

I certify that this copy of the Minutes is a true and correct record of the meeting held on
24 March 2009
Signed:
Presiding Elected Member
Date:.....



**MINUTES FOR ORDINARY COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 24 MARCH 2009
COMMENCING AT 4.00PM**

THERE ARE NO ATTACHMENTS TO THIS COPY OF THE COUNCIL MINUTES. TO VIEW ATTACHMENTS PLEASE CONTACT THE SHIRE OFFICE ON 9927 0000

PRESENT:	President	Cr R K Parsons (Chairperson)
	Councillors	Cr S C Chandler (Deputy Shire President) Cr G C Bass Cr R J Gillam Cr K J Hepworth Cr R T McClurg Cr R W Roberts Cr L W Wheeler
	Staff	Mr B E Jones – Chief Executive Officer Mr G M Peddie – Director, Corporate Services (Minute Taker) Mr F A Neuweiler – Manager, Community Development
	Gallery	Yvonne Jenkins, Karen Mitchell, Bob Hope, Mike Purselowe, Miles Obst, John Rossiter
GUESTS:		-
APOLOGIES:		-
LEAVE OF ABSENCE:		Cr G L Dean-Gundill

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 G L Dean-Gundill

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

- 4.1.** Mrs Yvonne Jenkins & Mrs Karen Mitchell requested a letter from Council to the PTA in relation to the School Bus Service - advising that Blenheim Road is the priority road to Springfield.

Mrs Jenkins was advised that a letter had previously been forwarded in relation to this matter.

- 4.2.** Mr Bob Hope – Lot 53 & 54 Point Leander Drive

Why is council looking at selling lot 53 & 54 Pt Leander Drive when at a public meeting a vote decided not to sell?

The Shire President advised that the previous meeting did not represent a majority of residents and that Council had never decided against selling the lots.

Why is the meeting being held on a working day?

The Shire President advised that a suitable time and date have been chosen for the meeting to be held and people will attend if they are interested.

- 4.3.** Mr Mike Purselowe – Royalties to Regions funding

Why is Council considering an additional \$392,000 of Royalties to Regions funding being used to fund the Recreation Centre?

The Shire President advised that no additional expenditure had been incurred for the Recreation Centre, however, Council will consider whether to use a portion of the Royalties for Regions funds towards the Centre.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 24 FEBRUARY 2009

A copy of the Minutes of the Ordinary Council Meeting held on 24 February 2009 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

Moved: Cr K Hepworth Seconded: Cr R Roberts

That the Minutes of the Ordinary Council Meeting, held on 24 February 2009, be confirmed as a true and accurate recording of that meeting.

VOTING DETAILS:

**CARRIED
8/0**

7.2 MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 12 MARCH 2009

A copy of the Minutes of the Special Council Meeting held on 12 March 2009 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

Moved: Cr S Chandler Seconded: Cr R McClurg

That the Minutes of the Special Council Meeting, held on 12 March 2009, 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.** Confirming the request received for a Special Meeting of Electors, meeting to be held at 10am on Monday 6 April at the Dongara Town Hall.
- 8.2.** Expressions of Interest for the Administration Centre additions and refurbishments were advertised in Saturday's West Australian.

9. REPORTS

CEO.409

Subject: Irwin Rec – Gymnasium Membership
Reporting Officer: Chief Executive Officer
File Reference: AA.2
Date Prepared: 4 March 2009
Voting Requirements: Simple

Issue:

To consider a draft policy regarding discounted membership for the gymnasium at the Irwin Rec.

Body / Background:

Council is aware of the benefits of a fit and healthy workforce and accordingly any incentive to encourage our people to become active members of the gymnasium is of benefit to the organisation.

Officers Comment:

Encouraging staff and councillors to utilise the gymnasium is to be commended and hopefully other employers will adopt similar policies and fund the cost of their staff becoming members of the gymnasium.

Financial Implications:

The cost of annual gymnasium membership is currently \$390. If say one third of eligible persons take advantage of this opportunity the total cost will be approximately \$5,000 per annum.

Statutory Environment:

Nil

Policy Implications:

See draft policy included in the recommendation

Officers Recommendation:

That Council adopt the following policy:

GYM MEMBERSHIP

POLICY A28

Purpose:

To promote improved health, fitness and well being amongst Councillors and Council staff by encouraging them to use the gymnasium facilities available at the Irwin Rec.

Policy:

Councillors and full-time & permanent part-time Shire employees are provided with free membership to the gymnasium at the Irwin Rec. Membership is for maximum periods of 12 months at a time and access to

this privilege ceases when membership is due for renewal and that person is no longer a Councillor or permanent staff member.

When eligible persons take advantage of this opportunity the normal amount of that membership will be credited to the gymnasium revenue account and charged as either a Councillor expense or employee cost.

COUNCIL MOTION:

Moved: Cr R Gillam

Seconded: Cr G Bass

That Council adopt the following policy:

GYM MEMBERSHIP POLICY A28

Purpose: *To promote improved health, fitness and well being amongst Council staff by encouraging them to use the gymnasium facilities available at the Irwin Rec.*

Policy: *Full-time & permanent part-time Shire employees are provided with free membership to the gymnasium at the Irwin Rec. Membership is for maximum periods of 12 months at a time and access to this privilege ceases when membership is due for renewal and that person is no longer a permanent staff member.*

When eligible persons take advantage of this opportunity the normal amount of that membership will be credited to the gymnasium revenue account and charged as an employee cost.

VOTING DETAILS:

**CARRIED
8/0**

CEO.410

Subject: Royalties for Regions – Country Local Government Fund
Reporting Officer: Chief Executive Officer
File Reference: DL.3.9
Date Prepared: 11 March 2009
Voting Requirements: Simple

Issue:

To consider the allocation of the funds received under the Royalties for Regions – Country Local Government Fund.

Body / Background:

In December 2008 the State Government announced funding of \$400 million over four years to assist country local governments build and maintain community infrastructure.

The fund acknowledges the findings of a number of studies regarding sustainability and infrastructure backlogs across the local government sector. As a result, the fund targets asset management and renewal and also enables the creation of new assets and infrastructure.

An allocation of \$711,480 has been made to the Shire of Irwin subject to the funding requirements being met.

Expenditure of Fund allocations must be on individual local government infrastructure asset renewal and/or infrastructure asset creation. The Funds are aimed at encouraging additional expenditure by the Council on planned infrastructure needs.

