of are included in an agenda item to this meeting of Council.
4. The Manager of Works responded, maintenance grading in dry conditions results in the surface material being cut off and that he tries to schedule maintenance grading when it is wet and so material can be brought back in and compacted.

2.2 Melissa Waller informed the Council about the ongoing dog attacks within the town and asked Council if anything could be done to make tougher rules and if the Dog Act could be amended.

The CEO responded noting that the Dog Act was State legislation that Council had no power to change it, but Council did have a Local Law relating to dogs, that had penalties, and that Council could review this.

2.1 **Response to Previous Public Questions Taken on Notice**

Nil

2.2 **Public Question Time**

3 APPLICATIONS FOR LEAVE OF ABSENCE

MOVED: Cr Oversby

SECONDED: Cr Biddle

That Cr Marshall be granted leave of absence for the May 2011 ordinary meeting of Council.

CARRIED 7/0

Res 52/11

4 PETITIONS/DEPUTATIONS/PRESENTATIONS/REPORTS

Sue White spoke on behalf of the Heated Pool Committee to request that some funding be set aside in the forthcoming budget in the event that they are successful in their Royalties for Regions application.

CONFIRMATION OF MINUTES

5.1 Ordinary Meeting of Council - Thursday 17 March 2011

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 5.1

MOVED: Cr O’Hare

SECONDED: Cr Muncey

That the minutes of the Ordinary Meeting of Council held on Thursday 17 March 2011 be confirmed as an accurate record.

CARRIED 7/0

Res 53/11

5 PRESIDENTIAL COMMUNICATIONS

- 18 March 2011 – Attended Dr Lee’s Funeral.
- Met with Mayor Troy Pickard (WALGA President) regarding Fire Advisory Powers.

6 REPORTS OF OFFICERS

7.1 **MANAGER WORKS & SERVICES**

7.1.1 Report identifying all tracks and roads being maintained by the Shire that are not on Shire control land

Location:	<i>Shire of Boyup Brook</i>
Applicant:	<i>N/A</i>
File:	<i>RD/35/005</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>13 April 2011</i>
Author:	<i>John Eddy – Manager of Works & Services</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>‘A’ – Categories of tracks and roads. ‘B’ – Landgate list of roads and streets within the Shire of Boyup Brook. ‘C’ – Shire of Boyup Brook Road Hierarchy. ‘D’ – Road definitions – Chapter 5 – Crown Land Administration and Registration Practice Manual.</i>

SUMMARY

Resolutions 130/10 and 131/10 of the July 2010 Council meeting both refer to the completion of a report identifying all the tracks and roads being maintained by the Shire at the present time that are not on Shire controlled land.

Resolution 05/11 of the February 2011 Council meeting recommended that the matter be referred back to the Chief Executive Officer for further consideration.

Category ‘A’

- Tracks and formed roads previously maintained by the Shire of Boyup Brook not in dedicated road reserves and not shown on the Road Inventory.

Category ‘B’

- Tracks and formed roads previously maintained by the Shire of Boyup Brook not in dedicated road reserves and are shown on the Road Inventory.

Category ‘C’

- Tracks and formed roads previously maintained by the Shire of Boyup Brook in dedicated road reserves but not shown on the Road Inventory.

BACKGROUND

At the July 2010 Council meeting the Council resolved the following:-

Item 7.3.2

“That Council receives Mr Walker’s requests and resolve that it will not maintain tracks on land it has no control over and where it has no obligation to do so.

The matter be reviewed following a report which identifies all the tracks and roads that are maintained by the Shire at the present time that are not on Shire controlled land.”

Item 10.1.2

That item 10.1.2 lay on the table pending the completion of a report which identifies all the tracks and roads that are being maintained by the Shire at the present time, that are not on Shire controlled land.”

At the February 2011 Council meeting the Council resolved the following:-

Item 7.1.2

“The matter be referred back to the Chief Executive Officer for further consideration.”

COMMENT

This report refers to tracks and formed roads that at some time in the past have been maintained by the Shire of Boyup Brook and are either not located in dedicated road reserves or not listed on the Shire’s road inventory. (**see attachment ‘A’**)

Attachment ‘B’ contains a list of road and street names compiled by Landgate defining their status and date of gazettal/dedication. Unshaded roads shown in **attachment ‘B’** do not appear on the Shire of Boyup Brook road inventory and the roads shaded in yellow are Department of Environment and Conservation (DEC) roads listed in the Shire of Boyup Brook.

All information regarding the location and status of the existing tracks and formed roads has been sourced from ‘Landgate’ the Western Australian Land Information Authority or current (printed in 2007) 1:25,000 Locality Plans.

Attachment ‘D’ contains road definitions and the process required to dedicate a road in accordance with the Crown Land Administration and Registration Practice Manual.

CATEGORY ‘A’

Category “A” tracks and formed roads are all located in reserves or private property not controlled by the Shire and not shown on the Shire road inventory. The Council is not responsible to provide access or maintain tracks on land controlled by other authorities; however it is possible for individuals to make agreements with other authorities such as D.E.C (Department of Environment and Conservation) to maintain tracks through existing reserves to access their properties.

Options available for Category ‘A’ roads:-

- Continue maintenance grading complying with the maintenance grading program of the Shire of Boyup Brook Road Hierarchy (**see attachment ‘C’**) and erect signage advising road users that the road is not located on Shire land and road users do so at their own risk.
- The Shire maintains the position that the tracks are under the control of the land owners and the Shire has no responsibility to maintain them.

It is recommended that the Council does not maintain tracks and formed roads on land it has no control over and where it has no obligation to do so.

CATEGORY 'B'

Category "B" tracks and formed roads have been maintained by the Shire in the past and are shown on the Shire road inventory but are not located within dedicated road reserves.

The existing tracks and formed roads in Category "B" all traverse D.E.C reserves and to dedicate these tracks and roads the council would be required to survey the existing roads, excise the land from D.E.C and dedicate the new reserves as public roads.

The process to dedicate a road is set out in Section 56 of the Land Administration Act headed Dedication of Roads (**see attachment "D"**).

It is recommended that the Council consider investigating the process of dedicating existing roads on the Shires Road Inventory.

CATEGORY "C"

Category 'C' tracks and formed roads have been maintained by the Shire in the past and are located within surveyed road reserves but not listed on the Shire's road inventory.

As many of the Category 'C' tracks and roads are sub-standard (not constructed to a minimum standard specification) it is recommended that those roads be signed advising that the road is sub-standard and drivers must drive to the road conditions.

It is recommended that the Council continue maintenance grading Category 'C' tracks and formed roads in accordance with the Shire of Boyup Brook road hierarchy (**see attachment 'C'**) and undertake to name the tracks and formed roads not listed on the Shire's road inventory.

CONSULTATION

Landgate
Chief Executive Officer

STATUTORY OBLIGATIONS

Section 56 of the Land Administration Act may have some application if the Council chooses to pursue the dedication of existing roads.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Major costs will be incurred if the Council chooses to pursue the dedication of existing roads.

STRATEGIC IMPLICATIONS

- *Environmental*
There are no known environmental issues, however it would be expected that DEC would impose environmental conditions as part of excising land for road reserves.

