

Minutes of the Shire of Tammin Ordinary Council meeting held at Council Chambers, 1 Donnan Street, Tammin, on Thursday, 18 December 2008.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Cr R Stokes declared the meeting open at 2.00pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Present

Cr R.J. Stokes	President (Presiding Person)
Cr K.L. Caffell	Deputy President
Cr M.D. Greenwood	Member
Cr S.J. Jefferies JP	Member
Cr B.F. Stokes	Member
Cr M.K. Wheeldon	Member

Mr M.G. Oliver Chief Executive Officer

Visitors

Steve Williams (2.17pm – 2.40pm) – see after Item 10.9

Apologies

Nil

Leave of Absence

Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. DECLARATION OF MEMBER'S INTERESTS IN AGENDA ITEMS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Ordinary Council Meeting Minutes – 20 November 2008

STATUTORY ENVIRONMENT

Section 5.22(2) of the Local Government Act provides that minutes of all meeting to be kept and submitted to the next full Council meeting for confirmation.

STAFF RECOMMENDATION

That the minutes of the Ordinary Council meeting held on 20 November 2008 be confirmed as a true and correct record.

Simple Majority Required

MIN 220/08 MOTION – Moved Cr Wheeldon 2nd Cr Caffell

That the Staff Recommendation be adopted.

CARRIED 6/0

8. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

10. REPORTS OF COMMITTEES/COUNCILLORS

10.1 WE-ROC Executive (ORG-15)

Meeting held in Merredin on 26 November 2008 and attended by the CEO. Issues discussed relevant to Tammin were:

- Community Housing section of the Department of Housing & Works – Jeanette Barrington, Sector Development Officer and Lena Pike, Registration & Business Improvement Coordinator provided a presentation on changes proposed. The outcome was that the Department is to convene a workshop of local government (NEW-ROC & WE-ROC) early in the new year to work through the many issues where Department Policy and local government legislation conflict. The submission on the Rent Surpluses paper was endorsed. A further submission on the proposed legislative changes is to be developed and submitted.
- Prime Minister's Presidents & Mayors Forum – a more detailed (than media releases) explanation of the background and procedures to be followed relating to the \$300m was provided by CEO's whose President attended. PM indicated that the funding was a test to see whether local government was able to acquit the funding on the required purposes in the time frame and that it was an opportunity for local government to consider structures.
- Royalties for Regions – the thought was that significantly more funding was to be provided to local governments – before Christmas 2008 and that the funding would be repeated every 12 months (year 2) with years 3 and 4 funding being regionally focused.
- Asset Management – resolved to explore the Institute of Public Works Engineering Australia (IPWEA)'s NAMS.PLUS asset management system (as opposed to WAAMI) with the first step to purchase an educational DVD and have IPWEA address WE-ROC. The next step would be for IPWEA to provide the necessary training (Councillors and Staff) before moving into the final stage of data compilation. It was also proposed to explore the compilation of the data being carried out regionally (through WE-ROC) in a similar manner to BSD compiling the ROMAN data for most Councils.
- Role of WE-ROC – a report is to be presented to the next WE-ROC Council meeting recommending the formalisation of WE-ROC from a voluntary organisation if and when the Local Government Act is amended. The Minister's Steering Committee is to report on this issue by 8 December 2008.
- Economic Alliance – this proposal will be presented to the next meeting of the WE-ROC Council to determine support generally and an implementation process (Councillor commitment).
- Natural Resource Management – the group has been successful in obtaining a *Caring For Our Country* grant of \$300,000 which will see some 900 seedlings purchased (from local nurseries – including Chatfields) and planted over the 12 local government areas – before June 2009.
- BBNet wireless broadband – has appointed a voluntary liquidator. Work is in progress to transfer all customers to an alternative service provider.

10.2 GECZ (ORG-02)

Teleconference meeting held on 27 November 2008 with the CEO participating. Issues discussed relevant to Tammin were:

- Mike Rose, Manager of Planning & Service Delivery, FESA – presented FESA's paper on changes to the Emergency Services Levy (ESL) grants process.
- SSS Implementation – Committee has met twice and is working through the recommendations.
- Zone records – proposal for records destruction has been put on hold whilst the policy and procedures are resolved.
- Royalties for Regions – 4 year funding program changing from 100% to individual local governments in year 1 to 55% to regions in year 4.

- Local Government Partnerships agreement with the State Government to be renegotiated.
- Local Government Act amendments – access to gravel and the electoral system (including WA Electoral Commission’s monopoly on postal voting and proportional preferential voting) are being considered a priority.
- Asset Management – Bill Mitchell reported the PMs strong stance on the progression of asset management plans when handing out the \$300m.
- Noted the tragic passing of Charlie Gregorini
- State Council 2009 meeting dates – for Councillors diaries:
 - 5/6 February (regional meeting)
 - 1 April
 - 3 June
 - 9 August
 - 7 October
 - 2 December
- State Council 2010 meeting dates – for Councillors diaries:
 - 4-5 February (regional meeting)
 - 2 June
 - xx August (immediately following the Local Government Convention)
 - 6 October
 - 1 December
- GECZ 2009 meeting dates – for Councillors diaries:
 - 29 January Teleconference
 - 26 March – Kondinin
 - 28 May Teleconference
 - xx August – Local Government Convention
 - 24 September – Tammin
 - 26 November – Teleconference

10.3 Tammin Primary School Afternoon Tea

Held at the School on 27 November 2008 and attended by Cr Jefferies and the CEO.

10.4 Be-Active

Meeting held in Perth on 1 December 2008 in Leederville and attended by Mrs Oliver with apologies from Cr R Stokes.

Issues discussed relevant to Tammin were:

- Bruce Rock indicated they would be seeking an increase in the contribution.
- Healthways confirmed that the Healthy Clubs funding is still available.
- Healthways indicated they would consider funding of promotes physical activity, better nutrition and addresses mental health or tobacco issues.
- Rod Thornton is concentrating on holiday programs and trying to get away from traditional sports by introducing new events.
- A sports trainer course is to be held in Merredin in April 2009.
- Steve Turner from the Noongar Sports Association indicated they could run programs in Tammin with funding from sources other than DSR and Healthways.

