



ORDINARY MINUTES

DATE: Tuesday, 25 August 2009

TIME: 2.45 pm

VENUE: Council Chambers, Lowood
Road, Mount Barker WA 6324

Rob Stewart
CHIEF EXECUTIVE OFFICER

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2:46 pm The Presiding Member declared the meeting open.

Working to Occupational Safety and Health Best Practices, Mr Rob Stewart - Chief Executive Officer, read aloud the emergency evacuation procedures for Councillors, staff and members of the public present in the Council Chambers.

Mr Stewart then 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 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

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

Members Present:

Cr K Clements	Deputy Shire President -Town Ward
Cr A Budrikis	Kendenu Ward
Cr B Hollingworth	Town Ward
Cr S Grylls	Rocky Gully/West Ward
Cr J Moir	South Ward
Cr D Nye-Chart	East Ward
Cr M Skinner	East Ward

In Attendance:

Mr Rob Stewart	Chief Executive Officer
Mr John Fathers	Deputy Chief Executive Officer
Mr Peter Duncan	Manager Development Services
Mr Eric Howard	Environmental Health Officer
Mr Vincent Jenkins	Planning Officer
Ms Cobie MacLean	Administration Officer (Planning)

Previously Approved Leave of Absence:

Cr J Mark 13 August 2009 to 10 September 2009 inclusive.

Apologies

Cr K Forbes Shire President – Rocky Gully/West Ward

There were thirteen (13) member(s) of the public in attendance.
There were nil (0) member(s) of the media in attendance.

4 PUBLIC QUESTION TIME

Section 5.24 Local Government Act 1995

4.1 PORONGURUP RURAL STRATEGY (G1 PRECINCT), AMENDMENT NO. 29, AMENDMENT NO. 51 (LOT SIZES AND UNAUTHORISED CLEARING)

Asked by: Mr Gary Mulder:

Further to Question 1 asked of the Council meeting held 11 August 2009 the developer for Amendment No. 51 has approached myself and agreed to construct a 3 strand fence. This is not sufficient to protect the remnant vegetation and I will be increasing the strands of my own cost.

I have made many attempts to seek answers to the question of lots sizes in G1. My last attempt has again been met with 'your points have been noted'. Historically this has meant that you have no intention of telling me I'm right or wrong and that you will ignore it.

I will attempt again to solicit an answer from the Council.

Fact 1: The Council voted for 10ha average lot sizes in G1 on 27 February 1996, attempted to rescind it at a *Special Electors Meeting* (defeated) on 18 March 1996, and then ratified the 10ha average lot size in rural residential development proposals at the next council meeting.

Question 1: Is this is correct? If so please explain why the Council voted to change it to 10ha from the original 4ha and then change back to 4ha again.

Response by: Mr Rob Stewart Chief Executive Officer

The draft Porongurups Rural Strategy (PRS) was advertised in late 1995 following which the Council on 27 February 1996 adopted the draft for referral

to the Western Australian Planning Commission (WAPC). The WAPC responded in October 1996 and required some modifications. The Council on 12 November 1996 considered the WAPC modifications required for final approval. The Council on 23 September 1997 adopted the final Strategy as Town Planning Scheme (TPS) Policy No. 11.

An earlier draft of the document did refer to a 10ha average lot size in Precinct G1, however after submissions and further consideration the Council did include the following words in the adopted Strategy.

'Lot sizes upwards of two hectares must properly reflect the site conditions with a range of lot sizes being provided. As a general guideline an absolute maximum of one lot per four hectares is recommended with any variation of this guideline being subject to detailed justification.'

'Where appropriate Council may support cluster development of smaller lots in order to minimise clearing of vegetation and encourage more productive use of existing cleared land. The overall density of such proposals will be based on the average lot size of 4 hectares.'

The Council, when considering documents such as this can alter provisions having regard to further consideration of submissions etc. The Council is the elected body with the power to make decisions on behalf of the whole community.

Asked by: Mr Gary Mulder

Fact 2: Amendment No. 29, the first development in G1, attempted to design blocks smaller than 2ha by offering a 'Parks and Recreation Area' but still maintaining 4ha average, inclusive of the reserve. This was changed after consultation/negotiation with WAPC to 2ha min lots and the *removal* of the Parks and Recreation area, which was incorporated into the lots.

Question 2: Is this correct? If so, please explain the reasoning for considering minimum lot size *less* than 2ha (see PRS) and the Parks and Recreation area, and then the reason for changing it back again to 2ha and the *removal* of the Parks and Recreation area.

Response by: Mr Rob Stewart Chief Executive Officer

This amendment involved a proposal to rezone land to Rural Residential in precinct G1. The amendment included a Precinct Structure Plan. That included the following as some of the key elements:

- i) *Development within the Precinct to be based on a maximum density of one dwelling per 4Ha.*
- ii) *Rural Residential development to be located on poorer, cleared agricultural land to minimise bush fire threat and retain good agricultural land for productive use. Lot sizes to be a minimum of 2ha with the land to be used for residential lifestyle in a rural setting, including rural retreats and small non-commercial hobby farms.*

- iii) *Rural Small Holdings to be located on good agricultural land with lot sizes capable of supporting productive agricultural uses. Lot sizes to be a minimum of 4ha ranging up to 40ha. Productive use of cleared land with good soils is encouraged where part-time income can be derived from horticulture or viticulture. Where large areas of remnant vegetation are present the emphasis will be to enhance the landscape quality, environmental values and conservation attributes.'*

Before the amendment was finalised the WAPC required various modifications be carried out to the document including a change to the text and subdivision guide plan as follows:

*'Include a provision requiring a minimum lot size of 2ha **and an average maximum density of 1 lot per 4ha for each subdivision proposal.**'*

The reference to the parks and recreation area has not been able to be confirmed as the amendment file has been archived.

The Council is the elected body with the power to make decisions on behalf of the whole community.

Asked by: Mr Gary Mulder

Fact 3: The PRS and the G1 Precinct Structure Plan still have 2ha min and 4ha average lot sizes for G1. Because these documents are incorporated in the TPS it is accepted as policy, not guide lines. When the Council voted on Amendment No. 51 on 9 June 2009, the Planning Officer's information stated that it was "in accordance with the PRS of 1997 and the G1 Precinct Structure Plan of 2004". No mention is made of the lot size deviation from the TPS policy.