Council needs to be aware that the Local Government Grants Commission is likely to take into account these funds to the extent to which local governments spend them on road asset preservation and renewal. Where the funding to local governments is spent on bridges, buildings and infrastructure assets other than road asset preservation, this will not affect financial assistance grant allocations.

The grant funds cannot be applied to expenditure on non-infrastructure items. The grant funds are not to be used for purchasing plant and equipment, employing staff, engaging consultants or retiring debt.

Officers Comment:

The Shire President and CEO met with Minister Grylls and the CEO of the Mid West Development Commission in Geraldton on Thursday 12 February 2009 to discuss the best use of the 2008/09 allocation.

Following this meeting it was determined that the first years allocation be used towards the Indoor Recreation Centre (\$392,000) and the Administration Building Refurbishment (\$319,480).

Although this has been discussed and generally agreed to by Council, this now needs to be confirmed by a Council resolution.

Financial Implications:

The 2008/09 allocation to the Shire of Irwin is \$711,480

Statutory Environment:

Local government act.

Policy Implications:

Nil

Officers Recommendation:

That Council agree that the 2008/09 Royalties for Regions – Country Local Government Fund allocation of \$711,480 be allocated to the Indoor Recreation Centre (\$392,000) and the Administration Building Refurbishment (\$319,480).

COUNCIL MOTION:

Moved: Cr K Hepworth Seconded: Cr S Chandler

That Council agree that the 2008/09 Royalties for Regions – Country Local Government Fund allocation of \$711,480 be allocated to the Indoor Recreation Centre (\$392,000) and the Administration Building Refurbishment (\$319,480).

VOTING DETAILS:

**CARRIED
8/0**

CEO.411

Subject: Local Government Structural Reform
Reporting Officer: Chief Executive Officer
File Reference: DL.3.4
Date Prepared: 13 March 2009
Voting Requirements: Simple

Issue:

To consider a number of issues regarding local government structural reform.

Body / Background:

On Thursday, 5 February 2009 Minister for Local Government, Hon John Castrilli MLA, announced a package of wide-ranging local government reform strategies. The strategies are aimed at achieving greater capacity for local governments to better plan, manage and deliver services to their communities with a focus on social, environmental and economic sustainability.

The principal strategies in the package focus on voluntary structural reform of local government. Specifically, these strategies encourage local governments to:

- take steps to voluntarily amalgamate and form larger local governments;
- reduce the total number of elected members to between six and nine; and
- form appropriate regional groupings of councils to assist with the efficient delivery of services.

Minister Castrilli has invited each of the 139 councils in Western Australia to take up the opportunity to voluntarily amalgamate and to reduce the total number of elected members for each council. The Minister has requested that each council advise him of their intention by the end of August 2009.

Other key strategies of the State Government's reform package include:

- Adoption by local governments of a longer term strategic planning framework, including asset and financial management and workforce planning;
- Development of measures to enhance the skills and competency of elected members and staff;
- Examination of options to maintain local community identity and greater community representation including consideration of community-based committees;
- Identification of proposals to amend the local government legislation to facilitate local government sustainability;
- Examination of the ability for local governments to form corporate entities to undertake urban regeneration projects and other business activities;
- Identification and implementation of approaches to reduce town planning and building licence approvals time; and
- Development of measures to encourage a diverse range of citizens to stand for council.

Since the Ministers announcement the following has occurred:

Wed 18 Feb: BROC CEO's met in Geraldton to discuss the issue and formulate a recommendation to our respective Councils for the upcoming WALGA Zone meeting

Tues 24 Feb: Council passed the following resolution:

That Council forward correspondence to the Minister congratulating him on progressing the issue of local government structural reform, and

That Council's position be that the recommendations proposed by WALGA not be supported and that the Northern Country Zone conduct a workshop with an independent facilitated process based on the following:

- *Attendance by 2-3 representatives from each Council in our Zone;*
- *Use of an independent facilitator and based on:-*
 - *leaving behind conflicts;*
 - *looking at the best governance models for our region;*
 - *ignoring historical boundaries;*
 - *defining the current (expected future) communities of interest taking into account:-*
 - *infrastructure*
 - *services*
 - *geography; and*
 - *economy*
 - *developing conceptual future boundaries for local governments in the zone.*
- *Seek to get Government support to help make regional communities more sustainable, viable and autonomous by:-*
 - *transferring functions currently delivered by the State government to the new local governments such as*
 - *water & sewerage;*
 - *planning control and decision making (except for matters of State significance)*
 - *environmental control and decision making (except for matters of State significance)*
 - *economic development, and*
 - *Government Employees Housing.*
 - *Amending legislation (and regulations) to give greater autonomy to local governments.*
 - *Providing the capacity for local governments to develop crown land.*

Wed 25 Feb: Shire President and CEO met with the Shire President and CEO of Coorow and the A/CEO of Carnamah, in Dongara.

Fri 27 Feb: Shire President, Deputy President and CEO attended WALGA Zone meeting in Geraldton where a recommendation similar to that passed by Council was unanimously supported by Zone delegates.

The WALGA Zone agreed to hold the next meeting, with an independent facilitator, in Dongara on Monday 23 March 2009.

Thu 5 Mar: A copy of the information and guidelines as received by the Department of Local Government and Regional Development was forwarded to all Councillors.

Tue 10 Mar: Shire President and CEO attended a meeting of Shire Presidents and CEO's from the Shires of Carnamah, Coorow, Mingenew and Three Springs. A draft Memorandum of Understanding was discussed concerning exploring the opportunity for the five local governments to amalgamate.

At the Council Forum all Councillors were provided with a copy of the draft MOU and Council reviewed the Local Government Reform Checklist. Councillors were updated on the meeting at Mingenew and discussed the issue of structural reform.

Officers Comment:

Following from discussions at the Council Forum Council now needs to:

- Confirm support for the draft MOU, and

- Confirm Council delegates to represent Council regarding Structural Reform.

Council also needs to be aware of the WALGA Zone meeting on Monday 23 March 2009 and allow Council delegates to provide an update to the meeting of the outcomes.

Financial Implications:

Nil

Statutory Environment:

Local government act

Policy Implications:

Nil

Officers Recommendation:

That Council

Confirm support for the Memorandum of Understanding between the Shires of Carnamah, Coorow, Irwin, Mingenew and Three Springs, and

Appoint the Shire President, Deputy President and CEO as Council representatives to the Steering Committee and to represent Council regarding local government structural reform. Cr Kevin Hepworth to be the proxy delegate.