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

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – Item 7.1.1

That the Council receives the report and resolve the following:-

- 1 Council does not maintain tracks and formed roads on land it has no control over and where it has no obligation to do so.**
- 2 Council considers investigating the process of dedicating existing roads listed on the Shire Road Inventory.**
- 3 Council undertake to name existing tracks and formed roads within dedicated road reserves and add them to the Shire Road Inventory.**
- 4 Advisory signage to be erected on sub-standard roads advising road users that the road is sub-standard and drivers must drive to the road conditions.**

COUNCIL DECISION – Item 7.1.1

MOVED: Cr Oversby

SECONDED: Cr Muncey

That the Council receives the report and resolve the following:-

- 1. Council does not maintain tracks and formed roads on land it has no control over and where it has no obligation to do so.**
- 2. Council considers investigating the process of dedicating existing roads listed on the Shire Road Inventory.**
- 3. Council undertake to name existing tracks and formed roads within dedicated road reserves and add them to the Shire Road Inventory.**
- 4. Subject to budgetary considerations and within a staged program, advisory signage to be erected on sub-standard roads advising road users that the road is sub-standard and drivers must drive to the road conditions.**

CARRIED 7/0

Res 54/11

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>12 April 2011</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 March 2011.

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 2010/11 or authorized by separate resolution.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.2.1

MOVED: Cr Muncey

SECONDED: Cr Biddle

That the payment of accounts for March 2011 as presented totalling \$437,265.17 and as represented by cheque voucher numbers 18444 – 18489 totalling \$114,136.66, and accounts paid by direct electronic payments through the Municipal Account totalling \$323,128.51 be endorsed.

CARRIED 7/0

Res 55/11

7.2.2 March 2011 Monthly Statements of Financial Activity

Location:	<i>Not applicable</i>
Applicant:	<i>Not applicable</i>
File:	<i>FM/10/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12 April 2011</i>
Author:	<i>Keith Jones – Manager of Finance</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Yes – Financial Reports</i>

SUMMARY

Report recommends Council receive the Balance Sheet and Operating Statement for the month ended 31 March 2011 and Investment Schedule for the month ended 30 April 2011.

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

Nil

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 Muncey

That the March 2011 Monthly Statements of Financial Activity as presented, be received.

CARRIED 7/0

Res 56/11

Change to Order of Business

That the President announced the order of business in the agenda be changed to allow item 9.1.1 to be brought forward and dealt with at this time, there were no objections from Council.

9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Notice of motion Cr Biddle – 02/11

9.1.1 Therapeutic Lap Pool

MOTION:

That the portion of resolution 143/09 preventing Council from providing financial assistance for construction of a Heated Multi-purpose Therapeutic Pool be rescinded, and that Council commit to financially supporting establishment of a heated swimming facility at the Boyup Brook Swimming Pool complex

RATIONALE:

- Relevant items appear in the current Strategic Plan
Action Plan 6.5: 202 – *investigate usage and possible development of the Shire’s swimming complex since new facilities may benefit the community*
601 - *installation of a 3-lane heated lap pool at the swimming complex*
- Council has already helped finance a feasibility study on the issue
- A community fund-raising project has been in operation since 2006

The President called for the motion to be dealt with in two parts with the rescision motion being dealt with first. The mover and other Councillors supporting the motion agreed to this.

COUNCIL DECISION– ITEM 9.1.1

MOVED: Cr Biddle

SECONDED: Cr Muncey and Cr O’Hare

That the portion of resolution 143/09 preventing Council from providing financial assistance for construction of a Heated Multi-purpose Therapeutic Pool be rescinded.

4/3 LOST

Res 57/11

Cr Biddle requested that the vote of all Councillors be recorded.

For

Cr Biddle

Cr Muncey

Cr O'Hare

Against

Cr Ginnane

Cr Doust

Cr Marshall

Cr Oversby

NOTE

The second part of the Notice of Motion was not dealt with because it relied on the rescission motion being successful.

7.3 CHIEF EXECUTIVE OFFICER

7.3.1 Heated Multi-Purpose Therapeutic Pool – Funding and other requests

Location:	N/A
Applicant:	<i>Boyup Brook Heated Multi-Purpose Therapeutic Pool Committee</i>
File:	<i>RE/45/002</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>12 April 2010</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Letter from Committee, email from SWDC, agenda items/excerpts from Council meetings relevant to the heated pool project.</i>

SUMMARY

The purpose of this report is to put before Council the Boyup Brook Heated Multi-Purpose Therapeutic Pool Committee's requests that Council contributes \$20,000 toward the capital cost of the proposed facility (would require a resolution motion), fully supports the building of the facility, authorise the Committee to continue to seek funding for the facility, agree to fund the ongoing operation of the facility and agree to take on the facility construction.

BACKGROUND

It appears that the notion of a heated pool facility has been around for some time and that a committee was formed in 1986 to further this cause. Another committee was formed in 1991 and the current committee was formed in 2005 (information provided by the current committee).

Attached are a number of agenda items and excerpts from Council meetings relevant to the proposed heated pool project for background. Also attached is a copy of a letter from the Committee seeking Council's agreement to:

- Contributing \$20,000 toward the capital cost of the pool project
- Fully supporting the building of a 3 lane heated pool in the Aquatic area and authorise the Heated Pool Committee to continue to seek funding for this purpose
- Council taking on the project of constructing the proposed facility
- Council taking on the ongoing operation of the proposed new facility.

Further, attached is an email from SWDC seeking confirmation of commitment from Council as follows:

Due to the timeframe for assessment and approval of applications we will need a decision from the Shire of Boyup Brook by Monday, 18 April 2011 for the following items:

- *Council committing to funding the ongoing operation of the proposed new heated pool facility.*

The applicant has also stated in the application:

- *It is envisaged that the financial management of the project will be accepted and undertaken by the Shire of Boyup Brook.*
- *We also envisage that the Shire of Boyup Brook will accept the responsibility to oversee the construction and building phases of the project, since it will be on their land.*
- *Funds management would be passed to the Shire of Boyup Brook to be administered through their accounting system and audit of the Shire's accounts will be undertaken as a matter of course.*
- *The Shire of Boyup Brook would call public tenders prior to project implementation which will fix all costs at the time; alternatively, the Shire may wish to employ the services of a quantity surveyor to gain a better appreciation of likely costs.*
- *It is assumed that that the heated lap pool will be constructed within the existing municipal swimming pool complex adjacent to the administration and facilities building.*

The Commission would need confirmation of the above items from the Shire by Monday, 18 April 2011.

It is important to note the following resolution (Council meeting 16/7/2009 resolution 143/09) that would have to be rescinded if Council wished to contribute toward the construction costs of the proposed facility:

1. *That Council supports the Boyup Brook Heated Multi Purpose Therapeutic Pool Committee's proposed application for funding of the heated pool provided Council is not required to contribute any funds towards the construction costs of the new facility.*
2. *That Council form a Heated Multi Purpose Therapeutic Pool Committee comprising of Shire President, Chief Executive Officer and 2 representatives from the Lap Pool Committee, Ms Sue White and Mr Bob Sutcliffe, to pursue costings and funding applications for construction of the heated multi purpose therapeutic pool.*

COMMENT

As with many grant opportunities the Committee appears to have been caught with a tight deadline to lodge its application and now seeks Council agreement to some aspects contained in it.

To date the position has been that the Committee was working on its heated pool facility project and now, in essence, Council is being asked to take on the project, contribute toward costs and meet the ongoing operation costs of the proposed new facility. It is understood that the Committee's request is due to the fact that funding opportunities (that is through SWDC and Department of Sport and Recreation) will be significantly improved if the Shire is the applicant and manages to project and may not be possible without this change.

It is understood that the Committee would continue to fund raise and then support the proposed project by making a donation to Council but the project would become a Council project.

It is suggested that there is some logic in the proposal in that Council manages the Reserve that the pool sits on and is the owner of the swimming pool facility and so one might expect that it would be the applicant and manager of any project to improve the facility. However this proposal has not been put to Council before (at least that is as I understand it) and so Council may wish to step back and look at the project afresh and see how it fits with the sporting precinct planning is working on, the State Government funded asset/strategic/financial planning project, and townsite planning strategy.