Question 3: Is this correct? Was the Council aware that the lot sizes were not in accordance with the above documents and, if so, why does the Council, in Amendments No. 39 and 51, allow for lots sizes down to 1.2ha with an average of 3.5ha?

Response by: Mr Rob Stewart Chief Executive Officer

The PRS was adopted as TPS Policy 11 on 23 September 1997. Such a policy is not a black and white law and the Council can vary such a document. Clause 7.6.4 states:

'A Town Planning Scheme Policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the Policy and objectives which the Policy was designed to achieve before making its decision.'

Amendment 51 is a new amendment that adjusts parts of finalised Amendment 39 following a land exchange between the author of these questions and the developer of the adjoining now zoned Rural Residential land. Amendment 39 in its justification for lot sizes proposed states:

'The lot configuration and road layout, as indicated on the Subdivision Guide Plan, takes account of vegetation, topography, existing features and structures (dams and buildings). Notwithstanding the capability of the site to accommodate lot sizes from 1ha, this proposal includes predominantly 2-4ha lots, with three lots in excess of 6ha, the largest being approximately 22ha. Development is to be concentrated within existing cleared areas and on highest capability land. The proposal is consistent with contemporary planning philosophy and principles, in particular the efficiency, affordability and suitability objectives of current State Strategies and Policies. Although the 1996 Local Strategy refers to a development density in the G1 precinct of one dwelling per 4ha, there is no scientific planning rationale for this particular criteria. The detailed environmental assessment and capability analysis has been used to inform the SGP and provides the justification for lot sizes. The environmental assessment confirms the suitability and capability of the area for rural residential development, serviced by on-site effluent disposal systems. The SGP is based on accurate and detailed site evaluation and is in accordance with contemporary planning principles, strategies and Policies.'

There is considerable planning rationale for efficient and effective use of land. Current Strategies and Policy advocate sustainability, consolidation, variety of housing styles and expansion of existing rural settlements. The proposal achieves a density of just under 1 dwelling per 4ha. In light of the initiatives contained in current regional Strategy and the objectives for consolidation and sustainability contained in State Strategies and Policies slight departure from the 1996 Precinct Structure Plan is justified.'

When the Council initiated this amendment at its meeting held on 11 July 2006, Councillors were provided with a copy of the Amendment Report which included the above.

As stated above the Council is not bound by a TPS Policy and the Council by being provided with the amendment report was aware of the lot size proposed in terms of the policy.'

Asked by: Mr Gary Mulder

Fact 4: Apart from the alleged unauthorised clearing for the building envelope on lot 29 (in Amendment 51), the developer has also cleared through the remnant vegetation on the boundary between the development lot 830, and the adjoining rural property lot 831, an area considered for Rural residential rezoning in the PRS and the Precinct Structure Plan.

Question 4: Is this a requirement, or does it come under the same 'no boundary clearing' restriction as applied on lot boundaries within the development? If it is a requirement can council change this requirement and adopt 'strategic fire breaks' and 'no lot boundary clearing of remnant vegetation' to the *whole G1 precinct* since it is all potentially capable to be rezoned and all remnant vegetation in the precinct is supposed to be protected?

Response by: Mr Rob Stewart Chief Executive Officer

The Department of Environment and Conservation has been requested to investigate the clearing on lot 29 and that agency will be looking at clearing activities. The clearing along the boundary between Lots 830 and 831 may be to establish a boundary fence. The Fire Management Plan for Amendment No. 51 does refer to the use of Strategic firebreaks in lieu of individual lot boundary firebreaks. The Council's Ranger will inspect the boundary between 830 and 831 to determine what level of clearing has been carried out.

5 PETITIONS / DEPUTATIONS / PRESENTATIONS**5.1 MS ANNE ARNOLD – ITEM 12.1.1**

I am the former owner of Lot 31 Mount Barker Road. I didn't know Colin and Bev Wardle prior to moving in in 2003.

My husband was very ill and even though Bev did not know him, soup was dropped over. After his passing Bev sustained me with soup and weekly roasts. Colin helped remove limbs, leaves etc on the block (for fire safety). A second gate was installed to allow his tractor through.

However we did talk about their exotic birds and roosters etc for the enjoyment of their Bed and Breakfast guests. I wouldn't be here but for their kindness.

My main reason for selling the property in 2007 was the upkeep of the block and too many memories of my married life there, and not the noise.

I am city born but have quickly realised that you need a good relationship with your neighbours in the country in case of emergencies and distances from people.

5.2 MR ANDREW DOLPHIN – ITEM 12.1.1

I support Ms Arnold's comments. Bev and Colin are good community people. They help out a lot. I have read the objection letter and am concerned about the implications as it calls their good character into question.

There is no malice or dishonesty intended with the aviaries. My wife and I have no issues with the noise. We regularly walked up the hill past lot 32 and don't recall ever noticing unacceptable noise coming from that property.

We left Perth due to noise: cars, dogs, parties, loud music etc. I am easily annoyed, to the point of acute anxiety, by the unnecessary sounds of loud music playing into the night, dogs barking incessantly etc.

We live 2 doors away from the Bed and Breakfast. We were initially made aware of noise complaints when Mr Ray Parry, the Shire's Ranger, called regarding noise complaints from barking dogs from the property between ourselves and the Wardle's. We cannot recall her dog barking except when someone entered that property or we walked to that boundary where the dog

could see us. The complainant originally raised the barking complaint. The area is more peaceful than we ever expected.

Frogs, kookaburras, magpies, cows, sheep and even the occasional chainsaw or tractor far outweigh the occasional sounds that could be described as annoying. We have no noise issues.

5.3 MS SUSAN PLEWRIGHT – ITEM 12.1.1

I live on the property immediately north of Bev and Colin Wardle. My house is situated 50-60m from our common boundary. I have lived here now for nearly three years. I would just like to state that in all this time I have been welcomed and cared for by my neighbours Colin and Bev Wardle. At no time, in any way, have I been annoyed, stressed or made anxious by any sound emanating from their property. At all times any sound has been well within acceptable levels and commensurate with that which would be expected in a semi rural environment.

5.4 MR COLIN WARDLE – ITEM 12.1.1

We have received harassment from the complainant. The issue of the barking dog has already been raised. There have been two incidences of flooding onto our property from lot 31.