COUNCIL MOTION:

Moved: Cr S Chandler

Seconded: Cr R Roberts

That item CEO.411 be discussed at the end of the meeting.

**CARRIED
8/0**

VOTING DETAILS:

CEO.412

Subject: Synergysoft – Central Records Management Module
Proponent: Chief Executive Officer
Reporting Officer: Records Officer
Date of Report: 12 March 2009
File Reference: DL.3.3
Voting Requirements: Normal Majority

Issue:

To consider purchasing the Synergysoft Central Records Management Module incorporating the GDA (General Disposal Authority for Local Government Records) and Keyword for Councils.

Body/Background:

Currently the Shire of Irwin's records keeping system is manual and all incoming and outgoing mail is recorded through a excel spreadsheet which records: receiver/sender, subject line, date and file reference.

Although this system was adequate in the past it is no longer suitable to the Shires requirements now or in the future and the Shire needs to look at updating to an EDRMS (Electronic Document and Records Management System).

The Shire currently works with a subject based filing system that is too general and can be difficult to use when trying to file or retrieve documents or when applying the GDA disposal schedule. (Example: All building licence applications at the moment have the file reference BA.2 when in fact they should be stored on the exact property or reserve file they relate to).

The Shire of Irwin does not have any property or reserve files and it needs to be a priority to rectify this issue.

After discussions with key personnel within the shire office the general consensus is that an overhaul of the record keeping area will assist them to comply with the Shire's recordkeeping plan submitted to and approved by the State Records Office.

Officer's Comment:

The Mid-West Regional Council has approached the Shire of Irwin to come onboard with 6 other councils to purchase the Synergysoft Central Records Management Module at a 45% reduction in price. (See pricing attachment)

Synergysoft Central Records is an Electronic Document and Records Management System developed specifically for Local Government. A large majority of Councils in Western Australia use this package as their EDRMS. (See attachment re: capabilities of Synergysoft Central Records).

The Shire of Irwin already utilises Synergysoft packages for Finance, Planning & Rates and these components can be linked to records.

Along with the Central Records program it will be necessary to install the General Disposal Authority (GDA) for local government records and the Keyword for Councils available for purchase from the State Records Office.

Keyword for Councils would replace the current subject based filing system.

Keyword for Councils is a thesaurus of terms that describes common functions performed by local governments for example: COMMUNITY SERVICES, PLANNING and COUNCIL PROPERTIES.

(see attachment for a more detailed explanation).

Keyword for Councils will be a user friendly filing system that staff will adapt to quickly as the subjects are everyday terms that apply to various departments within a Local Government.

Transferring the current subject reference files to the Keyword for Councils descriptor files will be implemented by the Records Officer however new physical files with labels will need to be created and purchased. (see attached quote)

Financial Implications:

The following costs will be incurred in implementing the system:

- | | |
|---|---------------------|
| 1. Synergysoft Central Records Management Module: | \$10,683.20 inc GST |
| 2. Licence per annum: | \$ 2,887.00 inc GST |
| 3. GDA (General Disposal Authority): | \$ 330.00 inc GST |
| 4. Keyword for Councils: | \$ 363.00 inc GST |
| 5. Physical Files & labels (3500 new files) | \$ 4,505.60 inc GST |

Total Cost:	\$18,768.80 inc GST
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Itvision have agreed to Council paying for Items 1, 2 & 3 in the next financial year 2009/2010. Items 4 & 5 can be accommodated from the current stationery budget.

Statutory Environment:

Nil.

Policy Implications:

Nil.

Officer's Recommendation:

That Council agrees to purchase Synergysoft Central Records Management Module including the GDA, Keyword for Councils and Physical Files & labels.

COUNCIL MOTION:

Moved: Cr G Bass

Seconded: Cr R McClurg

That Council agrees to purchase Synergysoft Central Records Management Module including the GDA, Keyword for Councils and Physical Files & labels.

VOTING DETAILS:

CARRIED
8/0

CEO.413

Subject: Dongara Denison Rag
Reporting Officer: Chief Executive Officer
File Reference: DL.4
Date Prepared: 16 March 2009
Voting Requirements: Simple

Issue:

To consider a request from the Dongara Denison Rag for a lease of the building they occupy.

Body / Background:

Correspondence has been received from the Dongara Denison Rag requesting a lease, with a 21 year period and a pepper corn rental.

A draft lease has been prepared and is attached for Council consideration.

Officers Comment:

The draft lease has been prepared with a 10 year term, not a 21 year term as requested. The reason for this is that due to the nature of the building, the location and that the request is for a peppercorn rental a ten year lease is more appropriate. It is difficult to foresee for more than ten years and the lease can easily be extended from time to time.

Financial Implications:

The lease is for \$1 per annum and the lessee is responsible for routine maintenance.

Statutory Environment:

Local government act

Policy Implications:

Nil

Officers Recommendation:

That Council agree to enter into a lease agreement with the Dongara Denison Rag for use of the building that they currently occupy, in accordance with the draft lease presented.

COUNCIL MOTION:

Moved: Cr S Chandler

Seconded: Cr R Gillam

That the motion lay on the table.

VOTING DETAILS:

CARRIED
8/0

DCS.320

Subject: Local Government Audit Compliance Return
Reporting Officer: Director Corporate Services
File Reference: DA.4
Date Prepared: 13 March 2009
Voting Requirements: Simple Majority

Issue:

To consider and adopt the 2008 Compliance Audit Return.

Body / Background:

The Local Government Act requires each local authority to carry out a compliance audit for the period 1 January 2008 to 31 December 2008 in regards to the sections of the Local Government Act and associated Regulations as specified in the Compliance Audit Return.

The Compliance Audit Return is to be:

- a) presented at a meeting of the Council,
- b) adopted by the Council, and
- c) recorded in the minutes of the meeting at which it is adopted.

After the Compliance Audit Return has been presented to Council, a certified copy of the return, along with the relevant section of the minutes is to be submitted to the Department by 31 March 2008.

Officers Comment:

A copy of the completed return is provided indicating the officer responsible for completion.

Financial Implications:

Nil

Statutory Environment:

The Local Government Act provides at Section 7.13:

7.13. Regulations as to audits

- (1) Regulations may make provision —
 - (i) requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —
 - (i) of a financial nature or not; or
 - (ii) under this Act or another written law.