10.5 SEA-ROC

Meeting held in Beverley on 4 December 2008 and attend by Crs R Stokes, L Caffell, B Stokes and Mrs Oliver.

Issues discussed relevant to Tammin were:

- Sue Gordon from the Department of Health promoted a proposal to run a medical bus service to Perth.
- York and Beverley are in discussions regarding sharing a Health service.

Subsequently, Mrs Oliver attended the CEO’s meeting.

- The Department of Water made a presentation on water recycling and efficiency.

10.6 Granite Way Committee

Meeting of CEOs and other Staff on 4 December 2008 in Tammin.

Issues discussed relevant to Tammin were:

- Letter of support is to be provided to CAN WA to work with the Granite Way Committee.
- CEOs to support CAN WA in a presentation to LGMA – using the Granite Way as a model of community partnering.
- Letter of support is to be provided to the National Trust to work with the Granite Way Committee.
- NMROs to research the *Caring For Our Country 2009-10* funding round closing in February 2009.
- A further meeting of Staff is to be held in Quairading on 23-24 March 2009 to further consider priorities and allocate the Committee's tasks.

10.7 Forest Products Commission

Meeting held in Tammin on 4 December 2008 with Emer O'Gara, Strategic Tree Farming, Forests Products Commission together with the Shires of Bruce Rock and Kellerberrin, to discuss the requirements for share farming tree crops (Carbon Eucalypt Project).

10.8 Tammin Community Dinner

Held at the Bowling Club on 8 December 2008 and attended by Crs Caffell and Wheeldon together with the CEO.

Once again, an enjoyable evening was provided for the Tammin community.

10.9 WALGA Getting Started Training

Cr B Stokes reported on his attendance at the training module in Perth on 21 November 2008.

11.4 TALEC Centre Lease (ASS-1545)

Mr Williams entered the Chamber at 2.17pm and addressed Council broadly on his proposal for the TALEC Centre.

Mr Williams left the Chamber at 2.40pm.

11. AGENDA ITEMS

11.1 Future Directions (ADM-51)

Author – MG Oliver, CEO, 21 October 2008 Interest – Nil

PREVIOUS REFERENCE

Items 10.7 – 19 June 2008, 11.4 – 18 September 2008 and Item 12.1 – 16 October 2008 refer.

BACKGROUND

Council resolved in September 2008 that the Shire of Tammin seek to attend a SEA-ROC meeting to see how it functions.

Cr Wheeldon gave notice of motion to the October 2008 Ordinary Council meeting that a Special meeting of Council be convened to decide:

- What we need to go forward
- How to achieve our aims
- What are our needs and aims of the Shire of Tammin
- Questions we need to ask SEA-ROC and WE-ROC
- What benefit we need to aim for

- The needs of the Shire of Tammin and what are they
- What projects require finishing in Tammin.

Council resolved that a Special Council meeting be convened in early 2009 to develop a Strategic Plan.

COMMENT

Crs Caffell, Wheeldon and Jefferies together with the CEO attended the Planning Success Strategic Business and Project Planning Workshop in Cunderdin (conducted by the ACC) on 6 June 2008. Arising from that Workshop was an understanding that Council was interested in re-visiting it's 5 year Strategic Plan which expired in 2006.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 5.3 of the Local Government Act provides that:

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

Section 5.4 provides that an ordinary or a special meeting of a council is to be held —

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

FUTURE PLAN IMPLICATIONS

Significant once determined.

COMMUNITY CONSULTATION

Nil – but should be considered.

STAFF RECOMMENDATION

That Council set the date for a Special meeting of Council be convened in early 2009 to decide:

- What are the needs and aims of the Shire of Tammin;
- What the Shire of Tammin needs to go forward;
- How to achieve the Shire of Tammin's aims;
- The needs of the Shire of Tammin for a ROC and what are they;
- Questions that need to be asked of SEA-ROC and WE-ROC;
- What benefit the Shire of Tammin needs to aim for from a ROC; and
- What projects require finishing in Tammin.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr Greenwood 2nd Cr Jefferies

That Councillors meet at 9am on 19 February 2009 in the Council Chamber to commence the strategic planning process.

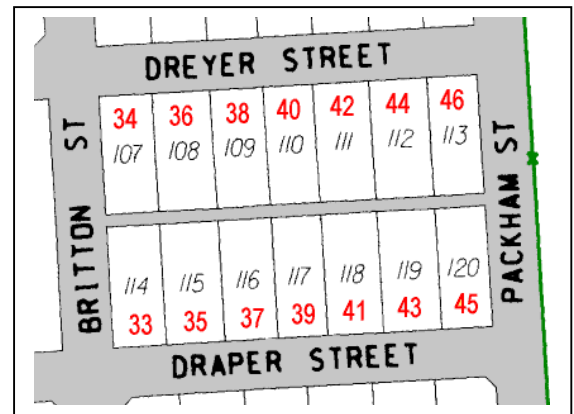
CARRIED 6/0

11.2 I Ayling – Lane Closure (ASS-333)

Author – MG Oliver, CEO, 19 November 2008 Interest – Nil

BACKGROUND

Seeking the closure of the ROW (lane) between Dreyer and Draper Streets (Britton Street to Packham Street) citing it's use by undesirables and maintenance issues.



COMMENT

The ROW is regarded as a public road. Roads are generally dedicated and ownership rests with the State with the local government being responsible for the care, control and management. If the road is subsequently closed, the land may be disposed of under the Land Administration Act as any other Crown land.

If Council is prepared to support the closure of the ROW it would be appropriate to advise the 8 adjoining property owners (other than the Crown and the Shire of Tammin) in addition to the required public advertisement.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Part 5 of the Land Administration Act deals with matters relating to public roads.

Section 58 provides that:

- (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.

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil – but required before a conclusive decision is made.

STAFF RECOMMENDATION

That Council indicate whether it is prepared to support the closure of the ROW.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr Caffell 2nd Cr Jefferies

That I Ayling be advised that Council declines to consider the closing of ROWs.

CARRIED 6/0

11.3 Audit Contract (FIN-01)

Author – MG Oliver, CEO, 8 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 10.1 – 27 July 2006 refers.

BACKGROUND

Mr Paul Chabrel, Butler Settineri, has given notice that he and Lucy Gardner wishes to terminate the contact for the provision of audit services to the Shire of Tammin.