Council has not really looked at the detail of what the Committee proposed and so may also wish to look at options to achieve the aim of a heated swimming facility and not just accept what the Committee was working on.

Equally, Council may see this as an opportunity to take on the project as requested, get the funding and get the project moving.

On balance, it is suggested that if this is to become a Shire project then it makes sense to include it in the planning process already begun to ensure any resulting works fit into the overall plan for the sporting precinct, the ongoing costs fit into long term planning (basically, that Council can afford the additional facility), and look to complete planning and grant applications in 2011/12 with a view to doing any works in 2012/13. This would also give Council time to look at the detail of what is proposed and to contrast this with other options before committing to the project.

OPTIONS

There are a number of options and it may be worth looking at some of them, in no particular order:

1. Project remains a Committee project, Council makes no contribution toward the construction or operating costs of the proposed new facility. Here there would be no impact on the Council and the arrangement could be formalised with a lease (akin to what is being done now with sporting facilities halls etc). This is not in line with the Committee's request and may well result in the proposed project being terminated due to funding issues.
2. Project remains a Committee project, Council makes no contribution toward the construction but agrees to take on the operating costs of the proposed new facility. Here there would be an impact on Council's long term planning. Ideally, the operating costs set out in the feasibility study should be reviewed and the matter looked at in the context of the long term planning Council has embarked on and any decision made as part of this and not in isolation. This would delay the project and may impact on the funding opportunities (that is it is possible that there would be no grant funding unless Council was the applicant and so this option may well result in the proposed project being terminated).
3. Project becomes a Council project as requested by the Committee but Council takes a step back and looks at it as part of current planning processes. Here the project would be delayed whilst the planning is completed and it may well be that case that Council decides to either modify or not continue with the project as part of the planning processes. This is not in line with the Committee's request.
4. Project becomes a Council project as requested by the Committee with all current arrangements remaining. That is Council becomes that applicant for SWDC funding and Council progresses the Committees project, this is inline with the Committees request. There are a number of risks with this option in that operating cost estimates may not be accurate and really should be analysed fully to ascertain the impact on future budgets.

Another is that the up front costs may not include everything. For example, it has recently come to light that changes to Commonwealth requirements with regard to access are very likely to impact on the pool project. As with most changes to requirements, these are triggered when significant works are done and the cost impact is expected to be in the order of \$50,000 which has not been allowed for in the project.

It is suggested that options listed as 1 and 2 would probably put an end to the project due to funding constraints but would maintain the status quo (that is at least option 1 is no change to the current position) in terms of Council commitment. The option listed as 4 is not recommended because Council should review all cost estimates before agreeing to take on such a big, in terms of cost, project and this option would not include this important due diligence phase. If Council supports the idea of a heated pool facility the option listed as 3 is recommended because it puts this significant project into the planning that is underway and allows for flexibility (that includes not doing the project based on reviewed costs and options or making it fit with other constraints – time, money etc).

To date Council has not shown favour for contributing toward the project and has not resolved to take on the operation of the facility and so based on this it is recommended that Council resolve to reject the Committees request. If Council does favour the idea of taking the project on then the alternative recommendation is that the project be considered as part of the forward planning projects currently being undertaken before its progressed.

CONSULTATION

The author has spoken with the Committee President.

STATUTORY OBLIGATIONS

Council's Standing Orders Local Laws have relevance to the rescision of a Council decision as follows:

16.20 Revoking Decisions - When This Can Occur

16.20.1 A substantive motion may be revoked at any time provided that no action in relation to the resolution being rescinded has already occurred;

16.20.2 If a decision has been made at a Council or a committee meeting then any motion to revoke or change the decision must be supported-

(a) in the case where an attempt to revoke or change the decision has been made within the previous three months but had failed, by an absolute majority; or

(b) in any other case, by at least one third of the number of offices (whether vacant or not) of members of the Council or committee,

inclusive of the mover.

16.20.3 If a decision has been made at a Council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made

(a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or

(b) in any other case, by an absolute majority.

16.20.4 This clause does not apply to the change to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Not known at this time. It depends on what Council decides to do. It is expected though that any impact would be on the next and/or future financial years.

STRATEGIC IMPLICATIONS

	DETAILS OF ACTIONS REQUIRED	TIME REQ'D	TARGET DATE	EST'D COST	RESP'BL PERSON
B L	PART B = Long Term – 2009 + PRIORITY = Low				
6 0 1	<p><i>Action:</i></p> <p>Installation of a 3-lane heated lap pool at the swimming complex</p> <p><i>Reason:</i></p> <p><i>Expected Outcome:</i></p> <p>Ref 202</p>	To be estimated	Oct 2010	\$500,000	CEO Council

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

If the recommendation is supported, a simple majority is required. If there is to be a motion that is contrary to Resolution143/09 then the motion needs to either include or be preceded by a rescission motion and this motion has to be supported by three Councillors and the decision has to be by absolute majority (that is five Councillors).

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.1

MOVED: Cr Doust

SECONDED: Cr O'Hare

The Boyup Brook Heated Multi-Purpose Therapeutic Pool Committee be advised that Council rejects its request for Council to:

- **contribute \$20,000 toward the capital cost of the pool project.**
- **fully support the building of a 3 lane heated pool in the Aquatic area and authorise the Heated Pool Committee to continue to seek funding for this purpose.**
- **take on the project of constructing the proposed facility.**
- **take on the ongoing operation of the proposed new facility**

CARRIED 4/3

58/11

Cr Biddle requested that the vote of all Councillors be recorded.

For
Cr Ginnane
Cr Doust
Cr Marshall
Cr Oversby

Against
Cr Biddle
Cr Muncey
Cr O'Hare

Note:

In debate Cr Biddle foreshadowed the following motion if the motion before Council was lost:

That a decision on Boyup Brook Heated Multi-Purpose Pool Therapeutic Pool Committee's request be deferred and considered in the 2011/12 Budget considerations.

Councillor Doust declared a proximity interest in the matter, as the owner of land adjoining a road specified in the Policy, and terminated the telephone connection. Councillor Marshall declared a proximity interest in the matter, as the owner of land adjoining a road specified in the Policy, and left the room. Councillor Ginnane also declared a proximity interest in the matter, as the owner of land adjoining a road specified in the Policy, and before leaving the room it was noted that the four remaining Councillors did not constitute a quorum. The matter was then not dealt with due to a lack of quorum and will be included in the May Council meeting agenda.

7.3.2 Town Planning Scheme Review – Rural Subdivisions and Roads

Location:	General
Applicant:	Shire of Boyup Brook
File:	LN/42/005
Disclosure of Officer Interest:	None
Date:	11 th April 2011
Author:	Geoffrey Lush (Council's Consultant Planner)
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	1 Revised Subdivisions and Amalgamations Policy 2 Revised Road Contributions Policy

SUMMARY

With the approval of the Rural Strategy and as part of the review of the Town Planning Scheme it is considered a suitable time to review the following policies of Council:

- P.03 Subdivisions and Amalgamations (21st December 2007); and
- W.07 Road Contributions (21st December 2007)

The revised policies have been advertised for public comment and no submissions have been received.

It is recommended that Council adopt the revised policies.

BACKGROUND

The construction of roads in relation to subdivisions and developments has three current issues. These are:-

1. Road access and upgrading for rural subdivisions, including special rural (rural residential) lots;
2. Proposed road standards for future rural small holding subdivisions (greater than 4 hectares in size); and
3. Development of lots with no constructed road access.

