



ORDINARY COUNCIL MEETING

MINUTES

Ordinary Meeting of the Council
held in the Council Chambers
2:45pm Tuesday 26 April 2005

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:48pm The Presiding Member declared the meeting open.

The Chief Executive Officer, Mr Rob Stewart, read aloud the following disclaimer:

'No responsibility whatsoever is implied or accepted by the Shire of Plantagenet for any act, omission or statement or intimation occurring during Council / Committee meetings or during formal / informal conversations with staff.

The Shire of Plantagenet disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, or statement of intimation occurring during Council / Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the Shire of Plantagenet during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Plantagenet. The Shire of Plantagenet warns that anyone who has an application with the Shire of Plantagenet must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Plantagenet in respect of the application.'

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Cr K Forbes	Shire President – Rocky Gully / West Ward (Withdrew 3:58pm, returned 4:03pm) (Withdrew 4:04pm, returned 4:06pm)
Cr D Williss	Deputy Shire President – East Ward
Cr J Cameron	Rocky Gully / West Ward (Withdrew 3:58pm, returned 4:03pm) (Withdrew 4:04pm, returned 4:06pm)
Cr K Hart	Kendenup Ward
Cr M Skinner	East Ward (Withdrew 3:58pm, returned 4:03pm) (Withdrew 4:04pm, returned 4:06pm)
Cr K Clements	Town Ward
Cr J Moir	South Ward
Mr R Stewart	Chief Executive Officer
Mr S Bell	Executive Director Technical & Development Services
Mr J Byrne	Executive Director Corporate & Community Services
Ms D Baesjou	Manager Development Services (Withdrew 3:28pm)
Mr E Howard	Environmental Health Officer

Record Of Attendance / Apologies / Leave Of Absence (Previously Approved) (Cont.)

Mrs K Skinner Executive Secretary
Miss C Delmage Administration Officer – Minutes & Agenda

There were six (6) members of the public present.
There was one (1) member of the media present.

Councillor Elect Bill Hollingworth
Councillor Elect John Mark

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Stella Tippet

I have two (2) questions that have a common thread. My first question is in relation to a tragedy that happened recently and that has affected everyone in this community. For several years I drove the Woogenellup Road school bus and I was often confronted by trucks along the section near Enright's and Pieper's properties. There were a few times when I had to use all my skills to hold the bus on a steady course. I did report several incidents to the bus company and on one occasion I was given permission to ring the trucking company concerned to let them know about the velocity at which one of their trucks had entered the bend and which caused some of my younger passengers some real anguish. The new term commenced today and seeing the buses out on the road this morning only further spurred me to 'strike while the iron was hot' so to speak.

The history of Woogenellup Road thus far has been a lucky one. Over the years Woogenellup Road and Porongurup Road have been carrying larger and longer vehicles with heavier loads and travelling at excessive speed.

My first question to the Council is: What plans are in the pipeline for the upgrade of these roads and what priority does Council put on these upgrades?

Why is it that budget often overrides safety and why is it that so often heed is not taken until a life is lost?

Which brings me to my second question. When I was the manager of the Tourist Bureau and we were in the old building in Lowood Road, we were making plans to relocate to the railway station. The safety aspect of the platform was very much a concern back then. I attended a Council meeting a few months ago where the subject of a safety fence around the platform was again raised. The construction of the fence is, in fact, part of the terms of lease set down by Westrail. The Council put the fence back on the backburner for a further twelve (12) month feasibility period.

Petitions / Deputations / Presentations (Cont.)

There is a real safety concern here. Will it take an accident to happen before this is dealt with? It has been more than ten (10) years since this subject was first brought to the attention of the Council.

Response By: Cr K Forbes - State funding is given for both roads which the Council then matches to receive its maximum from Regional Roads Group. The Council has spent approximately \$450,000.00 to \$500,000.00 per annum on both Woogenellup and Porongurup Roads and considerable progress has been made on sections of both sides. These roads are not yet 'perfect' but the Council will continue to work at improving and maintaining these roads. Both of these roads are 'road train routes' and are listed in the Roads 2020 Program and are also an issue of Main Roads WA.

Response By: Mr S Bell - In regards to fencing the railway station, the Council's previous Works Coordinator was liaising with Westrail. The Council tried to negotiate for a complete fence but negotiations were delayed due to having to wait on a resolution from Westrail. This matter has now been agreed on and money has been set aside for the fencing. Further discussions with Westrail will occur to finalise the matter.

Stella Tippet

Is there some way that the Council can exert pressure on Main Roads WA?

Response By: Cr K Forbes Both Albany Highway and Chester Pass Roads are gazetted as Main Roads WA. The Council intends to keep pressing ahead for funding for both Woogenellup and Porongurup Roads and upgrade as it becomes possible. The whole freight structure is based on road trains and sometimes the public need to be reminded that the issue is complex. It is not a case of 'you can no longer use that road'. This would just mean that traffic will have to go through town and will create double the traffic on other roads.

Murray and Verna Pearce

Mr and Mrs Pearce raised the following questions.

- Why has the application to vary the conditions of approval for Mr Vigolo's Paintball activity been included in the agenda for this meeting without formally notifying his neighbours?
- Why was it not removed from the agenda following our written request dated 24 April 2005 and faxed to the Shire that day?
- Why have we not received a letter advising us of the outcome of the first application heard by the Council at its meeting held 12 April 2005? In that same letter we also raised concerns regarding Mr Vigolo's application that have still not been addressed. These concerns still stand and are as follows:
 - Who is the legal owner of the applicant's land and has Vigolo approval for this land use from the Executors of the Estate of Lino Vigolo?
 - Is the planned use 'private recreation' or business?
 - Has the road reserve between the properties of Norton and Vigolo been permanently closed and sold to Vigolo?

Petitions / Deputations / Presentations (Cont.)

They also wished to address several of the claims made by Mr Vigolo in his current application to the Council noting that:

- Neither the Norton's or the Pearce's had given verbal agreement to the 100m setback;
- There had definitely been trespassers loitering on the Norton's property who were participants in the paintball activity;
- Drivers using Woodville Road to attend the paintball activity appeared to disregard any advice given to drive carefully and Mr Vigolo is one of those drivers;
- Mr Vigolo expressed concern about the disturbance to his stock from vehicles driving through his paddocks yet claimed that our stock is undisturbed by paintball shooting;
- His claim that our stock approach and observe may be true prior to the commencement of shooting but perhaps he had not observed stock behaviour during the activity due to the fact that his attention is absorbed by playing paintball;
- On Sunday 24 April 2005, the Norton's had great difficulty trying to get their cattle into the yards to treat calves with scours due to the noise from the paintball activity; and
- Vigolo's map does not indicate the proximity of his playing field to the Norton's cattleyards and home.

