

I certify that this copy of the Minutes is a true and correct record of the meeting held on 11 November 2008

Signed:
Presiding Elected Member

Date:.....



**MINUTES FOR ORDINARY COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 11 NOVEMBER 2008
COMMENCING AT 4.00PM**

THERE ARE NO ATTACHMENTS TO THIS COPY OF THE MINUTES. TO VIEW THE ATTACHMENTS, PLEASE CONTACT THE SHIRE OFFICE ON 9927 0000 OR EMAIL cdadmin@irwin.wa.gov.au

PRESENT:	President	Cr R K Parsons (Chairperson)
	Councillors	Cr S C Chandler (Deputy Shire President) Cr G C Bass Cr G L Dean-Gundill Cr R J Gillam (from 4.04pm) Cr K J Hepworth Cr R T McClurg Cr R W Roberts
	Staff	Mr B E Jones – Chief Executive Officer Mr G M Peddie – Director, Corporate Services (Minute Taker) Mr F A Neuweiler – Manager, Community Development Mr G F Coaker – Town Planner
GUESTS:		Mr K Kennedy Mr A Kailis
APOLOGIES:		Cr L W Wheeler
LEAVE OF ABSENCE:		-

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President 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 Lance Wheeler recorded his apologies.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

Alex Kailis– MG Kailis & Co and Kris Kennedy – Koltasz Smith

Mr Kailis addressed Council on the development of MG Kailis's property in Brady Road, being the former site of the lobster processing factory. He advised that the company would in the future make application requesting a rezoning of the property to suit the proposed development.

Cr R Gillam entered the meeting at 4.04pm.

Mr Kennedy, Principal Planner for the project, tabled concept plans providing basic details of the intention to use the site for a residential development, including the provision of 35 medium density housing lots.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr R Roberts has requested Leave of Absence from the following Council Meeting:

- 25 November 2008

COUNCIL MOTION:

Moved Cr Dean-Gundill, seconded Cr McClurg

That Cr R Roberts be granted Leave of Absence for the Council Meeting scheduled for 25 November 2008

VOTING DETAILS:

**CARRIED
8/0**

6. PETITIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 28 OCTOBER 2008

A copy of the Minutes of the Ordinary Council Meeting held on 28 October 2008 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

Moved Cr Roberts, seconded Cr Bass

That the Minutes of the Ordinary Council Meeting, held on 28 October 2008, be confirmed as a true and accurate recording of that meeting.

VOTING DETAILS:

**CARRIED
8/0**

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

8.1 Waldeck Street Property

No tenders were received for the Waldeck Street property. A report will be presented to the next meeting to consider what course of action to take.

8.2 Grannies Beach

The Shire has received grant for sand renourishment works to be carried out at Grannies Beach. Work started on Monday 10 November 2008.

9. REPORTS

DCS.309

Subject:	2007/08 Annual Report and Auditor's Report
Reporting Officer:	Director Corporate Services
File Reference:	DA.4
Date Prepared:	24 October 2008
Voting Requirements:	Absolute Majority

Issue:

To consider and accept the Shire of Irwin Annual Report 2008.

Body / Background:

The Local Government Act 1995 requires Councils to prepare and accept an Annual Report for each financial year by 31 December after that financial year.

Officer's Comment:

The Annual Report, prepared in accordance with the requirements of the Local Government Act, is enclosed with the agenda papers for Councillors' perusal, consideration and acceptance.

Council's Auditors, UHY Haines Norton, have completed an audit of Council's financial records and have forwarded an audit report to the Shire President as well as a management letter.

Once the Annual Report has been accepted, Council is required to give local public notice of the availability of the Annual Report as soon as practicable.

Financial Implications:

Nil.