Items 1 is dealt with via Council Policy P.03 Subdivisions and Amalgamations and also Policy W.07 Road Contributions.

Item 2 is not presently addressed by Council Policy but as rural small holdings have been introduced with the approval of the Rural Strategy, they need to be addressed.

Item 3 is dealt with by Policy B.06 Building Application – Land without Legal Access but is not addressed in the Planning Scheme. Council has resolved to amend the Planning Scheme to correct this.

The requirements for road construction, access and potential upgrading need to be clearly understood by Council, landowners and the Planning Commission. These are discussed below.

For the purposes of this report roads are defined as:

“Internal roads” Means newly created subdivision roads which are shown on the survey (subdivision) plan.

“External roads” Means existing road reserves either adjacent to or leading to a subdivision. They may be unconstructed or only partially constructed.

COMMENT

The issue being addressed is that of the construction of an external road to provide access to a proposed subdivision. Specifically what are the obligations of:

- The developer to fully construct this road; or
- The Council in contributing to this cost.

Internal Subdivision Roads

The Local Government Subdivisional Guidelines encompass current legislation and best practice minimum engineering standards. They are intended to guide local government and the development industry through engineering specification, construction and post construction subdivision approval.

The revised policy nominates the following construction standards.

Zone	Construction Standard	Reserve Width	Pavement Width	Shoulders
Residential (1) (2)	Asphalt	20m	6m	Mountable kerb
Special Rural (rural residential).	Two coat spray seal	20m	6m	1.2m
Rural small holdings	Two coat spray seal	20m	6m	1.2m
Rural (3)	Formed gravel	20m	6m	1.2m
Other (4)	As determined by Council			
<p>Notes</p> <p>1 – Council may vary these having regard to the Liveable Neighbourhoods Policy</p> <p>2 - Council may elect to apply the Special Rural standards to low density residential lots greater than 2,000m²</p> <p>3 - Subject to site conditions, slope etc</p> <p>4 - “Other” means all other zones within the Planning Scheme</p>				

External Road Access for Rural Subdivisions

All rural properties (which may contain multiple allotments) should have appropriate all year access for 2WD vehicles and for emergency services. Policy W.07 Road Contributions defines that the minimum standard of road construction in a rural area is a six (6) metre formed gravel road.

In the general farming areas, rural properties must still have appropriate access. Where there is in appropriate access with little prospect of this being upgraded to a suitable standard then this is grounds for objecting to a subdivision application and this issue is recognised in the Rural Strategy.

The Rural Strategy identifies areas for rural residential or rural small holding development. The existing roads which border or provide access to the rural residential or rural small holding policy areas are:-

- Banks Road;
- Terry Road north and south of the river;
- Stanton Road;
- Fern Valley Road; and
- Asplin Siding Road.

The policy requires a contribution from the developer towards the construction of these roads.

CONSULTATION

Both policies were advertised in accordance with Clause 9.6 of the Scheme by means of a notice being published in the local newspaper for two consecutive weeks. In addition to this all the local surveyors were advised of the proposed modifications.

STATUTORY ENVIRONMENT

Clause 9.6 of Town Planning Scheme No 2 sets out the procedures for preparing and adopting local planning policies. In summary

- The draft Policy shall publish a notice once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.
- The Council shall review the draft Policy in the light of any submissions which are made.
- Following final adoption of a Policy, notification shall be published once in a newspaper circulating within the Scheme Area.
- A copy of the Policy shall be kept with the Scheme documents for public inspection during normal office hours.
- Any modification to the Policy shall be made in the same manner as above.

These requirements are commonly accepted and should be followed even if the above are not local planning policies.

POLICY IMPLICATIONS

Relates to Council Policies

- Policy B.06 Building Application – Land without Legal Access;

- P.03 Subdivisions and Amalgamations; and
- W.07 Road Contributions.

FINANCIAL IMPLICATIONS

The need for Council to develop unconstructed road reserves has the potential impacts on Council's budget and road construction program which may be detrimental to the community.

STRATEGIC IMPLICATIONS

None

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION – ITEM 7.3.2

- 1 That Council adopt Policies
 - P.03 Subdivisions and Amalgamations (Attachment 1); and
 - W.07 Road Contributions (Attachment 2).
- 2 That a notice advising of the adoption of the policies be published in the local newspaper.

7.3.3 Constitutional Recognition of Local Government

Location:	N/A
Applicant:	N/A
File:	GR/31/002
Disclosure of Officer Interest:	None
Date:	14 April 2011
Author:	Alan Lamb – Chief Executive Officer
Authorizing Officer:	Not applicable
Attachments:	Letter from Mayor Troy Pickard, Message from ALGA President

SUMMARY

The purpose of this report is to put before Council the request for Council to resolve to support the call for a referendum in 2013 on Constitutional recognition of Local Government with a recommendation that this be agreed to.

BACKGROUND

Local Government in Australia is not recognised in the Constitution which sets up the Federal and State Governments. Local Governments are set up by the States under pieces of State legislation. It has long been a problem for Local Government that in order to be the true third tier of Government it should be recognised in the Constitution along with the other tiers and not just be a subsection of the States.

Payments of grant funding direct from the Commonwealth Government to Local Government have been brought into question bringing Constitutional recognition back onto the agenda.

COMMENT

As will be seen from the attachments, the ALGA President Councillor Genia McCaffery, and the WALGA President, Mayor Troy Pickard, are promoting the push for recognition. The suggestion is that all Councils pass a resolution calling for a referendum in 2013 and to continue to raise awareness of the services delivered by Local Government and the benefits achieved for all communities from the current direct funding relationship with the Federal Government.

CONSULTATION

Nil

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 – ITEM 7.3.3

MOVED: Cr Doust

SECONDED: Cr Oversby

That Council

- 1. support Constitutional recognition of Local Government support the call for a referendum in 2013 on the matter.**
- 2. authorise the President to write to the Prime Minister advising of this support.**
- 3. require Administration to include information about Constitutional recognition, funding arrangements etc in the local community paper and on the Shire's web site.**

CARRIED 7/0

Res 59/11

7.3.4 Integrated Planning and Reporting

Location:	N/A
Applicant:	N/A
File:	
Disclosure of Officer Interest:	None
Date:	14 April 2011
Author:	Alan Lamb
Authorizing Officer:	Not applicable
Attachments:	Proposals received, copy of a listing of DLG approved consultants

SUMMARY

The purpose of this report is to advise Council of funding arrangements on offer and put before it submissions received from consultants for consideration.

BACKGROUND

Council passed the following resolution at its March 2011 meeting:

- 1. That Council authorise the Chief Executive Officer to seek funding assistance from the Department of Local Government to engage external assistance to complete tasks already set by Council and that the Budget be amended to reflect the additional income and corresponding expenditure.**
- 2. That the appointment of a suitable Consultant be referred to Council for approval.**
- 3. The requirements in the CEO's performance tasks be revised to reflect this.**

Assistance was sought (part 1 of the resolution) and the Department for Local Government (DLG) has earmarked funds in 2010/11 for Asset Management and Long Term Financial planning and will have funds in 2011/12 for Strategic Planning. It was hoped that the funding agreement would be to hand but at the time of writing it was not so there are no other details on the funding offer.

Regarding part 2 of the resolution, and in order to get things moving, a copy of the DLG's Directory of Approved Consultants was obtained. It was noted that there was no category for Long Term Financial Planning. A call for quotations was made to consultants on the list who had been approved for Strategic and Asset Management Planning and who the author had some knowledge of.