Response By: Cr K Forbes – During the Council meeting held 12 April 2005 when this matter was considered, various conditions tabled by a Councillor were accepted. The proponent has since made contact and stated why he believed the conditions unacceptable. Following discussion with staff, it was decided that there was no reason why the conditions could not be reconsidered. In this regard, neighbours do not need to be advised. During deliberations the Council considers conditions for applications that may depend on submissions received. To that end, all interested parties have had the opportunity to give submissions. From then on, the Council makes its recommendations that may or may not agree on submissions.

Leo Vigolo

Mr Vigolo noted that all participants were fully aware of the boundaries and to his knowledge had not seen any participants on any other property apart from a time when a calf was on the other side of the fence and participants brought it back. There is no need or purpose for participants to enter neighbouring properties and he noted that the electric fencing is also a deterrent. In regards to the public road access, Woodville Road is a public road with all members of the public entitled to use it. All effort is being used to reduce speeding and other possible driving hazards. Mr Vigolo had looked at entering the property from Albany Highway but this is not a practical solution due to the condition and lie of the land. Mr Vigolo had discussed moving further away and was happy to do this. According to information received from the police and WA Firearms Act, paintball activities only need to be 100m from their nearest border. Paintballs only travel a maximum of 50m so a 100m border is more than adequate. Paintball activities have been held at my property for the last

Petitions / Deputations / Presentations (Cont.)

eighteen (18) months and during this period I have spoken to all my neighbours with no disagreements. It has only been during the last few weeks since trying to get approval from the Council that these complaints have arisen. I am trying to do the right thing by the WA Firearms Act and am following all their guidelines and regulations. The police and the Firearms Department have inspected and approved the application and I am now only waiting on approval from the Council.

Mrs Norton

Mrs Norton asked that the Council hear the viewpoints of both her husband and herself. They did not agree to the paintball activity when they spoke about this matter but had said that her husband would write a letter stating that they may be agreeable if the proponent was willing to move the paintball activity a lot further from their border. Mr and Mrs Norton were concerned that if the game's participants increased in the future that the noise would also increase. They noted that the activity is currently carried out too close and that it can be clearly heard from inside the house. They also noted that their cattle were not feeding as usual but were trying to get away from the sound.

Mr Norton

Mr Norton noted that his hearing is impaired but that he was still able to hear the noise from the paintball activity. Mr Norton wanted to show his support for Mrs Pearce and also noted that the activity was definitely interfering with the running of their cattle farm. Mr Norton noted that it was very important that cattle be kept quiet for handling and that he hoped to reach an agreement with Mr Vigolo of a 500m distance from their boundary.

Murray Pearce

Tabled a map showing the close proximity of the paintball playing field to the house and cattleyards of Mr and Mrs Norton. Mr Pearce noted that he believed the application was unacceptable.

Response By: Ms D Baesjou – The application was signed on behalf of the current landowner which is acceptable in legal terms to the Shire of Plantagenet. Shire records do not indicate a road reserve but a drainage area. The exchanging of money is only one aspect involved in defining a land use. In terms of land use, the application for a paintball activity fits into 'private recreation' which is why the Council has made the required conditions eg: advertising for submissions etc).

Mr Vigolo

Mr Vigolo noted that they also have stock and that whilst they do not walk amongst the paintball participants, the activity does not disturb them. He also noted that some of his neighbour's stock have put their heads over the fence whilst games are being held and that he intends to take a photograph of this happening. He also noted that they only play an average of once a month and he is willing to work in with neighbours in regards to their stock requirements. Mr Vigolo noted that the paintball activity is not a business but a form of recreation with friends (eg: bucks parties) and any money given goes back into an account that covers any costs of the recreation by paying for ammunition, markers etc. Any money pays back the investment in enjoyment. Mr Vigolo also noted that he is both an executor and beneficiary of the Estate of Vigolo.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES

Moved Cr K Hart, seconded Cr J Moir:

That the Minutes of the Ordinary Meeting of Council held on 12 April 2005 be confirmed.

CARRIED (7/0)

No. 81/05

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- A Financial Interest was disclosed by Councillors K Forbes, M Skinner and J Cameron for Items 9.4.1, 9.4.2 and 9.4.3.
- 18 April 2005 – Regional Road Group meeting in Katanning was attended by the Shire President and the Deputy Shire President. Woogenellup Road is a priority for next year's funding. There will be money for Mortigallup Road from a Ministerial allocation. Regional Road Group should match road funding. If this is not received then Mortigallup Road will move down the list of works.
- 21 April 2005 – State Roads Advisory Committee - Four (4) regional areas gained and five (5) lost in relation to future allocations of state funding. This means that the Shire of Plantagenet could be a beneficiary of this process. This funding will probably be scaled over five (5) years.
- 21 April 2005 – A Capital Grants Committee meeting was held on Thursday. A reasonably positive outcome.
- 25 April 2005 – The ANZAC service in Mount Barker went well considering the large drawcard of an Albany dawn service. The Shire President and the Deputy Shire President were the only Councillors in attendance. The Shire President noted that this is a very important event and that more Councillors should be in attendance.
- 29 April 2005 – The planned Councillors' road inspection has now been delayed due to the funeral of Michelle Parsons. Another list of possible dates has been compiled for consideration. (Further consultation resulted in a rescheduled time of 8:30am on Tuesday 17 May 2005. Mr S Bell will ensure that morning and afternoon tea will be provided).
- The Shire President reminded all Councillors that a Special Meeting of the Council will be held on Tuesday 10 May 2005 commencing at 10.00am for the swearing in of all Councillors and the election of Shire President and Deputy Shire President.

Announcements By Presiding Member Without Discussion (Cont.)

- 11 May 2005 – The Shire President and the Deputy Shire President will attend a meeting of the 'One Community, One College' Committee scheduled to commence at 3:30pm.
- 2 May 2005 – 4:00pm - A meeting of the Administration Offices Advisory Committee will be held in the Council Chambers to discuss tenders received and consider recommendations for the construction of the new administration office.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 DEVELOPMENT SERVICES REPORTS

The author of this report, Ms Delma Baesjou, has disclosed an interest in this matter as she is the joint operator of a similar business in the Great Southern.

