
SHIRE OF MENZIES

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE SHIRE OF
MENZIES, HELD AT THE COUNCIL CHAMBERS, MENZIES ON FRIDAY 20th
OCTOBER 2006 COMMENCING AT 9.21AM**

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS:

The Shire President welcomed all elected members and declared the meeting open at 9.21am.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED:

Present:	Cr S Tonkin	Shire President
	Cr A Kelly	Deputy President
	Cr J Dwyer	Member
	Cr I Tucker	Member
	Cr K Purchase	Member
	Cr I McGregor	Member
Staff:	Mr P Crawford	Chief Executive Officer
	Mr B Pepper	Minutes
Apologies	Cr P Kennedy	Member
Leave of Absence	Nil	
Visitors	Nil	

3. PUBLIC QUESTION TIME:

Nil

4. APPLICATIONS FOR LEAVE OF ABSENCE:

Nil.

5. ANNOUNCEMENTS BY SHIRE PRESIDENT WITHOUT DISCUSSION

The President advised Council that he had met with Minister John Bowler and Tropicana representatives concerning the access roads into the Anglo Gold mining leases.

He also attended a Crime Prevention Meeting in Menzies and a GECZ meeting in Coolgardie

COUNCIL DECISION	ITEM 5.
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MOVER Cr J Dwyer

SECONDED Cr I McGregor

That the President's report be received

CARRIED 6/0

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING:

6.1 MINUTES OF THE ORDINARY MEETING OF COUNCIL, HELD FRIDAY, 15th SEPTEMBER 2006

COUNCIL DECISION	ITEM 6.1
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MOVED Cr K Purchase

SECONDED Cr J Dwyer

That the minutes of the Ordinary Meeting held on Friday 15th September 2006 as previously circulated be confirmed as a true and accurate record.

CARRIED 6/0

7. STATUS REPORT:

COUNCIL DECISION	ITEM 7.1
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MOVED Cr I Tucker

SECONDED Cr I McGregor

That the Status Report as at 30th September 2006, be received.

CARRIED 6/0

The CEO reported on the items in the Status Report.

No Resolution of Council was made.

8. FINANCIAL REPORTS

8.1	Financial Statements to 30th September 2006
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SUBMISSION TO:	Ordinary Meeting of Council Friday, 20 th October 2006
LOCATION:	Menzies
APPLICANT:	N/A
FILE REF:	103a
DISCLOSURE OF INTEREST:	None
DATE:	10 th October 2006
AUTHOR:	Brad Pepper, Senior Admin Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Peter Crawford, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:	

BACKGROUND:

The Financial Reports (AAS27) are presented monthly, generated by our off-site Accountants, Haines Norton and printed in our office.

COMMENT:

Included in these Financial Reports, (which are an equivalent of a quarterly financial report) is a rates report and a report on reserves funds

CONSULTATION:

Ms Mandy Wynne, Haines Norton.

STATUTORY ENVIRONMENT: As per Local Government (Financial Management) Regulations 1996 Regulation 34 (i) (e)

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: Reporting on Financial Activity

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION

ITEM 8.1

MOVED Cr J Dwyer

SECONDED Cr K Purchase

That the Financial Statements to 30th September 2006 as presented, be adopted

CARRIED 6/0

8.2 Accounts for Payment

SUBMISSION TO: Ordinary Meeting of Council Friday,
20th October 2006
LOCATION: Menzies
APPLICANT: N/A
FILE REF: 103
DISCLOSURE OF INTEREST: None
DATE: 10th October 2006
AUTHOR: Brad Pepper, Senior Admin Officer
SIGNATURE OF AUTHOR:
SENIOR OFFICER: Peter Crawford, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:

BACKGROUND:

Cheque numbers 3925 to 4026 and bank statement transfers totalling \$301,260.93 are presented for payment as per the submitted lists.

COMMENT:

None required.

CONSULTATION:

Ms Mandy Wynne, Haines Norton

STATUTORY ENVIRONMENT: Local Government (Financial Management) Regulations 1996 Regulation 13(2)

POLICY IMPLICATIONS: All signing of cheques were carried out as per Policy 3.8. (All amounts over \$15,000 were counter signed by a Council Member).

FINANCIAL IMPLICATIONS: Reduction to the Municipal Fund Balance

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION

ITEM 8.2

MOVED Cr J Dwyer

SECONDED Cr K Purchase

That cheques numbered 3925 to 4026 and direct bank payments totalling \$301,260.93 which have been paid by the Chief Executive Officer under delegated authority, be adopted.