In response to Mr and Mrs Peters' letter of objection, I wish to clarify some incorrect statements:

1. The aviaries are of colorbond construction, Merino in colour.
2. They have been built professionally to modern standards. There is no excessive fly problem. The aviaries are rat proof, however there is a rat problem in the area.
3. We hose the aviaries out.
4. Frogs dig burrows and come out at night and can be quite loud. The native birds are noisy. We have farming land opposite with sheep, cattle and general farm machinery.

We have asked guests who stay at our Bed and Breakfast for feedback on noise and the only feedback has been traffic noise.

We like living here and we have never been approached by Mr and Mrs Peters regarding noise issues.

5.5 MR STUART PETERS – 12.1.1

We live at Lot 31 Mount Barker Road and as such are most directly affected by these illegally built buildings and their associated nuisance noise and as the occupiers of lot 31 we will be most affected by the Council's decision today.

The buildings and the birds caged within have been found to be breaking the Shire building regulations and environmental noise regulations. The noise

from these illegally built buildings and the birds caged within are audible around our lot and within our residence. This is totally unacceptable.

My wife and I have suffered anxiety and trauma as a result of this excessive nuisance noise generated in part by the close proximity of these buildings 5-7m from the boundary and 27m from our residence. The close proximity of these buildings is a cause not only of excessive noise from the birds caged within, but when any feeding or cleaning does commence these buildings act like a drum for noise.

The other unacceptable nuisance is the amount of rodents attracted to these buildings and in turn we are constantly baiting our lot and residence at our own time and expense.

We have at all times followed the Shire's regulations in reporting this nuisance noise and on all occasions the Shire's Environmental Health Officer has found Colin and Bev Wardle to be breaking the Environmental Noise Regulation Act. It is only the persistent breaking of this Act and the amount of rodents these buildings attract combined with the Shire's 20m setback regulation that has made us question the legality of the siting of these buildings, which is the reason for us being here today.

We enjoy our property and living in Plantagenet, this enjoyment has been compromised by this nuisance noise and rodents. We entrust our faith in the Shire's regulations and the Council to continue to make this an enjoyable place to live.

As the adjoining landowners and closest residents to these buildings we strongly object to the issuing of a building licence within a prohibited area. Lot 32 has enough room so as not to build within the setback area and cause nuisance noise.

A few items I discussed with Mr Peter Duncan (Manager Development Services), Mr Vincent Jenkins (Planning Officer) and Mr Eric Howard (Environmental Health Officer) are:

- the distances noted in their report was a misprint. The distances stated from our residence to the buildings was approximately 33m but is actually 27m.
- there is also no screening on lot 32. The screening in the photo's is on the boundary of lot 31.

6 DISCLOSURE OF INTEREST

Part 5 Division 6 Local Government Act 1995

Cr K Clements declared a Closely Related Person Interest - in Item 12.3.1.

7 APPLICATIONS FOR LEAVE OF ABSENCE

Section 5.25 Local Government Act 1995

Cr S Grylls requested Leave of Absence from 20 September 2009 to 4 October 2009 inclusive.

Moved Cr M Skinner, seconded Cr B Hollingworth:

That Cr S Grylls be granted Leave of Absence from 20 September to 4 October 2009 inclusive.

CARRIED (7/0)

NO. 233/09

8 CONFIRMATION OF MINUTES

Moved Cr B Hollingworth, seconded Cr A Budrikis:

That the Minutes of the Ordinary Meeting of the Shire of Plantagenet, held on 11 August 2009 as circulated, be taken as read and adopted as a correct record.

CARRIED (7/0)

NO. 234/09

9 COMMITTEE MINUTES

Nil

10 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 12 August 2009 – Along with most of the Councillors from the Southern Link Voluntary Regional Organisation of Councils member Councils attended a meeting at Cranbrook. The outcome of the meeting was the group's indication of willingness to amalgamate and form one Council.
- 18 August 2009 – Mr Stewart and I met with Mr Andrew Woodroffe of SkyFarming Pty Ltd. We were advised all things being equal the windfarm towers should be up and running by December 2010.
- 20 August 2009 – Ms N Selesnew and I went to the Great Southern Recreational Advisory group meeting at Cranbrook. The main theme was Turf Maintenance. The turn up was a bit disappointing but I think we learnt a couple of things for the management and maintenance of our ovals.
- 20 August 2009 – along with several Councillors, staff and about 70 members of the public, I attended a public meeting at the town hall to discuss the recent decision to investigate amalgamation. The meeting

was chaired by Cr K Forbes AM. I felt the outcome of the meeting was extremely positive.

- 21 August 2009 - Along with Cr K Forbes AM, Ms N Selesnew and Mr A Watkins, attended the official opening of the Home and Community Care building. It has been a long journey but we finally got there. My thanks to Ms Selesnew for pushing it along.
- 24 August 2009 – Mr Stewart and I attended a meeting in Albany with the Corruption and Crime Commission on managing misconduct.

11 ANNOUNCEMENTS BY COUNCILLORS WITHOUT DISCUSSION

Cr S Grylls

- 20 August 2009 - Amalgamation meeting.
- 25 August 2009 - Great Southern Regional Saleyards Committee meeting.

Cr B Hollingworth

- 12 August 2009 - Southern Link Voluntary Regional Organisation of Councils at Cranbrook.
- 17 August 2009 – Plantation Industry Task Force.
- 18 August 2009 – Oyster Harbour Catchment Group.
- 19 August 2009 – Water Corporation Customer Service Council in Perth.
- 22 August 2009 – Rotary Health Research Fund Great Australian Bike Ride – breakfast was held at the Great Southern Regional Saleyards.

Cr A Budrikis

- 12 August 2009 - Southern Link Voluntary Regional Organisation of Councils at Cranbrook.
- 18 August 2009 – Recreation Centre meeting. Discussed precinct plans for Frost and Sounness Park and Kendenup.

Cr J Moir

- 12 August 2009 - Southern Link Voluntary Regional Organisation of Councils at Cranbrook.
- 17 August 2009 – Southern AgCare.
- 20 August 2009 – Public meeting regarding Amalgamation.

Cr D Nye-Chart

- 12 August 2009 - Southern Link Voluntary Regional Organisation of Councils at Cranbrook.

Cr M Skinner

- 12 August 2009 - Southern Link Voluntary Regional Organisation of Councils at Cranbrook.
- 20 August 2009 – Public meeting regarding Amalgamation.
- 25 August 2009 – Great Southern Regional Saleyards Committee Meeting.
- 25 August 2009 – Long Term Financial Planning Group meeting.

