



MINUTES

of the

Ordinary Council Meeting

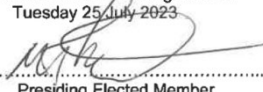
held on

Tuesday 25 July 2023

in the

Council Chambers
11-13 Waldeck Street, Dongara

I certify that this copy of the Minutes is a true and correct record of the meeting held on Tuesday 25 July 2023

Signed: .....
Presiding Elected Member

Date: 22 August 2023.....

Disclaimer

The Shire of Irwin advises that the purpose of an Ordinary Council Meeting is to discuss and make resolutions about items appearing in the agenda. No person should rely or act on the basis of any decision, advice or information provided by a member or Officer, or on the content of any discussion occurring during the course of the meeting. No person should rely on the decisions made by Council until formal written advice of the Council is received by that person.

The Shire of Irwin expressly disclaims any liability for any loss or damage whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.



Shane Ivers
CHIEF EXECUTIVE OFFICER

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MINUTES

of the

ORDINARY COUNCIL MEETING

Held on

Tuesday 25 July 2023

at 6.00pm

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed Councillors, Staff and members of the Gallery then declared the meeting open at 6.00pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	President
Councillor I Scott	Deputy President
Councillor A J Gillam	
Councillor G Eva	
Councillor M Leonard (via TEAMS)	
Councillor B Wyse	
Councillor H Palmer	
Councillor E Tunbridge	

Staff

Mr S D Ivers	Chief Executive Officer
Mr M Connell	Manager Development Services
Mr P Bracegirdle	Manager Community Services
Miss P Machaka	Manager Finance
Mr M Jones	Acting Manager Operations
Ms J Morgan	Executive Assistant (minute taker)

Apologies

Nil

Approved Leave of Absence

Nil

Gallery

Jon Arden
Nic Grove
John Grove
Sam May

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question 1: Chaz Craggs, Bonniefield Road East, Bonniefield 6525
Please explain small holdings, are they being applied?

Response: *In considering an application for development approval, cl. 67(2) of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 requires a local government to have due regard to certain matters that are relevant to the application. One of those matters is the objectives of the Rural Smallholdings zone, which was detailed in the report presented to Council.*

Question 2: John Evans, Mount Horner Road West, Bookara 6525

The gazetted road runs by the side of my property, the land adjacent hasn't been maintained, why isn't it maintained and who do I send the bill to?

Response: *Dividing fences are governed by the Dividing Fences Act 1961 (WA) and local government by-laws. Where the adjoining land is owned by the Commonwealth, State or local government and is used for public purposes, the Crown is not required to contribute to the costs of erecting or maintaining the fence under this Act. The reserve is crown land vested as a road reserve but is undeveloped and therefore is not maintained.*

Question 3: Sam May, Brand Highway, Dongara 6525

3 or 4 weeks ago I emailed with 5 or 6 concerns I have and to date I haven't received a reply, when can I expect an acknowledgment?

Response: *The submission raised concerns regarding water quality, hours of operation, traffic and amenity. All of these matters were addressed in the report presented to Council. All people who made a submission were advised of when the matter would be presented to Council and all submissions were provide to Council for consideration.*

Question 4: Sam May, Brand Highway, Dongara 6525

If the recourse, of the items I raised, then come to fruition, where to from there?

Response: *If there are any breaches to the conditions imposed on the development approval then the Shire has the ability to undertake enforcement and/or legal proceedings in accordance with the Planning and Development Act 2005.*

Question 5: Bruce Baskerville, Brand Highway, Bonniefield 6525,

To consider amending the recommendation, Part 2(c) to require the landscaping plan: to revegetate the landscape back to the original York Gum/Jam tree/Melaleuca/Acacia woodlands and native grasslands that covered the site before the 1860's and otherwise use plant species with a historical provenance to the Dongara Flat and Bonniefield Bottoms?

Response: *Council took into consideration the question and determined the matter without modification to condition (c).*

4. PUBLIC QUESTION TIME

Question 1: Sam May, Brand Highway, Dongara 6525

After voting last month to remove clause F in the Brewery application. The one relating to limiting the number of functions per month. What is the councils plan to ensure rate payers in the immediate vicinity are not unduly impacted until 11pm, 7 days a week, 365 days a year?

Response: *Apart from the Shire's development approval, the applicant will also need to obtain the necessary liquor licensing approvals which also take into account the possible effects of the business on the amenity of the area. The applicant is required to comply with their noise management plan and any anti-social matters will be dealt with by the police.*

Question 2: Sam May, Brand Highway, Dongara 6525

Is there a way for the council in the future to amend the Brewery operating hours, should our previously raised concerns come to fruition?