CARRIED 6/0

9. WORKS REPORT:

9.1 WORKS SUPERVISORS REPORT

9.1.1 Roadworks and General Report

SUBMISSION TO: Ordinary Meeting of Council, Friday
20th October 2006
LOCATION: Menzies Shire
APPLICANT: N/A
FILE REF: 405a
DISCLOSURE OF INTEREST: None
DATE: 11th October 2006
AUTHOR: Quenton Seignor, Works Supervisor
SIGNATURE OF AUTHOR:
SENIOR OFFICER: Peter Crawford, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:

CONSTRUCTION CREW

The work crew is still working on the Leonora-Mt. Ida. They have two water trucks and a grader on hire from Breakaway Earthmoving and are working in conjunction with our equipment. There is 12 Kilometres left to finish the road, which will take approx 15 working days. They are gravelling some short sections of the road and will be taking the Y junction out of the start of the road (Copperfield end) and making it a T junction for safety reasons.

Lloyd is back in hospital and hopefully makes a full recovery shortly.

CONTRACTORS

Garry Miller has finished grading the Kookynie Road, Kookynie – Malcolm Road and is currently working on the Kookynie – Mt. Remarkable Road.

Verge clearing has started on the Kookynie – Yarri Road between Cranky Jack turn off and Porphy. A clearing width of 20 metres will be achieved to improve the general structure and geometry of the road.

The oval has been seeded and has started to take off. We have put 3 extra tanks on the oval to hold an extra supply of water. We have also planted some Gum Trees around the oval.

PLANT AND EQUIPMENT

We have just recently purchased the new slasher attachment for the Komatsu Skid Steer Loader, as budgeted for in Capital Expenditure. It arrived on Hamptons freight from Perth and is working well.

STATUTORY ENVIRONMENT: As per Sections 2.7 and 3.1 of the Local Government Act 1995 relating to General Functions provisions.

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION
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ITEM 9.1.1

MOVED Cr I McGregor

SECONDED Cr K Purchase

That the Works Supervisors report, as tabled, be received

CARRIED 6/0

10. HEALTH, BUILDING AND TOWN PLANNING BUSINESS:

10.1 Chief Executive Officer

10.1.1 Mines Administration Building - Kookynie
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SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006

LOCATION: Kookynie

APPLICANT: N/A

FILE REF: H2

DISCLOSURE OF INTEREST: None

DATE: 9 October 2006

AUTHOR: Gary Goldsworthy, Principle Environmental Health
Officer / Building Surveyor

SIGNATURE OF AUTHOR:

SENIOR OFFICER: Peter Crawford, Chief Executive Officer

SIGNATURE OF SENIOR OFFICER:

SUMMARY:

This Item is to present Council with a report on whether the condition of the old Mines Administration building in Kookynie is suitable as a community meeting building.

BACKGROUND:

At the Ordinary Meeting of Council, held Friday, 15 September 2006 at the Grand Hotel in Kookynie, the matter regarding the proposed community building was discussed. Concern was raised regarding this proposal and an enquiry as to whether the old Mines Administration building could be utilised for this community building.

The President advised that the CEO would present a report to the next Meeting of Council on the condition and suitability of the building.

As a result of that advice, the CEO requested that I carry out the inspection and assess whether the building would be suitable or not for the purpose that was proposed.

COMMENT:

Thursday 5th October 2006 an inspection of the Mines Administration Building in Kookynie was carried out to ascertain its structural condition and its suitability to be used as a Public Building to hold meetings.

The building is a brick structure with a tin roof, strip footings and timber flooring, at the front of the building a verandah has been attached and enclosed, the rear of the building also has a verandah attached and the ends are enclosed to create a toilet and a laundry.

The main part of the building is still a sound structure, however there are several large cracks that have developed in the walls of each of the three rooms, several doors are missing and some of the timber door frames have rotted, most of the windows are missing as are the frames. At the rear right hand side of the building the brick work is badly cracked and has moved out of line with the rest of the building, it is not secure and could be easily moved when slight pressure was applied.

The grounds around the building are uneven therefore an area around the building would have to be levelled and used as a parking area for people using the building, a road would also have to be constructed to provide access for the public. Ramps for the disabled would have to be constructed in accordance with the BCA Part D3.

The two verandahs are in poor condition and if re-development was to be carried out would have to be removed and more stable structures built. As a Public Building the laundry is not required but a male, female toilet and a disabled toilet would be a minimum standard.

As a Public Building the electrical wiring would have to be upgraded and have a current certificate approving its condition and installation.