Policy Implications:

Nil

Officers Recommendation:

That the Compliance Audit Return for the 2008 calendar year, as presented, be adopted by Council as the official return of Council and a certified copy of the return, along with the relevant section of the minutes be submitted to the Department.

COUNCIL MOTION:

Moved: Cr K Hepworth

Seconded: Cr R McClurg

That the Compliance Audit Return for the 2008 calendar year, as presented, be adopted by Council as the official return of Council and a certified copy of the return, along with the relevant section of the minutes be submitted to the Department.

VOTING DETAILS:

CARRIED
8/0

DCS.320

Subject: Accounts for Payment
Reporting Officer: Director Corporate Services
Date Of Report: 24 March 2009
File Reference: Minute Book
Voting Requirements: Normal Majority

Issue:

To receive the list of accounts paid during February 2009.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of February 2009.

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 February 2009, represented by Municipal Cheque Numbers 27289 - 27327, EFT payment numbers 8414 - 8523 totalling \$647,330.82. Trust Payment Cheque Numbers: 2119-2124 totalling \$10,500.00 & Police Licensing Payment No's PL 020209 – PL270209 totalling \$77,962.35 be received.

COUNCIL MOTION:

Moved: Cr L Wheeler

Seconded: Cr R Gillam

That the Accounts paid during February 2009, represented by Municipal Cheque Numbers 27289 -27327, EFT payment numbers 8414 - 8523 totalling \$647,330.82. Trust Payment Cheque Numbers: 2119-2124 totalling \$10,500.00 & Police Licensing Payment No's PL 020209 – PL270209 totalling \$77,962.35 be received.

VOTING DETAILS:

**CARRIED
8/0**

DCS.321

Subject: Budget Review 2008/09
Reporting Officer: Director Corporate Services
File Reference: AB.3
Date Prepared: 10 March 2009
Voting Requirements: Absolute Majority

Issue:

To consider the budget review for the financial year 2008/09 and to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.

Body / Background:

Regulation 33A of the Local Government (Financial Management) Regulations 1996 requires Council to conduct a review of its budget between six and nine months into a financial year. The Regulation requires that the results be submitted to Council to determine whether to adopt the review and recommendations made. Within 30 days of the review a copy of the review and determination is to be provided to the Department.

Officers Comment:

The Director of Corporate Services has undertaken a detailed review of the Shire Budget for 2008/09 and forecast the final results for the full year to 30 June 2009 based on actual results to 31 January 2009.

Attached is a Statement of Financial Activity projecting the estimated position as at 30 June 2009, which indicates an anticipated current net asset position of approximately \$174,000 at year end. A report follows the Statement summarising significant variances to the budget which results in the anticipated final position.

Financial Implications:

As noted in the review.

Statutory Environment:

33A. Review of budget

- (1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.
- (2A) The review of an annual budget for a financial year must —
 - (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
 - (b) consider the local government's financial position as at the date of the review; and
 - (c) review the outcomes for the end of that financial year that are forecast in the budget.
- (2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.
- (3) A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.

**Absolute majority required.*

- (4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

[Regulation 33A inserted in Gazette 31 Mar 2005 p. 1048-9; amended in Gazette 20 Jun 2008 p. 2723-4.]

Policy Implications:

Nil.

Officers Recommendation:

That Council adopts the review of the Shire of Irwin 2008/09 Budget and recommendations as presented.

COUNCIL MOTION:

Moved: Cr K Hepworth

Seconded: Cr R Roberts

That Council adopts the review of the Shire of Irwin 2008/09 Budget and recommendations as presented.

VOTING DETAILS:

CARRIED
8/0

F.354

Subject: Financial Statements for the Period ending 28/02/2009
Reporting Officer: Accountant/Senior Administration Officer
File Reference: Minute Book
Date Prepared: 18 March 2009
Voting Requirements: Simple Majority

Issue:

To consider and receive the Monthly Financial Statements for the period 1 July 2008 to 28 February 2009.

Body / Background:

The Monthly Financial Report to the 28 February 2009 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
- Income Statement by Program
- Income Statement by Nature & Type
- Balance Sheet
- Statement of Changes in Equity
- Cash Flow Statement
- 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 2008 to 28 February 2009 be received.

COUNCIL MOTION:

Moved: Cr R McClurg

Seconded: Cr R Gillam

That the Monthly Financial Statement for the period 1 July 2008 to 28 February 2009 be received.

VOTING DETAILS:

**CARRIED
8/0**

TP.462

Subject: Proposed Health & Fitness Centre on Lot 533 (No 63) Duval Street,
Port Denison
Proponent: Milanda Farming Pty Ltd
Reporting Officer: Town Planner
File Reference: P10/09 - HO.3
Date Prepared: 12 March 2009
Voting Requirements: Simple

Issue:

To consider an application for a Health and Fitness Centre on the above property.

Body / Background:

Subject Land

Lot 533 (No 53) is located on the southern end of Duval Street on the eastern side. It is 1669m² in area with 37.85 metres of frontage to Duval Street.

The property currently consists of a zincalume shed of roughly 220m² with gravel hardstand surrounding this.

The property was up until recently occupied by Muir Earthmoving Co.

Zoning

Under the Shire of Irwin Local Planning Scheme No 5 the land is zoned Marine Based Industry.

The Scheme describes the objective for this zone as follows:

'To consolidate industrial development associated with the fishing industry in an appropriately located area with close proximity to the Port Denison Harbour.'

The adjoining lot to the north is also zoned Marine Based Industry. The land to the rear is Reserve 15903 for the purpose of 'Sanitary Site' and the land adjoining to the south is vacant Crown land zoned Residential R12.5.

The Proposal

The proponent has engaged planning consultants Greg Rowe & Associates to make application to convert the property to a Health & Fitness Centre. This is described by the applicant as follows:

'The facility will include a cardio equipment area with exercise machines (running, cycling, rowing), a resistance/weight training area, and a general exercise area for group session/classes. The existing office at the front of the building will be used for administration purposes.

'The Health and Fitness Centre will operate three days a week (Monday, Wednesday and Friday) between the hours of 5am and 7pm. It is anticipated that up to 10 customers per hour (average) will attend the centre, with 'Seniors Programs' to be conducted between 10am and 2pm.

