

I certify that this copy of the Minutes is a true and correct record of the meeting held on 26 July 2011

Signed:
Presiding Elected Member

Date:.....



**MINUTES OF THE ORDINARY COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 26 JULY 2011
COMMENCING AT 4.00PM**

PRESENT:	Presiding Member	Cr R T McClurg (Deputy President)
	Councillors	Cr J B Fitzhardinge Cr K J Hepworth Cr R W Roberts Cr B C Scott Cr I F West
	Staff	Mr G M Peddie – Acting Chief Executive Officer Mr F A Neuweiler – Manager, Community Development Mr G F Coaker – Town Planner Ms A McDonald – Executive Assistant/Records Officer (EA) (Minute Taker) Mr C Smith – Town Planning (University Student)
	Gallery	2 Members of the Public
GUESTS:		
APOLOGIES:		
LEAVE OF ABSENCE:		Cr S C Chandler (Shire President) Cr L W Wheeler

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 4.00pm and welcomed all those in attendance to the proceedings.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Cr S C Chandler – Leave of Absence

Cr L W Wheeler has submitted a written request for leave of absence for the Council Meeting of 26 July 2011.

COUNCIL MOTION:

MOVED: Cr I F West

SECONDED: Cr B C Scott

That Cr L W Wheeler be granted leave of absence for the Council Meeting of 26 July 2011.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

4.1. John Rossiter

Summary of Question One

The search engine on the shire website does not work, when will this issue be resolved?

The Acting Chief Executive Officer advised that the Shire is currently in the process of revamping the website and the issue will be resolved soon.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 28 JUNE 2011

A copy of the Minutes of the Ordinary Council Meeting held on 28 June 2011 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

MOVED: Cr K J Hepworth

SECONDED: Cr B C Scott

That the Minutes of the Ordinary Council Meeting, held on 28 June 2011, be confirmed as a true and accurate recording of that meeting.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

- 8.1.** The Roc Oil helicopter hangar shed is in town and will be erected in mid August.
- 8.2.** Cr McClurg, Cr West and Town Planner Glenn Coaker attended DAP training in Geraldton on Thursday 21 July 2011.
- 8.3.** The Shire of Irwin held their annual Heritage Awards on Friday 14 July 2011. Congratulations to Cr Scott on winning the award for the restoration and renovation of 10 Hunts Road, known as “Herbert’s House”.
- 8.4.** Congratulation to Cr West on his achievement of competency in the WALGA Elected Member training unit “*Ethics & Conduct of an Elected Member*”. The Presiding member presented Cr West with his Statement of Attainment certificate.
- 8.5.** The Presiding member expressed Councils appreciation to Geoff Peddie and his team for the completion of the 2011/12 Budget.

9. REPORTS

DCS.382

Subject: Accounts for Payment
Reporting Officer: Director Corporate Services
Date of Report: 26 July 2011
File Reference: Minute Book
Voting Requirements: Simple Majority

Issue:

To receive the list of accounts paid under delegated authority during June 2011.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of June 2011.

Policy Implications:

Under Delegation C3 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

Statutory Implications:

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.

- (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.

Officer's Recommendation:

That the Accounts paid during June 2011, represented by Municipal Cheque Numbers 28211 - 28266, EFT payment numbers 11681 – 11790 totalling \$691,226.05, Trust Payment Cheque Numbers: 2255 - 2260 totalling \$10,053.39 & Police Licensing Payment No's PL010611 – PL 300611 totalling \$56,577.45 be received.

COUNCIL MOTION:

MOVED: Cr B C Scott

SECONDED: Cr K J Hepworth

That the Accounts paid during June 2011, represented by Municipal Cheque Numbers 28211 - 28266, EFT payment numbers 11681 – 11790 totalling \$691,226.05, Trust Payment Cheque Numbers: 2255 - 2260 totalling \$10,053.39 & Police Licensing Payment No's PL010611 – PL 300611 totalling \$56,577.45 be received.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

DCS.383

Subject: Financial Statements for the Period ending 30/06/2011
Reporting Officer: Director Corporate Services
File Reference: Minute Book
Date Prepared: 26 July 2011
Voting Requirements: Simple Majority

Issue:

To consider and receive the Monthly Financial Statements for the period 1 July 2010 to 30 June 2011.