Consultants were invited to lodge proposals by COB 13 April and the attached proposals were received.

COMMENT

Council had set the order of its long term planning as part of the CEO's review where it was decided that the goals were "Completion of 4 years Financial Plan – 30 April 2011, Commence a review of the Shire's Strategic Plan - August 2011". Coincidentally DLG, due to its funding arrangements, is offering to fund the Asset and Long term Financial Plans this year (2010/11) and the Strategic plan next year (2011/12).

Logically, all planning would be done before the financial plan is completed and then reviewed to align with financial constraints. However there the planning could be done in the order decided by Council and as constrained by the funding arrangement with the financial plan being adjusted to take account of the financial implications of the strategic planning.

It appears now though that the order of planning may not be as constrained by the funding offer as was first thought. If Council selects a consultant at this meeting it is highly likely that the consultant will not be able to start straight away and so a commencement date might well be in June or July. It appears that the DLG funding for the Strategic Plan will be available around August 2011. Taking these factors into account and the interrelationship of the planning (i.e. once the asset planning is done the impact of this along with operating activities could be included into the financial plan and then further work left till the strategic plan is done), and the opportunity to stall the process until the strategic planning funding is approved in August, it is practical to see the planning exercise as one project and accept that the Strategic Planning cannot commence till funding is approved. In any case, and regardless of when the consultant starts or the order of the planning it is suggested that the aim be to have all planning completed and in place this calendar year.

In calling for quotations it was first thought that we were constrained by the funding arrangements and that funding had been offered only for the asset and financial planning but on rereading the Minister's letter where he made the offer the following was noted: "Therefore I am pleased to advise that I have approved funding assistance for your local government to support Strategic Planning, Asset Management and Long Term Financial Planning."

This was taken as a commitment for funding and the call for quotations was modified to include the strategic planning.

The following firms were asked to quote:

- BHW Consulting
- Cardio (WA) Pty Ltd
- Dominic Carbone & Associates
- KPMG
- RJ Back

Offers were received from:

- BHW Consulting
- Cardio (WA) Pty Ltd
- Dominic Carbone & Associates
- RJ Back

It should be noted that Council is not constrained by the list of consultants approached and, it understood, not compelled to use the consultants on the DLG list, and so could select others to seek a quotation from.

It will also be noted that quotations are generally in the form of a rate per hour rather than a total price. This is because the asset management planning is part completed, and so the work left to be done is not fully quantified. Also the consultants will not be fully aware of how Council wants to progress the project.

On the matter of funding, whilst we have the Minister's letter and Council officers have spoken with DLG officers we still do not have the funding agreement and if it's not to had at the meeting date Council may wish to defer the appointment of a consultant until the

funding agreement is in place (an indication of the funding level has been given verbally but it is not clear if this was the whole amount or just the amount for this year, and whilst this could be clarified verbally it would be more certain if it was contained in a written agreement). Council may also wish to invite a reduced list of consultants to meet with it before making a decision.

In relation to a recommendation on which consultant to select, DLG has already done an assessment of all consultants on its list, this and by reputation, is an indication that all have the expertise to assist Council with its planning processes. The hourly rates, where quoted, are similar and so the task of selecting a consultant will not be easy and so, in hind sight, seeking quotations from fewer firms might have made the task easier.

Based on the uncertainty of receiving the funding agreement in time for the meeting, the high calibre of all consultants who have quoted and the lack of significant variation in price it is recommended that Council select two consultants to meet with it (perhaps at the next Council meeting) to discuss the process they would employ before making a final determination. It is recommended that Council invite BHW Consulting and DCA to meet with it. The reason for the recommendation is that both firms have very experienced principals/consultants, both have set an hourly rate that is from their submission to DLG and have made an estimate of the number of hours involved. It is suggested that this takes into account the unknown factors and give Council more latitude to shape the process especially the workshops with Council and the community consultation.

If Council wished to move more quickly and appoint a consultant at the meeting it is recommended that this be done subject to the funding agreement being satisfactory to Council. That the President and CEO be authorised to fix the seal provide the agreement is for funding only and does not bind Council to anything other than the completion of the planning processes. Also that the appointment be for the asset and financial planning only at this time with an agreement that the same consultant will be appointed to do the strategic plan when and if Council receives funding for this. If Council takes this path it is recommended that DCA be appointed.

CONSULTATION

The author has spoken with each of the consultants who have lodged a proposal.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

It is understood that the planning processes will be fully funded by DLG grant funds and so there would be no impact on Councils finances other than the relevant payments and the receipt of grant funds. This will be part of the funding agreement and so the details will be more certain once the agreement is to hand.

STRATEGIC IMPLICATIONS

The Strategic Plan will be reviewed as part of this process.

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 – ITEM 7.3.4

That Council

1. invite two of the consultants who lodged a proposal to assist Council with its integrated planning processes to meet with Council at its May meeting to discuss the process before making an appointment.
2. that the two consultants be BHW Consulting and Dominic Carbone & Associates.

MOVED INTO COMMITTEE

MOVED: Cr Biddle

SECONDED: Cr Marshall

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 7/0

Res 60/11

MOVED OUT OF COMMITTEE

MOVED: Cr Oversby

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 7/0

Res 61/11

COUNCIL DECISION – Item 7.3.4

MOVED: Cr Doust

SECONDED: Cr Muncey

That Council

1. invite two of the consultants who lodged a proposal to assist Council with its integrated planning processes to meet with Council at its May meeting to discuss the process before making an appointment.
2. that the two consultants be BHW Consulting and Dominic Carbone & Associates.
3. that the funding offer from Department of Local Government for Asset Management Long Term Financial Planning and Strategic Planning be accepted.

CARRIED 7/0

Res 62/11

7.3.5 Landcare/Sustainability Officer – purchase of vehicle

Location:	N/A
Applicant:	N/A
File:	
Disclosure of Officer Interest:	None
Date:	14 April 2011
Author:	Alan lamb
Authorizing Officer:	Not applicable
Attachments:	Nil

SUMMARY

The purpose of this report is to recommend to Council that it approves the purchase of a light vehicle, note this entails an amendment to the current budget.

BACKGROUND

The current budget provides for the employment of a Landcare/Sustainability officer for 4 days per week with half of the costs being recouped from the Bridgetown/Greenbushes Shire Council. The agreement between the two Councils is for the position to be trialled for twelve months.

A similar report was included in the March meeting agenda but withdrawn at the meeting because it appeared that the leasing option would be better.

COMMENT

The recruitment process has been completed and the position has now been filled. The position requires the use of a duel cab 4X4 utility and the budget was based on leasing a vehicle.

Looking more closely at the options of purchase as opposed to lease it is apparent that the former is substantially cheaper. The Manager of Works has indicated that if the position does not continue past the initial twelve months and if Council agrees to retain the vehicle, he would have use for it. Alternatively it could be sold.

Council is able to access vehicles from the State Governance pricing list and based on this a new vehicle would cost between \$27,600 and \$29,500, less GST, depending on the brand. It is expected that if the vehicle were to be sold after 12 months the value would be no more than \$2,000 less that the amount paid for it.

Quotations obtained from the WALGA preferred supplier for vehicle leases are between \$1,170.52 and \$836.07, depending on the brand, per month for a maintained operating lease and between \$1,022.25 and \$699.10 for the operating lease without maintenance (note all costs are net of GST). Taking the lowest cost to lease, the lease option would cost \$8,389.20, less GST, for twelve months plus the cost of operating the vehicle.