12 REPORTS OF COMMITTEES AND OFFICERS

12.1 DEVELOPMENT SERVICES REPORTS

12.1.1 LOT 32 MOUNT BARKER ROAD, MOUNT BARKER – RETROSPECTIVE APPROVAL - AVIARIES

File No:	N12480
Attachments:	Locality plan Site plan Letter from applicant Letter from complainant Photographs
Responsible Officer:	Peter Duncan Manager Development Services
Authors:	Vincent Jenkins Planning Officer Eric Howard Environmental Health Officer
Proposed Meeting Date:	25 August 2009
Applicants:	C and B Wardle

PURPOSE

The purpose of this report is to consider a proposal for retrospective planning approval for five previously constructed bird aviaries on Lot 32 Mount Barker Road, Mount Barker.

BACKGROUND

Council records show the registered owners of lot 32 are C and B Wardle.

On 3 December 2008, Stuart and Julie Peters residing at Lot 31 Mount Barker Road registered a complaint by telephone regarding excessive rooster and caged bird noise at Lot 32 Mount Barker Road, Mount Barker. On 4 December 2008 the Council's Environmental Health Officer (EHO), Mr Eric Howard conducted a site inspection, and a written complaint by Mr and Mrs Peters was lodged at the Council the following day.

Mr and Mrs Peters were concerned about persistent and excessive noise created by roosters and caged birds emanating from lot 32. They claimed they were subjected to noise on an ongoing basis and at unsociable hours. To resolve the matter they requested the relocation of the aviaries presently located approximately 6m from the shared property boundary with lot 32 to at least the minimum distance required by Shire regulations and the removal or containment of the roosters. They further request a copy of the approval notice issued for the aviaries.

On 15 December 2008 Mr and Mrs Peters were advised that due to the difficult nature of the complaint the matter would require investigation over an extended period of time to validate the complaint. They were also informed that the EHO would investigate the matter and communicate with them throughout the process. The Council was unable to provide them with a copy of the approval notice issued for the aviaries as these details were subject to further investigation.

In a letter dated 17 March 2009 the Council reminded Mr and Mr Wardle of the ongoing investigation concerning complaints received of excessive noise emanating from roosters and other caged birds being kept at lot 32. They were informed that the EHO determined that the noise created by exotic birds and roosters kept at their property was unreasonable within terms and definitions of the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997.

Mr and Mrs Wardle were also informed that although relocating several of the noisier exotic birds from the aviaries and removing a number of breeding roosters from the property temporarily resolved the noise nuisance, subsequent noise complaints were received of unreasonable noise created by roosters crowing early in the morning.

An assessment of the noise was carried out on the morning of 5 February 2009 at approximately 6:45 am. At that time the crowing noise could just be detected above the existing noise and subsequently the EHO determined that the noise did not constitute unreasonable noise in accordance with statutory requirements.

As a result of ongoing complaints being received from Mr and Mrs Peters concerning unreasonable noise and subsequent investigations by the EHO, the Council in a letter dated 5 May 2009 advised Mr and Mrs Wardle that they were committing an offence in accordance with the requirements of the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997, if they cause or allow unreasonable noise to be created at their property.

Notwithstanding endeavours from the EHO and Mr and Mrs Wardle the Council on 14 May 2009 received another letter from Mr and Mrs Peters expressing concern regarding limited communication and persistent unacceptable noise levels from a large number of caged birds being kept too close to their boundary. They also insisted on the permanent removal of the roosters without return.

On 26 May 2009 the Council received another letter from Mr and Mrs Wardle referring to the ongoing noise complaint as attempted harassment from Mr and Mrs Peters. They stated that their bantam roosters were located approximately 130m away from the complainants dwelling and they had not received any complaints of rooster and bird noise from guests visiting their Jolly Frog Bed and Breakfast establishment. They advised in all their time at the Jolly Frog, Mr and Mrs Peters were the only neighbours to complain and they only started complaining after two years.

Site inspections were conducted by the Council's Planning Officer (PO), Mr Vincent Jenkins to ascertain the permissible status of all buildings at Lot 31 and Lot 32 Mount Barker Road, Mount Barker.

A site inspection conducted at lot 32 on 4 June 2009 revealed that all buildings were approved except for the aviaries. The aviaries are located 6.6m from the adjoining lot 31 to the south where a side boundary setback of 20m is required. Mr Wardle was advised to either remove the aviaries, lodge an application to relocate the aviaries at the 20m side boundary setback requirement or lodge an application for approval of a reduced side boundary setback for the aviaries at 6.6m.

A site inspection conducted at the lot 31 on 5 June 2009, revealed that all buildings were approved. The PO contacted Mr Peters and provided feedback regarding inspections conducted at both lots 31 and 32.

On 21 July 2009 Mr and Mrs Wardle submitted an application (copy attached) for retrospective approval for the aviaries on Lot 32 Mount Barker Road. The reason provided by the proponents for the location of the aviaries was that they understood the setback requirement to be 5m and not 20m.

A copy of the application for retrospective approval for the aviaries was forwarded to Mr and Mrs Peters inviting their written comments. The PO conducted a meeting with Mrs Peters on 29 July 2009 explaining the application process and the prescribed protocol to be followed by the Council. On 13 August 2009 the Council received comments from Mr and Mrs Peters (copy attached). Mr and Mrs Peters emphasised their concerns of constant bird noise from sunrise to sunset emanating from the adjoining property and the location of the aviaries within the required 20m side boundary setback. They are also concerned about noise being created due to the cleaning and feeding the birds and that rodents are attracted to the aviaries.

Town Planning Scheme Policy No. 16 (Outbuildings) sets a maximum wall height of 3.5m and a maximum cumulative total floor area for outbuildings in Rural Residential zones at 150m². The proposal is for retrospective approval for five bird aviaries with a total floor area of 121m² and a wall height of 2.15m. Combined with various other existing outbuildings of 216m² the cumulative area exceeds the 150m² area set by Council policy.

The owners are further seeking approval for the existing side boundary setback to be 6.6m where a side boundary setback of 20m is required in this Rural Residential zone.

STATUTORY ENVIRONMENT

Planning and Development Act 2005.

Shire of Plantagenet Town Planning Scheme No. 3 (TPS3) – Zoned Rural Residential

– Special Provision 4.0 (i) read as follows:

‘4.0 A person shall not construct erect or commence to construct or erect (i) a building within 20m of any boundary of a lot unless, where the topography or shape of the lot or flora thereon require otherwise, the Council approves a lesser distance and if it does so, a person shall not construct or erect or commence to construct or erect a building within the distance approved by the Council.’