Statutory Environment:

- The Local Government Act 1995 Section 5.53 provides that the Annual Report is to contain the following:
 - A report from the Shire President;
 - A report from the Chief Executive Officer;
 - An overview of the plan for the future of the district made in accordance with Section 5.56, including major initiatives that are proposed to commence or continue in the next financial year,
 - The financial report for the financial year;
 - Such information as may be prescribed in relation to the payments made to employees;
 - The auditors report for the financial year;
 - Such other information as may be prescribed.

- The Local Government Act 1995 Section 7.2 provides:
 - The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by each local government.

- The Local Government (Audit) Regulations Section 10 provides:
1. An auditor's report is to be forwarded to the persons specified (Mayor or President, CEO and Minister) within 30 days of completing the audit.
 2. The report is to give the auditor's opinion on —
 - a. the financial position of the local government; and
 - b. the results of the operations of the local government
 3. The report is to include —
 - a. any material matters that in the opinion of the auditor indicate significant adverse trends in the financial position or the financial management practices of the local government;
 - b. any matters indicating non-compliance with Part 6 of the Act, the Local Government (Financial Management) Regulations 1996 or applicable financial controls in any other written law;
 - c. details of whether information and explanations were obtained by the auditor; and
 - d. a report on the conduct of the audit.
 4. Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor's report and to forward a copy of the management report to the persons specified (Mayor or President, CEO and Minister) with the auditor's report.

Policy Implications:

Nil

Officer's Recommendation:

1. That Council receives the Audit Report from Council's Auditors, UHY Haines Norton, for the year ending 30 June 2008.
2. That Council accept the 2007/08 Annual Report, as circulated, for the year ended 30 June 2008 and that local public notice be given of its availability as soon as practicable.

COUNCIL MOTION:

Moved Cr Dean-Gundill, seconded Cr Hepworth

1. ***That Council receives the Audit Report from Council's Auditors, UHY Haines Norton, for the year ending 30 June 2008.***
2. ***That Council accept the 2007/08 Annual Report, as circulated, for the year ended 30 June 2008 and that local public notice be given of its availability as soon as practicable.***

CARRIED BY ABSOLUTE MAJORITY

VOTING DETAILS:

8/0

DCS.310

Subject: Lease of Land at the Airstrip
Reporting Officer: Director Corporate Services
File Reference: AA.6
Date Prepared: 3 November 2008
Voting Requirements: Simple Majority

Issue:

To consider the applications from three parties for the lease of land at the airstrip for the purpose of constructing aircraft hangars.

Body / Background:

Applications have been received from the following three applicants for the lease of land at the airstrip for the purpose of constructing hangars, listed in order of receipt:

- D & M Stokes
- I. West
- B Taylor

Council considered this item at the meeting held on 28 October 2008 and resolved to defer the matter to reconsider at this meeting.

Officer's Comment:

A copy of the standard lease document used previously has been provided for Councillors' information and consideration. The lease provides for a term of five years with an option for Council to agree for a further five year period. The lease fee was originally set at \$100 in 2006 increasing by CPI each year. The current amount is \$107.60.

To date two leases have been approved in Lease Areas A & B and therefore if approved the applications being considered will take up Lease Areas C, F and G. When adopting the structure plan Areas D & E were set aside as aircraft parking areas. Mr and Mrs Stokes have also advised of their interest in leasing a second area to construct a hangar for sub-leasing, dependant on costs and conditions. Currently the conditions of the lease require the consent of the lessor and Minister to sublet.

Council members raised the following issues of concern at the October meeting and requested clarification;

- Use of the hangars for a commercial workshop:

The lease provides that the lessee is not to:

- Allow the land to be used for any purpose other than that of an aircraft hangar,
- Carry on any noxious, noisome or offensive trade, act, business, occupation or calling,

It should also be noted that there is currently no provision of water or power at the site.

- The lease fees do not take into account the higher standard of facilities at the airstrip following the sealing of the strip, installation of perimeter fencing and new access:

As noted at the meeting the lease does not provide any additional access to the use of the airstrip than is afforded to the general community. Any member of the community may land at the strip without paying any landing or other fees.