Body / Background:

The Monthly Financial Report to the 30 June 2011 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Rate Setting Statement
- Statement of Comprehensive Income by Program
- Statement of Comprehensive Income by Nature & Type
- Statement of Financial Position
- Statement of Changes in Equity
- Statement of Cash Flows
- Disposal of Assets
- Information on Borrowings
- Reserve Funds
- Net Current Assets
- Rating Information
- Trust Fund Summary
- Statement of Bank Reconciliations
- Capital Works Program
- Restricted Assets Statement
- Schedules 3 – 14 Budget vs Actuals Comparison
- APU Operating Statement

Officers Comment:

Nil.

Financial Implications:

Nil.

Statutory Environment:

The Local Government (Financial Management) Regulations provides as follows:

Section 34. Financial activity statement report

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);

- (b) budget estimates to the end of the month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing -
- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - (b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown -
- (a) according to nature and type classification;
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be -
- (a) presented to the council -
 - (i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or
 - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and
 - (b) recorded in the minutes of the meeting at which it is presented.

Policy Implications:

Nil.

Officers Recommendation:

That the Monthly Financial Statement for the period 1 July 2010 to 30 June 2011 be received.

COUNCIL MOTION:

MOVED: Cr I F West

SECONDED: Cr J B Fitzhardinge

That the Monthly Financial Statement for the period 1 July 2010 to 30 June 2011 be received.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

DCS.384

Subject: Adoption of 2011/2012 Shire of Irwin Budget
Reporting Officer: Director Corporate Services
File Reference: FM.BU.11.12
Date Prepared: 19 July 2011
Voting Requirements: Absolute Majority

Issue:

To formally adopt the Shire of Irwin 2011/12 Budget and associated resolutions.

Body / Background:

At the June Council forum substantial time and discussion was given to consideration of the provisions in the Draft Budget papers including rating levels, capital improvements, debt management and operational requirements. General acceptance on the major items contained within the draft budget was reached, and the formal budget has been prepared with changes following the forum discussion and now presented for formal adoption by Council.

The budget as presented is in the format required by the Local Government Act 1995, and accompanying Financial Management Regulations 1996, as well as the Australian Accounting Standards.

Officers Comment:

The differential rates and minimum payments adopted by Council at the meeting of 28 June 2011 have been advertised in accordance with statutory requirements. No submissions were received during the advertising period regarding the proposed rates. It is anticipated by the meeting date approval will be received from the Director General of the Department of Local Government for Council to adopt a UV differential rate which is more than twice the lowest rate and for minimum rates to be imposed on more than 50% of properties in vacant land categories of GRV – Undeveloped and Mining – Undeveloped.

The Budget reflects the discussions held at the June 2011 Forum to increase rate revenue by approximately 5% as well as adjustments that have arisen since the preparation of the draft budget papers. Such adjustments include the following:

- Amendment to the final surplus amount due to projects being incomplete. It should be noted that the surplus is provisional and is subject to change dependent upon further 10/11 creditors invoices being received and adjustments made during audit.
- Increase in Royalties for Regions local component funding for 2010/11 to \$394,200,
- Inclusion of \$35,000 for design work for improvements to the boat ramp at Port Denison and grant revenue from Lotterywest to fund the project.
- Funding of \$35,000 for provision of parking and pathways at Memorial Park has been carried over from 2010/11.
- Funding for the Henry Road project has been amended to reflect the carryover of the 2010/11 Stage one part of the project which is offset by the carryover of Royalties for Regions grant funding.

Financial Implications:

The 2011-12 Municipal Budget provides for the revenue and expenditure requirements of the Shire of Irwin for the period 1 July 2011 to 30 June 2012.

Statutory Environment:

The Local Government Act provides as follows:

6.2. Local government to prepare annual budget

- (1) During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt*, in the form and manner prescribed, a budget for its municipal fund for the financial year ending on the 30 June next following that 31 August.