If we leave the operating costs aside for this exercise, because they would be the same for the lease and purchase options, and just look at the acquisition options, a purchased vehicle would have to sell for more than \$8389.20, including GST, less than Council paid for it for the lease option to be better. It is suggested that the cost to sale variance after 12 months would be more like \$2,000, including GST, (note Council pays less than market prices then sells back into the market). It is therefore recommended that Council approve the purchase option and that the funds come from the forecast unbudgeted surplus.

CONSULTATION

The author has spoken with relevant staff and vehicle suppliers.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

It should be noted that no provision been made in the current budget for the purchase of the vehicle in question. Provision was however made for a leased vehicle. Based on quotations received the cost to purchase a suitable vehicle less GST would be between \$27,600 and \$29,500, depending on the brand.

It was noted in the recent budget review that the surplus carried forward from 2009/10 was larger than expected and that this is expected to result in a larger than budgeted surplus at the end of 2010/11. It is recommended that the vehicle be purchased with funds from this forecast surplus.

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 – ITEM 7.3.5

MOVED: Cr Oversby

SECONDED: Cr Muncey

That Council amend the 2010/11 Budget to make a \$30,000 provision for the purchase of a four wheel drive dual cab utility with the funds coming from the forecast higher than expected surplus.

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 63/11

The Chief Executive Officer withdrew item 7.3.6.

Note: The subsequent information received revealed that grant application needed to be lodged and all funds expended by 31 May 2011.

7.3.6 Sporting Complex Water Tanks - Grant Application for Funding

Location:	<i>N/A</i>
Applicant:	<i>N/A</i>
File:	<i>FM/25/011</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>14 April 2011</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this report is to put before Council a proposal to seek funding for water tanks.

BACKGROUND

The Department of Agriculture and Food introduced a 2010 Dry Season Assistance Scheme that eligible Shires can access for funding for things that help communities manage hardship caused by the dry season. Grant applications close 31 May 2011 and, it is understood that, projects such as the provision of water tanks are eligible.

COMMENT

The lack of rain has impacted greatly on grassed areas at the sporting complex. A dry winter and a number of factors have combined with the result that there is not sufficient water storage to maintain playing surfaces properly. What water is left is being used just to keep grass alive. The lawn tennis courts are being kept alive but the surface is not up to competition standard, the hockey and football grounds are in worse condition.

Little can be done now but looking to the future, Council is working on improvements to water collection and storage and these efforts will better ensure there is enough water in future years. However the addition of water tanks would help in that this would allow the

tanks to be filled from existing services (i.e. Water Corporation supplies) and then pumped at the rate required to make reticulation systems operate. Another option is to increase the size of the services, so that the pressure is sufficient for the existing reticulation, but the tanks have the added advantage of being additional storage that could be filled from a variety of sources.

Grant recipients are required to report by 14 February 2012 on the project they undertook and so the project would have to have been completed by then.

The proposal is that Council approve the grant being applied for and then look at the project of the water tanks as part of its sporting complex planning (for the location of the tanks) and budget (for matching funding) with a view to have the project completed by November 2011.

CONSULTATION

The author has spoken with other members of staff.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil for 2010/11

STRATEGIC IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

- **Environmental**
The water tanks will enable grounds staff more option in trying to keep to watering programs.
- **Economic**
If scheme water is used the cost of maintaining sporting facilities will be increased.
- **Social**
The tanks should enable grounds staff to maintain playing surfaces to a higher level for a longer period in dry times.

VOTING REQUIREMENTS

Simple majority

OFFICER RECOMMENDATION – ITEM 7.3.6

That Council approve of a grant application being lodged with the Department of Agriculture and Food for water tanks at the sporting complex with the matter of matching funding being dealt with as part of the 2011/12 budget process.

7.3.7 Reserve 44608 – Community Resource Centre

Location:	<i>Reserve 44608, 86 Abel Street Boyup Brook</i>
Applicant:	<i>N/A</i>
File:	<i>LS/62/003</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>13 April 2011</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Letter and plan from State Land Services, copy of current lease</i>

SUMMARY

The purpose of this report is to advise Council that development on Reserve 44608 has encroached into the adjoining Reserve 13512 and to seek agreement for a boundary adjustment to resolve this. Also to advise that a new lease will be required.

BACKGROUND

As part of the asset management process it was noted that whilst Council had a management order for Reserve 44608 the order did not include power to lease. Also that the Reserve had been leased to the Boyup Brook Telecentre since 1 July 2005. The terms of this lease rental of \$1 per annum, the lease runs till 30 June 2015, the permitted use is the Telecentre.

Power to lease has now been granted (i.e. Council can lease the property for periods not exceeding 21 years subject to the Minister's approval). As Council had no power to lease the validity of the current lease is questionable. It will be noted from the attached letter that State Lands Services is not able to consider or approve the current lease and so a new lease needs to be prepared and, following negotiations with the lessee, forwarded to State Lands for Ministerial approval.

COMMENT

Reserve 44608 used to be part of Reserve 13512 and so buildings and fences were erected within the boundaries of this Reserve for the Police Department (the manager of Reserve 13512). At some later date a portion of the Reserve was handed back to State Land Services (or its predecessor) and then put under Shire management. At some point in time the building on Reserve 44605 was extended probably to an existing fence line but without apparent reference to the property boundary.

The remedy for this is for WA Police to hand back a further portion of Reserve 13512 and for the Shire to accept this portion being included in Reserve 44608. The WA Police are prepared to hand back the relevant portion and all that is needed is Council agreement to take on the additional land. The recommendation below is in line with this.

With regard to the lease, it is noted that a new lease is required. It is also noted that the lessee has had a name change and the leased area will, depending on Council's determination, change. Also that some clauses may not be appropriate now and so it is probably a good opportunity to look at a new lease from these perspectives. Council may wish to review the terms of the lease before going to the Community Resources Centre regarding a new lease but, it is suggested, should not seek to make detrimental, to the lessee, changes because the current lease was entered into in good faith with the expectation that it was valid and would operate until 2015.

It is recommended that Administration review the lease with the Community Resources Centre and come back to Council with a draft for consideration.

CONSULTATION

The author has spoken with State Land Services and WA Police.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

There will be a cost to have a new lease drawn up and it is recommended that Council meet this cost (estimated to be \$1,500).

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 – ITEM 7.3.7

MOVED: Cr Doust

SECONDED: Cr Biddle

That Council

- 1. Accept a portion of Reserve 13512 being included into Reserve 44608 to resolve an encroachment issue and Administration advise State Land Services accordingly.**
- 2. Require Administration to review the current lease over Reserve 44608 with the Community Resources Centre, and come back to it with a draft lease for consideration.**
- 3. Meet the cost of preparing a lease.**

CARRIED 7/0

Res 64/11

7.3.8 South West District Emergency Management Committee – Local Government Representatives

Location:	<i>N/A</i>
Applicant:	<i>N/A</i>
File:	<i>EM/31/001</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>14 April 2011</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>letter from SWDEMC</i>

SUMMARY

The purpose of this report is to put before Council the call for Councils to nominate a sub regional representative.

BACKGROUND

The South West District Emergency Management Committee (SWDEMC) is a FESA initiative. The committee meets periodically and until its last meeting (3 March 2011) the South West Local Governments had one representative on the committee. At this meeting it was decided that there should now be three and so the region was divided into three subregions and Boyup Brook is in a grouping of the Shires of Bridgetown/Greenbushes, Donnybrook/Balingup and Manjimup.

The next meeting of the committee is scheduled for 10 May and the Councils have been asked to liaise to determine a representative prior to this meeting.

The Shire President, Councillor Ginnane is prepared to be the groupings representative. The CEO has advised the CEOs of the other Shires in the grouping of this and suggested that they may wish to put the matter before their Councils this month.