Clause 5.2 of TPS3 provides the Council with the ability to vary development standards for development other than residential development. That power may only be exercised by the Council if it is satisfied that:

- '(a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;*
- (b) the non-compliance will not have any adverse affect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality; and*
- (c) the spirit and purpose of the requirement or standard will not be departed thereby.'*

Clause 6.3.2 of TPS3 states:

'The Council having regard to any matter which it is required by the Scheme to consider, to the purpose for which the land is reserved, zoned or approved for use under the Scheme, to the purpose for which land in the locality is used, and to the orderly and proper planning of the locality and the preservation of the amenities of the locality may refuse to approve any application for planning consent or may grant its' approval unconditionally or subject to such conditions as it thinks fit.'

Environmental Protection Act 1986
Environmental Protection (Noise) Regulations 1997
Shire of Plantagenet Health Local Law 2008

EXTERNAL CONSULTATION

Various discussions were conducted between the Council officers, the proponents and the complainants.

FINANCIAL IMPLICATIONS

The application fee of \$264.00 for retrospective approval has been paid.

POLICY IMPLICATIONS

TPS Policy No. 16 (Outbuildings) limits outbuildings to a maximum wall height of 3.5m and a maximum cumulative floor area of 150m² for Rural Residential zones. The floor area of the bird aviaries are 121m² and the wall height of the bird aviaries are 2.15m. The cumulative floor area of all outbuildings on site will then total 337m². Given the large size of the lot (2.76ha), the total area of outbuildings is considered acceptable in this instance. The Council must have regard to a Town Planning Scheme Policy but is not bound to adhere to it where a variation is considered reasonable.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

OFFICER COMMENTEnvironmental Health Officer

The EHO investigated a series of noise complaints associated with a number of roosters and other noisy birds being kept at lot 32. As a result of those investigations it was determined that unreasonable noise was created by selected exotic birds being kept in an aviary (subject to this application) located approximately 33m from the complainants' dwelling. In response, the owners of the birds relocated the noisier birds to alternative aviaries located on the property and also removed or destroyed a number of roosters also contributing to the noise nuisance.

Those matters have now been resolved however Mr and Mrs Peters remain concerned that further unreasonable noise emissions will occur from the use of the aviary at its current location.

Given the history of previous noise complaints, the relocation and use of the aviary a further distance of 13.4m away from the complainants' dwelling (total separation distance of 41m from the aviary and complainants' dwelling) may not necessarily prevent future noise nuisance. An increased separation distance of 13.4m (approx. 30% increase) would have an equivalent sound reduction potential of 2dBA (Decibels) which would be insignificant with this type of noise nuisance. Assorted background (general neighbourhood noises) noise level variations experienced in this location would be in excess of the above mentioned 2dBA reduction.

It remains the responsibility of a keeper of birds to ensure that the various species are located in areas appropriate to their potential to create a noise nuisance and accordingly employ such measures necessary to prevent or abate such nuisances. Irrespective of an aviaries location, the keeper of birds has an on-going obligation to comply with the provisions of the Environmental Protection Act and (Noise) Regulations.

The applicants have been advised that birds being kept on their premises must not cause or contribute to the emission of unreasonable noise.

Planning Officer

Lot 32 is 2.76ha in area and is zoned Rural Residential. TPS3 at Schedule 5, Rural Residential1 – Requires a 20m side setback for buildings, the bird aviaries are placed at 6.6m from the side boundary and more than 20 from all other boundaries.

The five bird aviaries are constructed of steel tubing and covered with colourbond. The roof and sides of the bird aviaries are partly enclosed and the rear is fully enclosed with colourbond. The bird aviaries are rectangular in shape and vary in size from 3.1m x 3.3m to 4.2m x 10.0m with a wall height of 2.15m and are built over and anchored to cement floors. Photographs are included to show building quality and material, screening vegetation, landscaping and setting of bird aviaries.

The lot is well-developed with a dwelling, gardens, fishponds, bird aviaries, chicken pens, and numerous large trees. The bird aviaries' location is well screened by vegetation on the adjoining lot 31 to the south and is landscaped to the front with

garden and curbed footpath. The bird aviaries complement the surrounding garden and entertainment area where visitors to the Jolly Frog occasionally enjoy outdoor meals. With a cumulative floor area of 121m² and wall height of 2.15m the bird aviaries do not adversely affect the visual amenity of the locality.

The Rural Residential zone requires a 20m side boundary setback for all buildings. The bird aviaries are currently located 6.6m from the side boundary and approximately 28m from the complainants' dwelling. The bird aviaries being moved a further 13.4m away from the complainants' dwelling will satisfy the 20m side boundary setback requirement. As mentioned above an increased separation distance of 13.4m (approx. 30% increase) would have an equivalent sound reduction potential of 2dBA (Decibels) which would be insignificant with this type of noise nuisance. No difficulties are seen with the reduced side boundary setback at 6.6m given the insignificant reduction in sound level.

The cumulative floor area of all outbuildings on the property including the new bird aviaries will total 337m². The wall height of the proposed outbuilding is within the limit set by the policy. No difficulties are seen with the maximum cumulative floor area of outbuildings being 337m² given the size of the lot being 2.76ha.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr M Skinner, seconded Cr B Hollingworth:

That in respect to the retrospective approval request for the five bird aviaries at Lot 32 Mount Barker Road, Mount Barker:

- 1. In accordance with clause 2.5.2 of the Shire of Plantagenet Town Planning Scheme No 3, the bird aviaries with a reduced side boundary setback of 6.6m be approved.**
- 2. In accordance with clause 6.3.2 of the Shire of Plantagenet Town Planning Scheme No. 3, Town Planning Scheme Policy No. 16 (Outbuildings), the policy be varied and the bird aviaries be approved which will mean a cumulative area of all outbuildings on site exceeding the maximum of 150m².**
- 3. The development being in accordance with the plan dated 27 July 2009.**
- 4. A vegetation screen of well advanced shrubs and trees being planted along the boundary with lot 31 particularly the area abutting the bird aviaries before the return of any birds.**
- 5. Noise reduction measures within the aviaries being implemented immediately to effectively minimise bird noise.**

ADVICE NOTES

1. The applicants are advised it remains their responsibility to ensure that noisy bird species such as roosters, galahs, peacocks, parrots and the like are not placed in the aviaries.
2. The applicants are advised there is an obligation for them to comply with relevant statutes applicable to the development including the Environmental Protection Act 1986, Environmental Protection (Noise) Regulations 1997 and Shire of Plantagenet Health Local Law 2008.