'The facility will be staffed by two people; the owner/proprietor and a casual assistant. The owner/proprietor is a Senior Accredited instructor with 'Heart Moves Australia' and presently runs a similar facility in Geraldton. The proprietor wishes to establish the facility to meet the demand from the local communities of Dongara and Port Denison.

'Staff and customer parking will be provided on site using the existing gravel hard stand area.'

See attached plans for further explanation.

Officers Comment:

There are a number of statutory planning provisions that need to be taken into account when considering this application.

Firstly, the provisions in Local Planning Scheme No 5 for the Marine Based Industry zone are quite restrictive. In this regard, Clause 5.33.1 states the following:

'Notwithstanding Table 1 - Zoning Table, uses within this zone with the exception of Public Utility, are only permitted if the use of the land is directly related to the fishing industry or marine activities. All other uses are prohibited.'

This is a very specific provision limiting the types of uses that can be approved within this zone. It would suggest that a Health & Fitness Centre, which is not directly related to the fishing industry or marine activities, could not be approved in this zone.

However, the application is made on the basis that Lot 533 Duval Street enjoys non-conforming use rights.

A non-conforming use is described in the *Planning & Development Act 2005* as follows:
'means a use of land which, though lawful immediately before the coming into operation of a planning scheme or amendment to a planning scheme, is not in conformity with a provision of that scheme which deals with a matter specified in Schedule 7 clause 6 or 7.'

Evidence has been provided with the application that prior to the recent purchase of the property by the proponent, the land was being used by Muir Earthmoving Co for storage and maintenance associated with that business. The use of the property by an earthmoving company did not comply with the provisions of the Marine Based Industry zone at the time Scheme No 5 was gazetted. As such the application argues the property is afforded non-conforming use rights.

The provisions for a non-conforming use in the Scheme include that the use can continue despite its non compliance, and that the use can be extended or changed where it is deemed acceptable by the local government.

In specific relation to this application, Clause 4.9.3 of the Scheme states the following:
'Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.'

This provision relates to the application as it intends a change of use from one non-conforming use (the earthmoving business) to another (the Health and Fitness Centre).

It should be noted that non-conforming use rights extend for a period of 6 months after a use has ceased. So although the previous earthmoving business ceased on the 10th of November 2008, the properties non-conforming use rights don't expire until the 10th of May 2009.

In accordance with Clause 4.9.3, the applicant has justified the proposed change of use to a Health and Fitness Centre as follows:

It is considered the proposed use can be approved by the Council for the following reasons:

- The site is situated at the southern extremity of the Marine Based Industry zone,
 - abutting land that is zoned Residential and in close proximity to existing
 - residential uses;
- The continued use of the land by an earthmoving company is considered to be less than compatible with existing and future residential uses than the proposed Health and Fitness Centre, due to the potential adverse effects of engine noise, exhaust fumes and petrol/oil odours;

- The Health and Fitness centre will provide a valuable and professional service to the local communities of Port Denison and Dongara, including employees in the Marine Based Industry zone and employees of the marine/fishing industry;
- The former earthmoving equipment use was not associated with the fishing industry and did not constitute a marine based industry;
- The proposed Health and Fitness Centre, whilst not a marine based industry, is an important and professional facility that has the potential to improve the health and wellbeing of the fishing industry and the nearby businesses located in the Marine Based Industry zone;
- Adequate parking to meet demand from staff and customers will be provided on site, without any adverse effect on the flow of traffic in the immediate locality.'

If the above is considered reasonable, other issues to consider include the following:

Concern may be raised that the intent of the zone could potentially be eroded away by non fishing or marine activities creeping in. It is noted however, that there are few properties that enjoy non-conforming use rights in this area, the majority of the land uses in this zone are compliant. Only those that are currently non-conforming can be considered for approval to another non-conforming use, provided it is to a lesser degree. All other properties are subject to the Scheme provisions of this zone.

In regards to the standard of the existing building on site, advice from the Shire Building and Health Department indicates that if the application is approved, the building will have to be converted from a Class 10 to a Class 9b in accordance with the *Health (Public Buildings) Regulations 1992* and the *Building Code of Australia*. This will require the approval of a Building License by the Shire and will need to address aspects such as ventilation, insulation, lighting and the provision of ablution facilities.

It is noted that if the application is approved there is potential for occupants of the Health and Fitness Centre to complain about off-site impacts from adjoining uses in the Marine Based Industry zone, particularly noise and dust. In this regard however, the fact that the application would be approved as a non-conforming use significantly diminishes the right to complain about adjoining land uses. Providing any adjoining use was being carried out in accordance with the Scheme provisions, the Shire would be under no obligation to act on any complaints it received in regards to that use.

The standard of parking as proposed by the application is basic and intends to utilise the existing hard stand on site. In this regard, Clause 5.8.2 the Scheme includes a provision that *'car parking areas shall be constructed, marked, drained and thereafter maintained to the satisfaction of the local government'*. However, this requirement has previously been relaxed in circumstances where there is little or no building taking place on site and the application is for a change of use. If approved, it is suggested that this requirement be relaxed in this instance also. Clause 5.5.1 of the Scheme – Variations to Site and Development Standards and Requirements, gives Council the ability to vary the parking standard.

It should also be noted that economic considerations cannot be taken into account when determining an application for planning approval. The recently opened gym in the Shire Recreation Centre can have no bearing on the outcome of this application.

Lastly, in accordance with Clause 4.9.2 of the scheme, any application for approval of a non-conforming use is to be advertised. This has not yet been carried out and it is suggested that if Council is in support of the application, the Chief Executive Officer be delegated as the authority to approve the application, subject to advertising in accordance with Clause 9.4 of the Scheme and there being no contentious objections. If there are contentious objections, the application would need to be presented to Council for further consideration.

Financial Implications:

Nil.

Statutory Environment:

Shire of Irwin Local Planning Scheme No 5,

Part 8 – Development of Land

8.1 Requirement for Approval to Commence Development

Subject to Clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

Note:

1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
2. Development includes the erection, placement and display of any advertisements.

Policy Implications:

Nil.