** Absolute majority required.*

- (2) In the preparation of the annual budget the local government is to have regard to the contents of the plan for the future of the district made in accordance with section 5.56 and to prepare a detailed estimate for the current year of —
 - (a) the expenditure by the local government;
 - (b) the revenue and income, independent of general rates, of the local government; and
 - (c) the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.
- (3) For the purposes of subsections (2)(a) and (b) all expenditure, revenue and income of the local government is to be taken into account unless otherwise prescribed.
- (4) The annual budget is to incorporate —
 - (a) particulars of the estimated expenditure proposed to be incurred by the local government;
 - (b) detailed information relating to the rates and service charges which will apply to land within the district including —
 - (i) the amount it is estimated will be yielded by the general rate; and
 - (ii) the rate of interest (if any) to be charged by the local government on unpaid rates and service charges;
 - (c) the fees and charges proposed to be imposed by the local government;
 - (d) the particulars of borrowings and other financial accommodation proposed to be entered into by the local government;
 - (e) details of the amounts to be set aside in, or used from, reserve accounts and of the purpose for which they are to be set aside or used;
 - (f) particulars of proposed land transactions and trading undertakings (as those terms are defined in and for the purpose of section 3.59) of the local government; and
 - (g) such other matters as are prescribed.
- (5) Regulations may provide for —
 - (a) the form of the annual budget;
 - (b) the contents of the annual budget; and
 - (c) the information to be contained in or to accompany the annual budget.

Policy Implications:

Nil.

Officers Recommendation:

1. Adoption of the 2011/2012 Municipal Budget

That the Shire of Irwin 2011/2012 Budget Document, as presented, be adopted as the Shire of Irwin Budget for the year ending 30 June 2012, which includes the following:

- Statement of Comprehensive Income by Type and Nature showing a net result for the year of \$981,950,
- Statement of Comprehensive Income by Programme showing a net result for the year of \$981,950,
- Statement of Cash Flows,
- Rate Setting Statement showing an amount required to be raised from rates of \$3,641,900,
- Notes to and forming part of the budget
- Budget Programme schedules,
- Transfers to and from the Restricted and Reserves accounts.

2. Differential Rating Levels

That Council impose the following differential rates in the dollar and minimum rates on Gross Rental and Unimproved Values for the purpose of levying differential rates for the 2011/2012 financial year.

Rate Category	Rate in Cents (in the Dollar)	Minimum Rates
<u>Gross Rental Valuations</u>		
Residential	8.64	\$745
Commercial	8.64	\$745
Industry	8.64	\$745
Vacant Land	8.64	\$745
<u>Unimproved Valuations</u>		
Mining	6.5	\$745
Policy Area (A)	0.7662	\$745
Policy Area (B)	0.7662	\$745
Policy Area (C)	0.7662	\$745
Policy Area (D)	0.7662	\$745
Policy Area (E)	0.7662	\$745
Policy Area (F)	0.7662	\$745
Policy Area (G)	0.7662	\$745

These rates reflect an increase of 5% percent in total rate revenue from GRV and non-mining UV properties, which is designed to ensure Councils operational requirements are kept in line within the projected levels of inflation, increased state government costs of power and water, and to continue to invest in infrastructure works to stimulate and promote the economic development of the Shire.

3. Outstanding Rates Penalty Interest

That Council adopts an interest rate of eleven (11) percent charged daily on all rates and costs of proceedings to recover such charges that remains unpaid after becoming due and payable.

This reflects the loss in investment income to Council and to encourage early payment.

4. Instalment Options

Regulation 64 (2) of the Local Government (Financial Management) Regulations 1996 requires Council, when adopting the budget, to determine the due dates for payment of instalments after the due date of the first instalment.

That Council determines that it will provide options to pay rates using one, two and four instalments and that each instalment date will be at intervals of two months from the date of the first instalment.

5. Instalment Options Administration Fee

That Council adopts an instalment administration charge of \$5.00 per instalment on each instalment payment after the initial instalment is paid (e.g.: 3 x repayments = \$15).

This is to reflect the administrative cost to Council.

6. Instalment Options Interest Levy

That Council adopts an interest rate of 5.5% charged daily where the payment of rates is by instalment.

This is to reflect the loss of investment income to Council.