AMENDMENT

Moved Cr J Moir:

That in part 1 of the recommendation:

- The word 'reduced' be deleted; and
- The number '6.6' be deleted and replaced with the number '20.0'.

AMENDMENT LAPSED FOR WANT OF A SECONDER

COUNCIL DECISION

The substantive motion was put.

CARRIED (7/0)

NO. 235/09

12.2 WORKS AND SERVICES REPORTS

Nil

12.3 COMMUNITY SERVICES REPORTS**12.3.1 LOT 53 AND PART LOT 149 LOWOOD ROAD, MOUNT BARKER - MOUNT BARKER COMMUNITY CENTRE BUILDING TENDER CONSIDERATION**

Cr K Clements declared a Closely Associated Person Interest in Item 12.3.1.

3:38 pm Cr Clements withdrew from the meeting.

Election of Acting Presiding Member

In the absence of the Shire President and Deputy Shire President, the Chief Executive Officer sought nominations for the position of Acting Presiding Member.

Moved Cr J Moir, seconded Cr D Nye-Chart:

That Cr M Skinner be appointed as Acting Presiding Member.

CARRIED (6/0)

NO. 236/09

File No: N12487
**Responsible Officer: Rob Stewart
Chief Executive Officer**
**Author: Nicole Selesnew
Manager Community Services**
Proposed Meeting Date: 25 August 2009

PURPOSE

The purpose of this report is to consider a recommendation from the Baptist Union of Western Australia (Baptist Union) for the appointment of builders for the renovation and extension of the proposed Mount Barker Community Centre building at Lot 53 and Part Lot 149 Lowood Road Mount Barker.

Lot 53 and Part Lot 149 Lowood Road, Mount Barker, is owned freehold by the Shire of Plantagenet.

BACKGROUND

The Council considered a proposal from the Mount Barker Baptist Church to construct a Community Centre at Lot 53 and Part Lot 149 Lowood Road, Mount Barker at its Ordinary Meeting held 8 May 2007. The Council resolved that:

- (1) The Mount Barker Baptist Church be advised that the Council is prepared to engage in a lease for Lot 53 Lowood Road, Mount Barker for a period of fifty-five years, comprised of thirty years with an additional twenty-five year option,*
-

for the purpose of establishing the Mount Barker Baptist Church Community Centre.

- (2) The Chief Executive Officer and the Shire President be given authority to negotiate the terms of the lease for Lot 53 Lowood Road, Mount Barker with the Baptist Union of Western Australia and the Mount Barker Baptist Church.*
- (3) The Mount Barker Baptist Church be advised that the Council is supportive of the necessary renovations and extensions required to the building located on Lot 53 Lowood Road, Mount Barker to accommodate the requirements of both the Mount Barker Baptist Church Community Centre and the Mount Barker Library, provided the Mount Barker Baptist Church finance all necessary changes and appropriate planning and development approvals are sought.*
- (4) The Chief Executive Office and Shire President be given authority to negotiate a Memorandum of Understanding (MOU) between the Mount Barker Baptist Church and the Shire of Plantagenet, including but not limited to the collocation of the Mount Barker Library on Lot 53 Lowood Road, Mount Barker, the use of the adjoining Sounness Park Oval, the exemption of rates for Lot 53 Lowood Road, Mount Barker, security provisions, library costs, zoning requirements and the composition of a Management Board for the Community Centre.*
- (5) The council agrees to be a co-signatory to the Mount Barker Baptist Church's application for funding to the Regional Partnerships Program, seeking financial assistance to construct the Mount Barker Baptist Church Community Centre.*
- (6) A public meeting be held at the discretion of the Shire President to discuss the Mount Barker Baptist Church Community Centre development and the Mount Barker Library collocation proposal.'*

The Mount Barker Public Library, managed by the Shire, is housed in the building located on Lot 53 and Part Lot 149 Lowood Road, Mount Barker.

The Baptist Church is progressing with the Community Centre concept. Funding has been received from a variety of sources and building plans are nearing completion.

The Baptist Union has been engaged to manage the building tender process. Letters seeking Expressions of Interest were sent to a number of local building companies requesting an outline of fees and charges associated with building work. Four submissions were received. The Baptist Union has reviewed the submissions and has made a recommendation to the Shire of Plantagenet for the appointment of two building companies, Plantagenet Sheds and Steel Pty Ltd and Anderson Dufty Builder.

STATUTORY ENVIRONMENT

The Local Government (Functions and General) Regulations 2006 normally applies in relation to the letting of tenders for goods and services.

However, the Department of Local Government has advised that the Local Government (Functions and General) Regulations 2006 do not apply because the Mount Barker Community Centre project is being managed by the Mount Barker Baptist Church and Baptist Union.

Lotterywest, a major funder of the project which is providing funding through the Shire of Plantagenet, has also advised that they do not require the Local Government Regulations to be followed, provided the Council endorses the recommendations for the builders as presented by the Baptist Union.

EXTERNAL CONSULTATION

Consultation has occurred with representatives from the Baptist Union, Mount Barker Baptist Church, Department of Local Government and Lotterywest.

FINANCIAL IMPLICATIONS

The construction and renovation costs associated with the Mount Barker Community Centre development will be met by the Mount Barker Baptist Church. The Church is providing a significant amount of their own capital (in excess of \$400,000.00) and has also sought funding from a number of funding agencies including the Indigenous Co-ordination Centre, Great Southern Development Commission, Jacks Foundation and Lotterywest. The application to the Lotterywest program was auspiced by the Shire.

The Shire of Plantagenet has budgeted \$40,000.00 in the adopted 2009 / 2010 Annual Budget for the internal fit out of the new Library area which will be incorporated in the Community Centre plans.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

The Strategic Plan, Key Result Area 3 – Community Services, aims to:

'Deliver, or facilitate the delivery of, a range of services which respond to, and reflect, the physical, social and cultural well being of the community'.

To achieve this aim, the Shire will evaluate different options for providing community services and facilities.