Officers Recommendation:

Option 1

That the Chief Executive Officer be delegated the authority to approve the proposed Health and Fitness Centre on Lot 533 (No 63) Duval Street, Port Denison, subject to advertising in accordance with Clause 9.4 of the Local Planning Scheme No 5 and there being no contentious objections, and the development being subject to the following conditions:

1. The development hereby approved shall occur in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local authority.
2. The car parking as indicated on the approved plan is to be maintained to the satisfaction of the local government.
3. The landscaping as indicated on the approved plan is to be maintained to the satisfaction of the local government.
4. Any proposed signage in conjunction with the approved use/development requires further, separate approval from the local government.
5. All stormwater runoff is to be retained and disposed of on-site to the approval of the local government.
6. Any additions to or change of use of any part of the building/s or land (not the subject of this consent) shall be subject to a further development application and consent for that use.

Advice:

1. The building is required to be converted from a Class 10 to a Class 9b in accordance with the *Health (Public Buildings) Regulations 1992* and the *Building Code of Australia*. In this regard a Building License will need to be approved by the local government and the works inspected by Council's Building Surveyor prior to commencement of the use.
2. The application has been approved in accordance with the non-conforming use provisions of the Shire of Irwin Local Planning Scheme No 5. In this regard the use will be located in the Marine Based Industry zone and the provisions for this zone allow nearby properties to carry out activities that may impact on the environmental health of this property, including but not limited to the creation of noise and dust. The Shire will

not act upon complaints concerning activities being lawfully undertaken in the Marine Based Industry zone.

Option 2

That the application for a Health and Fitness Centre on Lot 533 (No 63) Duval Street, Port Denison be refused for the following reason:

1. The proposed use is not, in the opinion of the local government, closer to the intended purpose of the Marine Based Industry zone as required by Clause 4.9.3 of the Shire of Irwin Local Planning Scheme No 5.

Cr G Bass declared a proximity interest and left the chambers at 4.24pm.

COUNCIL MOTION:

Moved: Cr R Gillam

Seconded: Cr S Chandler

That the Chief Executive Officer be delegated the authority to approve the proposed Health and Fitness Centre on Lot 533 (No 63) Duval Street, Port Denison, subject to advertising in accordance with Clause 9.4 of the Local Planning Scheme No 5 and there being no contentious objections, and the development being subject to the following conditions:

- 1. The development hereby approved shall occur in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local authority.***
- 2. The car parking as indicated on the approved plan is to be maintained to the satisfaction of the local government.***
- 3. The landscaping as indicated on the approved plan is to be maintained to the satisfaction of the local government.***
- 4. Any proposed signage in conjunction with the approved use/development requires further, separate approval from the local government.***
- 5. All stormwater runoff is to be retained and disposed of on-site to the approval of the local government.***
- 6. Any additions to or change of use of any part of the building/s or land (not the subject of this consent) shall be subject to a further development application and consent for that use.***

Advice:

- 1. The building is required to be converted from a Class 10 to a Class 9b in accordance with the Health (Public Buildings) Regulations 1992 and the Building Code of Australia. In this regard a Building License will need to be approved by the local government and the works inspected by Council's Building Surveyor prior to commencement of the use.***
- 2. The application has been approved in accordance with the non-conforming use provisions of the Shire of Irwin Local Planning Scheme No 5. In this regard the use will be located in the Marine Based Industry zone and the provisions for this zone allow nearby properties to carry out activities that may impact on the environmental health of this property, including but not limited to the creation of noise and dust. The Shire will not act upon complaints concerning activities being lawfully undertaken in the Marine Based Industry zone.***

VOTING DETAILS:

**CARRIED
6/1**

Cr G Bass returned to the chambers at 4.27pm.

TP.463

Subject: Proposed Extractive Industries on Lot 1 Pinchers Road & Midlands Road, Mount Horner
Proponent: CR Forward
Reporting Officer: Town Planner
File Reference: P05/09 & P06/09 - TP.3.5
Date Prepared: 13 March 2009
Voting Requirements: Simple

Issue:

To consider two applications for Extractive Industry licenses, one for gravel and one for sand.

Body / Background:

Subject Land

Lot 1 is approximately 25km east of the Dongara townsite on the Midlands Road.

The property is essentially split into two with the northern portion being 426.4ha in area and having frontage to Pinchers Road. The southern portion is 1025.2ha in area has frontage to Midlands Road.

The property is currently used for broad acre agriculture including cropping and grazing. The homestead is located on the southern portion and includes two dwellings and associated farm buildings with direct access to Midlands Road. (See attached locality plan).

Zoning

The property is zoned 'General Farming' under the Shire of Irwin Local Planning Scheme No 5 and falls within 'Policy Area C' of the Local Planning Strategy. This zoning covers the majority of the rural areas of the Shire and provides for the continued use of the land for broad acre agriculture.

The surrounding land on all sides is also zoned 'General Farming'.

The Proposal

The proponent has engaged planning consultants Landwest Urban and Rural Planning to apply for two Extractive Industry licenses over the property.

The southern portion of Lot 1 is proposed to be utilised for gravel extraction while the northern portion will be utilised for sand extraction (see attached development application plan).

The proposed operation is described by the applicant as follows:

- Gravel is to be excavated from two locations on the southern section of the landholding with an approximate (combined) area of 17.2ha;
- Sand is proposed to be excavated from the south west corner of the northern portion of the landholding over an approximate area of 15ha;
- The maximum depth of excavation will be 1.5 - 2 metres;
- The gravel extraction will be accessed via the existing crossover and internal road to Midlands Road. Alternatively the site may be accessed via internal roads and the constructed portion of Browning Road.
- The sand extraction will be accessed via Pinchers and Tabletop Roads;
- All internal roads are all-weather trafficable and capable of servicing larger trailer trucks, similar to what is already being used during normal farming activities i.e. harvest;
- No additional buildings or development is proposed;
- Extraction will occur progressively with an area of no-greater than 2 – 3 hectares active at any one time;

- Top soil overburden is proposed to be removed with scrapers and stockpiled prior to excavation. Depth of overburden to be removed is approximately 300mm;
- As each section of each pit is exhausted, the excavation will be battered down on the edges and rehabilitated with the stockpiled topsoil;
- Rehabilitation will occur progressively;
- Gravel will be stockpiled according to demand;
- Sand will not be stockpiled but extracted to meet demand. This is to maintain the quality of the sand (i.e. prevent contamination and keep it clean) and minimise dust issues;
- It is envisaged truck movements will average one (1) or two (2) per day from each pit, however this may be compressed into a particular timeframe to service a contract;
- Machinery will include (but not limited to) scrapers/dozers for removal of topsoil, dozer and loader for extraction and stockpiling and single trailer vehicles for transport (max 27.5m long).
- Staging of the extraction will be driven by demand for the product.
- Approval is sought for a period of five (5) years.