Emergency Lighting would have to be installed in accordance with *Building Regulations and Australian Standard 2293- "Emergency Evacuation Lighting in Buildings"* Parts 1 and 2.

Other restrictions under the "Health (Public Buildings) Regulations 1992" would be the number of people that could use the building. This is governed by the requirement that 1 metre square is required by each person and with each existing room being around nine square metres, holding a meeting with a large table and chairs, it would be difficult to comply with this requirement.

CONSULTATION:

Mr Peter Crawford, Chief Executive Officer – Shire of Menzies.

STATUTORY ENVIRONMENT: As per Section 2.7 and 3.1 of the Local Government Act 1995 relating to General Functions Provisions.

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

VOTING REQUIREMENTS: Simple Majority required.

MOVED Cr J Dwyer

SECONDED Cr A Kelly

That Council note the above report and Resolve not to consider any further action regarding the possible use of the old Mines Administration building in Kookynie as a community meeting building.

CARRIED 6/0

10.2 RANGERS REPORT**10.2.1 Ranger's Report.**

SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006

LOCATION: Menzies

APPLICANT: N/A

FILE REF: 125

DISCLOSURE OF INTEREST: None

DATE: 9 October 2006

AUTHOR: Patrick Kelly, Shire Ranger

SIGNATURE OF AUTHOR:

SENIOR OFFICER: Peter Crawford, Chief Executive Officer

SIGNATURE OF SENIOR OFFICER:

SUMMARY:

This Item is to advise Council of the Ranger's activities during the past month of September 2006.

COMMENT:**RANGER'S REPORT
SEPTEMBER 2006**

Dear Peter,

Here contains a report on my activities and contribution to the shire for the month of September.

Unfortunately, as I was away for a good part of the month I only have one item to report on. And just a few other activities to mention which were largely for my own benefit for this month.

- **On Friday the 1st I travelled to Menzies to conduct a comprehensive program to encourage everyone to control and register their dogs. This was to be carried out with Gary Tucker as he has been Gazetted to assist the Shire on a "as need basis".**

Action: After having a chat to you about how to conduct the exercise, Garry and I visited every house in town and spoke to each person we came across. Garry actively encouraged each and everyone to register and keep control over their dogs at all times.

Community support for the program was most encouraging. I just hope that this support translates into a positive approach to responsible dog ownership from here forth.

After this exercise I travelled back to Leonora via Kookynie where I visited both Robyn and Judy for a brief chat.

As I was due to attend the Ranger's Conference in Mandurah on the 14th and 15th of the month I also took a weeks annual leave in order to visit Mum and Dad again.

Travelling to Perth I went via the Mt Jackson/Bullfinch Rd. During this trip I took time out to visit Hospital Rock and Johnson's Rock as well as travelling up to visit the Mt Elvire nature reserve. This I had wanted to do for several years now and I was most impressed with the reserve and the buildings as a whole. Having a real toilet was most convenient to say the least!!!

After signing the visitors book and having a good look around the Reserve I continued on towards my destination for the night, Mukinbudin. What a joy it was to travel so far and see so few other vehicles on that route.

I must be becoming a "bushie" as I could not wait to be on my way home from Mandurah and Perth after just one week. What a rat race it is down there!

Patrick Kelly
Ranger

Time: 9.00am-3.00pm = 5 hrs

Distance: 230kms

CONSULTATION:

None

STATUTORY ENVIRONMENT: As per Sections 2.7 and 3.1 of the Local Government Act 1995 relating to general functions provisions.

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION
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ITEM 10.2.1

MOVED Cr I Tucker

SECONDED Cr A Kelly

That the Ranger's report, as presented, be received

CARRIED 6/0

11. CHIEF EXECUTIVE OFFICER'S REPORT:

11.1 Closure of Right of Way – Brown/Wilson Streets
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SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006

LOCATION: Menzies

APPLICANT: N/A

FILE REF: 400

DISCLOSURE OF INTEREST: None
DATE: 27 September 2006
AUTHOR: Peter Crawford, Chief Executive Officer
SIGNATURE OF AUTHOR:

SUMMARY:

This Item is to advise Council of a request to have a Right-of-Way in the Menzies townsite closed to public access.

BACKGROUND:

At the Ordinary Meeting of Council, held Friday, 17 March 2006, Council resolved to close the Right of Way between Brown and Wilson Streets closed to public access.

In accordance with the Local Government Act 1995, this Resolution of Council was advertised in a public news paper in the district inviting submissions from the public opposing the decision

COMMENT:

The public notice did not attract any submissions and Council is now required to formerly resolve to close the right-way

CONSULTATION:

None.