OFFICER COMMENT

The Baptist Union has managed the tender process for the construction and renovation of the Community Centre. Expressions of Interest were sought from local builders for two stages of the building:

- Stage A being the construction of a new Library, After School Child Care Centre and second storey stair well and store room at the southern end of the existing building (excluding any fit out work); and
- Stage B being the refurbishment of the existing building to create office spaces, public toilets, a telecentre and the fit out of Stage A (excluding the Public Library area).

Four builders submitted an Expression of Interest including a cost plus contract price. Representatives from the Baptist Union have reviewed the submissions and met with the preferred builders to review their work and capacity to undertake the Community Centre project.

The Baptist Union has recommended that:

- Plantagenet Sheds and Steel Pty Ltd be engaged to complete Stage A of the project at a cost plus contract fee of 20%, covering the cost of all works/materials, administration and supervision inclusive; and
- Anderson Dufty Builder be engaged to complete Stage B of the project at a cost plus contract fee of 10%, covering the cost of all works, materials, administration and supervision inclusive.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION

Moved Cr D Nye-Chart, seconded Cr B Hollingworth:

That the Baptist Union of Western Australia be advised that the recommendation to engage the following contractors for building works at the Mount Barker Community Centre, Lot 53 and Part Lot 149 Lowood Road, Mount Barker, be supported:

- a) **Plantagenet Sheds and Steel Pty Ltd to carry out Stage A at a cost plus contract fee of 20% covering the cost of all works, materials, administration and supervision inclusive; and**
- b) **Anderson Dufty Builder to carry out Stage B at a cost plus contract fee of 10% covering the cost of all works, materials, administration and supervision inclusive.**

MOTION TO PROCEED BEHIND CLOSED DOORS

Moved Cr D Nye-Chart, seconded Cr A Budrikis:

3:45 pm That the meeting move into Confidential Section to discuss items under the terms of the Local Government Act 1995 Section 5.23(2) as follows:

- '(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;**
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**
- (e) a matter that if disclosed, would reveal —**
 - (i) a trade secret;**
 - (ii) information that has a commercial value to a person; or**

- (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;'

CARRIED (6/0)

NO. 237/09

MOTION TO PROCEED IN PUBLIC

Moved Cr B Hollingworth, seconded Cr D Nye-Chart:

4:03 pm That the meeting proceed in public.

CARRIED (6/0)

NO. 238/09

AMENDMENT

Moved Cr A Budrikis, seconded Cr B Hollingworth:

That the words:

1. 'recommendation to engage' be deleted and replaced with 'engagement of'; and
2. 'by the Baptist Union of Western Australia' be added after the word 'contractors'.

CARRIED (6/0)

NO. 239/09

COUNCIL DECISION

That the Baptist Union of Western Australia be advised that the engagement of the following contractors by the Baptist Union of Western Australia for building works at the Mount Barker Community Centre, Lot 53 and Part Lot 149 Lowood Road, Mount Barker, be supported:

- a) Plantagenet Sheds and Steel Pty Ltd to carry out Stage A at a cost plus contract fee of 20% covering the cost of all works, materials, administration and supervision inclusive; and
- b) Anderson Dufty Builder to carry out Stage B at a cost plus contract fee of 10% covering the cost of all works, materials, administration and supervision inclusive.

CARRIED (6/0)

NO. 240/09

4:06 pm Cr K Clements returned to the meeting.

Cr Clements resumed the chair.

12.4 CORPORATE SERVICES REPORTS

12.4.1 FINANCIAL STATEMENTS - JULY 2009

File No:	N12454
Attachments: (1)	<u>Financial Statements – July 2009</u> (separate attachment)
Responsible Officer:	John Fathers Deputy Chief Executive Officer
Author:	Cherie Delmage Accountant
Proposed Meeting Date:	25 August 2009

PURPOSE

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 July 2009.

STATUTORY ENVIRONMENT

Regulation 34 of the Financial Management Regulations (1996) 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.

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 RECOMMENDATION/COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That the Financial Statement for the period ending 31 July 2009 be received.

CARRIED (7/0)

NO. 241/09

12.4.2 LIST OF ACCOUNTS - JULY 2009

File No: N12392
Attachments: (1) List of Accounts – July 2009
Responsible Officer: John Fathers
Deputy Chief Executive Officer
Author: Donna Jo Fawcett
Debtors/Creditors Officer
Proposed Meeting Date: 25 August 2009

PURPOSE

The purpose of this report is to present the list of payments that were made during the month of July 2009.

STATUTORY ENVIRONMENT

Regulation 13 of the Local Government (Financial Management) Regulations 1996 defines the reporting requirements to the Council of the List of Accounts.

FINANCIAL IMPLICATIONS

There are no financial implications for this report.

POLICY IMPLICATIONS

There are no policy implications for this report.

STRATEGIC IMPLICATIONS

There are no strategic implications for this report.

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr B Hollingworth, seconded Cr J Moir:

That:

- 1) The payment of accounts for the month of July 2009 covering the following:
 - a) Electronic Payments and Direct Debits totalling \$523,711.41; and
 - b) Municipal Cheques 40185 – 40188, 40190 – 40257 and 40259 - 40261 totalling \$190,851.29;be approved.

2) Municipal Cheques:

- a) Cancelled – 40258;**
- b) Spoiled – 40189;**

be noted.

CARRIED (7/0)

NO. 242/09

12.5 EXECUTIVE SERVICES REPORTS

Nil

13 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr Budrikis has given notice pursuant to Clause 3.7 of Standing Orders that he intends to move:

'That:

1. The Shire of Plantagenet will not accept a rate increase of greater than 10% applied to its existing ratepayers in any proposed merger of the Shire of Plantagenet with any other Shire or Shires.
2. The Shire of Plantagenet would seek that any rate surplus raised from existing Plantagenet ratepayers in a merger with other Shires be applied to reducing the debt of the new Shire inherited from the Shire of Plantagenet.'

Comment

A proposal has been agreed to seek a merger of the following Shires: Shire of Plantagenet, Shire of Cranbrook, Shire of Kojonup and the Shire of Broomehill/Tambellup. Council agreed to seeking this merger prior to any financial modelling of the outcome being presented to Council. Information was provided at the Southern Link VROC meeting on 12 August outlining each Shires financial position. It is clear from this information that there is a large discrepancy between the rates in the \$UV and rates in the \$ GRV that is levied in the Shire of Plantagenet and the other Shires.