Officers Comment:

The extraction activities as proposed are generally acceptable.

The pits are not anticipated to impact on any significant landscape views, or be visible from Midlands Road.

The pits are proposed to be located away from natural drainage features and farm water sources. There is also no remnant vegetation located within the area of the proposed excavations.

No direct impact on servicing corridors is expected, although it is noted the sand extraction is proposed to be located approximately 150 metres to the west of the Dampier to Bunbury Natural Gas Pipeline (DBNGP).

The closest dwelling to the activity will be the proponents dwelling, which will be approximately 180m away from the gravel extraction and screened by vegetation. Neighbouring dwellings will experience very little off-site impacts caused by dust or noise due to the large distances separating them. The closest neighbouring dwelling (G Roberts) is located approximately 2.4km to the west of the proposed sand pit.

Farming operations will continue to operate around the extraction activities and as areas are rehabilitated, farming will be re-established.

The proposal will increase the volume of truck movements on the adjacent road network. There is potential for high volumes of traffic at times when a contract is being serviced, though this would be off-set by few movements at times when demand is low.

Access onto Midlands Road is controlled by Main Roads WA. The proposed sand pit however, will require direct access to Pinchers Road and then Tabletop Road which is part of the Shire network. Both of these roads are currently constructed to a suitable standard. However, if approval is granted, it would be advisable to monitor their condition when the license is renewed on an annual basis and if need be, require the proponent to contribute towards the maintenance of these roads.

The application was advertised for a period of 21 days and included letters to adjoining property owners, letters to servicing authorities and an advertisement in the Dongara Rag. Advertising finished on the 13th of March 2009. At the close of advertising a total of three submissions were received.

The three submissions were as follows:

- Western Power: no objection but advised that a single phase power line runs through Lot 1 and it would be advisable for the proponent to contact Western Power prior to commencement of the operation;
- WestNet Energy: no objection although is in close proximity to the Dampier to Bunbury Natural Gas Pipeline. Restrictions apply to the land contained within the DBNGP corridor. S41 application to be made to cross the DBNGP.
- Main Roads WA: no objections.

It is noted the proposed sand extraction also falls within the Water Supply Control Area (WSCA) as shown on the Scheme map. The WSCA has been identified as a Priority 2 water resource protection area due to its importance in supplying water on a regional basis. As such, the application was referred to the Department of Water in accordance with Part 6 of the Scheme. At the time of writing the report, no response had been received from the Department.

Both applications have also been assessed in accordance with the *Shire of Irwin Extractive Industries Local Law 2000* and are found to be compliant.

It is recommended that both applications be approved subject to conditions.

Financial Implications:

Nil.

Statutory Environment:

Shire of Irwin Extractive Industries Local Law 2000

Shire of Irwin Local Planning Scheme No 5,

Part 8 – Development of Land

8.2 Requirement for Approval to Commence Development

Subject to Clause 8.2, all development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 9.

Note:

1. The planning approval of the local government is required for both the development of land (subject of this Part) and the use of land (subject of Part 4).
2. Development includes the erection, placement and display of any advertisements.

Policy Implications:

Nil.

Officers Recommendation:

That the applications for Extractive Industry licenses on Lot 1 Pinchers Road and Midlands Road, Mount Horner be approved subject to the following conditions:

1. The operation of the pit(s) shall be contained within that area indicated on the attached approved plan(s) dated 9/02/2009 prepared by Landwest Urban and Rural Planning Consultants.
2. Approval is granted for a period of five (5) years from the date of this determination.
3. Each pit is to be rehabilitated in accordance with Clause 7.4 of the *Shire of Irwin Extractive Industries Local Law 2000*, to the approval of the Shire of Irwin, upon completion of

- excavation activities or expiry of the approval.
4. No remnant vegetation is to be removed as part of the extraction operations.
 5. No blasting of material is permitted as part of extraction operations, unless separate written approval is granted by the local government.
 6. An extraction pit area of no larger than 3 hectares is permitted to be open at any one time.
 7. Excavation is limited to a maximum depth of 2.0 metres.
 8. Excavation must not be carried out within:
 - o 20 metres of a property boundary;
 - o 20 metres of any land affected by a registered grant of easement;
 - o 40 metres of any road; and
 - o 40 metres of any watercourse.
 9. The licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
 10. The licensee shall provide to the local government a copy of the policy taken out in accordance with Condition 9, within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.
 11. If the licensee intends to cease carrying out the extractive industry:
 - o temporarily for a period of 12 months; or
 - o permanently;The licensee must give the local government written notification of the cessation no later than 1 week after those operations have ceased.
 12. Any additions to or change of use of any part of the operation (not the subject of this consent) shall be subject to a further development application and consent for that use.

Advice:

1. On or before the 31st of December each year, application for the renewal of the license must be made in writing to the local government, including payment of the applicable fee and any other information required by the local government.
2. The condition of the roads to be accessed by the operation shall be reviewed annually at the time of license renewal. If in the opinion of the local government the roads are being detrimentally impacted on by the operation, the local government may require the licensee to enter into an agreement for the maintenance of the roads.
3. A license cannot be transferred to any other person without the prior written approval of the local government.
4. Certain prohibitions apply to every license. Please refer to clause 6.2 of the *Shire of Irwin Extractive Industries Local Law 2000* for applicable prohibitions.
5. Compliance may be required with the *Mines Safety and Inspection Act 1994*, the Department of Mines & Petroleum should be contacted to ascertain any obligations in regards to this Act.
6. Western Power advise that a single phase power line runs through Lot 1 and it is advisable to contact Western Power's Customer Contact Centre on 13 10 87 to submit an application 'Request to work near Western Power's Underground and Overhead Electrical Network'.
7. WestNet Energy advise that restrictions apply to the area of land contained in close proximity to the Dampier to Bunbury Natural Gas Pipeline Corridor and that works within the area may require approval of an S41 application. WestNet Energy can be contacted on 6213 7000.

Cr R Gillam declared a proximity interest and left the chambers at 4.28pm.