STATUTORY ENVIRONMENT: LOCAL GOVERNMENT ACT 1995 - SECT 3.50
Closing certain thoroughfares to vehicles

3.50 . Closing certain thoroughfares to vehicles

(1) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

(3) The order cannot be made to have effect beyond 4 years after the first day when it has effect, but this subsection does not prevent the making of another order that continues the closure of the thoroughfare.

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

- (a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;*
 - (b) give written notice to each person who —*
 - (i) is prescribed for the purposes of this section; or*
 - (ii) owns land that is prescribed for the purposes of this section;*
- and*

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

(7) Subsections (4) and (5) do not prevent the temporary closure of a thoroughfare, without giving local public notice, to the extent that the closure may be required in circumstances in which it may be impracticable to give local public notice before closing the thoroughfare.

(8) If, under subsection (7), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.

(9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.

[Section 3.50 amended by No. 1 of 1998 s.11; No. 64 of 1998 s.15.]

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION	ITEM 11.1
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MOVED Cr A Kelly

SECONDED Cr I McGregor

That having complied with Section 3.50 of the Local Government Act 1995 and received no submissions, Council Resolve to have a section of the Right-of Way between Brown and Wilson Streets, closed to public access from Brown Street to and including Lot 36 Reid Street.

CARRIED 6/0

11.2	Closure of Right of Way – Brown/Florence Streets
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SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006

LOCATION: Menzies

APPLICANT: N/A

FILE REF: 400

DISCLOSURE OF INTEREST: None

DATE: 4 October 2006

AUTHOR: Peter Crawford, Chief Executive Officer

SIGNATURE OF AUTHOR:

SUMMARY:

This Item is to advise Council of a request to have a Right-of-Way in the Menzies townsite closed to public access.

BACKGROUND:

At the Ordinary Meeting of Council, held Friday, 21 July 2006, Council resolved to close the Right of Way between Brown and Florence Streets closed to public access.

In accordance with the Local Government Act 1995, this Resolution of Council was advertised in a public news paper in the district inviting submissions from the public opposing the decision

COMMENT:

The public notice did not attract any submissions and Council is now required to formerly resolve to close the right-way

CONSULTATION:

None

STATUTORY ENVIRONMENT: LOCAL GOVERNMENT ACT 1995 - SECT 3.50 ***Closing certain thoroughfares to vehicles***

3.50 . Closing certain thoroughfares to vehicles

(1) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

(3) The order cannot be made to have effect beyond 4 years after the first day when it has effect, but this subsection does not prevent the making of another order that continues the closure of the thoroughfare.

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;

(b) give written notice to each person who —

(i) is prescribed for the purposes of this section; or

(ii) owns land that is prescribed for the purposes of this section;

and

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

(7) Subsections (4) and (5) do not prevent the temporary closure of a thoroughfare, without giving local public notice, to the extent that the closure may be required in circumstances in which it may be impracticable to give local public notice before closing the thoroughfare.

(8) If, under subsection (7), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.

(9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.

[Section 3.50 amended by No. 1 of 1998 s.11; No. 64 of 1998 s.15.]

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION / OFFICER RECOMMENDATION	ITEM 11.2
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MOVED Cr I McGregor

SECONDED Cr I Tucker

That having complied with Section 3.50 of the Local Government Act 1995 and received no submissions, Council Resolve to have a section of the Right-of Way between Brown and Florence Streets closed from Brown Street to and including Lot 57 Reid Street.

CARRIED 6/0

11.3 Policy 4.1 – Conferences and Meetings

SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006
LOCATION: Menzies Shire
APPLICANT: N/A
FILE REF: 113b
DISCLOSURE OF INTEREST: None
DATE: 26 September 2006
AUTHOR: Peter Crawford, Chief Executive Officer
SIGNATURE OF AUTHOR:

SUMMARY:

This Item is to request Council to review Policy No 4.1 – Conferences and Meetings

BACKGROUND:

Council reviewed its Policy manual at the Ordinary Meeting of Council held Wednesday, 16 August 2006,

Due to a typographical error, the following Policy No 4.1 was not included in that review.