The minimum requirement of an audit is cover under the *Local Government (Audit) Regulations 1996* - Regulation 9.

COMMENT

In July 2006 Council resolved that Butler Settineri (Paul Chabrel and Lucy Gardner) be appointed auditor for the Shire of Tammin for the 3 year period from 1 July 2006.

In 2006 the Department of Local Government & Regional Development's minimum requirements were used to develop the Audit Specification. These have been re-developed as follows:

1. Introduction

This document is provided for the assistance of auditors who wish to apply for the role of auditor with the Shire of Tammin.

Auditors are required to address all of the matters outlined in the specification.

Auditors who submit an application may be asked to provide further information and/or make a presentation to the Audit Committee.

2. Objectives of the Audit

To provide an independent audit opinion of the accounts and annual financial reports of the Shire of Tammin for each financial year covered by the term of the audit appointment.

3. Term of Audit Appointment

For the financial years commencing 1 July 2008 through to 30 June 2012.

4. Scope of the Audit

The Auditor is to –

- 4.1 Carry out such work as necessary to form an opinion as to whether -
 - a) the accounts are properly kept; and
 - b) the annual financial report:
 - (i) is prepared in accordance with the financial records; and

- (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards, the *Local Government Act*, the *Local Government (Financial Management) Regulations* and other mandatory professional reporting requirements.

- 4.2 Give an opinion in his or her audit report on -
 - a) the financial position of the local government; and
 - b) the results of the operation of the local government.

- 4.3 Include in his or her report –
 - a) any material matters that indicate significant adverse trends in the financial position or the financial management practices of the local government;
 - b) any matters including non-compliance with financial management requirements of the Act, Regulations and any other written law.

5. Audit Methodology and Approach

- a) The auditor is required to comply with the requirements of section 7.9 of the *Local Government Act* and the *Local Government (Audit) Regulations*.
- b) An audit is to be carried out in accordance with "Auditing Standards" and "Auditing Guidance Statements" adopted from time to time by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.
- c) The auditor is to provide the local government with a general outline of his/her methodology.
- d) The auditor is to provide the local government with a plan for the audit including:
 - timing of interim audit visits;
 - final audit visit (within 30 days of being advised that the accounts and annual financial report are available for audit);
 - timing of the legislative requirement to meet with the local government and whether that meeting will be in person or by some other means; and
 - the method to be used to communicate with, and provide advice and information to, the local government.
- e) The auditor is required to produce an audit report as required by section 7.9 of the *Local Government Act* and, if considered appropriate by the auditor, a management report.

6. Critical Matters to be Audited

The auditor is to include in his or her application the extent to which the critical matters outlined below will be audited so as to form an opinion on the matter in which they have been maintained.

- (i) Revenue
 - Rates Revenue
 - Government grants
 - User pays revenue
 - Profit on sale of non-current assets
 - Other income
- (ii) Expenditure
 - Salary and wage costs
 - Depreciation
 - Materials and contract expenditure
 - Loss on sale of non-current assets
 - Insurances
 - Bad debts
 - Other expenditure
- (iii) Current Assets
 - Bank and short term investments
 - Receivables and prepayments

- Inventory
- (iv) Non-current Assets
 - Property, plant, furniture and equipment
 - Infrastructure and depreciation
 - Other receivables
- (v) Liabilities (Current and non-current)
 - Creditors and accruals
 - Loan borrowings including new loans raised
 - Provision for annual and long service leave entitlements(vi) Reserve Funds
- (vii) Contingent Liabilities
- (viii) Capital Commitments
- (ix) Accounting Policies and Notes to the Financial Statements
- (x) Cash Flow Statement
- (xi) The financial ratios required by the Local Government (Financial Management) Regulations.

7. Hours, fees and Expenditure

The auditor is to provide:

- Estimate of the time to be spent on the audit.
- Fees for completing the audit in accordance with this specification.
- Nominated auditor(s) and registered company audit number(s).
- Experience of the nominated auditors in completing local government audits.

The auditor is to provide a fee for any additional audit requested by Council.

8. Terms

Conditions to be noted by auditors:

- The auditor shall not sub contract to a third party.
- The auditor shall not, and has no right to, assign the audit contact to third parties.
- The auditor shall not be engaged by the local government to undertake any financial consultancy with the local government that requires the preparation of financial information that will be the subject of the annual audit.
- The auditor shall confirm that he or she has and will maintain during the duration of the audit term, professional indemnity insurance covering the legal liability arising out of any neglect, default, error or omission.

9. Termination of Appointment

The appointment as auditor is terminated if:

- a) the auditor ceases to be a registered company auditor;
- b) the auditor ceases to be an approved auditor under Section 7.5 of the *Local Government Act*;
- c) the auditor is a disqualified person under Section 7.4(2) of the *Local Government Act*;
- d) the auditor resigns by notice in writing to the Shire of Tammin;
- e) the Shire of Tammin serves notice in writing to the auditor terminating the appointment.

FINANCIAL IMPLICATIONS

Unknown.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 7.3 of the *Local Government Act 1995* provides:

- (1) A local government is to, from time to time whenever such an appointment is necessary or expedient, appoint a person, on the recommendation of the audit committee, to be its auditor.

- (2) The local government may appoint one or more persons as its auditor.
- (3) The local government's auditor is to be a person who is —
 - (a) a registered company auditor; or
 - (b) an approved auditor.

Section 7.6 provides:

- (1) The appointment of a local government's auditor is to have effect in respect of the audit of the accounts and annual financial report of the local government for a term of not more than 5 financial years, but an auditor is eligible for re-appointment.
- (2) The appointment of an auditor of a local government ceases to have effect if —
 - (a) his or her registration as a registered company auditor is cancelled;
 - (b) his or her approval as an approved auditor is withdrawn;
 - (c) he or she dies;
 - (d) the auditor ceases to be qualified to hold office as auditor or becomes a disqualified person;
 - (e) the auditor resigns by notice in writing addressed to the local government; or
 - (f) the appointment is terminated by the local government by notice in writing.
- (3) Where —
 - (a) the registration of a local government's auditor as a registered company auditor is suspended; or
 - (b) a local government's auditor becomes unable or unwilling to carry out all or part of his or her duties,
 the local government is to appoint a person to conduct the audit or to complete that part of the audit which remains to be conducted, as the case requires.