9.1.1 LOCATION 5471 ALBANY HIGHWAY, NARRIKUP - PRIVATE RECREATION

The Shire President advised Councillors that the matter now coming before the Council needed to be considered pursuant to Regulation 10 of the Local Government (Administration) Regulations (1996), referring to the process to revoke or change a decision of the Council. The Shire President further advised that to revoke or change a decision he would need the support of one third ($\frac{1}{3}$) of the number of members of the Council.

He then called on Councillors to indicate such support.

As only one (1) Councillor indicated support for the matter to be revoked or changed, the Shire President noted that the item could not come forward for consideration.

Location / Address:	Location 5471 Albany Highway, Narrikup
Attachments: (3)	Locality Plan Site Plan Additional Supporting Information
Name of Applicant:	Leo Vigolo
File Reference:	RV/182/478
Author:	Delma Baesjou - Manager Development Services
Authorised By:	Stephen Bell – Executive Director Technical and Development Services
Date of Report:	19 April 2005

Purpose

The purpose of this report is to consider additional information from the proponent in respect of the conditions of approval applicable to the application for Private Recreation (Paintball) on Location 5471 Albany Highway, Narrikup.

Background

The subject land is zoned Rural under the Shire of Plantagenet Town Planning Scheme No. 3. The property is used for rural purposes. It is proposed to use a portion of the property for paintball games for between two (2) and twenty (20) participants. The proposed activity falls within the definition of Private Recreation as set out in the Scheme. Although the use is defined in the Scheme, it is not listed in the Zoning Table.

Shire records show the registered owner to be Estate of Lino Vigolo.

Location 5471 Albany Highway, Narrikup – Private Recreation (Cont.)

A report on this matter was considered by the Council at its meeting held 8 February 2005. The Council resolved to advertise the proposal. A further report to consider the submissions and determine the application for Private Recreation on Location 5471 Albany Highway, Narrikup was considered by the Council at its meeting held 12 April 2005. The following resolution was adopted:

'That planning consent be granted in respect of Application No. 12/05 for Location 5471 Albany Highway, Narrikup to be used for the purpose of Private Recreation (Paintball) in accordance with the plans dated 4 January 2005 subject to the following conditions:

- (a) *The playing field being located not less than 300m from the northern boundary of the lot not less than 100m from all other lot boundaries;*
- (b) *The vehicle parking area and existing crossover and access ways being funded and maintained by the developer;*
- (c) *On-site sanitary facilities being provided for the duration of each event;*
- (d) *Any on site advertising signage complying with Town Planning Scheme No. 3;*
- (e) *Participants to the facility not exceeding twenty (20) people per event; and*
- (f) *All conditions not of an ongoing nature being complied with, within six (6) months of this approval.*
- (g) *Access to the proposed private recreation be from Albany Highway.*

ADVICE NOTES

- (i) *If the proposal, the subject of this approval, is not substantially commenced within a period of twelve (12) months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.*
- (ii) *The applicant is advised that there is an obligation to comply with relevant statutes applicable to the development including:*
 - *The Building Code of Australia 2004*
 - *The Shire of Plantagenet Annual Fire Break Notice*
 - *Fire Arms Act 1973'*

Statutory Environment

Shire of Plantagenet Town Planning Scheme No. 3, in particular Clauses 3.2 and 6.2 and Schedule I – Interpretations.

Consultation

Formal advertising was undertaken in accordance with Clause 6.2 of Town Planning Scheme No. 3 and the Council's resolution.

Consultation has occurred with representative from the WA Police Force.

The proponent has provided information and comment on access and setback requirements. A copy of the advice is attached to this report.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

The proposal is consistent with the Shire of Plantagenet Strategic Plan, in particular the aim to 'Retain local business and encourage new businesses that will create sustainable local employment.' and 'New Initiative 4.3 - Encourage establishment of new businesses which provide employment and / or service to the tourist industry and contribute to the prosperity of Plantagenet (and to) focus on the diverse rural sector.'

Officer Comment

The proponent has indicated that the business will operate approximately once a month for up to twenty (20) participants. The operator will provide safety gear and has a first aid certificate. All necessary police licences will need to be obtained. Fire safety, security, public liability and maintenance of access ways and parking areas will be the responsibility of the proponent.

The proponent advises that it is not possible to access the playing field directly from Albany Highway. The property is traversed by watercourses and contains a number of wetlands. The boundary firebreaks are not trafficable year round to passenger vehicles and do not provide direct access between the dwelling and the playing field.

Location 5471 has legal frontage to Woodville Road and Albany Highway. The existing crossover to Location 5471 is at the western end of Woodville Road. The dwelling house on Location 3228 is accessed via a short driveway and a crossover on Albany Highway. Main Roads WA is unlikely to support an additional crossover on Albany Highway, given the proximity to Woodville Road, the width of the road reserve in the vicinity, the extent of existing vegetation and the relative height of the road pavement.

For security reasons and to avoid any possible community alarm, it is appropriate that the activity is not visible from Albany Highway.

The proponent advises that the most appropriate playing area is the site 100m from the northern boundary at the western side of Location 5471. It is convenient and practical to access and use and will enable an existing lockable shed to be used for the storage of equipment. A 300m setback is beyond the stand of trees considered to be most suitable for the activity.

Voting Requirements

Absolute Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) The additional supporting information from Leo Vigolo in respect of the conditions of approval applicable to the application for Private Recreation (Paintball) on Location 5471 Albany Highway, Narrikup be received.
- (2) Resolution No. 72/05 of the Ordinary Meeting of the Council held 12 April 2005 be rescinded.

Location 5471 Albany Highway, Narrikup – Private Recreation (Cont.)

- (3) Planning consent be granted in respect of Application No. 12/05 for Location 5471 Albany Highway, Narrikup to be used for the purpose of Private Recreation (Paintball) in accordance with the plans dated 4 January 2005 subject to the following conditions:
- (a) The playing field being located not less than 100m from the lot boundary;
 - (b) The vehicle parking area and existing crossover and access ways being funded and maintained by the developer;
 - (c) On-site sanitary facilities being provided for the duration of each event;
 - (d) Any on site advertising signage complying with Town Planning Scheme No. 3;
 - (e) Participants to the facility not exceeding twenty (20) people per event; and
 - (f) All conditions not of an ongoing nature being complied with, within six (6) months of this approval.

ADVICE NOTES

- (i) If the proposal, the subject of this approval, is not substantially commenced within a period of twelve (12) months the approval shall lapse and be of no further effect. Where the approval has lapsed, no development shall be carried out without further approval of the Council having first been sought and obtained.
- (ii) The applicant is advised that there is an obligation to comply with relevant statutes applicable to the development including:
 - The Building Code of Australia 2004
 - The Shire of Plantagenet Annual Fire Break Notice
 - Fire Arms Act 1973

NOTE

This matter was not considered. See preamble to report.