Policy No. 4.1 - CONFERENCES AND MEETINGS

* Originally adopted 19th March 2004

- 1) Notices inviting Council to nominate delegates to conferences, meetings and similar occasions are to be circulated to Councillors
- 2) All Councillors are to be advised of all local meetings where a general invitation to Councillors has been made.
- 3) Where possible any Councillor who wishes to nominate at each event shall request prior nomination at a Council meeting.
- 4) Council shall decide by resolution to nominate such representatives as Council may consider is appropriate.
- 5) Where it is considered appropriate for a Councillor to be accompanied by another person when attending a conference, meeting or similar occasion Council will meet the expenses applicable to attendance with a Councillor by that person with full approval of the Council.
- 6) Those Councillor/s and Officer/s nominated to attend meetings or conferences shall have reasonable expenses met by Council in accordance to Policy No.s 3.6 and 3.7.
- 7) The Chief Executive Officer shall, in liaison with the Shire President, determine if attendance at such functions on Council's behalf will incur meeting fees or other expenses by issuing either a "Request for Attendance" (Meeting fees and expenses will be approved in accordance with Policy No's 3.6 and 3.7) or an "Invitation to Attend" (No fees are applicable).

COMMENT:

Policy No 4.1 – Conferences and Meetings was amended by Council at the Ordinary Meeting of Council, held Friday, 21 July 2006.

The reason for the amendment was that the original Policy did not make a distinction between the duties in whether Councillors are entitled to fees and other expenses when attending these functions as a representative of Council or merely as an observer.

The amended version now clarifies those duties.

CONSULTATION:

None

STATUTORY ENVIRONMENT: LOCAL GOVERNMENT ACT 1995 –

SECTION 2.7

The role of the council

2.7 . The role of the council

(1) The council —

- (a) directs and controls the local government's affairs; and*
- (b) is responsible for the performance of the local government's functions.*

POLICY IMPLICATIONS: As per the Policy Manual

FINANCIAL IMPLICATIONS: Policies are provided for in the Annual Budget

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION

ITEM 11.3

MOVED Cr I McGregor

SECONDED Cr K Purchase

That Council Review Policy 4.1 – Conferences and Meetings and resolve to Adopt that Policy for inclusion in the Policy Manual

CARRIED 6/0

11.4 Review of Policy 3.9 - Investments

SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006
LOCATION: Menzies Shire
APPLICANT: N/A
FILE REF: 103a
DISCLOSURE OF INTEREST: None
DATE: 3 October 2006
AUTHOR: Peter Crawford, Chief Executive Officer
SIGNATURE OF AUTHOR:

SUMMARY:

This Item is to request Council to review Policy No 3.9 - Investments

BACKGROUND:

Council reviewed its Policy manual at the Ordinary Meeting of Council held Wednesday, 16 August 2006,

Due to a typographical error, the following Policy No 3.9 was not included in that review.

Policy No. 3.9 - INVESTMENTS

** Originally adopted 17th February 2005*

The Chief Executive Officer be authorised to invest monies, not required for immediate need, in short term interest bearing deposits, thereby securing the best advantage to Council. This action should be cognisant of the need to ensure that sufficient operating funds are available to offset day to day expenses.

The Chief Executive Officer is to prepare a monthly report to be presented to Council showing details of all previous month's transactions including:

- a) place of investment
- b) term of investment
- c) interest rate
- d) name of funds invested (eg. municipal, sweeper, reserve, trust)

COMMENT:

Policy No 3.9 – Investments was introduced to Council to enable them to be kept apprised of how the Chief Executive Officer was managing the investments account.

CONSULTATION:

None

STATUTORY ENVIRONMENT: LOCAL GOVERNMENT ACT 1995 – SECTION 2.7

The role of the council

2.7 . The role of the council

(1) The council —

- (c) directs and controls the local government's affairs; and*
- (d) is responsible for the performance of the local government's functions.*

POLICY IMPLICATIONS: As per the Policy Manual

FINANCIAL IMPLICATIONS: Policies are provided for in the Annual Budget

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION	ITEM 11.4
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MOVED Cr I Tucker

SECONDED Cr J Dwyer

That Council Review Policy 3.9 - Investments and resolve to Adopt that Policy for inclusion in the Policy Manual

CARRIED 6/0

11.5	Review of Local Laws
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SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006

LOCATION: Menzies Shire

APPLICANT: N/A

FILE REF: 119

DISCLOSURE OF INTEREST: The author of this report also conducted the review of the Shire's local laws (March 2006) as an external consultant, and may provide further advice and assistance as requested by the CEO in ensuring that the obligations imposed by the Local Government Act in relation to these matters are observed and fulfilled.

DATE: 5 October 2006

AUTHOR: Lance Croft, Casual Employee

SIGNATURE OF AUTHOR:

SENIOR OFFICER: Peter Crawford, Chief Executive Officer

SIGNATURE OF SENIOR OFFICER:

SUMMARY:

The Menzies Shire Council resolved on 17 February 2006, "... to appoint Mr Lance Croft to carry out a review of the Shire of Menzies Local Laws as follows:

- *Bush Fires Act 1954*
- *General Provisions 1999*
- *Dogs 1988"*

This exercise was completed in March 2006 with extensive documentation produced from the review provided to the CEO for further consideration.