Response: There is no ability for the Shire to alter a development approval without the agreement of the landowner.

Question 3: Nic Grove, Dongara Hotel, Dongara 6525

Does Council have plan to install public EB chargers, if successful with our grant, will Council support us?

Response: Taken on notice.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS AND DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting

A copy of the previous Minutes of the Ordinary Council Meeting has been provided to all Councillors under separate cover.

COUNCIL DECISION		010723
MOVED: Cr Eva	SECONDED: Cr Wyse	
That Council by Simple Majority, adopts the Minutes of the Ordinary Council Meeting, held 27 June 2023, as previously circulated, be adopted as a true and accurate recording of that meeting.		
VOTING DETAILS:	Carried: 8/0	
For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge		
Against: Nil		

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

5 July – WALGA – CEO.

11 July – Budget Workshop – CEO and all Councillors.

12 July – Arrowsmith Development Meeting – CEO.

13 July – Lockyer 3 Site Visit – CEO and Cr Tunbridge.

17 July – Arrowsmith Development Hub Workshop – CEO.

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-07/23
Subject:	CC01-07/23 Accounts for Payment	
Author:	S Clarkson, Acting Senior Finance Officer	
Responsible Officer:	P Machaka, Manager Finance	
File Reference:	2.00057	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws and local planning schemes.
- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to receive the list of accounts paid under delegated authority during June 2023.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of June 2023.

Officer's Comment:

Nil

Consultation:

Nil

Statutory Environment:

The *Local Government (Financial Management) Regulations 1996* provides as follows:

13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*
- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared*
- (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (3) *A list prepared under sub-regulation (1) or (2) is to be*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

Policy Implications:

Under Delegation CEO101 Council has delegated authority to the Chief Executive Officer to authorise payments from the municipal or trust fund.

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future – Strategic Community Plan 2021 – 2031

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles.

Strategy 4.3.2 Adopt and follow better practice processes.

Attachment:

Attachment Booklet – July 2023

CC01-07/23 Attachment 1: Accounts for Payment – June 2023

OFFICER RECOMMENDATION AND COUNCIL DECISION**020723****MOVED: Cr Scott****SECONDED: Cr Eva**

That Council, by Simple Majority, receives the Accounts paid during June 2023 as contained in CC01-07/23 Attachment 1 of the Attachment Booklet – July 2023, represented by:

Payment Type/Numbers	Total Amount
EFT 30501 – 30715	\$1,165,262.47
Muni Cheques – 32153 – 32157	\$6,217.28
Direct Debit – Telstra	\$3,882.32
Direct Debit – WA Treasury Corporation	\$146,988.89
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Credit Card	\$24,133.19
Direct Debit – N-Able Pty Ltd	\$673.50
Direct Debit – Australian Phone Company	\$1,332.69
Direct Debit – Vestone Capital Pty Ltd	\$10,884.20
Direct Debit – Superannuation	\$48,213.16
Grand Total	\$1,409,535.36

VOTING DETAILS:**Carried: 8/0**

For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge

Against: Nil

CORPORATE AND COMMUNITY		CC02-07/23
Subject:	CC02-07/23 Irwin Recreation Centre Request for Tender	
Author:	P Bracegirdle, Manager Community Services	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0254	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to note the outcome of the Request for Tender RFT01-2022/23 for the Irwin Recreation Centre Management Services.

Background:

The Irwin Recreation Centre has been operated by the Shire of Irwin since its opening in 1984 and has delivered the local community a range of sporting and recreational programs. The Centres facilities were further enhanced by a major centre redevelopment which was completed in 2009 and delivered the Shire a multi-court recreation centre that would not be out of place in a large regional centre.

In further developing and delivering sports, community programs and services the overall management of the centre was reviewed, examining a range of management options to operate the centre and further deliver to the community improved services and programs. In exploring options and their potential benefits it was decided to 'test the market' through the development of a detailed Request for Tender (RFT) documentation.

Officer's Comment:

The Shire of Irwin advertised the Request for Tender seeking interest from suitably qualified recreation management service providers to manage the operations of the Irwin Recreation Centre for an initial period of three years with an additional two-year option available. Officers were seeking to explore an alternative to the existing in-house management scenario with the aim to improve the overall efficiency of the centre and the services currently provided at the facility.