7. Members Sitting Fees

The level of sitting fees paid to elected members is currently set at an annual payment of \$6,000 for the Presiding member and \$3,000 for Councillors.

In lieu of meeting fees Council may adopt an annual allowance, which has a minimum/maximum of \$2,400 and \$7,000 for elected members and \$6,000 and \$14,000 for the President.

That Council adopts a Shire President's annual allowance in lieu of individual meeting fees of \$6,000 per year.

That Council adopts a Members' annual allowance in lieu of individual meeting fees of \$3,000 per year.

8. Shire Presidents Allowance

The minimum/maximum allowance for the Shire President is \$600 and \$12,000 or 0.002 of operating revenue, whichever is the greater, to a maximum of \$60,000. The current level paid by Council is \$6,000.

That Council adopts a Shire President's annual local government allowance of \$6,000 per annum.

9. Deputy Shire Presidents Allowance

The Act and Regulations provide that the Deputy Shire President may be paid an annual local government allowance of up to 25% of the Shire President's allowance.

That Council adopts a Deputy Shire President's annual local government allowance of \$1,500 per annum.

10. Annual Telecommunications and IT Allowance

Section 34A and 34AA of the LG Act (Administration) Regulations provides that the maximum Allowance that a Council may make for Telecommunications Expenses and Information Technology Expenses in lieu of actual reimbursements is \$2,400 and \$1,000 respectively. Whilst Council members have not claimed for such expenses in the past, it is suggested that an Annual Telecommunications and IT Allowance of \$1,000 be adopted to cover expenses for such items. Such an allowance will provide scope for Council to set future policy.

That Council adopts an Annual Telecommunications and IT Allowance of \$1,000 per annum.

11. Budget Review Variance

The Act requires that a variance percentage be adopted by Council to be used during the budget review process and financial reporting.

That the percentage variance used during the budget review process and for financial reporting purposes be set at 10% or \$5,000, whichever is greater.

12. Schedule of Fees and Charges

That Council adopts the Schedule of Fees and Charges as listed in the Budget Document for 2011/12.

COUNCIL MOTION:

MOVED: Cr K J Hepworth

SECONDED: Cr B C Scott

1. Adoption of the 2011/2012 Municipal Budget

That the Shire of Irwin 2011/2012 Budget Document, as presented, be adopted as the Shire of Irwin Budget for the year ending 30 June 2012, which includes the following:

- *Statement of Comprehensive Income by Type and Nature showing a net result for the year of \$981,950,*
- *Statement of Comprehensive Income by Programme showing a net result for the year of \$981,950,*
- *Statement of Cash Flows,*
- *Rate Setting Statement showing an amount required to be raised from rates of \$3,641,900,*
- *Notes to and forming part of the budget*
- *Budget Programme schedules,*
- *Transfers to and from the Restricted and Reserves accounts.*

2. Differential Rating Levels

That Council impose the following differential rates in the dollar and minimum rates on Gross Rental and Unimproved Values for the purpose of levying differential rates for the 2011/2012 financial year.

<i>Rate Category</i>	<i>Rate in Cents (in the Dollar)</i>	<i>Minimum Rates</i>
<u>Gross Rental Valuations</u>		
<i>Residential</i>	8.64	\$745

Commercial	8.64	\$745
Industry	8.64	\$745
Vacant Land	8.64	\$745
<u>Unimproved Valuations</u>		
Mining	6.50	\$745
Policy Area (A)	0.7662	\$745
Policy Area (B)	0.7662	\$745
Policy Area (C)	0.7662	\$745
Policy Area (D)	0.7662	\$745
Policy Area (E)	0.7662	\$745
Policy Area (F)	0.7662	\$745
Policy Area (G)	0.7662	\$745

3. Outstanding Rates Penalty Interest

That Council adopts an interest rate of eleven (11) percent charged daily on all rates and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.

4. Instalment Options

That Council determines that it will provide options to pay rates using one, two and four instalments and that each instalment date will be at intervals of two months from the date of the first instalment.

5. Instalment Options Administration Fee

That Council adopts an instalment administration charge of \$5.00 per instalment on each instalment payment after the initial instalment is paid (e.g.: 3 x repayments = \$15).