9.2 TECHNICAL SERVICES REPORTS

9.2.1 DOGS – PERMISSION TO KEEP MORE THAN TWO (2) DOGS

Location / Address:	14 Deane Street, Mount Barker
File Reference:	LE/138/1/I24284; RV/182/4439/I24510
Author:	Rob Stewart – Chief Executive Officer
Authorised By:	Rob Stewart – Chief Executive Officer
Name of Applicant:	N / A
Date of Report:	14 April 2005

Purpose

The purpose of this report is to present a request for a resident to keep three (3) dogs on a property within the Mount Barker townsite.

Background

A request has been received from Mr B Dowse who is endeavouring to rent a property at 14 Deane Street Mount Barker while constructing a house in Kendenup.

Statutory Environment

The Council's Local Law Relating to Dogs provides at Section 11 (1) that a person shall not keep or permit to be kept on any premises more than two (2) dogs over the age of three months within a townsite unless the premises are licensed as an approved kennel establishment or have been granted exemption pursuant to Section 26 (3) of the Dog Act.

Section 26 (3) of the Dog Act provides that the Council, where it has placed a limit on the number of dogs on a premises, and where the Council does not believe that the provisions of a kennel establishment need be applied, may grant an exemption in respect of those premises provided that any conditions that the Council may want to apply are specified and provided that no more than six (6) dogs be kept on the premises.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

No objections to this request are raised.

The Council's Ranger has inspected the property and is satisfied that the premises are suitable for the keeping of three (3) dogs.

Dogs – Permission To Keep More Than Two (2) Dogs (Cont.)

Further the resident of 16 Deane Street, Mount Barker has advised that she is '*...in agreement that the occupants of 14 Deane Street, Mount Barker keep three (3) dogs on said property, provided they do not disturb the peace.*'

Further, the applicant has advised in writing that the occupant at 12 Deane Street, Mount Barker is also in agreement.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr J Cameron:

That pursuant to Section 26(3) of the Dog Act 1976, permission be granted to Mr B Dowse to keep a maximum of three (3) dogs at No. 14 Deane Street Mount Barker subject to, in the opinion of the Council's Ranger, the property being deemed suitable for the keeping of such dogs in accordance with the Dog Act and subject also to consent for the keeping of the dogs on the property being withdrawn in the event that the Council is of the opinion that the dogs are creating a nuisance.

ADVICE NOTES

This approval:

- (i) Is limited to and only applies to the dogs specified in the application;**
- (ii) Is limited to and only applies to the premises of 14 Deane Street, Mount Barker; and**
- (iii) May be revoked or varied at any time.**

CARRIED (4/3)

No. 82/05

9.3 EXECUTIVE SERVICES REPORTS

9.3.1 PLANTAGENET DISTRICT HALL – PROPOSED UTILISATION

Location / Address:	N / A
Attachments: (1)	Draft Lease
File Reference:	RV/182/1696
Author:	Rob Stewart – Chief Executive Officer
Authorised By:	Rob Stewart – Chief Executive Officer
Name of Applicant:	N / A
Date of Report:	14 April 2005

Purpose

The purpose of this report is to recommend to the Council the leasing of the Lesser Hall at the Plantagenet District Hall to the Mount Barker Sub Branch of the Returned Services League (RSL).

Background

At its meeting held on 8 February 2005 the Council resolved:

'THAT:

- (1) The meeting held between representatives of the Returned Services League, Plantagenet Family Church and the Chief Executive Officer relating to leasing proposals for the Lesser Hall on 3 February 2005 be noted.*
- (2) The Chief Executive Officer prepare a draft lease for the Plantagenet District Hall Lesser Hall to the Returned Services League with sublease powers and that the draft lease be presented to the Council at its meeting to be held 8 March 2005.'*

Statutory Environment

Section 3.58 (2) of the Local Government Act 1995 provides:

'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 persons 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.'*

and further sub-section 3 provides:

'A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property –

- (a) it gives Statewide public notice of the proposed disposition –*
 - (i) describing the property concerned;*
 - (ii) giving details of the proposed disposition; and*

Plantagenet District Hall – Proposed Utilisation (Cont.)

- (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 submission 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.'*

Section 3.58 of the Act applies to the disposition of property, including leasing.

Under section 30 (2)(b)(i) of the Functions and General Regulations 1996 that apply to Section 3.58 of the Local Government Act 1995 'a disposition of land is an exempt disposition, and is excluded from the application of Section 3.58 -

'(b) the land is disposed of to a body, whether incorporated or not –

- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature;'*

By definition, the leasing of property is classified as a disposition.

Consultation

Mr Doug Ryan representing the RSL and Mr David Williamson representing the Plantagenet Family Church (this organisation had also expressed an interest in the lesser hall) addressed Councillors on 8 February 2005. At this meeting the Plantagenet Family Church noted that it was happy for the Council to lease the Lesser Hall to the RSL as they had reached an understanding with the RSL that the Lesser Hall would be made available to the Family Church.

Policy Implications

There are no policy implications for this report.

Financial Implications

Operating expenditure for the Plantagenet District Hall for the 2004/ 2005 financial year is budgeted at \$22,000.00. Revenue for the same period is budgeted at \$5,500.00. No Capital expenditure is scheduled for 2004/2005.

Fees for the use of the hall at present range from \$40.00 for a half day community use to \$110.00 for full day private use with a bond of up to \$500.00 for a function with alcohol. The lesser hall is currently not available due to its occupation by Home and Community Care.

In the event that the Council successfully leases the Lesser Hall, there would be some maintenance savings although the main hall would still be the Council's responsibility.

The potential for a lessee of the Lesser Hall to raise revenue from the hiring of the Lesser Hall would be significant.

Strategic Implications

There are no strategic implications for this report.

Plantagenet District Hall – Proposed Utilisation (Cont.)**Officer Comment**

A draft lease is now attached for the Council's consideration.

At such time as the Home and Community Care (HACC) relocate to alternative accommodation there will be no impediment for the RSL to become Lessees to the Lesser Hall.

The Lease provides that rental be \$10.00 per annum and outgoings be the responsibility of the RSL except for capital type works. The RSL would house their memorabilia in the lesser hall and would also make the hall available to other users and receive hire fees in accordance with the Council's scale of charges. Proposed fees and charges for the hire of the Lesser Hall have been included in the Draft Schedule of Fees and Charges which is the subject of a separate report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr M Skinner, seconded Cr D Williss:

That authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the lease between the Shire of Plantagenet and Mount Barker Sub Branch of the Returned and Services League of the Plantagenet District Hall – Lesser Hall.