It is not possible to charge differing rates in \$ in a Shire so if a merger takes place the rates will have to be set at the same values for the new Shire across the Shire. The following table outlines these rates and the rates that would be collected in each existing Shire if the rates were set at:

- a) Exist Plantagenet rates in \$ (PER)
- b) Exist Plantagenet rates in \$ + 10% (PER10)

Shire	Rate \$ UV c	Tot \$UV	Rate \$ GRV c	Tot \$GRV	Tot Rates \$	Rate Deficit/ Surplus \$
Plantagenet Exist Rates (PER)	0.44469	2,754,046	7.8842	876,554	3,630,600	
Plantagenet Rates + 10% (PER10)	0.48916	3,029,451	8.6726	964,209	3,993,660	363,060
Kojonup Exist Rates	0.72880	2,136,556	17.2570	654,365	2,790,921	
Kojonup (PER)	0.44469	1,303,657	7.8842	298,960	1,602,616	(1,188,305)
Kojonup (PER10)	0.48916	1,434,022	8.6726	328,855	1,762,878	(1,028,043)

Cranbrook Exist Rates	0.70760	1,502,200	7.3800	174,787	1,676,987	
Cranbrook (PER)	0.44469	944,055	7.8842	186,728	1,130,783	(546,204)
Cranbrook (PER10)	0.48916	1,038,461	8.6726	205,401	1,243,862	(433,125)
Broomehill/ Tambellup Exist Rates	0.75510	1,421,700	7.1771	158,600	1,580,300	
Broomehill/Tambellup (PER)	0.44469	837,261	7.8842	174,226	1,011,487	(568,813)
Broomehill/Tambellup (PER10)	0.48916	920,987	8.6726	191,648	1,112,635	(467,665)

Clearly there will be large deficits in the other three Shire current budgets if these rates were set at the current Plantagenet rate level or at the current Plantagenet rate level plus 10%.

In the absence of legislation that allows differential rate setting it will not be possible to collect rates at different levels based on geographical location in a merger of these four Shires as is proposed. If Council accepted a 10% rate increase in the Shire of Plantagenet as a cost to our rate payers of the merger there would still be a combined budget deficit of \$1,928,833.00 p.a. (i.e. every year). In addition the rate payers of the Shire of Plantagenet would be asked to pay an additional \$363,060.00 p.a. in perpetuity for no known additional benefit.

The Presiding Member invited Cr Budrikis to move the motion.

Moved Cr A Budrikis, seconded Cr S Grylls:

'That:

- 1. The Shire of Plantagenet will not accept a rate increase of greater than 10% applied to its existing ratepayers in any proposed merger of the Shire of Plantagenet with any other Shire or Shires.**
- 2. The Shire of Plantagenet would seek that any rate surplus raised from existing Plantagenet ratepayers in a merger with other Shires be applied to reducing the debt of the new Shire inherited from the Shire of Plantagenet.'**

MOTION TO SUSPEND STANDING ORDERS

Moved Cr D Nye-Chart, seconded Cr J Moir:

- 4:25 pm That those sections of Standing Orders that would prevent any Councillor from speaking twice to a motion or which would prevent a Councillor speaking when no motion was before the Chair be suspended.**

CARRIED (7/0)

NO. 243/09

MOTION TO RESUME STANDING ORDERS

Moved Cr B Hollingworth, seconded Cr M Skinner:

5:01 pm That Standing Orders be resumed.

CARRIED (7/0)

NO. 244/09

MOTION TO ADJOURN QUESTION

Moved Cr B Hollingworth, seconded Cr D Nye-Chart:

That the question be adjourned so a workshop can be held on 8 September 2009 and the matter be considered at the next ordinary Council meeting, to be held on 8 September 2009.

CARRIED (7/0)

NO. 245/09

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

Nil

14 CONFIDENTIAL**14.1 WORKS AND SERVICES REPORTS****14.1.1 TENDER C01-0910 - PROVISION OF WASTE REMOVAL SERVICES**

File No: N12479
Responsible Officer: Rob Stewart
Chief Executive Officer
Author: John Fathers
Deputy Chief Executive Officer
Proposed Meeting Date: 25 August 2009

PURPOSE

The purpose of this report is to consider submissions from the advertising of tender C01-0910 – Provision of Waste Removal Services.

OFFICER RECOMMENDATION

That the Council consider this matter in the confidential component of this meeting due to:

- (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;

MOTION TO PROCEED BEHIND CLOSED DOORS

Moved Cr A Budrikis, seconded Cr B Hollingworth:

5:10 pm That the meeting move into Confidential Section to discuss items under the terms of the Local Government Act 1995 Section 5.23(2) as follows:

- ‘(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;’

CARRIED (7/0)

NO. 246/09

MOTION TO PROCEED IN PUBLIC

Moved Cr M Skinner, seconded Cr A Budrikis:

5:15 pm That the meeting proceed in public.

CARRIED (7/0)

NO. 247/09

COUNCIL DECISION

Moved Cr D Nye-Chart, seconded Cr A Budrikis:

That:

1. The tender submitted by Great Southern Waste Disposal for the provision of waste collection services in the Shire of Plantagenet for a three year period, in accordance with the following pricing schedule, be accepted:

For immediate implementation:	
Residential Waste - Collection and Transport to Council facility	
Existing - per 240L weekly bin/lift (Mount Barker, Kendenup & Narrikup)	\$1.20
Commercial Waste - Collection and Transport to Council facility	
Kerbside - per 240L weekly bin/lift	\$1.20
Pardelup Prison leg - per 240L weekly bin/lift	\$1.20
Waste from Street Litter Bins and Reserves - Collection and Transport to Council facility	
Road Reserves, Reserves, Public Litter Bins - per 240L unit/pick-up	\$1.20
Waste Collections (e.g. Frost Park) for Special Events per 240L bin/pick-up	\$1.20
Implementation at the Council's discretion:	
Waste Service - Collection and Transport to Council facility	
Residential - per 240L weekly bin/lift (Rocky Gully)	\$1.20
Commercial - per 240L weekly bin/lift (Rocky Gully)	\$1.20
Miscellaneous Items	
Customer Service Centre (Additional \$ per month)	\$1.20

2. The Chief Executive Officer be authorised to negotiate a suitable start date for the contract.

CARRIED (7/0)

NO. 248/09

15 CLOSURE OF MEETING

5:17 pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ **DATE:** ____ / ____ / ____