It is understood that Councillors have been provided with relevant parts of this documentation to study and digest, prior to it being formally considered by Council.

BACKGROUND:

The local laws have been reviewed against the suite of modern local laws developed and published in the WALGA Local Laws Manual. The Shire of Menzies is a subscriber to this WALGA service, and may therefore utilise these texts.

For each local law being reviewed, the documentation provided includes a review report. These are reproduced in this agenda as ATTACHMENT BF1, GP1, and D1. In summary, these reports conclude –

- **Bush Fire Brigades:**

The WALGA model is contemporary in nature and terminology. It contains more detailed requirements to enable brigades to operate as semi-autonomous organisations whilst receiving both government and local government funding. It satisfies the requirements of the Bush Fires Act 1954 in a modern format.

In the current environment, the existing local law (that gazetted on 21 February 1975) is considered outmoded and should therefore be repealed in favour of the WALGA version. This approach has several advantages –

- (i) *the local government will have a modern contemporary local law; and*
- (ii) *it will avoid the necessity of a review process followed by a repeal and substitution process, thus saving on one round of advertising cost.*

- **Dogs:**

The Menzies local law only deals with one of the issues for which local laws relating to dogs may be made – dog exercise areas. Nonetheless, advice from the CEO indicates that the Shire does have a contractor providing a dog control service, and it maintains a dog pound. In relation to other dog measures generally, consultation with the CEO indicated the following needs and/or wishes –

- (i) *It is desirable to restrict the number of dogs that may be kept (other than in a kennel) to two per place.*

(You should note that the draft local law has now been amended to allow up to six dogs to be kept in places outside of townsites whilst retaining the number of two within townsites).

- (ii) *Imposing measures to restrict dogs to the places where they are kept is desirable.*
- (iii) *Providing for the establishment of kennel places is not required by the draft local law.*
- (iv) *It is desirable to prohibit dogs absolutely from some places.*
- (v) *There should be an offence applicable to owners who permit their dogs to excrete in specified places (unless the excreta is removed).*
- (vi) *Modified penalties, which can be imposed by infringement notices, are desirable.*

Having regard for these matters, it is suggested that the current local law be repealed and substituted with the draft replacement. This incorporates the repealed provisions as well as those contemplated above. It is the WALGA model (appropriately amended) and has been subjected to the requirements of the National Competition Policy. It is also possible to gazette the local law by reference, thus saving on publishing costs.

- **General Provisions:**

On balance it is thought that **Part 2 – Removal of Goods & Animals from Public Places** could be repealed as it appears to add little to those provisions within the Act. Generally those more substantive matters in the Part could be summarised as follows –

(i) In lieu of 'Council appointing a person as an authorised person' the Act enables 'a local government to authorise an employee for the purpose of removing and impounding'. An 'employee' could be a 'casual employee' for this purpose, and thus be a protected person from action in tort under the Act.

(ii) References relating to a pound register and additional notices in 2.5 and 2.6 are not required by the Act. Nevertheless these could simply be made as policy directions to management if so required by Council.

(iii) Goods which a local government has lawfully removed or impounded in accordance with the Act are in the lawful custody of the local government until they are dealt with in the appropriate manner required by the Act. If otherwise taken from local government custody, an offence is committed. Section 9.14 provides that –

If the penalty to which a person is liable for committing an offence against this Act, other than offence regulations or a local law, is not specified, the penalty is –

(a) *a fine of \$5 000; and*

(b) *if the offence is of a continuing nature, a further fine of \$500 in respect of each day or part of a day during which the offence has continued.*

Further, in relation to Part 3 which deals with old refrigerators and cabinets, there is a continuing relevance for the retention of this local law. If parts of the overall local law are to be repealed or amended I would take the opportunity to use the contemporary text, bearing in mind that it would need modification to the application reference to 'any land'.

In relation to Part 4 which deals with street lawns and gardens, it is suggested that Council repeal these provisions and substitute them with the more comprehensive local laws in the WALGA manual. The latter have already been subjected to public benefit testing under the National Competition Policy and its provisions are related more easily to those of the Local Government Act 1995.