In developing the tender documentation, Officers followed established processes in accordance with s.3.57 r.11(1), of the Local Government (Functions and General) Regulations 1996 and under CEO01 Delegated Authority, a public tender was called for RFT01-2022/23 Irwin Recreation Centre Management Services. As per the Local Government (Functions and General) Regulations 1996 s.3.57 r.14(1) and r.14(3) State-wide public notice was given in The West Australian on Saturday 10 June 2023, with the tender closing date of 4 July 2023. Two requests were made for the tender document. Three

members of staff were present for the opening of tenders and all information has been recorded in a tender register in accordance with r.17 and Council’s record keeping policy.

No tenders for the management of the centre were received with the Centres current operational model to remain in place.

Consultation:

Nil

Statutory Environment:

Local Government Act 1995

Local Government (Functions and General) Regulations 1996 s.3.57 r.11(1) s.3.57 r.14(1) and r.14(3)

Policy Implications:

Nil

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Strategy 1.1.1 Identify and support services, events and programs for building capacity, social inclusion, and wellbeing.

Strategy 1.2.2 Support the strong sporting culture that shapes the Shire of Irwin’s identity and lifestyle.

Strategy 3.1.3 Identify, provide, and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

Attachments:

Attachment Booklet – July 2023

CC02-07/23 Attachment 1: Irwin Recreation Centre Request for Tender

OFFICER RECOMMENDATION AND COUNCIL DECISION		030723
MOVED: Cr Eva	SECONDED: Cr Tunbridge	
<p>That Council, by Simple Majority, notes that no tenders were received for the Irwin Recreation Centres RFT01-2022/23 Irwin Recreation Centre Management Services.</p>		
VOTING DETAILS:	Carried: 8/0	
<p>For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge</p>		
<p>Against: Nil</p>		

OFFICE OF CEO	CEO01-07/23
Subject:	CEO01-07/23 Local Government Elections 2023
Author:	M McAuley, Governance Officer
Responsible Officer:	S Ivers, Chief Executive Officer
File Reference:	3.00342
Voting Requirements:	Absolute Majority

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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Report Purpose:

For Council to consider appointing the Western Australian Electoral Commissioner (WAEC) to conduct a postal election for the 2023 local government elections, together with any other election or polls which may be required.

Background:

Local government ordinary elections are held on the third Saturday in October every two years. The next local government ordinary elections will be held on 21 October 2023. The Shire has the option of facilitating a voting in person on election day or running the election via postal vote.

The Electoral Commissioner is responsible for conducting all local government postal elections in Western Australia and can also conduct voting in person elections on request under the *Local Government Act 1995*. By making the Electoral Commissioner responsible for these elections, the Shire of Irwin ensures that elections are conducted independently and with impartiality.

For the Shire to facilitate a voting in person election day, several local government staff plus externally appointed staff would be required to host the election at the Irwin Recreation Centre on the specified election date for residents to cast their vote in person.

Postal elections for local government in WA were first trialled by four (4) local governments in 1995. This has increased over the years to 90 local governments in 2021.

For the Shire to run a postal election, a local Returning Officer will need to be appointed and at least two local government staff members will be required to work in the polling place on election day. All eligible electors will receive a postal voting package around three weeks prior to polling day. The package will include a list of candidates, ballot papers, instructions on how to vote and a declaration.

The current procedure required by the *Local Government Act 1995* is that written agreement must be obtained before the vote by Council is taken to appoint the Electoral Commissioner to conduct the

election. To facilitate the process the Electoral Commissioner has provided correspondence serving as agreement to be responsible for the conduct of the ordinary elections in 2023 for the Shire of Irwin in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. This agreement is subject to the proviso that the Shire of Irwin also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

Officer's Comment:

Postal voting historically has a much higher participation rate (response rate for previous Shire of Irwin postal election being 52.4%) than election days with voting in person, as postal voting is more convenient for many electors.

It is recommended that Council agree to the Electoral Commissioner running the 2023 Shire of Irwin ordinary election, and other required election or poll via postal vote due to the experience of the WAEC, their independence and impartiality in the process, and convenience and participation rates for voters. Advantages are outlined below.

Advantages for electors

- Convenience of casting a vote in their own homes – particularly for disabled and aged voters and those without access to transport.
- Provision of candidate profiles to each elector to assist in their decision-making.
- Time to contact candidates and make an informed decision.
- Reduced costs in time and travel in casting a vote.

Advantages for candidates

- Availability of an experienced Returning Officer “at arm’s length” from Local Government business.
- Detailed candidates’ guides prepared by the Electoral Commission.
- An opportunity to reach all eligible electors at no cost through the candidate profile.
- Confidence that the election is being run by the State’s independent Electoral Commission.
- Elected candidates have an increased support base.