AMENDMENT

Moved Cr K Clements, seconded Cr J Cameron:

That the following words be added after the words 'Lesser Hall':

'subject to the Lesser Hall being made available to the RSL at such time as Home and Community Care (HACC) is relocated.'

CARRIED (7/0)

No. 83/05

FURTHER AMENDMENT

Moved Cr K Clements, seconded Cr J Cameron:

That the following words be added to the motion:

'and subject also to the word 'Lessee' in the second sentence of Item 5.4 of the Lease being replaced with the word 'Lessor'.

CARRIED (7/0)

No. 84/05

FURTHER AMENDMENT

Moved Cr J Cameron, seconded Cr K Hart:

That the following words be added to the motion:

‘and further subject to the word ‘need’ in Item 3.4 (2) of the Lease being replaced with the word ‘shall’ and the word ‘Lease’ in Item 5.3 being replaced with the word ‘Lessee’.

CARRIED (7/0)

No. 85/05

COUNCIL DECISION

That authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet’s Common Seal to the lease between the Shire of Plantagenet and Mount Barker Sub Branch of the Returned and Services League (RSL) of the Plantagenet District Hall – Lesser Hall subject to the Lesser Hall being made available to the RSL at such time as Home and Community Care (HACC) is relocated, and subject also to the word ‘Lessee’ in the second sentence of Item 5.4 of the Lease being replaced with the word ‘Lessor’; and further subject to the word ‘need’ in Item 3.4 (2) of the Lease being replaced with the word ‘shall’ and the word ‘Lease’ in Item 5.3 being replaced with the word ‘Lessee’.

CARRIED (7/0)

No. 86/05

FURTHER MOTION

Moved Cr J Moir, seconded Cr M Skinner:

That, if required, the Chief Executive Officer assist the Mount Barker Sub Branch RSL to find suitable accommodation until such time as the Lesser Hall becomes available.

CARRIED (7/0)

No. 87/05

9.3.2 WALPOLE WILDERNESS AREA

Location / Address:	N / A
File Reference:	GR/97/1
Author:	Rob Stewart – Chief Executive Officer
Authorised By:	Rob Stewart – Chief Executive Officer
Name of Applicant:	N / A
Date of Report:	14 April 2005

Purpose

The purpose of this report is to update the Council in regard to the reservation of the land within the Walpole Wilderness Area and to raise the Council's concerns regarding water extraction issues in the Walpole Wilderness Area.

Background

At its meeting held on 26 October 2004 the Council resolved:

'THAT:

- (1) The intended gazettal of the Walpole Wilderness Area as National Park in the Spring 2004 sitting of Parliament be noted.*
- (2) A letter be sent to the Executive Director of the Department of Conservation and Land Management seeking further information regarding the status of water supplies in the Walpole Wilderness Area.'*
- (3) A report be prepared for the Council meeting to be held 13 April 2005 (Sic).'*

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

It was noted in the report before the Council on 26 October 2004:

'The initial flurry of consultation is diminishing and it would appear that the Government is proposing the reservation. The concerns of the Council have not been met in any concrete way and there would appear to be a definite need for these issues to be raised by the Council's representative on the Consultative Committee.'

By letter dated 4 November 2004 the Executive Director of the Department of Conservation and Land Management responded *'...regarding progress in reserving the Walpole Wilderness Area and the process by which major water extraction can proceed on land managed by the Department of Conservation and Land Management.'*

Walpole Wilderness Area (Cont.)

It was noted in that correspondence that '*...major water extraction can occur on land managed by (CALM) is currently being considered by the Water Utilisation Interagency Committee.*'

That Committee has no Local Government representation.

It was also noted in that letter that major ground water extraction or dam would need to be in accordance with the Environmental Protection Act 1986 and would '*probably*' require assessment under that act. It was further noted that the taking of water would require a licence to be issued by the Water and Rivers Commission under the Rights in Water and Irrigation Act 1914 and if the water was taken from land managed by CALM a water removal permit would be required under the Conservation and Land Management Act 1984.

As noted in the report presented to the Council on 26 October 2004 it will be necessary for the Council's representative on the Consultative Committee to be vigilant in ensuring that the Council's concerns are raised.

Mr MacNamara's response would appear to justify the Council's concerns in that the extraction of water from the Walpole Wilderness Area will require compliance with many different areas of legislation and although the Water Utilisation Interagency Committee is considering how the approval process can be streamlined, past experience would indicate that this would in fact be extremely difficult.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the Council's representative on the Walpole Wilderness Consultative Committee be requested to raise the Council's concerns regarding water extraction issues in the Walpole Wilderness Area.

COUNCIL DECISION

THAT:

- (1) The Council's representative on the Walpole Wilderness Consultative Committee be requested to continue to raise the Council's concerns regarding water extraction issues in the Walpole Wilderness Area.**
- (2) The Chief Executive Officer write to the Minister for the Environment raising the Council's concerns regarding water extraction issues in the Walpole Wilderness Area.**

CARRIED (6/1)

No. 90/05

Reason for Change

Councillors required a letter to be forwarded to the Minister for the Environment.

9.4 CORPORATE SERVICES REPORTS

9.4.1 BUDGET RE-ALLOCATIONS FOR THE QUARTER ENDING 31 MARCH 2005

A Financial Interest was disclosed by Cr Forbes, Cr Skinner and Cr Cameron.

Nature Of Interest: Financial

Extent Of Interest: Producer Of Cattle and User Of Saleyards

3:58pm Cr Forbes, Skinner and Cameron withdrew from the meeting.

Councillor Williss assumed the Chair.

The Chief Executive Officer advised the Acting Chair that as the Council no longer had the required quorum, that being five (5) Councillors, the meeting was counted out until such time as the quorum was achieved.

Location / Address: N / A

Name of Applicant: N / A

File Reference: FM/26/1

Author: David Blurton - Accountant

Authorised By: John Byrne – Executive Director Corporate and Community Services

Date of Report: 18 April 2005

Purpose

The purpose of this report is to adjust the adopted 2004-2005 Annual Budget to recognise variations in actual income and expenditure. This is necessary to facilitate effective financial control and ensure that the Council's financial resources are allocated in the most effective manner.

Background

The 2004-2005 Annual Budget was adopted by the Council at its meeting on 27 July 2004.