6. Instalment Options Interest Levy

That Council adopts an interest rate of 5.5% charged daily where the payment of rates is by instalment.

7. Members Sitting Fees

That Council adopts a Shire President's annual allowance in lieu of individual meeting fees of \$6,000 per year.

That Council adopts a Members' annual allowance in lieu of individual meeting fees of \$3,000 per year.

8. Shire Presidents Allowance

That Council adopts a Shire President's annual local government allowance of \$6,000 per annum.

9. Deputy Shire Presidents Allowance

That Council adopts a Deputy Shire President's annual local government allowance of \$1,500 per annum.

10. Annual Telecommunications and IT Allowance

That Council adopts an Annual Telecommunications and IT Allowance of \$1,000 per annum.

11. Budget Review Variance

That the percentage variance used during the budget review process and for financial reporting purposes be set at 10% or \$5,000 whichever is greater.

12. Schedule of Fees and Charges

That Council adopts the Schedule of Fees and Charges as listed in the Budget Document for 2011/12.

CARRIED BY ABSOLUTE MAJORITY

VOTING DETAILS

6/0

DCS.385

Subject: WALGA – Annual General Meeting Motions and Delegates
Reporting Officer: Acting Chief Executive Officer
File Reference: GR.LO.4
Date Prepared: 20 July 2011
Voting Requirements: Simple Majority

Issue:

To provide direction to Council's delegates for voting on motions at the WALGA Annual General Meeting.

Body / Background:

The Annual General Meeting of the West Australian Local Government Association will be held on Saturday 6 August 2011 at the Perth Convention and Exhibition Centre.

Shire President Cr Stuart Chandler and Deputy President Cr Rob McClurg have been registered as delegates to vote on behalf of the Shire of Irwin.

There are only seven AGM motions this year, which are attached.

Officers Comment:

It is important that Council provide direction to the delegate on Council's views of the Agenda motions. It needs to be acknowledged, however, that the delegates require discretion as often amendments and other information is raised at the meeting which results in the original position being changed.

Financial Implications:

Nil.

Statutory Environment:

Nil.

Policy Implications:

Nil.

Officers Recommendation:

- That Council appoints Shire President, Cr Stuart Chandler, and Deputy Shire President, Cr Rob McClurg, as the delegates to vote for and on behalf of the Shire of Irwin at the WALGA Annual General Meeting to be held at the Perth Convention and Exhibition Centre on Saturday 6 August 2011.
- That Council's position on the Agenda items to be debated at the WALGA AGM be as follows:

3.1	Proposed Amendments to the WALGA Constitution	SUPPORT
3.2	Container Deposit Legislation	SUPPORT
3.3	Local Government Amendment (Regional Subsidiaries) Bill 2010	SUPPORT

3.4	Licensing of Scrap Metal Yards	SUPPORT
3.5	Review of Dog Registration Fees	SUPPORT
3.6	Rate Exemptions Charitable Bodies	SUPPORT
3.7	Local Government Award Coverage	OPPOSE

COUNCIL MOTION:

MOVED: Cr I F West

SECONDED: Cr J B Fitzhardinge

- *That Council appoints Shire President, Cr Stuart Chandler, and Deputy Shire President, Cr Rob McClurg, as the delegates to vote for and on behalf of the Shire of Irwin at the WALGA Annual General Meeting to be held at the Perth Convention and Exhibition Centre on Saturday 6 August 2011.*
- *That Council's position on the Agenda items to be debated at the WALGA AGM be as follows:*

3.1	<i>Proposed Amendments to the WALGA Constitution</i>	<i>SUPPORT</i>
3.2	<i>Container Deposit Legislation</i>	<i>SUPPORT</i>
3.4	<i>Local Government Amendment (Regional Subsidiaries) Bill 2010</i>	<i>SUPPORT</i>
3.4	<i>Licensing of Scrap Metal Yards</i>	<i>SUPPORT</i>
3.5	<i>Review of Dog Registration Fees</i>	<i>SUPPORT</i>
3.6	<i>Rate Exemptions Charitable Bodies</i>	<i>SUPPORT</i>
3.7	<i>Local Government Award Coverage</i>	<i>OPPOSE</i>

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

TP.519

Subject: Proposed Road Closure – Adjacent to Lot 20 Midlands Road, Irwin
Proponent: R Copeland
Reporting Officer: Town Planner
File Reference: RD.RO
Date Prepared: 19 July 2011
Voting Requirements: Simple Majority

Issue:

To consider for closure the unconstructed road reserve abutting Lot 20 Midlands Road, Irwin and the railway reserve.