COMMENT

It is noted that this matter could have been handled better by allowing more time and putting it through the WALGA Zone where Council's already come together on regional matters such as this. There is no coming together of Shires within the group that would facilitate a selection process.

Having said this, increased Local Government representation on this committee is a positive move and there is always an advantage of having a Shire representative on bodies that have impact on the Shire and so it is recommended that Cr Ginnane be put forward as this Council's preference to represent the Shires of Boyup Brook, Bridgetown/Greenbushes, Donnybrook/Balingup and Manjimup on the SWDEMC.

It will be noted from the attachment that it is not clear how the selection process will be conducted. The LEMC is being invited along to the next meeting to discuss the proposal and to make nominations and in the next sentence it appears that Local Governments are being asked to determine the representative for their group before the meeting.

CONSULTATION

The author has spoken with the President and emailed CEOs of Shires in the defined area.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil other than costs associated with attending meetings which are provided for in the 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

Simple majority

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.8

MOVED: Cr Doust

SECONDED: Cr Biddle

That Council nominate Councillor Ginnane to represent the Shires of Boyup Brook, Bridgetown/Greenbushes, Donnybrook/Balingup and Manjimup on the South West District Emergency Management Committee.

CARRIED 7/0

Res 65/11

7.3.9 Railway Reserve – Boyup Brook Men’s Association Request for Shire to lease

Location:	<i>Railway Station Reserve Boyup Brook Part Reserve 23055</i>
Applicant:	<i>Boyup Brook Men’s Association</i>
File:	<i>LS/62/013</i>
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>15 April 2011</i>
Author:	<i>Alan Lamb – Chief Executive Officer</i>
Authorizing Officer:	<i>Not applicable</i>
Attachments:	<i>Items from minutes of Council, a Landgate image of the Reserve, and the Association’s letter, email from PTA’s agent</i>

SUMMARY

The purpose of this report is to put before Council the Men’s Association’s request that Council lease a portion of Reserve 23055 and then lease it to the Association. The recommendation is that the request not be agreed to.

BACKGROUND

Much of the background is covered in previous reports and it will be noted that in October 2010 Council resolved as follows:

That Council:

- 1. not seek a new lease for the Boyup Brook Railway Station Reserve.**
- 2. direct Administration to prepare a report on alternative sites for Council owned structures on the Reserve, with relevant costs, and that the current month by month lease with the Public Transport Authority be continued in the interim.**

This resolution has been acted on in that the Public Transport Authority’s (PTA) agent has been advised, the Blackwood Basin Group has been advised and are in the process of relocating to the town centre.

COMMENT

The Men’s Association is keen to lease a portion of the Railway Station Reserve but there appears to be reluctance for the PTA to lease directly to that body (or any community group). The PTA’s agent Burgess Rawson noted in an email that if Council takes on a

lease from PTA and then sub leases to the Men's Association "In that way PTA can sue a Licence to Occupy document and avoid the need for a formal Solicitor prepared lease – plus the Public Liability Insurance aspect is covered under the Shire's Policy".

It is noted that whilst PTA would avoid solicitor's costs associated with the drawing up of a lease to the Men's Association the Shire would not because it would need a lease or licence (both need to be drawn up and there would be legal costs). It also noted that the PTA appears to want the Shire to sit between it and the Men's association to minimise its liability exposure. Council's public liability insurance premium costs would increase to cover the additional exposure and the Men's Association would still have to obtain their own public liability cover.

It is not clear why but there appears to be reluctance for PTA to lease directly to any community group and that it prefers to lease to the local Council and let it carry the burden and so it is possible that unless Council takes on the lease from PTA the Men's Association would not be able to use the land it seeks.

The Association has been advised of other possible opportunities that it may wish to consider then apply to Council to lease and these are on land that Council managers (i.e. Reserves), So whilst the Railway Station Reserve is their first choice if a lease there was not possible there may be other opportunities.

On the matter of Council's previous resolution not to seek a new lease. If Council wanted to review this position it would appear to have to rescind that motion and it would also have to consider if it can rescind the motion because it has been acted on, note Statutory Obligations. Clause 16.20.1 provides that a motion can be revoked provided no action has been taken in relation to the resolution. It could be interpreted that the previous motion related to the whole of that part of the Reserve that had been leased previously and so if the intention was to only lease from PTA that portion the Men's Associated wanted (i.e. a reduced area of the Reserve) Council might see this as a different lease all together and so not be constrained by the previous resolution.

It is recommended that the Men's Association's request for Council to take out a lease on a portion of Reserve 23055 and then sub lease it to the Association be denied. It is possible for PTA to lease direct to the Association if it wanted to, Council, becoming involved would add to Councils asset management burden unnecessarily, and the Association has other options if it cannot obtain a PTA lease. Council could support the Association's application for a PTA lease and it is recommended that this be included in the resolution.

CONSULTATION

The author has spoken with the President of the Men's Association.

STATUTORY OBLIGATIONS

Council's Standing Orders Local Laws have relevance to the rescision of a Council decision as follows:

16.20 Revoking Decisions - When This Can Occur

16.20.1 A substantive motion may be revoked at any time provided that no action in relation to the resolution being rescinded has already occurred;

16.20.2 If a decision has been made at a Council or a committee meeting then any motion to revoke or change the decision must be supported-

- (a) *in the case where an attempt to revoke or change the decision has been made within the previous three months but had failed, by an absolute majority; or*
- (b) *in any other case, by at least one third of the number of offices (whether vacant or not) of members of the Council or committee,*

inclusive of the mover.

16.20.3 If a decision has been made at a Council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made

- (a) *in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
- (b) *in any other case, by an absolute majority.*

16.20.4 This clause does not apply to the change to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Nil unless Council agrees to the request.

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. Please note that if there is to be a rescission motion then this will have to be supported by three Councillors and the resolution has to be by absolute majority (i.e. 5 votes for)

OFFICER RECOMMENDATION – ITEM 7.3.9

That Council

1. deny the Boyup Brook Men’s Association’s request for Council to take out a lease on a portion of Reserve 23055 and then sub lease it to the Association.
2. offer support for a Boyup Brook Men’s Association’s application to the Public Transport Authority to lease a portion of Reserve 23055.

COUNCIL DECISION – Item 7.3.9

MOVED: Cr Doust

SECONDED: Cr Oversby

That Council

1. deny the Boyup Brook Men’s Association’s request for Council to take out a lease on a portion of Reserve 23055 and then sub lease it to the Association.
2. offer support for a Boyup Brook Men’s Association’s application to the Public Transport Authority to lease a portion of Reserve 23055.
3. request that the Member for Blackwood Stirling (Hon Terry Redman support the Men in Shed’s application for a lease over a portion of Reserve 23055.

CARRIED 7/0

Res 66/11

Impartiality Interest

Cr Oversby declared an impartiality interest in the following item due to being a member of the Upper Blackwood Agricultural Society Show Committee.

7.3.10 2010 Dry Season Assistance Scheme – Community Grants

Location:	<i>N/A</i>
Applicant:	<i>N/A</i>
File:	
Disclosure of Officer Interest:	<i>None</i>
Date:	<i>11 April 2011</i>
Author:	<i>Daly Winter – Community Development Officer</i>
Authorizing Officer:	<i>Alan Lamb – Chief Executive Officer</i>
Attachments:	<i>Nil</i>

SUMMARY

The purpose of this report is to seek Council approval for expenditure of grant funds received.