Statutory Environment

There is no specific section of the Local Government Act (1995) that deals with the reallocation of budget money, however section 6.2(1) of the local Government Act (Financial Management) Regulations 1996 governs the budget requirements for Local Governments.

Consultation

Consultation has occurred with Mr Rob Stewart – Chief Executive Officer and Mr John Byrne – Executive Director of Corporate and Community Services.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are significant financial implications with the report, however the overall effect on the budget is nil, ie: changes in incomes are offset by changes in expenditure.

Budget Re-Allocations For The Quarter Ending 31 March 2005 (Cont.)

Strategic Implications

There are no strategic implications for this report.

Officer Comment

Proposed reallocation between accounts and the reasons for the re-allocation are attached at the end of this report.

Staff consider that the quarterly review of the 2004-2005 Annual Budget and comparison with year to date expenditure is sound financial management and will provide stakeholders with more relevant and accurate information.

Voting Requirements

Absolute Majority

OFFICER'S RECOMMENDATION

That the 2004-2005 adopted budget be varied by:

Account Description	Account	Adopted Budget (\$)	Amended Budget (\$)
Purchase Of Saleyard	1380.3.130	\$0.00	(\$1,000,000.00)
Saleyard Loan Funds	1380.4.130	\$0.00	\$1,300,000.00
Saleyard Environmental Works	1380.1.130	\$0.00	(\$300,000.00)
Councillor Sitting Fees	410.1.201	(\$60,000.00)	(\$57,000.00)
Refreshments & Receptions	415.1.214	(\$18,000.00)	(\$20,000.00)
Councillor Insurance	410.1.161	(\$5,902.00)	(\$6,902.00)
Office Equipment Maintenance	420.1.154	(\$3,000.00)	(\$8,000.00)
Computer Equipment Maintenance	420.1.155	(\$8,910.00)	(\$3,910.00)
Staff Training - Admin	420.1.44	(\$25,000.00)	(\$10,000.00)
Relief Staff	420.1.181	(\$10,000.00)	(\$12,000.00)
Staff Housing Maintenance - CEO	420.1.37	(\$4,000.00)	(\$6,000.00)
Vehicle Expense - CEO	420.1.46	(\$4,000.00)	(\$5,000.00)
FBT Expense	420.1.33	(\$20,000.00)	(\$30,000.00)
Saleyard Office Expenses	1380.1.152	\$0.00	(\$200.00)
Computer Maintenance	1380.1.155	\$0.00	(\$1,800.00)
Insurance	1380.1.161	\$0.00	(\$2,500.00)
Management Contract	1380.1.20	\$0.00	(\$13,000.00)
Wages	1380.1.21	\$0.00	(\$12,000.00)
Superannuation	1380.1.22	\$0.00	(\$1,080.00)
Utilities	1380.1.335	\$0.00	(\$8,000.00)
Grounds Maintenance	1380.1.337	\$0.00	(\$1,250.00)
Building Maintenance	1380.1.338	\$0.00	(\$1,000.00)
Vehicle Expenses	new	\$0.00	(\$4,000.00)
Plant Expenses	new	\$0.00	(\$2,000.00)
Weekly Report	new	\$0.00	(\$3,500.00)
Marketing	new	\$0.00	(\$5,000.00)
Uniform	new	\$0.00	(\$300.00)
Training	new	\$0.00	(\$500.00)
Travel & Accommodation	new	\$0.00	(\$500.00)
Water Monitoring	new	\$0.00	(\$500.00)
Yard Fees - Pen & Weigh	1380.2.100	\$0.00	\$100,000.00
Agents Contribution	1380.2.120	\$0.00	\$15,000.00
Agent Entry Fees	1380.2.140	\$0.00	\$2,500.00

Budget Re-Allocations For The Quarter Ending 31 March 2005 (Cont.)

Avdata Income	1380.2.160	\$0.00	\$4,000.00
Other Income	1380.2.180	\$0.00	\$4,000.00
Canteen Lease	1380.2.780	\$0.00	\$800.00
50% Surplus / (Deficit)	1380.2.769	\$121,000.00	\$85,000.00
Transfer To Saleyard Surplus Reserve Account	New	\$0.00	(\$33,170)

NOTE

This matter was not considered due to the lack of a quorum.

4:03pm Councillors Forbes, Cameron and Skinner returned to the meeting and Councillor Forbes resumed the Chair.

The Chief Executive Officer advised that a quorum was now present.

9.4.2 FORMALISATION OF DEBENTURE - LOAN NO. 89

The Chief Executive Officer advised that there was no need for this item to come before the Council as the Council had already considered the matter. This item will therefore be removed from the Agenda.

Location / Address:	N / A
File Reference:	FM/96/2
Author:	Donna Stevens – Senior Administration Officer
Authorised By:	John Byrne – Executive Director Corporate and Community Services
Name of Applicant:	N / A
Date of Report:	14 April 2005

Purpose

The purpose of this report is to grant authorisation to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the Debenture for Loan 89 from the Western Australian Treasury Corporation.

Background

At its meeting held 8 February 2005, the Council resolved that:

- (1) *Pursuant to Section 6.20 (2) of the Local Government Act 1995, local public notice be given of the Council's intention to borrow \$1 million for the purpose of purchasing a fifty percent (50%) share of the Great Southern Regional Cattle Saleyards; and*
- (2) *A further \$.3 million if required for associated essential works.'*

The Shire of Plantagenet has borrowed \$1,300,000.00 from the Western Australian Treasury Corporation for the purchase and upgrade of the Great Southern Regional Cattle Saleyards.

Statutory Environment

There are no statutory implications for this report.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the Debenture for Loan 89 from the Western Australian Treasury Corporation for the amount of \$1,300,000.00.

NOTE

This matter was removed from the Agenda and not considered.

9.4.3 FEES AND CHARGES 2005/2006 – PROPOSED

A Financial Interest was disclosed by Cr Forbes, Cr Skinner and Cr Cameron.

Nature Of Interest: Financial

Extent Of Interest: Producer Of Cattle and User Of Saleyards

4:04pm Cr Forbes, Skinner and Cameron withdrew from the meeting.

Councillor Williss assumed the Chair.

The Chief Executive Officer advised the Acting Chair that as the Council no longer had the required quorum, that being five (5) Councillors, the meeting was counted out until such time as the quorum was achieved.

Location / Address:	N / A
Attachments: (1)	Schedule of Fees and Charges
Name of Applicant:	N / A
File Reference:	FM/64/5
Author:	David Blurton – Accountant
Authorised By:	John Byrne – Executive Director Corporate and Community Service
Date of Report:	19 April 2005

Purpose

The purpose of this report is to consider the proposed list of fees and charges for inclusion in the 2005/2006 Annual Budget (draft).