Section 7.12A of the *Local Government Act 1995* provides:

- (1) A local government is to do everything in its power to —
 - (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister,
 by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

Regulation 7 provides that:

An agreement between a local government and an auditor is to include —

- (a) the objectives of the audit;
- (b) the scope of the audit;
- (c) a plan for the audit;
- (d) details of the remuneration and expenses to be paid to the auditor; and
- (e) the method to be used by the local government to communicate with, and supply information to, the auditor.

Regulation 8 of the *Local Government (Audit) Regulations 1996* provides that:

- (1) Where an agreement between a local government and an auditor is terminated —
 - (a) the local government is to, within a period of 30 days from the termination, give to the Executive Director —
 - (i) notice of the termination; and

- (ii) the reasons for the termination;
 - and
 - (b) the auditor is to, within a period of 30 days from the termination, advise the Executive Director of the termination.
- (2) Notwithstanding any provision of an agreement between a local government and an auditor to the contrary, an auditor is to be given notice in writing of the termination of his or her appointment.

Regulation 9 provides that:

- (1) An audit is to be carried out in accordance with the "Auditing Standards" and "Auditing Guidance Statements" adopted from time to time by the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia.
- (2) An auditor is to carry out such work as is necessary to form an opinion as to whether —
 - (a) the accounts are properly kept; and
 - (b) the annual financial report —
 - (i) is prepared in accordance with the financial records; and
 - (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards and the Act.

Regulation 16 of the *Local Government (Audit) Regulations 1996* provides that an audit committee —

- (a) is to provide guidance and assistance to the local government —
 - (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and
 - (ii) as to the development of a process to be used to select and appoint a person to be an auditor;

and

- (b) may provide guidance and assistance to the local government as to —
 - (i) matters to be audited;
 - (ii) the scope of audits;
 - (iii) its functions under Part 6 of the Act; and
 - (iv) the carrying out of its functions relating to other audits and other matters related to financial management.

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That:

- the appointment of Butler Settineri (Audit) P/L as auditors for the Shire of Tammin be cancelled and the Executive Director of the Department of Local Government and Regional Development advised (pursuant to Regulation 8 of the Local Government (Audit) Regulations; and
- quotations be sought for appointment as auditor for the Shire of Tammin for a 3 year term from 1 July 2008 in accordance with the audit specification.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr Caffell 2nd Cr Greenwood

That the Staff Recommendation be adopted.

CARRIED 5/1

11.4 TALEC Centre Lease (ASS-1545)

Author – MG Oliver, CEO, 3 December 2008 Interest – Nil

PREVIOUS REFERENCE

Information Bulletin Item 20 – 20 November 2008 refer.

BACKGROUND

The lease of the TALEC buildings was advertised in the West Australian (Saturday 6 September 2008) and the Weekend Australian on the advice of MarketForce following no interest being shown by business opportunity real estate agents. Copies of the advertisement together with the information package was also sent to 6 parties.

The advertisements resulted in one contact from a contractor accommodation supplier – who was to inspect the property but withdrew their interest at the eleventh hour.

The Lease was re-advertised closing 10 December 2008.

Two expressions of interest have been received.

COMMENT

The advertisements were worded:

Expressions of Interest Accommodation Centre Available For Lease

Located in Tammin on the Great Eastern Hwy 183 km east of Perth is an accommodation centre available for long term lease.

The Centre, which was constructed as railway worker barracks and which has been used for the past 18 years as an environmental learning centre, consists of 21 airconditioned rooms with 2 bunk style accommodation sleeping 42 people, 2 sets of ablutions, large common room and commercial style kitchen. Also attached is a caretaker's residence all set in a rural environment of 7,000m².

The Centre would be ideal for uses from contractor camp, budget accommodation to an education centre. Well serviced by Great Eastern Hwy and the rail network, the possibilities are endless.

Submissions close on 10 December 2008.

For further information, an information package or inspection, please contact:

Further direction is required from Council as to how this issue should be progressed.

FINANCIAL IMPLICATIONS

Significant, depending on Council's direction.

Approximately \$4,000 has been expended to date advertising the lease – from the 2008/09 Budget provision (Account E082070) of \$3,000.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act provides:

(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.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
 - and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (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.

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That Council provide direction in relation to what return it wishes to receive for the facility.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr Caffell 2nd Cr Greenwood

That those parties who have indicated an interest in leasing the facility be advised that a formal proposal, detailing return proposed to the Shire of Tammin and responsibility for the Centre’s outgoings, is required by 11 February 2009 for Council’s consideration.

CARRIED 6/0

11.5 WIN Television – Lease (Agreements File 34)

Author – MG Oliver, CEO, 8 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 11.15 – 20 November 2008 refers.

BACKGROUND

Responding to correspondence expressing a desire to continue occupancy of the Town Hall and seeking to formalise a new Deed of License to continue occupancy, Council resolved in

November 2008 that the new Deed of License with WIN Television be signed and the Common Seal affixed.

Whilst this action has been carried out, the License has not been issued to WIN Television.

COMMENT

It would seem that the original lease was entered into in November 1998 with the five year option exercised in November 2003.

The new Deed of License provides for:

- a term of 5 years with an option of a further 5 years;
- no rent (electricity usage to be paid by Licensee).

Advice was sought from McLeods (Barristers & Solicitors) in relation to the legality of renewing a License (Lease) to part of Reserve 26973 to WIN Television WA Pty Ltd. Their advice is that the vesting order (H477683), made under the then *Land Act 1933*, which now constitutes a Management Order under the *Land Administration Act 1997*, provides that the land is used for the purposes of "use and requirements of the Shire of Tammin". However, in spite of this particularly broad definition of "purpose", the order does not confer a power to grant a lease or licence over the land.

Section 46(3)(a) of the *Land Administration Act* provides that the Minister may "confer on a management body power, subject to section 18, to grant a lease or sublease or licence". Section 18 provides that such a lease or licence may only be granted with "the prior approval in writing of the Minister [for Lands]".