Background:

Early in 2010 correspondence was received from Hille Thompson & Delfos Surveyors and Planners on behalf of Mr R Copeland, requesting Council consider closing the above mentioned unmade road reserve.

At the Ordinary Council meeting held on 27 April 2010 Council resolved the following:

'That Council advise HTD Surveyors and Planners that it has no objection to the land within the road reserve as identified being utilised to the benefit of Lot 20 Midlands Road, Irwin. And that it supports the closure of this portion of the road reserve.'

Section 58 of the *Land Administration Act 1997* requires that specific wording is used to initiate a road closure. The above resolution did not meet the requirements of the Act; hence, it was presented to Council for formal initiation again on 19 April 2011 at which time Council resolved the following:

'That Council resolves to initiate the proposed closure of the unmade road reserve on the northern boundary of Lot 20 Midlands Road, Irwin in accordance with section 58 of the Land Administration Act 1997.'

A plan showing the portion of road proposed to be closed is attached.

Consultation:

Following the formal initiation on 19 April 2011, the proposed closure was advertised for public comment in accordance with the *Land Administration Regulations 1998*.

This included publication of a notice in both the Dongara Rag and the Geraldton Guardian. Correspondence was also referred to the relevant servicing authorities and to surrounding land owners.

The advertising was undertaken for a period of 35 days and concluded on 9 June 2011. At the conclusion of advertising no submissions were received.

Statutory Environment:

Part 5 of the *Land Administration Act 1997* deals with closure of public roads.
Section 58 *Land Administration Act*.

58. Closure of roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.

- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —
 - (a) by order grant the request;
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (5) If the Minister grants a request under subsection (4) —
 - (a) the road concerned is closed on and from the day on which the relevant order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (6) When a road is closed under this section, the land comprising the former road —
 - (a) becomes unallocated Crown land; or
 - (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.

Officers Comment:

Council has previously indicated their support for the road closure and formally initiated it at their meeting dated 19th of April 2011.

At the conclusion of advertising the circumstances surrounding the proposed closure remain valid, particularly that the road is unconstructed and is not required for access.

It is recommended that Council request the Minister to permanently close the road.

Upon referral of the road closure to the Minister, the proponent will need to prepare a survey for its amalgamation into the adjoining lot and also agree to pay the Crown for the value of the land to be amalgamated, based on a valuation prepared by Landgate. In this regard, the proponent has already had the amalgamation survey prepared by HTD Surveyors and Planners (see attached) and has also indicated his willingness to purchase the land.

Financial Implications:

Nil.

Policy Implications:

Nil.

Officers Recommendation:

That Council request the Minister permanently close the portion of unmade road reserve on the northern boundary of Lot 20 Midlands Road, Irwin in accordance with Section 58 of the *Land Administration Act 1997*.

COUNCIL MOTION:

MOVED: Cr K J Hepworth

SECONDED: Cr Fitzhardinge

That Council request the Minister permanently close the portion of unmade road reserve on the northern boundary of Lot 20 Midlands Road, Irwin in accordance with Section 58 of the Land Administration Act 1997.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

TP.520

Subject: Proposed Prostitution Bill - 2011
Proponent: State Government of Western Australia
Reporting Officer: Town Planner
File Reference: CM.LE.1
Date Prepared: 19 July 2011
Voting Requirements: Simple Majority

Issue:

To consider an invitation from the Attorney General to comment on the State Government's proposed Prostitution Bill 2011.

Background:

The Department of the Attorney General has recently prepared the above draft bill for the purpose of seeking public comment.