Background

The 2004/2005 adopted list of fees and charges has been reviewed with minimal changes proposed.

Statutory Environment

Sections 6.15 to 6.19 of the Local Government Act 1995 govern the imposition of fees and charges for Local Government authorities.

Fees and charges for 2005/2006 will be formally adopted at the budget adoption meeting to be held on 12 July 2005.

Consultation

Consultation has occurred with all senior staff.

Policy Implications

There are no policy implications for this report.

Financial Implications

The adopted fees and charges will significantly impact on the revenue collected from the Council's operations.

Strategic Implications

There are no strategic implications for this report.

Fees and Charges 2005/2006 - Proposed (Cont.)**Officer Comment**

In many cases the fees for some of the Council's services have remained unchanged over several years. Based on this, staff considered that some increases are justified to minimise the impact of inflation and increased costs to council.

Staff noted comments made by the Council during this process in 2004/2005 and added a column in the Schedule of Fees and Charges to identify whether charges are imposed by Statutory Law (s) or are a charge levied by the Council (c).

The Structure of the Fees and Charges Schedule has been modified in some areas to make it more logical and several new charges have been included in this Schedule.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the proposed schedule of fees and charges as attached be considered for inclusion in the 2005/2006 Annual Budget.

NOTE

This matter was not considered due to the lack of a quorum.

4:06pm Cr Forbes, Cr Cameron and Skinner returned to the meeting and Councillor Forbes resumed the Chair.

The Chief Executive Officer advised the Council that a quorum was now in place and the meeting could continue.

9.4.4 FINANCIAL STATEMENTS – QUARTERLY – 31 MARCH 2005

Location / Address:	N / A
Attachments: (1)	Financial Statements - March 2005
Name of Applicant:	N / A
File Reference:	FM/65/1
Author:	David Blurton
Authorised By:	John Byrne – Executive Director Corporate and Community Services
Date of Report:	18 March 2005

Purpose

The purpose of this report is to present to the Council the financial position of the Shire of Plantagenet for the period ending 31 March 2005.

Statutory Environment

Local Government (Financial Management) Regulation 35 defines minimum reporting requirements for quarterly financial statements.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr D Williss:

That the Quarterly Financial Statements for the period ending 31 March 2005 be received.

CARRIED (7/0)

No. 91/05

9.4.5 DISPOSAL OF LAND DUE TO NON PAYMENT OF RATES

Location / Address:	Lot 646 Sixth Avenue, Kendenup Lot 450 Fourth Avenue, Kendenup Lot 449 Fourth Avenue, Kendenup
File Reference:	RV/182/2096, RV/182/3158, RV/182/1992
Author:	David Blurton – Accountant
Authorised By:	John Byrne – Executive Director Corporate and Community Services
Name of Applicant:	N / A
Date of Report:	15 April 2005

Purpose

The purpose of this report is to grant authorisation to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the transfer of land documents for Lot 646 Sixth Avenue Kendenup, Lot 450 Fourth Avenue Kendenup and Lot 449 Fourth Avenue Kendenup.

Approval is also sought for the outstanding rates on Assessment No. 2096 to be written off.

Background

At its meeting held 13 April 2004 the Council resolved:

'That the Council notes the intention of the Chief Executive Officer to commence sale of land actions against the landowners of assessment numbers 1000, 1992, 3158, 2096, 2152, 2238 in accordance with section 6.64 (1) (b) of the Local Government Act 1995 and pursuant to the delegation granted to the Chief Executive Officer by the Council on 25 March 2003.'

A public auction was conducted by Ray White – Mount Barker on site on 26 February 2005 which resulted in the successful sale of the above three (3) properties.

Statutory Environment

Sections 6.63 to 6.75 of the Local Government Act 1995 and Regulations 72 to 78 of the Financial Management Regulations govern the actions to be taken against landowners of rateable land to which rates have remained unpaid for more than three (3) years.

Land Transfer Act 1893

Policy Implications

There are no policy implications for this report.

Financial Implications

Assessment No. 2096 (Lot 646 Sixth Avenue, Kendenup) was sold for \$7,600.00 which does not cover the current outstanding rates and service charges (\$8,268.00 as at 15 April 2005). It is considered that the shortfall after settlement and sale fees of \$2,496.00 be written off.

Disposal Of Land Due To Non Payment Of Rates (Cont.)

Assessment No. 3158 (Lot 449 Fourth Avenue, Kendenup) was sold for \$8,600.00 which adequately covers the charges outstanding as at 15 April 2005 of \$4,190.00. The remaining funds of \$2,231.00 after settlement and agents costs are deducted will be held in the Council's Trust Fund account on the former owner's behalf.

Assessment No. 1992 (Lot 450 Fourth Avenue, Kendenup) was sold for \$9,000.00 which adequately covers the charges outstanding as at 15 April 2005 of \$4,834.00. The remaining funds of \$3,274.00 after settlement and agents costs are deducted will be held in the Council's Trust Fund account on the former owner's behalf.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Absolute Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Cameron, seconded Cr M Skinner:

THAT:

- (1) Authority be granted to the Shire President and the Chief Executive Officer to affix the Shire of Plantagenet's Common Seal to the Transfer of Land documents relating to the sale of Lot 646 Sixth Avenue, Kendenup, Lot 449 Fourth Avenue, Kendenup and Lot 450 Fourth Avenue, Kendenup.**
- (2) The outstanding rates and service charges of \$2,496.00 remaining outstanding after the proceeds of sale are received on Assessment No. 2096, Lot 646 Sixth Avenue, Kendenup be written off.**

CARRIED (7/0)

No. 92/05

Absolute Majority

9.4.6 LIST OF PAYMENTS – MARCH 2005

Location / Address:	N / A
Attachments: (1)	List of Payments – March 2005
Name of Applicant:	N / A
File Reference:	FM/64/1
Author:	Rayona Evans - Accounts Officer
Authorised By:	John Byrne – Executive Director Corporate and Community Services
Date of Report:	18 April 2005

Purpose

The purpose of this report is to present to the Council the list of payments that were made in the month of March 2005.

Statutory Environment

Regulation 13 of the Local Government (Financial Management) Regulations defines the reporting requirements to the Council for the list of accounts.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss, seconded Cr J Moir:

That the payment of accounts, covering electronic payments, cheques 33878 to 33969, totalling \$633,072.59, the payment of trust cheques 79, 80 and 82, totalling \$1,240.00 and the credit card transactions for the months of December, January and February, totalling \$1,278.77, be noted.