COMMENT:

Attached is the text of local laws which by the recommendation at the conclusion of this agenda item it is proposed that Council give notice of its intention to make. With the changes listed in the following dot points, these texts incorporate all the deletions and variations which were included in the drafts previously circulated for informal consideration, and which also repeal Council's existing local laws relating to Bush Fire Brigades, Dogs, and General Provisions. The changes are –

- Bush Fire Brigades (ATTACHMENT BF2) – none;
- Dogs (ATTACHMENT D2) – the draft has been amended to permit up to 6 dogs to be kept on premises outside of townsites (see clause 3.2 (b)), whilst retaining the number of 2 within townsites;
- Activities on Thoroughfares and Public Places (ATTACHMENT GP2.1) – none;
- Urban Environment and Nuisance (ATTACHMENT GP2.2) – none.

'Gazettals by reference' have been prepared for each of the new local laws (except for Urban Environment ... which would be gazetted as it stands). Should changes be made to the proposed local laws, it will be necessary to reflect those changes in the 'gazettals by reference'.

CONSULTATION:

There are formal processes which have to be observed when reviewing local laws. The following aspect was clarified with the Department of Local Government. That is –

- if a Council repeals local laws which are required to be reviewed (under section 3.16 of the Act), then it will not be necessary to observe the requirements of section 3.14;
- if however, Council chooses not to repeal the old laws, then it will be required to observe section 3.16 (and the requirements of the National Competition Policy).

STATUTORY ENVIRONMENT:

Section 3.16 of the Local Government Act 1995 (the Act) requires local governments to review their local laws at least once every eight years. A review is completed after public submissions have been considered and Council has caused a report on the review to be prepared and has considered that report. A council may determine that as a consequence local laws should be amended or repealed.

Section 3.12 of the Act sets out the procedure for making local laws. This same procedure is to be observed also in relation to amending or repealing local laws.

In relation to this procedure, it includes the requirement that statements of the 'purpose' and 'effect' of the proposed local laws be included in the meeting agenda and thereafter recorded in the minutes of the meeting. In relation to this requirement, the following statements are applicable to the draft local laws specified –

- **Bush Fire Brigades –**
Purpose:
To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades, and to repeal the By-laws of the Shire of Menzies relating to the establishment, maintenance and equipment of Bush Fire Brigades for the Shire or any part of the Shire of Menzies which were published in the *Government Gazette* on 21 February 1975.
Effect:
To align existing local laws to changes in the law and operational practice.
- **Dogs –**
Purpose:
To make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs, to prescribe areas where dogs are prohibited and dog exercise areas, and to repeal By-laws Relating to Dogs which were published in the *Government Gazette* on 22 July 1988.
Effect:
To extend the controls which exist under the *Dog Act 1976* over dogs.
- **Activities in Thoroughfares and Public Places –**
Purpose:
To consolidate various local laws relating to activities in thoroughfares and public places, and to repeal the Shire of Menzies General Provisions Local Law 1999 which was published in the *Government Gazette* on 7 September 1999.
Effect:
Some activities are prohibited, some activities are permitted without a permit, and some are permitted only under a permit in thoroughfares and public places. The local law also enables a local government to require house numbering and the erection of fences in certain circumstances.

- **Urban Environment and Nuisance –**

Purpose:

To make provision for the safe disposal of old refrigerators and cabinets and to prescribe penalties for unsafe disposal.

Effect:

To regulate the disposal of old refrigerators and cabinets.

Explanatory Memorandum Directions also impose procedural requirements in relation to making, amending and repealing local laws.

When a local law is made or amended, the National Competition Policy requires that a public benefit test be applied to its provisions. Local laws within the WALGA suite have already been subjected to this requirement where necessary.

POLICY IMPLICATIONS:

Local laws are in a sense the strongest form of Council 'policy'. They establish lawful directions and may enhance existing statutory powers.

FINANCIAL IMPLICATIONS:

Making, amending and repealing local laws requires State and local advertising requirements to be fulfilled, as well as subsequent publishing in the *Government Gazette*. There are also costs relating to the retention of the author of this agenda item.

VOTING REQUIREMENTS:

- (1) A resolution of its intention to make a local law may be carried by simple majority of Council.
- (2) The resolution to make a local law (which may only be made at the conclusion of the period of advertising for and considering any public submissions) requires an absolute majority.
- (3) A determination, made after Council has considered a local laws review report, (which itself follows a public advertising and submissions period), as to whether or not a local law should be amended or repealed, requires an absolute majority.

The recommendation below requires a simple majority of Council.

COUNCIL DECISION/OFFICER RECOMMENDATION	ITEM 11.5
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MOVED Cr I McGregor

SECONDED Cr J Dwyer

That Council give public notice as required by the Local Government Act 1995 of its intention to make local laws entitled –

- Shire of Menzies Bush Fire Brigades Local Law 2006;
 - Shire of Menzies Dogs Local Law 2006;
 - Shire of Menzies Activities in Thoroughfares and Public Places Local Law, 2006;
- and
- Shire of Menzies Urban Environment and Nuisance Local Law 2006;

as are set out in the attachments to this Meeting Agenda and labelled BF2, D2, GP2.1, and GP2.2 respectively.

CARRIED 6/0

11.6	Establishment Agreement
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SUBMISSION TO: Ordinary Meeting of Council Friday,
20 October 2006
LOCATION: Menzies Shire
APPLICANT: N/A
FILE REF: 136b
DISCLOSURE OF INTEREST: None
DATE: 10 October 2006
AUTHOR: Peter Crawford, Chief Executive Officer
SIGNATURE OF AUTHOR:

SUMMARY:

This Item is to present Council with the Establishment Agreement for the Goldfields Esperance Country Zone - Shared Services Working Group.

BACKGROUND:

At the Ordinary Meeting of Council, held Friday, 17 March 2006, Council passed the following resolution:

“That Council agree to participate as part of the Shared Service Working Group to explore the possibility of establishing a Regional Local Government with the initial purpose to undertake shared service functions”.

COMMENT:

Provision was made in the current Budget for this action, as well, the Goldfields Esperance Country Zone has been successful in obtaining a grant of \$80,000 from the Department of Local Government and Regional Development to further investigate the process.

The attached document (Appendix “A”) is the Establishment Agreement that contains the information regarding the formation of the Regional Government, the core functions of that body, how it operates, accountability, etc.

The adoption of the document does not obligate Council to any liabilities, any services accessed from the Regional Government will be at Council’s discretion.

CONSULTATION:

Goldfields Esperance Country Zone members

STATUTORY ENVIRONMENT: as per Sections 2.7 and 3.1 of the Local Government Act 1995 relating to general Functions provisions

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: Provision has been made in the current Budget for feasibility studies.

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION/OFFICER RECOMMENDATION	ITEM 11.6
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MOVED Cr J Dwyer

SECONDED Cr A Kelly

That Council Resolve to become a signatory to the Establishment Agreement to form the Goldfields Regional Council.

CARRIED 6/0

12. REPORTS:

12.1 REPORTS FROM COUNCILLORS:

- Cr Kelly Enquired about incorporating Menzies into the Northern Goldfields TV Commercial again.
- Spoke about idea – Dance Night, for Menzies Annual Event
- Cr Purchase Informed Council that the Menzies Hotel would probably not go down the path of an Alfresco Area out the front of the hotel.
- Cr Dwyer Commented on how well the roads are looking around the Kookynie area after Garry Miller has graded them.
- Cr Tonkin Indicated that someone from Hamptons had reported to him that there were some rocks on the Yarri Road (Staff will investigate matter)

12.2 CHIEF EXECUTIVE OFFICER'S SUPPLEMENTARY REPORT:

Chief Executive Officer:

- Niagara Dam – consideration may have to be given to appointing a caretaker to the area in the next financial year
- Split Rocks – This area is on the Kookynie Common and will have signage erected showing the way to the rocks.
- Donkey Rocks Rd – Awaiting advice from the Local Government Grant Commission on future funding
- Local Government Accountability – Councillors have been provided with the report
- Contaminated sites – Our Health / Building Surveyor attended the meeting in Kalgoorlie
- Thank-you Letter from Leonora – Council will again contribute to the Leonora Golden Gift in 2006
- Fuel Tank – Council will have the option to purchase (The current hire tank) in the next financial budget
- Systemic Sustainability Study – Public meeting in Kalgoorlie on 2 November 2006
- Menzies Pamphlet – Minor changes before we go to print
- Audrey Banbury – Has agreed with the conditions of sale for a block of land in Kookynie

13 NEW BUSINESS OF AN URGENT NATURE:

13.1 ELECTED MEMBERS

Nil

13.2 CHIEF EXECUTIVE OFFICER

Nil

14. CONFIDENTIAL BUSINESS TO BE HELD BEHIND CLOSED DOORS:

Nil

15. NEXT MEETING:

The next Ordinary Council Meeting is scheduled for Friday 17th November at the Council Chambers, Menzies, starting at 9.00am.

16. CLOSURE:

There being no further business to discuss, the Shire President declared the Meeting closed at 10.40 am

These Minutes were confirmed as a true and accurate record of proceedings, at the Ordinary Council Meeting held on 17 November 2006

CONFIRMED

SHIRE PRESIDENT.....