COUNCIL MOTION:

Moved: Cr S Chandler Seconded: Cr K Hepworth

That the applications for Extractive Industry licenses on Lot 1 Pinchers Road and Midlands Road, Mount Horner be approved subject to the following conditions:

- 1. The operation of the pit(s) shall be contained within that area indicated on the attached approved plan(s) dated 9/02/2009 prepared by Landwest Urban and Rural Planning Consultants.***
- 2. Approval is granted for a period of five (5) years from the date of this determination.***
- 3. Each pit is to be rehabilitated in accordance with Clause 7.4 of the Shire of Irwin Extractive Industries Local Law 2000, to the approval of the Shire of Irwin, upon completion of excavation activities or expiry of the approval.***
- 4. No remnant vegetation is to be removed as part of the extraction operations.***
- 5. No blasting of material is permitted as part of extraction operations, unless separate written approval is granted by the local government.***
- 6. An extraction pit area of no larger than 3 hectares is permitted to be open at any one time.***
- 7. Excavation is limited to a maximum depth of 2.5 metres.***
- 8. Excavation must not be carried out within:***
 - o 20 metres of a property boundary;***
 - o 20 metres of any land affected by a registered grant of easement;***
 - o 40 metres of any road; and***
 - o 40 metres of any watercourse.***
- 9. The licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.***
- 10. The licensee shall provide to the local government a copy of the policy taken out in accordance with Condition 9, within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.***
- 11. If the licensee intends to cease carrying out the extractive industry:***
 - o temporarily for a period of 12 months; or***
 - o permanently;******The licensee must give the local government written notification of the cessation no later than 1 week after those operations have ceased.***
- 12. Any additions to or change of use of any part of the operation (not the subject of this consent) shall be subject to a further development application and consent for that use.***

Advice:

- 1. On or before the 31st of December each year, application for the renewal of the license must be made in writing to the local government, including payment of the applicable fee and any other information required by the local government.***
- 2. The condition of the roads to be accessed by the operation shall be reviewed annually at the time of license renewal. If in the opinion of the local government the roads are being detrimentally impacted on by the operation, the local government may require the licensee to enter into an agreement for the maintenance of the roads.***
- 3. A license cannot be transferred to any other person without the prior written approval of the local government.***

- 4. Certain prohibitions apply to every license. Please refer to clause 6.2 of the Shire of Irwin Extractive Industries Local Law 2000 for applicable prohibitions.**
- 5. Compliance may be required with the Mines Safety and Inspection Act 1994, the Department of Mines & Petroleum should be contacted to ascertain any obligations in regards to this Act.**
- 6. Western Power advise that a single phase power line runs through Lot 1 and it is advisable to contact Western Power's Customer Contact Centre on 13 10 87 to submit an application 'Request to work near Western Power's Underground and Overhead Electrical Network'.**
- 7. WestNet Energy advise that restrictions apply to the area of land contained in close proximity to the Dampier to Bunbury Natural Gas Pipeline Corridor and that works within the area may require approval of an S41 application. WestNet Energy can be contacted on 6213 7000.**

**CARRIED
6/1**

VOTING DETAILS:

Cr R Gillam returned to the chambers at 4.31pm.

B.411

Subject: Application to Vary Trading Hours – Priory Hotel, Dongara
Proponent: Wayne Martin, Manager, Priory Hotel
Reporting Officer: Felix Neuweiler, Manager Community Development
File Reference: DO.6
Date of Report: 20 March 2009
Voting Requirements: Simple

Issue:

The Department of Racing, Gaming and Liquor received an application to extend the opening hours of the Priory Hotel to 1am on Fridays and Saturdays.

Background:

The Priory Hotel's current Liquor Licence requires the Hotel to close at midnight on Friday and Saturdays.

The Dongara Hotel used to have a licence that allowed them to open until 1am, but this has expired and the publican has not re-applied for a licence that allows extended trading hours on a permanent basis.

The police have received noise complaints on nights when the Priory Hotel provides entertainment such as live bands, as the stage faces west and the sound travels through the Irwin River Valley unchecked into town.

Officer's Comment:

Presently there is no entertainment available in Dongara after midnight. It may be beneficial for the town if one of the premises offer entertainment until 1am, if the premises are operated responsibly.

The application could be supported subject to certain conditions, such as:

- Live bands to face east, away from town;
- Last drinks to be served at 12.30am;
- The publican to provide sufficient security personnel for the number of patrons on the premises at any given time;
- Compliance with the Environmental Protection (Noise) Regulations 1997;
- Compliance with the Health Act 1911 (as amended) and Health (Public Buildings) Regulations 1992.

Financial Implications:

Nil.

Policy Implications:

N/A

Officers Recommendation:

That Council support the Priory Hotel's application to vary trading hours on Friday and Saturday, subject to:

- Live bands to face east, away from town;
- Last drinks to be served at 12.30am;

- The publican to provide sufficient security personnel for the number of patrons on the premises at any given time;
- Compliance with the Environmental Protection (Noise) Regulations 1997;
- Compliance with the Health Act 1911 (as amended) and Health (Public Buildings) Regulations 1992.

COUNCIL MOTION:

Moved: Cr R Roberts

Seconded: Cr K Hepworth

That Item B.411 be presented as a late item.

**CARRIED
8/0**

VOTING DETAILS:

COUNCIL MOTION:

Moved: Cr L Wheeler

Seconded: Cr K Hepworth

That the application not be supported.

**CARRIED
8/0**

VOTING DETAILS:

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

COUNCIL MOTION:

Moved: Cr G Bass

Seconded Cr R Roberts

That Council proceeds behind closed doors in order to discuss item CEO.411.

VOTING DETAILS:

**CARRIED
8/0**

COUNCIL MOTION:

Moved Cr R Gillam

Seconded Cr G Bass

That Council

Confirm support for the principles contained within the draft Memorandum of Understanding between the Shires of Carnamah, Coorow, Irwin, Mingenew and Three Springs, as presented, as Councils preferred option at this stage, and

Agree to meet with representatives of the City of Geraldton-Greenough on this matter, and

Appoint the Shire President, Deputy President and CEO as Council representatives to the Steering Committee and to represent Council regarding local government structural reform. Cr Kevin Hepworth to be the proxy delegate.

VOTING DETAILS:

**CARRIED
8/0**

COUNCIL MOTION:

Moved: Cr K Hepworth

Seconded: Cr L Wheeler

That Council comes out from behind closed doors.

VOTING DETAILS:

**CARRIED
8/0**

14. CLOSURE

There being no further business, the Chairperson declared the meeting closed at 5.19pm.

I certify that this copy of the Minutes is a true and correct record of the meeting held on
24 March 2009
Signed:
Presiding Elected Member

Date:.....