The issue of reforming prostitution in Western Australia has been on-going for some years. The last time local governments were asked to consider new legislation was under the previous State Government's proposed *Prostitution Amendment Act 2008*. This proposed legislation progressed to a point where it was assented to by Parliament and only required proclamation to come into effect, however, was repealed upon the change in State Government that same year.

This newly proposed Bill is the current State Government's proposal to reform prostitution and the Shire of Irwin has been invited to comment.

Statutory Environment:

Prostitution is currently illegal in Western Australia. There are no statutory planning considerations.

The Proposal:

A copy of the 'Prostitution Bill 2011 – Summary of Key Clauses' document provided by the Department is attached. A full copy of the draft Bill can be viewed on the State Law Publisher website at: <http://www.slp.wa.gov.au/salesinfo/Prostitution%20Bill%202011.pdf>

Essentially, the legislation seeks to legalise prostitution while instituting strict controls over its location and operation. This includes a complete ban on prostitution in residential areas and within proximity to residential or sensitive premises, and a requirement that all operators have both planning approval from the relevant local government and are licensed by the Department of Racing Gaming and Liquor.

A summary of the key elements of the legislation as they relate to local government, and which the Attorney General is seeking comments on, are outlined as follows:

- The legislation will require that all forms of prostitution be licensed by the Department of Racing Gaming and Liquor. This is partly intended to ensure that complaints are handled by the WA Police, rather than the onus being placed on local government.
- The Bill will ensure that local governments cannot use planning provisions within their respective Local Planning Schemes to override the blanket prohibition of prostitution in residential areas. However, in areas other than residential, local governments will be able to implement planning provisions to consider planning applications for such.

- The State Government will have discretion to order that licenses not be issued for specific areas within the State. It is envisaged that local governments will be influential in determining any submissions for such and their location.
- The Bill proposes that existing, inappropriately located businesses may continue to operate for up to 18 months after the legislation comes into effect, providing that they do not negatively impact on their surrounding areas. It is envisaged that local government will be influential in assisting the Department of Racing Gaming and Liquor in considering the performance of existing businesses seeking this extension.

Officers Comment:

Prostitution has not traditionally been a significant land use planning concern for the Shire of Irwin. It is not expected that this situation will change in the immediate future. There is potential however, as the Shire's population increases that the issue of prostitution may on occasion, require consideration by the Shire.

In this regard, the proposed Bill is generally considered appropriate. In particular, the intention that complaints and investigations be handled by the WA Police rather than local government is fully supported. This is an area most appropriately handled by the WA Police and the onus should not be placed on local government to conduct initial investigations. It would however, be appropriate for local government to become involved once issues relating to planning consent are raised.

In relation to the complete ban in residential areas, it is noted a single person prostitution business operating from home may have some similarities to a Home Occupation, which are generally viewed as an acceptable form of residential business. However, the nature of the service in this instance and the potential hours of operation are not considered appropriate and as such the proposed ban from the residential zone, and within proximity to residential and sensitive premises, is supported.

Lastly, in terms of planning control, the information supplied by the Attorney General thus far refers to the application of 'a consistent approach to such matters in planning schemes...' It is expected therefore, that if and when the legislation comes into force, the Western Australian Planning Commission would be responsible for preparing model provisions to be included in Local Planning Schemes. It is at this point that the statutory planning considerations would need to be considered by the Shire and where appropriate, more specific comments provided.

Financial Implications:

Nil.

Policy Implications:

Nil.

Officers Recommendation:

That Council advises the Attorney General that the draft Prostitution Bill 2011 is generally supported, and that the Shire would appreciate the opportunity to provide more detailed comments on proposed Local Planning Scheme provisions, subsequent to the legislation being finalised.

COUNCIL MOTION:

MOVED: Cr B C Scott

SECONDED: Cr I F West

That Council advises the Attorney General that the draft Prostitution Bill 2011 is generally supported, and that the Shire would appreciate the opportunity to provide more detailed comments on proposed Local Planning Scheme provisions, subsequent to the legislation being finalised.

CARRIED UNANIMOUSLY

VOTING DETAILS

6/0

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 4.16pm.

I certify that this copy of the Minutes is a true and correct record of the meeting held on
26 July 2011

Signed:
Presiding Elected Member

Date:.....