CARRIED (7/0)

No. 93/05

9.4.7 LOT 8 MONTEM STREET, MOUNT BARKER – RATE EXEMPTION

Location / Address:	Lot 8 Montem Street, Mount Barker
File Reference:	RV/182/1696
Author:	Rob Stewart – Chief Executive Officer
Authorised By:	Rob Stewart – Chief Executive Officer
Date of Report:	14 April 2005

Purpose

The purpose of this report is to advise the Council regarding the rateable status of 8 Montem Street and the actions that the West Australian Local Government Association is taking with regard to the definition of 'charitable' pursuant to the Local Government Act 1995.

Background

At its meeting held on 8 March 2005 the Council resolved:

'That the question be adjourned until the outcome of the West Australian Local Government Association's review of the definition of 'charitable' is known.'

The motion that was adjourned read:

'THAT:

(1) *It be a policy of the Council:*

The Council will, with relation to declarations pursuant to Section 6.26 (2)(g) of the Local Government Act 1995 generally refrain from granting non rateable status where discretion is available to the Council but will give consideration annually during the budget process to granting donations to the subject organisation as part of the normal donation scheme, subject to the Council's policies from time to time.

(2) *The issue of the definition of 'charitable' pursuant to the Local Government Act 1995 be raised at the next meeting of the Great Southern Zone of Western Australian Local Government Association.'*

Statutory Environment

Section 6.26 (2) states, in part the following:

'The following land is not rateable land -

(g) Land used exclusively for charitable purposes;'

Policy Implications

The section of the Act regarding 'land used exclusively for charitable purposes' is open to broad interpretation. The Local Government Act does not provide any definition of 'charitable' and, in the case of the Montem Street property, legal precedent was used to declare the land non rateable. That case revolved around the words of the constitution of the body owning the land rather than the actual use to which the land was put.

Lot 8 Montem Street, Mount Barker – Rate Exemption (Cont.)

Councillors will recall that at the meeting of the Council held on 22 February 2005 an application to declare land non rateable in Kendenup based on the word ‘charitable’ in the subject organisation’s charter was deemed sufficient to declare the land owned by that organisation as non rateable.

The declaration of land as ‘non rateable’ effectively reduces the amount of revenue available to the Council to undertake necessary works and is not a status that should be granted easily, especially when the Act is unclear as to the status of charitable organisations.

Financial Implications

Any property that is declared non rateable will affect the Council’s total revenue base and, to attract similar levels of funding, means general rates would increase.

Strategic Implications

There are no strategic implications for this report.

Officer Comment

The Western Australian Local Government Association has reported to the Local Government Advisory Board. This Board was due to report back by 31 March 2005 but received an extension to 30 April 2005.

The matter therefore cannot yet be finalised.

However, as advised to the Council Meeting held 8 March 2005 the Regional Manager for the Department of Indigenous Affairs has indicated in a letter dated 28 January 2005: ‘I do not believe that the Mount Barker Aboriginal Progress Association is liable to pay any outstanding rates for the previous years.’ The Chief Executive Officer has subsequently written to the Regional Manager of the Department of Indigenous Affairs advising that, ‘pursuant to section 6.53 of the Local Government Act 1995 which states:

“Where during a financial year –

- (a) land that was not rateable becomes rateable land; or
- (b) rateable land becomes ;and that is not liable to rates, the owner of the land –
- (c) is liable for rates proportionate to the portion of the year during which the land is rateable land; or
- (d) is entitled to a refund of an amount proportionate to the portion of the year during which the land is not rateable land.

as the case requires.”

(and that therefore) the association would not only be liable for past rates but for also portion of the current financial year prior to the declaration of non rateability being made by the Council.’

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Hart, seconded Cr D Williss:

That the Chief Executive Officer's report regarding the definition of charitable status pursuant to Section 6.26 (2)(g) of the Local Government Act 1995 be received and that a further report be prepared at such time as information is to hand from the Western Australian Local Government Association regarding that section of the Act, and, in any case, no later than the Council meeting to be held on 28 June 2005.

CARRIED (7/0)

No. 94/05

9.4.8 MOUNT BARKER WINE PRODUCERS WINTER DINNER – REQUEST FOR SPONSORSHIP

Location / Address:	N / A
Name of Applicant:	Mount Barker Wine Producers
File Reference:	CR/153/3; I23879
Author:	Kaye Skinner – Executive Secretary
Authorised By:	Rob Stewart – Chief Executive Officer
Date of Report:	14 April 2005

Purpose

The purpose of this report is to seek the Council's support for sponsorship of the Mount Barker Wine Producers Winter Dinner and to nominate the Shire President and Deputy Shire President to attend the event.

Background

The Mount Barker Wine Producers Winter Dinner is scheduled to be held on Friday 24 June 2005 at the Royal Freshwater Bay Yacht Club.

The dinner showcases Mount Barker Wines and is now in its sixth year. The dinner is an annual event attracting 200 wine and food enthusiasts. Each year they carefully select wines from the region with this year's focus being on the Great Southern.

At its meeting held on 27 April 2004 the Council authorised the purchase of a sponsorship package costing \$1,000.00. Shire representatives attended that function.

Policy Implications

There are no policy implications for this report.

Financial Implications

Sponsorship of \$1,000.00 includes the sponsor receiving naming rights for a table and two (2) tickets to the dinner. Other marketing and promotional opportunities are also available, including the opportunity to make a short speech.

Officer Comment

The Council has supported the Winter Dinner in the past.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr M Skinner, seconded Cr K Hart:

THAT:

- (1) The Mount Barker 2005 Wine Producers Winter Dinner be supported and a sponsorship package costing \$1,000.00 be purchased.**
- (2) The Shire President and Deputy Shire President be the Council's representatives to attend the sponsorship dinner using the two (2) complimentary tickets provided with the sponsorship package.**
- (3) Expenditure referred to in (1) above be charged to GL 1320.1.160 District and Area Promotion.**

CARRIED (7/0)

No. 95/05

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

12 CONFIDENTIAL

Nil

13 CLOSURE OF MEETING**Vote Of Thanks****Moved Cr J Moir, seconded Cr J Cameron:**

That, as this meeting is the last to be held in the existing Chambers, with future meetings being held at Frost Oval until the new administration office is built, the Council's vote of thanks to all past and present Councillors and staff for their efforts during the time these Chambers have been in use, be noted.

CARRIED (7/0)**No. 96/05**

4:29pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON_____ DATE:/..../....