The lease provides use of an area of land on which to construct a hangar not a license to use the facilities.

- The lease fees are not at a sufficient level.

The following lease fees are applicable at other Councils:

- Shire of Dandaragan	Minimum Rates
- Shire of York	\$50
- Shire of Gnowangerup	Nil
- Shire of Wagin	\$11
- Shire of Katanning	\$50
- Shire of Northam	\$376

A number of other Councils were contacted, however, they do not have any demand for hangar leases and therefore do not have a lease structure in place. Other Councils with commercial airports have a much higher lease fee structure that is not applicable to this Council.

- The aircraft parking areas should be taken up by areas C & D so that it may be located as close to the head of the runway as possible.

Financial Implications:

The lessees will be responsible for all costs incurred in the preparation of lease documents. Additional revenue from lease fees and rates will be received.

Statutory Environment:

Section 3.58 of the Local Government Act provides the following in relation to disposing of property

- (1) In this section -
dispose~ includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property~ includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to -
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (5) This section does not apply to -
 - (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the Local Government (Functions and General) Regulations provided as follows in relation to dispositions of property to which section 3.58 of Act does not apply.

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if –
 - (i) its market value is less than \$5000

Policy Implications:

Nil

Officer's Recommendation:

1. That the airport structure plan be amended to include the aircraft parking area to be located over areas C & D instead of D & E.
2. That Council approves a new lease with the following parties for the lease of land located at the airstrip on Reserve 36040 Kailis Drive Dongara, subject to the approval of the Minister, and as per the lease document circulated with the agenda;
 - Ian West Lease Area E
 - Brad Taylor Lease Area F
 - Dale and Margaret Stokes Lease Area G, and H if required
3. That Council approves the attachment of Council's seal on the lease documents to be signed by the Shire President and Chief Executive Officer.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr Dean-Gundill

1. *That the airport structure plan be amended to include the aircraft parking area to be located over areas C & D instead of D & E.*
2. *That Council approves a new lease with the following parties for the lease of land located at the airstrip on Reserve 36040 Kailis Drive Dongara, subject to the approval of the Minister, and as per the lease document circulated with the agenda;*
 - *Ian West Lease Area E*
 - *Brad Taylor Lease Area F*
 - *Dale and Margaret Stokes Lease Area G, and H if required*
3. *That Council approves the attachment of Council's seal on the lease documents to be signed by the Shire President and Chief Executive Officer.*

VOTING DETAILS:

CARRIED
6/2

DCS.311

Subject: Accounts for Payment
Reporting Officer : Chief Executive Officer
File Reference: Minute Book
Date Prepared: 11 November 2008
Voting Requirements: Normal Majority

Issue:

To receive the list of accounts paid during October 2008.

Body / Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of October 2008.

Officer's Comment:

Nil.

Financial Implications:

Nil.

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.

Policy Implications:

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

Officer's Recommendation:

That the Accounts paid during October 2008, represented by Municipal Cheque Numbers 27159-27191, EFT payment numbers 7948 - 8064 totalling \$3,558,379.97, Trust Payment Cheque Numbers: 2099-2102 totalling \$16,760.00 & Police Licensing Payment No's PL 300908 – PL291008 totalling \$73,663.20 be received.

COUNCIL MOTION:

Moved Cr Dean-Gundill, seconded Cr McClurg

That the Accounts paid during October 2008, represented by Municipal Cheque Numbers 27159-27191, EFT payment numbers 7948 - 8064 totalling \$3,558,379.97, Trust Payment Cheque Numbers: 2099-2102 totalling \$16,760.00 & Police Licensing Payment No's PL 300908 – PL291008 totalling \$73,663.20 be received.

VOTING DETAILS:

**CARRIED
8/0**

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

13. MATTERS BEHIND CLOSED DOORS

14. CLOSURE

There being no further business, the Chairperson declared the meeting closed at 4.29pm.

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Presiding Elected Member

Date: