



SPECIAL COUNCIL MEETING

MINUTES

A Special Meeting of the Council
held in the Council Chambers
4.00pm Monday 31 January 2005

Special Business

To approve pursuant to Section 3.59 of the Local Government Act 1995, the commencement of Statewide public notice stating that the Council proposes to commence a major trading undertaking for the purchase from the City of Albany of that local authority's 50% share of the Great Southern Regional Cattle Saleyards.

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

4.02pm The Presiding Member declared the meeting open.

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

| | |
|---------------|---|
| Cr K Forbes | Shire President - Rocky Gully / West Ward |
| Cr D Williss | Deputy Shire President - East Ward |
| Cr K Hart | Kendenuk Ward |
| Cr J Moir | South Ward |
| Cr M Skinner | East Ward |
| Cr K Clements | Town Ward |
| Mr R Stewart | Chief Executive Officer |
| Mr S Bell | Executive Director Technical & Development Services |
| Mr J Byrne | Executive Director Corporate & Community Services |

Apologies

Cr J Cameron Rocky Gully / West Ward

3 PUBLIC QUESTION TIME (RELATING TO SPECIAL BUSINESS)

Nil

4 PETITIONS / DEPUTATIONS / PRESENTATIONS

Nil

5 REPORTS OF COMMITTEES AND OFFICERS

5.1 EXECUTIVE SERVICES REPORTS

5.1.1 GREAT SOUTHERN REGIONAL CATTLE SALEYARDS - PROPOSED PURCHASE

A Financial Interest was disclosed by Cr K Forbes for Item 5.1.1.

Nature Of Interest: Financial

Extent Of Interest: Cattle Producer – Operate a mixed farming property of sheep and cattle with 270 head of cattle.

An Impartial Interest was disclosed by Cr D Williss for Item 5.1.1.

Nature Of Interest: Impartial

Extent Of Interest: Son-In-Law in Kojonup based family business which includes the farming and selling of cattle.

A Financial Interest was disclosed by Cr M Skinner for Item 5.1.1.

Nature Of Interest: Financial

Extent Of Interest: Cattle Producer – 180 beef breeders – 390 total number of beef cattle.

A Financial Interest was disclosed by Cr J Cameron for Item 5.1.1.

Nature Of Interest: Financial

Extent Of Interest: Part Owner Of Cattle – 50% interest in approximately 400 head of cattle on farm at Rocky Gully.

Authority To Participate Pursuant Section 5.62 (E) Local Government Act 1995

The Chief Executive Officer advised the Council that by facsimile transmission dated 28 January 2005, approval had been received from the Manager Compliance & Advice of the Department of Local Government & Regional Development, for disclosing Members Cr Forbes, Cr Skinner and Cr Cameron to fully participate in the discussion & decision making procedures relating to the proposed purchase of the Great Southern Regional Cattle Saleyards and that Cr K Forbes was able to preside during the Council's consideration on this matter.

The Chief Executive Officer noted that the approval was valid only for the Special Council Meeting held 31 January 2005.

Moved Cr D Williss, seconded Cr K Hart:

That the facsimile transmission dated 28 January 2005, from the Manager Compliance & Advice of the Department of Local Government & Regional Development, relating to Councillors Forbes, Skinner and Cameron being able to fully participate in the discussion and decision making procedures relating to the proposed purchase of the Great Southern Regional Cattle Saleyards and for Cr K Forbes to preside during the Council's consideration on this matter be received and appended to the Minutes.

CARRIED (6/0)

No. 04/05

| | |
|----------------------------|--|
| Location / Address: | N / A |
| Attachments: | Draft West Australian Meat Industry Authority Report (January 2005) |
| Name of Applicant: | N / A |
| File Reference: | N / A |
| Author: | Rob Stewart - Chief Executive Officer |
| Date of Report: | 14 January 2005 |

Purpose

The purpose of this report is to advise the Council that negotiations have been ongoing regarding the proposed purchase by the Shire of Plantagenet from the City of Albany, the City's part ownership of the Great Southern Regional Cattle Saleyards.

Background

At its meeting held on 14 September 2004 the Council resolved:

'That the Shire President and Chief Executive Officer be jointly authorised to negotiate on behalf of the Shire of Plantagenet for the purchase from the City of Albany, that Council's fifty percent (50%) share of the Great Southern Regional Cattle Saleyards, such negotiations to be brought to the Council when deemed to have reached a suitable level for the Shire's consideration.'

Subsequent to that direction by the Council the Shire President and Chief Executive Officer have participated in meetings with representatives from the City of Albany regarding a purchase. On Tuesday 11 January 2005 a further meeting was held in Albany in the presence of an appointed Mediator.

At that meeting, and subject to approval by the Shire of Plantagenet, the Shire offered to buy the City's share of the saleyards for a lump sum of \$1 million. The City's representatives were Chief Executive Officer Andrew Hammond, Peter Madigan Executive Director Corporate and Community Services, Cr Judith Williams, Cr Des Wolfe and Cr Ian West.

Statutory Environment

Section 3.59 of the Local Government Act 1995 relates to commercial enterprises by Local Governments. Before a Local Government commences a major trading undertaking or enters into a major land transaction it is to prepare a business plan. The business plan must include certain statutory requirements including:

- (a) its expected effect on the provision of facilities and services by the local government;
- (b) its expected effect on other persons providing facilities and services in the district;
- (c) its expected financial effect on the local government;
- (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56;
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this subsection.

Councillors will be aware that the WA Meat Industry Authority has been engaged to undertake a management assessment of the saleyards including the preparation of a Business Plan so that the required advertising pursuant to sub section 4 of Section 3.59 can be undertaken. The advertising includes state wide public notice advising that the business plan may be inspected and that submissions will be accepted by the Local Government for a period of six weeks. At the conclusion of the advertising period the local government may decide to proceed with the undertaking as proposed and such decision must be by *absolute majority*.

Councillors should also be aware that as the Chief Executive Officer, pursuant to Regulation 14 of the Local Government (Administration) Regulations 1996 is of the opinion that the meeting to which the information contained in this report is likely to be closed to members of the public, he has classified such information and report confidential pursuant to S5.23(c):

'a contract entered into, or which may be entered into, by the Local Government and which relates to a matter to be discussed at the meeting;'

Consultation

As referred to under the heading Statutory Environment, significant state wide consultation will need to occur prior to the Council being in a position to finalise this matter.

Significant consultation has occurred with the City of Albany.

Policy Implications

There are no policy implications for this report.

Financial Implications

Significant financial implications exist for the Shire with this proposed purchase.

The negotiated price has been agreed at \$1 million. Councillors will be aware that this figure is \$150,000.00 greater than the Council's original offer and is \$200,000.00 greater than the valuation (\$1.6 million for the whole saleyards).

Great Southern Regional Cattle Saleyards – Proposed Purchase (Cont.)

Further, significant works are needed at the saleyards, including crucial environmental works which are necessary to retain the licence for the saleyards to continue operating an effluent scheme. No firm costings for this work have been yet obtained but the cost is likely to be in the vicinity of \$200,000.00. A further \$50,000.00 is recommended for the construction of new pens. As no funds are available in the current budget for this work or for the purchase of the saleyards the entire amount will need to be borrowed, say \$1.3 million. An indicative interest rate for \$1.3 million over twenty years would be 6% per annum. \$1.3 million borrowed over 15 years with two (2) payments per annum would require thirty payments of \$66,325.00 over the life of the loan and a total interest bill of \$689,751.00. The total paid over the life of the loan would be \$1,989,751.00.

The Council would also be aware that two loans are outstanding in relation to the saleyards.

Loan 83 was borrowed in September 1999, the principle being \$325,000.00 over a term of fifteen years at 6.62%. Repayments are \$17,604.30 each six months.

Loan 84 was borrowed in September 1999, the principle being \$1.4 million over a term of twenty years at 6.96%. Repayments are \$66,144.85 each six months.

Councillors should note that although the Shire's borrowings will increase, the borrowings applicable to the whole of the saleyards will actually decrease.

Total principal borrowed by both the City and the Shire is (\$1,725,000.00 x 2) \$3,450,000.00. With the purchase, total principal will be (\$1,725,000.00 + \$1,300,000.00) \$3,025,000.00.

Strategic Implications

Although the purchase of the saleyards was not identified in the Council's Strategic Plan, the Council nevertheless noted the need:

'to actively monitor all trading undertakings of the Council to ensure optimum performance and to ensure that the trading undertaking is an appropriate activity for the Council to be engaged in'.

The Council has been concerned for some time that the saleyards, as a trading undertaking, has not been performing optimally and efforts to correct this through the joint venture have not been successful. For this reason the Council has adopted the process of investigating the purchase of the saleyards to endeavour to achieve optimal performance in line with its Strategic Plan.

Officer Comment

There is no doubt that the governance system put in place for the operation of the Great Southern Regional Cattle Saleyards Joint Venture was flawed.

Recent advice given to the Council by its Lawyers indicated that a committee set up by the City of Albany would not be able to make a binding decision on the Shire of Plantagenet when such committee made recommendations to the City.

Under the present joint venture system disputes are difficult to settle and, unless the joint venture was to be controlled by a Regional Council, there is no other mechanism immediately available for the governance system of the joint venture. As the

Great Southern Regional Cattle Saleyards – Proposed Purchase (Cont.)

Council's 50% investment in the saleyards is significant, it would appear that the best way to protect the investment by the ratepayers is the purchase of the City's share.

Councillors should also be aware that the Manager of the Saleyards, Mr David Hislop is presently on extended sick leave and is not expected to return to work before the end of February 2005. Further, Mr Dean Wallinger, who has been acting in the position, has resigned, such resignation effective from close of business 21 January 2005.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr K Hart, seconded Cr M Skinner:

THAT:

- (1) The acceptance by the City of Albany of the Shire of Plantagenet's offer to purchase the City's fifty per cent share of the Great Southern Regional Cattle Saleyards for the sum of \$1m be noted.
- (2) The Chief Executive Officer be authorised to immediately proceed to advertise, pursuant to Section 3.59 of the Local Government Act 1995, the intention by the Shire of Plantagenet to commence a major trading undertaking and that a Draft Report prepared by the Western Australian Meat Industry Authority on behalf of the Shire of Plantagenet is available to be inspected or obtained pursuant to that section.

CARRIED (5/1)

No. 05/05

6 CLOSURE OF MEETING

5.14pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ DATE:/..../....