Therefore, the Shire should technically be seeking to avoid renewing the Licence until such time as it seeks an amendment of the Management Order to confer a power to grant a lease or licence, or, at least, an acknowledgement from State Land Services that the Shire is permitted to grant a lease or licence in respect of the land, pending the amendment of the Management Order. In the event that the Shire does continue to grant a Licence without having such a power conferred upon it, then the Minister may elect to revoke the Shire's Management Order of the Reserve. This particular measure would be considered rather uncommon, but cannot be dismissed altogether.

The failure to obtain Ministerial approval for the Licence is likely to cast doubt on the validity of the Licence itself and, in the event of a dispute, it might be difficult for the Shire to enforce any rights against the Licensee. Furthermore, in the event that the Management Order was revoked and the Licensee suffered some loss or detriment as a result of the revocation of the Management Order (and, therefore, the Licence) then it may seek to commence legal proceedings against the Shire to recover that loss.

Given the possible outcomes associated with the continuing unauthorised grant of licence in respect of this property, we would advise the Shire it should avoid renewing this agreement until it has resolved the matter with State Land Services.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 46 of the Land Administration Act provides:

- (1) The Minister may by order place with any one person or jointly with any 2 or more persons the care, control and management of a reserve for the same purpose as that for which the relevant Crown land is reserved under section 41 and for purposes

- ancillary or beneficial to that purpose and may in that order subject that care, control and management to such conditions as the Minister specifies.
- (2) The Minister may, with the consent of the management body of a reserve and of the holders of any interests within the reserve, by order vary any condition to which the care, control and management of the reserve is subject.
 - (3) The Minister may —
 - (a) by order confer on a management body power, subject to section 18, to grant a lease or sublease or licence over the whole or any part of the Crown land within the reserve in question for the purposes referred to in subsection (1); and
 - (b) approve a mortgage of any such lease.
 - (3a) The Minister may by order —
 - (a) without the consent of the management body of a reserve, vary —
 - (i) an order made under subsection (3)(a); or
 - (ii) an order made under section 33 of the repealed Act or section 42 or 43 of the Land Act 1898 7 that subsists as an order made under subsection (3)(a),in relation to whether or not prior approval in writing of the Minister is required to a grant of a lease, sublease, or licence; or
 - (b) with the consent of the management body of a reserve, vary any other condition to which —
 - (i) an order made under subsection (3)(a); or
 - (ii) an order made under section 33 of the repealed Act or section 42 or 43 of the Land Act 1898 7 that subsists as an order made under subsection (3)(a),is subject.
 - (3b) The Minister's approval under section 18 is not required for the exercise of a power conferred under subsection (3)(a) unless —
 - (a) the person on whom the power is conferred is —
 - (i) a body corporate that is constituted for a public purpose under an enactment and is an agency of the Crown in right of the State; or
 - (ii) a person referred to in subsection (10)(b),and the order provides that the Minister's approval under section 18 is required; or
 - (b) the person on whom the power is conferred is a person other than a person referred to in paragraph (a).
 - (4) If an unmanaged reserve is the subject of —
 - (a) a lease granted under section 47; or
 - (b) a licence, or a lease or profit à prendre, granted under section 48,or of any other interest in the unmanaged reserve, the Minister may under subsection (1) place the care, control and management of that reserve with a management body subject to that licence, lease or profit à prendre or other interest, the term of which continues unbroken by that placing.
 - (5) An order made under subsection (1), (2), (3) or (3a) does not create any interest in Crown land in the relevant reserve in favour of the management body of that reserve.
 - (6) If Crown land reserved under section 41 for the purpose of recreation is leased or subleased under a power conferred under subsection (3), the lessee or sublessee may, unless the terms of the management order or the lease or sublease otherwise provide, restrict public access to the area leased.
 - (7) A person with whom the care, control and management of a reserve is placed by order under subsection (1) has, by virtue of this subsection, the capacity, functions and powers to hold and deal with the reserve in a manner consistent with the order, any order conferring power on that person under subsection (3)(a) and this Act to the extent that the person does not already have that capacity or those functions and powers.
 - (8) Subsection (7) does not authorise a management body to perform a function or exercise a power if another enactment expressly prevents the person from performing that function or exercising that power, or expressly authorises another person to perform that function or exercise that power.
 - (9) Any instrument in relation to the care, control and management of a reserve entered into or given by a person holding an office referred to in subsection (10)(b)(i) or (iii) is

taken to have been entered into or given by the person for the time being holding that office.

- (10) In subsection (1), a reference to a person is a reference to —
- (a) a person having perpetual succession;
 - (b) a person not having perpetual succession who is —
 - (i) a Minister to whom the Act specified in the relevant order is for the time being committed by the Governor;
 - (ii) the Marine Parks and Reserves Authority established under section 26A of the Conservation and Land Management Act 1984; or
 - (iii) a person holding a prescribed office.
- (11) If an order made under section 33 of the repealed Act subsists under clause 16(1) of Schedule 2 as if it were a management order under section 46(1), the Minister may by order vary that order to place the care, control and management of the reserve the subject of the order with a person referred to in subsection (10).
- (12) An order made under section 46(1) before the coming into operation of section 12 of the Land Administration Amendment Act 2000 1 may be varied by the Minister by order to place the care, control and management of the reserve the subject of the order with a person referred to in subsection (10).

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That approval be sought from the Minister for Lands to amend the Vesting Order / Management Order for Reserve 26973 to provide authority to enter into a Lease and that WIN Television be updated on the legal restrictions and of Council's desire to resolve the matter.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr B Stokes 2nd Cr Wheeldon

That the Staff Recommendation be adopted.

CARRIED 6/0

11.6 Regional & Local Community Infrastructure Program (OFGOV-12)

Author – MG Oliver, CEO, 8 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 11.23 – 20 November 2008 refers.

BACKGROUND

In November, 2008 Council was alerted to the reported announcement at the Prime Minister's inaugural Mayors & Presidents Forum in Canberra, that \$300m for new infrastructure spending was to be made available to local government conditional on it being spent by September 2010.

Arrangements are now clear that Councils can apply for the funds which will be available as part of two different programs under the Regional and Local Community Infrastructure Program – Strategic Projects 2008-09.

Around \$250m is available for new initiatives separate from those already planned by Councils. A letter of offer and request for details of projects is being prepared by the Government and is to be sent to local councils. Councils will then have until 30 January 2009 to return documentation. In their responses, councils will have to stipulate that the identified projects are ready to proceed and are additional to current operating budgets. Funding will start to be released shortly afterwards. Funds have been allocated according

to a Government formula based on factors such as expected population growth of the Shire. Each allocation would be at least \$100,000 for smaller councils and up to \$2.9m for the largest.

Another \$50m is available for large strategic projects seeking a minimum Commonwealth contribution of \$2 million on a nationally competitive basis and will be assessed by the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) on a tight timetable. Complete applications must reach the Department of Infrastructure, Transport, Regional Development and Local Government by 23 December 2008. The Minister for Infrastructure, Transport, Regional Development and Local Government expects to announce successful projects by February 2009.

Funds will be delivered by 30 June 2009.

Also announced was that future Commonwealth infrastructure funding may be conditional on an increased transparency from councils on asset management – the implementation of nationally consistent asset management systems. Mr Rudd is reported as saying that he wants long term reform of local government management of infrastructure stating that “Councils that plan and manage their assets effectively are councils that can deliver value for money to their communities. The quality and transparency of financial management varies greatly across different local governments.”

RLCIP – Strategic Projects will provide funding for community infrastructure including new and major renovations or refurbishments such as:

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens’ centres);
- access facilities (e.g. boat ramps, footbridges); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants).

A guidance list has been provided that funded Projects need to be consistent with

Funding can be used for:

- construction or fit-out;
- preparatory work such as necessary engineering and geotechnical studies;
- land surveys and site preparation; and
- project management costs.

Funding will not be available for activities such as ongoing costs (e.g. operational costs and maintenance), transport infrastructure, such as roads, or related infrastructure covered by the Roads to Recovery or Black Spots programs.

A final and complete application form including all supporting documentation must be received by the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) by 4pm (Australian Eastern Daylight Saving Time) on 23 December 2008.

In order that RLCIP – Strategic Projects can be assessed for funding by the Department, each proponent will need to provide the following:

- details of the Council;
- details of the project funding including other contribution arrangements;
- financial information including quotations, cost estimates and budgets;
- project timeframes;
- project delivery information including project and business plans; and
- all statutory and other approvals required if relevant for the project .

Councils will also need to provide authorisation for the Department to undertake an Independent Viability Assessment if necessary.

Based on the information provided, the Department will conduct a risk analysis of the Council undertaking the proposed project.

In the risk analysis of the project, consideration will be given to the financial viability of the proponent.

Project viability will be considered from two perspectives: whether the project can be completed on time and within budget; and whether the project will be sustainable.

Important aspects that may be considered in relation to the overall viability of the project include:

- evidence of the Council's expertise/skills to deliver the project in a timely manner and sustain it into the future;
- ownership and/or lease arrangements of equipment or facilities or other assets to be used in the delivery of the project;
- the level and status (e.g. contribution received; contribution committed but yet to be received; contribution in negotiation) of any of the funding contributions for the project and whether there are conditions attached to this funding;
- the budget and costings;
- feasibility studies or project plans;
- information on whether there is any need for planning approvals or licences and that these requirements have been met or fully considered;
- business and project plans and cash flow projections;
- ongoing maintenance and management strategies;
- funding that may be required for any future stages of the project;
- whether the project had previous stages, how it was funded in the past; and the results of any independent viability assessments if undertaken (copies of independent viability assessments undertaken by the Council should be provided).

Where the Australian Government believes there are risks with the viability of the proponent or project that require further consideration, an Independent Viability Assessment (IVA) will be undertaken by a qualified external consultant engaged by the Department. The findings of the IVA will be considered in the project analysis.

The provision of funding for RLCIP- Strategic Projects will be conditional upon proponents entering into Funding Agreements (contracts) with the Commonwealth (represented by the Department of Infrastructure, Transport, Regional Development and Local Government). The Funding Agreement (contract) is a legally enforceable document which defines the obligations of both parties.

Construction must commence within six months of the Funding Agreement (contract) being signed. Funding Agreements (contracts) will be structured to schedule the release of 100 per cent of funds to proponents on signing of the Funding Agreement (contract) and confirmation of commencement date of construction.

Once funding is confirmed the proponent will be required to actively manage the project. It is recommended that proponents consider appointing appropriate project management arrangements proportionate to the size and nature of the project. The Department will monitor the project's progress through reports received under the Funding Agreement (contract) at agreed milestones and may conduct site visits.

Examples of Community Infrastructure

Social and cultural infrastructure

- Town halls

- Theatre/music/art spaces
- Community centres
- Historic buildings
- Libraries
- Parks and gardens
- Local heritage sites
- Internet kiosk infrastructure
- Museums
- Kitchens for organisations
- Cultural centres
- Community market areas
- Enhancement of main streets and public squares

Recreation facilities

- Sports grounds and facilities
- Swimming pools
- Sports stadiums
- Walking tracks and bicycle paths
- Community recreation spaces
- Skate Parks
- Playgrounds
- BMX/Mountain Bike parks/trails
- Rail trails
- Surf lifesaving clubs

Tourism infrastructure

- Convention or trade centres
- Community public attractions
- Memorial halls/walkways
- Buildings for exhibits
- Tourism information centres
- Local infrastructure to support or provide access to tourist facilities

Children, youth and seniors facilities

- Playgroup centres
- Scout/guide halls
- Youth centres
- Senior citizens' centres

Access facilities

- Disabled access infrastructure • Jetties/wharves/piers/pontoons
- Footbridges
- Bus/rail terminal upgrade
- Foreshore development
- Boat ramps

Environmental Initiatives

- Water source and treatment
- Wastewater infrastructure
- Drain and sewerage upgrades
- Water recycling plants
- Water conservation infrastructure
- Water catchments
- Waste management and processing infrastructure
- Recycling plants

Council resolved in November 2008, to allow planning to be carried out, the priority for the Federal funds as:

- Donnan Park covered way/BBQ area;
- Depot facilities; and
- Tammin Town Hall.

COMMENT

The issue of eligible projects was *muddied* by WALGA's statement that funding spent on new capital works would be picked up by the Grants Commission and would be subsequently taken back by a reduction in FAGS. This has subsequently been corrected.

The guidelines do not support the Depot facilities proposed.

With submissions being required (30 January 2009) prior to Council's next (February 2009) meeting a finite decision of Council is required at this meeting.

New work proposed for RLCIP funding is as follows:

Donnan Park Covered Way

- Construct covered way between pavilion and grandstand with roller door access to west and open to the east (oval) \$13,000
- Cement pave site underneath covered way, install sink, 6 burner BBQ, power and lights \$12,000

Town Hall

- Install dado to the east, south and west internal walls of the main hall, north wall of the entrance and north wall of the gents toilet
- Repair plumbing and repaint gents and ladies toilet
- Repair all external doors to main hall
- Repair floor at south end of main hall and create new manhole
- Replace ceiling to east entry (near stairs and power board) \$25,000
- Repair crack in north east corner of Hall (behind stage) \$8,000
- Address underfloor ventilation \$6,000
- Refurbish Lesser Hall (carpet, ceiling, painting)
- Replace wall fans in Town Hall (move switches)
- Fix windows and repaint external woodwork
- Reinstall exterior landing/stairway to emergency stage exit

FINANCIAL IMPLICATIONS

New project/s not provided for in the 2008/09 Budget but fully funded.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That a \$100,000 RLCIP funding request be submitted for the Donnan Park covered way project and the refurbishment of the Tammin Town Hall.

Simple Majority Required

Cr Greenwood left the Chamber at 5.00pm.

11.7 M.G. Oliver Employment Contract (PERSONNEL)

Author – MG Oliver, CEO, 8 December 2008 Interest – M.G. Oliver – as incumbent

PREVIOUS REFERENCE

Item 11.22 – 21 February 2008 refers.

BACKGROUND

Clause 4 of the Term Of Employment 3 with the CEO provides that the Shire of Tammin will employ the CEO for a term of 3 years, commencing on the 13th day of January, 2006 and expiring on the 12th day of January, 2009.

Clause 5 further provides that there is no compulsion on either the Council or the CEO to agree to a new Contract. The Council and/or the CEO shall initiate discussions not later than 12 months prior to the expiry of the Term for the parties to enter into a new Contract for a further term with the Council making a decision to finalise those discussions not later than 9 months prior to the expiry of the term of this Contract. In the event that the Council and the CEO agree to a new contract, a new contract will be executed.

Council resolved in February 2008 that Mr Oliver be offered a new 5 year contract.

With the completion of the Performance Appraisal, it is now appropriate that the contract be finalised.

COMMENT

The CEO has discussed the draft Contract, including key performance indicators, with the President.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 5.36 of the *Local Government Act* provides:

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the provisions of the proposed employment contract.
- (3) A person is not to be employed by a local government in any other position unless the CEO —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) If the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

Section 5.39 of the *Local Government Act* provides:

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (1a) Despite subsection (1) —
 - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
 - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
 - (a) the expiry date is specified in the contract;
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That the employment contract with Mr Oliver be signed.

Absolute Majority Required

Mr Oliver left the Chamber at 5.22pm.

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

11.8 General Electors Meeting

Author – MG Oliver, CEO, 10 December 2008 Interest – Nil

BACKGROUND

The Shire of Tammin General Meeting of Electors was held on 9 December 2008. Minutes of the meeting have been provided to Councillors.

Legislation requires Council to consider the minutes of the Electors meeting at the next practicable Ordinary Meeting.

Legislation also requires Council to record reasons for its decisions arising from decisions made at the Electors meeting.

COMMENT

Although there were no decisions at the meeting requiring Council decisions, issues arising from the meeting included:

- Kadjininy Kep – considered using fish, snails and plants, in conjunction with algaecide as an alternative to chlorine in keeping the water clean.
- Vandalism – Mr T O’Dea queried what action was being taken regarding the vandalism occurring in Tammin by children. Cr R Stokes indicated that the matter would be taken up with the Police and they would be invited to attend a Council meeting the date of which would be publicised.
- Sheep Sale Yards – Mr D Martin queried what was the future of the sale yards. Mr R Beasley suggested they should be relocated to a more truck friendly site.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY IMPLICATIONS

Section 5.32 of the *Local Government Act* provides that the CEO is to —

- (a) cause minutes of the proceedings at an electors’ meeting to be kept and preserved; and
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors’ meeting are first considered.

Section 5.33 of the *Local Government Act* provides that:

- (1) All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

STRATEGIC PLAN IMPLICATIONS

Nil

PRINCIPAL ACTIVITY PLAN IMPLICATIONS

Nil

STAFF RECOMMENDATIONS

That the minutes of the Shire of Tammin General Meeting of Electors held on 9 December 2008, be received.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

That Council respond to the issues raised at the General Meeting of Electors.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

11.9 Tammin P&C – School Lawn Mowing (ORGL-04)

Author – MG Oliver, CEO, 9 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 11.9 – 17 April 2008 refers.

BACKGROUND

Responding to a request for a quote for the upkeep of the School oval by weekly mowing the area and fertilising monthly, Council resolved in April 2008 that the Tammin P&C be advised the Shire of Tammin will undertake the mowing and fertilising of the lawn through to 31 January 2009 at no charge and that the situation will be reviewed at that time.

The Association indicated that the School does not have the appropriate equipment nor the resources to replace the equipment.

Given that Council will not meet until again until February 2009 it is appropriate that this issue be reviewed.

COMMENT

The Association was alerted to the end of the commitment but has yet to respond.

FINANCIAL IMPLICATIONS

Cost per mow is around \$50.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That Council provide direction.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

11.10 TALEC Achievements Celebration (EDU-04)

Author – MG Oliver, CEO, 10 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 11.4 – 20 October 2008 refers.

BACKGROUND

In October, the TALEC Committee resolved that the CEO discuss with Alcoa their requirements for the function to celebrate TALEC's achievements and that the venue (Perth or Tammin) and date (March/April 2009) be set by the CEO in consultation with Jayne York.

Alcoa indicated that the function should be held in Tammin and that the date should be set as early as possible.

COMMENT

Available dates (and other calendar commitments) are:

- 26 February – 6 March – Bowls Country Week
- 2 March – Labour Day public holiday long weekend
- 7 March – Saturday
- 9-14 March – Ladies Bowls Country Week
- 14 March – Saturday – Mens bowls semi finals
- 16-19 March – LEVS (Kellerberrin/Tammin) Emergency Exercise
- 21 March – Saturday – Mens bowls prelim finals
- 28 March – Saturday – Mens champion of champions 7s.
- 29 March – Daylight Saving finishes for WA
- 31 March – Seniors Games
- 4 April – Saturday
- 9 April – School holidays start
- 10 April – Good Friday
- 11 April – Saturday – Bowls Closing day
- 13 April – Easter Monday
- 18 April – Saturday
- 23 April – Tammin CWA 70th Birthday
- 25 April – ANZAC Day
- 25 April – Saturday
- 28 April – School returns

Committee members have responded to the available dates with the following comments:

- to stay away from the school holiday periods;
- the later the better (cooler)
- no band (let people talk to one another).

This put the preferred date as 4 April although 18 April, in the middle of the school holidays, is a second option.

FINANCIAL IMPLICATIONS

Alcoa has provided \$15,000 to celebrate and document TALEC's achievements.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That the TALEC achievements celebration function be held at the Tammin Town Hall/Lesser Hall/Kadjininy Kep (depending on numbers and weather) on 4 April 2009.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

11.11 TALEC Bus (TN.210)

Author – MG Oliver, CEO, 10 December 2008 Interest – Nil

PREVIOUS REFERENCE

Item 10.1 – 20 November 2008 refers.

BACKGROUND

Responding to a recommendation from the TALEC Committee, Council resolved that the proposed sale of the TALEC bus at the end of the calendar year lay on the table until this meeting.

COMMENT

The bus – TN.210 Denning Mono Coach – was purchased in 2003 for \$25,000 and has a current written down asset value of \$2,300.

FINANCIAL IMPLICATIONS

No provision was made in the 2008/09 Budget for the proposed disposal.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That the TALEC bus be sold at the end of the calendar year.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

11.12 Financial Report (FIN-05)

Author – JS Oliver, Senior Finance Officer, 8 December 2008 Interest – Nil

BACKGROUND

The Financial Report for 2008/09 to 30 November 2008 is attached.

COMMENT

The Financial Report has been prepared in the format requested by Council.

The effect of the Council's Policy decision on reporting variances is shown in the far right column – being the calculated variance between the Actual Column and the YTD Budget column figures where the variance is greater than 10% and \$5,000.

FINANCIAL IMPLICATIONS

No significant implications.

POLICY IMPLICATIONS

Council resolved (Item 11.8 – 23 August 2007) that in accordance with section 34(5) of the Local Government (Financial Management) Regulations 1996 a variance percentage of 10% and \$5,000 be adopted for reporting material variances.

STATUTORY ENVIRONMENT

Regulation 34 of the *Local Government (Financial Management) Regulations* requires a Statement of Financial Activity to be prepared each month which is to contain the following details:

- (a) annual budget estimates;
- (b) budget estimates to the end of the month;
- (c) actual amount of expenditure and revenue;
- (d) material variances between comparable amounts in (b) and (c) above; and
- (e) the net current assets at the end of the month to which the statement relates (i.e. surplus / (deficit) position).

The Statement is to be accompanied by:

- (a) explanation of the composition of net current assets, less committed assets and restricted assets;
- (b) explanation of the material variances; and
- (c) such other information considered relevant by the local government.

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That the Financial Report for November 2008 be received.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

11.13 List Of Payments (FIN-05)

Author – L Winterswyk, Administration Officer, 8 December 2008 Interest – Nil

BACKGROUND

Accounts paid and for payment for November 2008 are listed totalling:

Municipal Fund	Voucher numbers 2240 – 2333	\$308,429.83
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COMMENT

No abnormal expenditure has occurred.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Regulation 13 of the *Local Government (Financial Management) Regulations* provides that:

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

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

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That the list of accounts for November 2008 be endorsed.

Simple Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

12. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 SEA-ROC (PROP-00)

Cr R Stokes has given notification of his intention to move that the Shire of Tammin formally apply to join SEA-ROC and that the Shire of Tammin remain in WE-ROC at least to the end of this financial year.

BACKGROUND

In August 2008 Cr R Stokes requested an item be included onto the September 2008 Agenda to discuss structural reform of local government – in particular the SSS Report/The Journey: Sustainability Into The Future with the view to taking a more positive approach to the Report's recommendations and to initiating discussions with the Shire of Cunderdin and SEA-ROC. Council resolved that the Shire of Tammin seek to attend a SEA-ROC meeting to see how it functions.

Some Councillors attended the SEA-ROC meeting on 22 October 2008, others on 4 December 2008.

COMMENT

SEA-ROC's Memorandum of Understanding provides that:

- 5.1 The member local governments of the Association shall comprise the Shire of Beverley, Shire of Brookton, Shire of Cunderdin, Shire of Quairading and the Shire of York.
- 5.2 Any other local government may apply in writing to the Executive Officer setting out the reasons why the local government wishes to become a member local government of the Association.
- 5.3 The Executive Officer shall forward the application to every member local government not less than four weeks prior to the meeting of the Executive Committee at which it is to be considered.

- 5.4 A local government is recommended to become a member local government if an absolute majority of the member local governments agree in writing.
- 5.5 The Association shall then put its recommendation for the local government to become a member local government to the Minister for Local Government in accordance with the Act.
- 5.6 On the granting of the approval of the Minister the local government shall become a member local government.

The motion is political in nature – hence there is no Staff recommendation.

FINANCIAL IMPLICATIONS

Unknown. SEA-ROC's budget indicated that the 5 existing member local governments were paying a membership subscription for 2008/09 of \$20,000 each plus a further \$1,200 each for the legal opinion project. These figures might be adjusted pro-rata for the year or for the number of local governments paying the membership subscription.

No provision was made in the 2008/09 Budget for SEA-ROC membership.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Nil

STAFF RECOMMENDATION

That Council determine the motion.

Absolute Majority Required

MIN XXX/08 MOTION – Moved Cr 2nd Cr

That the Staff Recommendation be adopted.

CARRIED 6/0

13. **ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
15. **CLOSURE OF MEETING**
There being no further business the Chairman closed the meeting at ___ pm.

Tabled before the Ordinary Council meeting on 19 February 2009.

Cr R.J. Stokes, Chairman