Advantages for the Local Government

- All eligible electors are given information about the election.
- Electors can vote more easily as there are virtually no barriers to voting.
- Elections are seen to be conducted by the impartial Western Australian Electoral Commission.
- The workload for the CEO is reduced in an area that is not core business.
- The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner.
- Economies of scale can reduce some of the costs (advertising).
- Elected Councillors have a high level of support from the local community.

Consultation:

Nil

Statutory Environment: Local Government Act 1995

Section 4.20(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

** Absolute majority required.*

Local Government Act 1995 Section 4.61(2) The local government may decide to conduct the election as a postal election.*

** Absolute majority required.*

Policy Implications:

Nil

Financial/Resource Implications:

The Commission is required to conduct local government elections on a full cost recovery basis which may vary depending on factors such as the cost of materials and number of replies received.

The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election the Shire will be advised as early as possible.

The actual costs for the 2021 Elections were \$22,244 inc. GST. It has been recommended by the Electoral Commission that the estimated costs for the 2023 elections, would be \$28,000 inc. GST, pm based on the following assumptions:

- 2,850 electors
- response rate of approximately 55%
- 3 vacancies
- count to be conducted at the offices of the Shire of Irwin
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of the election packages.

Costs not incorporated in this estimate include:

- An additional amount of \$625 will be incurred if the Council decides to opt for the Australia Post Priority Service
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- a minimum of two local government staff members to work in the polling place on election day and any additional postage rate increase by Australia Post

Strategic Implications:

Strategic Community Plan 2017 – 2027

Strategy 4.2.4 Promote programs to encourage participation in elections.

Attachments:

Attachment Booklet – July 2023

CEO01-07/23 Attachment 1: Correspondence WA Electoral Commission

OFFICER RECOMMENDATION AND COUNCIL DECISION	040723
<p>MOVED: Cr Wyse</p> <p>That Council by Absolute Majority;</p> <p style="margin-left: 40px;">1) Declares, in accordance with section 4.20(4) of the <i>Local Government Act 1995</i>, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required; and</p> <p style="margin-left: 40px;">2) Decides, in accordance with section 4.61(2) of the <i>Local Government Act 1995</i> that the method of conducting the election will be as a postal election.</p>	<p>SECONDED: Cr Gillam</p>
<p>VOTING DETAILS:</p> <p>For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge</p> <p>Against: Nil</p>	<p>Carried by Absolute Majority: 8/0</p>

REGULATORY SERVICES		ID01-07/23
Subject:	ID01-07/23 Delegated Authority Report – Development, June 2023	
Author:	M Connell, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

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Report Purpose:

For Council to receive the Delegated Authority Report – Development, June 2023.

Background:

Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning, and community leadership, with the organisation focussing on the day-to-day operations of the Shire.

The use of delegated authority means the large volume of routine work can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

Officer's Comment:

This report presents the details of development functions made under delegated authority for the month of June 2023, with 3 building permits and 10 applications for development approval having been issued.

Consultation:

Nil

Statutory Environment:

Local Government Act 1995

Local Government (Administration) Regulations 1996

Policy Implications:

Nil

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future – Strategic Community Plan 2021 – 2031

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles.

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – July 2023

ID01-07/23 Attachment 1: Delegated Authority Report – Development, June 2023

OFFICER RECOMMENDATION AND COUNCIL DECISION**050723****MOVED: Cr Gillam****SECONDED: Cr Tunbridge**

That Council, by Simple Majority, receives the Delegated Authority Report – Development, June 2023 as contained in ID01-07/23 Attachment 1 of the Attachment Booklet – July 2023.

VOTING DETAILS:**Carried: 8/0**

For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge

Against: Nil

9.2. Committee Reports

9.2.1 Audit Committee 2022/23 OAG Entrance Meeting

COUNCIL DECISION		060723
MOVED: Cr Scott	SECONDED: Cr Gilliam	
That Council receives the Minutes of the Audit Committee entrance meeting 2022/23 held on 27 June 2023.		
VOTING DETAILS:	Carried: 8/0	
For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge		
Against: Nil		

9.2.2 Audit Committee 2021/22 OAG Exit Meeting

COUNCIL DECISION		070723
MOVED: Cr Scott	SECONDED: Cr Eva	
That Council receives the Minutes of the Audit Committee exit meeting 2021/22 held on 3 May 2023.		
VOTING DETAILS:	Carried: 8/0	
For: Cr Smith, Cr Scott, Cr Gillam, Cr Eva, Cr Leonard, Cr Wyse, Cr Palmer, Cr Tunbridge		
Against: Nil		

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil

13. MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC

Nil

14. CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 6.11pm.