BACKGROUND

Along with many other rural Shires Council was offered a grant of \$20,000 under the Department for Agriculture and Food’s Dry Season Assistance Scheme – Community Grants. The Grant was applied for and has been approved

The aim of this grant is to sustain vibrant rural communities. No restriction on the type of events held provided they foster community spirit and welfare, involve community groups and demonstrate benefit to the community.

The Shire may spend up to 10% of the grant on reasonable administration costs of those events. The Shire should endeavour, wherever possible, to employ local businesses or individuals to provide services and make purchases in the local community. Treat individuals equitably. As far as possible, events held need to be inclusive of all members of the community.

Funds cannot be used to purchase alcohol.

Support provided by the State Government for each Community Grant is to be appropriately acknowledged.

Acquittal by 14th February 2012. Written statement detailing how the grant was spent, details of the event, and demonstrate benefits to the community.

Any unspent monies to be repaid to the RBDC by the 30th November 2011.

COMMENT

Proposed use of funds:

1. **Anzac Day Celebrations \$1,700.00** - DSAS Funds to be used to help the community celebrate Anzac Day. In consultation with the RSL of Boyup Brook the Shire will assist the RSL promote Anzac Day 2011 by – producing and printing posters and programmes. An advert will also be placed into one of the local papers promoting the March and the Remembrance Ceremony. Promotion to be paid for by the Shire, plus a traffic Management Plan for the March. Celebrations include morning tea in the lesser hall. Catering to also be paid for by the Shire. Estimated attendance 200.
2. **Community Variety Concert \$3,400.00** - Hosted in the Town Hall over 1 or 2 consecutive nights. Free entry. With assistance from the Country Music Club of Boyup Brook (CMCBB) and the Boyup Brook Community Resource Centre.(BBCRC) The CMCBB would be responsible for coordinating the program of entertainment, whilst the BBCRC could be responsible for promotion, advertising and ticketing.

Hall hire, plus production costs: sound, lighting and a band in addition to a payment to BB CRC for acting as ticketing agent, production of posters, promotional materials and organising advertising to be paid for through DSAS funds.
3. **Upper Blackwood Agricultural Society Show 2011 \$9,000.00** - Support gold coin entry for the community for the Show in 2011. Allow all sections to come together at an event that really recognises the core of our communities' existence which is Agriculture. What better way to get together and talk over the issues that face our farmers and the community in these stressful times than at the show. Gold coin entry will hopefully encourage families to attend as a group and at the same time support the Show committee in a period where many agricultural families are experiencing extreme hardship.
4. **Community Christmas Celebrations \$3,900.00** - Coordinated by the community group this years celebrations will be much more elaborate with a Salvation Army brass band providing much of the musical accompaniment for the carols and the choir. Additional sound production will compliment the quality of the evening. A local bus

operator will be hired to ferry the Band from Bunbury to Boyup Brook and return. Note whilst this will be held after the cut off date of 30 November 2011 for expenditure, agreement has been obtained for the cut of date to be extended to accommodate this function.

5. **Administration cost \$2,000.00** - 10% applied to ALL activities.

CONSULTATION

Chief Executive Officer and funding provider.

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

Some of the DSAS funding will meet costs that Council has met in previous years approximately \$1,500.00 plus there is provision in the grant for \$2,000 for administration.

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

PROXIMITY INTEREST

Nil

COUNCIL DECISION & OFFICER RECOMMENDATION – ITEM 7.3.10

MOVED: Cr Muncey

SECONDED: Cr Oversby

That the Council approves the allocation of the 2010 Dry Season Assistance Scheme Grant of \$20,000.00 as follows:

Activity	Costs
Anzac Day	\$1,700.00
Community Variety Nights	\$3,400.00
UBAS Show 2011	9,000.00
Community Christmas Celebrations	3,900.00
Administration	\$2,000.00
Total	\$20,000.00

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 67/11

7.3.11 No3 State Barrier Fence – request to contribute

Location:	N/A
Applicant:	Northern Country Zone WALGA
File:	
Disclosure of Officer Interest:	None
Date:	14 April, 2011
Author:	Alan Lamb – Chief Executive Officer
Authorizing Officer:	Not applicable
Attachments:	Nil

SUMMARY

The purpose of this report is to put before Council the request from the Northern Country Zone of Western Australian Local Government Association for a contribution toward the upgrading of No3 State Barrier Fence with the recommendation that Council agrees.

BACKGROUND

The State Government has erected a number of “rabbit proof” fences and the history of these, including their maintenance makes interesting reading.

The Department for Agriculture and Food used to maintain these fences and in recent times the cost of this has fallen back on Local Government.

The Northern Zone seeks funding assistance to improve the No 3 fence to add a lap wire which will help prevent kangaroos from burrowing under the fence and allowing dogs to enter the protected area.

The State Government has agreed to fund the fencing materials and the Shires have to fund the work that includes grading to provide access. The total cost of the project is \$460,000 and each Shire is being asked to contribute \$3,000 from their CLGF regional projects component.

COMMENT

It is suggested that the barrier fences are very clearly a State responsibility because they were put in place to protect the agricultural regions not just one or two Shires. However the Shires have had to pick this up and the Northern Zone is looking at an upgrade and seeks \$3,000 from every rural Council in the State. Its idea is that the funds come from the Regional Portion of the CLGF.

It is suggested that property owners in this Shire benefit from the barrier fence and so Council should consider the request for funding assistance. The suggestion that the funds come from the Regional Portion of the CLGF is logical because this is a regional project (it's really a State project but there is probably no point in pursuing this argument now).

CONSULTATION

Nil

STATUTORY OBLIGATIONS

Nil

POLICY IMPLICATIONS

Nil

BUDGET/FINANCIAL IMPLICATIONS

There would be no impact on the current 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 7.3.11

That Council advise the Northern Country Zone of the Western Australian Local Government Association that it will include the No 3 State Barrier Fence up grade project in its 2011/12 Country Local Government Fund Regional Projects application and that the provision will be \$3,000.

COUNCIL DECISION – ITEM 7.3.11

The motion was not moved.

Note: The Council did not support the idea of providing funds for this project.

8.1 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:	11 April 2011
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 8th, 15th, 22nd and 29th March 2011.

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 O'Hare

SECONDED: Cr Marshall

That the minutes of the Youth Advisory Committee Minutes held on 8th, 15th, 22nd and 29th March be received.

CARRIED 7/0

Res 68/11

8.1.2 Minutes of the Blackwood River Valley Marketing Association

Location:	Boyup Brook Shire Chambers
Applicant:	N/A
File:	
Disclosure of Officer Interest:	Nil
Date:	5 April 2011
Author:	N/A
Authorizing Officer:	Alan Lamb – Chief Executive Officer
Attachments:	Yes – Minutes

BACKGROUND:

A Blackwood River Marketing Association Meeting was held on 8th March 2011.

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 Oversby

SECONDED: Cr Muncey

That the minutes of the Blackwood River Valley Marketing Association Meeting held on 8th March 2011 be received.

CARRIED 7/0

Res 69/11

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:	11 April 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 25th March 2011.

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 Oversby

SECONDED: Cr Muncey

That the minutes of WA Local Government Association South West Zone held on 25th March 2011 be received.

CARRIED 7/0

Res 70/11

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

11 CONFIDENTIAL MATTERS – BEHIND CLOSED DOORS

The meeting was closed to the public at 5.25pm in order to deal with a matter relating to an employee.

Behind Closed Doors

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, the time being 5.25pm.

5.25pm – Maria Lane left the Chambers.

5.25pm – John Eddy left the Chambers.

The meeting was reopened to the public at 5.30pm

12 CLOSURE OF MEETING

There being no further business the Shire President, Cr Terry Ginnane declared the meeting closed at 5.30pm