



MINUTES

“SPECIAL” COUNCIL MEETING

The Menzies Council Chambers,
Shenton Street Menzies

Friday June 3rd, 2011
Commencing At 9.55am

SHIRE OF MENZIES



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SHIRE OF MENZIES

“SPECIAL” COUNCIL MEETING

JUNE 3RD, 2011

Commencing at 9.55 am

**In the Shire Council Chambers,
Shenton St, Menzies**

MINUTES

President Dwyer called the “Special” meeting and his request is appended, as required.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President (Cr. Gregory Dwyer) declared the meeting open, welcoming the attendees and proceeded with the agenda as planned

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

Attendance:

Councillors	Cr Gregory Dwyer	President
	Cr Greg Stubbs	Deputy President
	Cr Jill Dwyer	Councillor
	Cr Ian Tucker	Councillor
Staff:	Mr Brian Seale	Chief Executive Officer
	Mrs Carol McAllan	Deputy Chief Executive Officer

Apologies

Visitors:

3 RESPONSES TO PREVIOUS PUBLIC QUESTION TIME TAKEN ON NOTICE

Not applicable.

4 PUBLIC QUESTION TIME

Not applicable

5 DECLARATIONS OF INTEREST / APPLICATIONS FOR LEAVE OF ABSENCE.

Cr. G. Stubbs declares an interest in item 9.1

6 PETITIONS / DEPUTATIONS / PRESENTATIONS

Not applicable

7 CONFIRMATION OF PREVIOUS MINUTES

Not applicable.

8	QUESTIONS ON NOTICE.
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Not applicable.

9 **REPORTS OF COMMITTEES AND OFFICERS**

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- 9.1 Goldfields Cy-Classic and Menzies Carnival Event 2011
- 9.2 Request for Roadhouse Accommodation.
- 9.3 Fortress Home Building Systems Pty Ltd
- 9.4 Policy Manual Amendment - Alcohol on Shire Premises and Driving to Hotel.
- 9.5 Policy Manual Amendment - Purchasing Policy Requirements.
- 9.6 Performance Review for the C.E.O.

Cr. Stubbs declares an interest in item 9.1, as attached.

Ministerial Approval is held and was read to Council

Council approved Cr. Stubbs to remain in Chambers for discussion only.

9.1 THE GOLDFIELDS CY-CLASSIC AND MENZIES CARNIVAL

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	N/A
FILE REF:	
DISCLOSURE OF INTEREST:	None
DATE:	June 3rd, 2011
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:	

BACKGROUND:

To consider the issues surrounding involvement in the Goldfields Cy-Classic and Menzies Carnival and to consider budget provision for the 2011 event for the 2010/11 financial year.

COMMENT:

It seems the following is an accurate summation of the situation, presented for Council consideration.

1. Support of \$30,000 to ensure the Race comes to Menzies.
2. Support of \$10,000 towards Prize monies, together with the promised contribution of \$20,000 from the Mac Carthur Minerals Limited group.
3. Support to \$35,000 to underwrite the Menzies Carnival for entertainment, Live band, crèche, and dinner, tent facilities and community breakfast.

Whilst some revenues will attract to the Shire as a result of sales from the dinner attendees and the tent accommodation facility, though it will be necessary to provide \$35,000 for the Carnival initially to ensure the success of the Venture, though the Net result is likely to less than this

This item was presented to the April 28th, 2011 meeting and also to the Special meeting of Council on May 13th, 2011.

CONSULTATION:

President Dwyer attended the meeting in the town hall on Wednesday April 20th, 2011 at 4 pm and may wish to contribute pertinent information relative to this matter. Furthermore application was made to the Department of Local Government to seek permission for Cr. Stubbs to vote on this item. The correspondence is attached.

STATUTORY ENVIRONMENT Local Govt. Act 1995 –Section 6.8(1.) (b.)

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: Budget variation will be required to \$55,000

VOTING REQUIREMENTS:

“Absolute” Majority required

COUNCIL DECISION / OFFICER RECOMMENDATION
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ITEM 9.1

MOVED Cr Dwyer (J)

SECONDED Cr Tucker

To approve of a budget variation of \$55,000 in the 2010/11 year to support the issues surrounding involvement in the Goldfields Cy-Classic and Menzies Carnival as detailed with the funding to be reallocated from the G.R.O.H. Housing purchase budget presently in the sum of \$160,000, to be reduced to \$105,00, with a donation of \$25,000.00 on the basis of \$10,000 prize money support and the remaining \$15,000 as a generic donation, with the Shire supporting the Menzies Carnival to \$30,000, with a committee of Council to be formed for future Goldfields Cyclclassic events to include community members and/or representatives of community groups.

“**Absolute**” Majority Required. (consistent with advices from the Department of Local Government).

Carried 3/0

9.2 REQUEST TO CONVERT THE ROADHOUSE TO ACCOMODATION.

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	N/A
FILE REF:	
DISCLOSURE OF INTEREST:	None
DATE:	June 3rd, 2011
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:	

BACKGROUND:

To consider the issues surrounding the application to alter the "Purpose" of the Roadhouse premises from a Roadhouse to an "Accommodation" facility in terms of the attached letter of request.

COMMENT:

The property is currently owned and occupied by Christine and John Nelis.

CONSULTATION:

STATUTORY ENVIRONMENT

Amendment to the Town Planning Scheme No 1.

POLICY IMPLICATIONS:

None

FINANCIAL IMPLICATIONS:

None.

VOTING REQUIREMENTS:

Absolute Majority required

COUNCIL DECISION / OFFICER RECOMMENDATION

ITEM 9.2

MOVED Cr Dwyer (J)

SECONDED Cr Tucker

To approve of the amendment to alter the purpose of the roadhouse premises on the Corner of Shenton Street and Wilson Street, to a residential accommodation purpose, as proposed in the attached letter of request, subject to the following:

1. Conclusion to the amendment to the Town Planning Scheme.
2. Statutory advertising having been conducted.
3. Approval from the Department of Mines and Petroleum
4. Approval of the Shire's Health/Building Surveyor.
5. Approval from the W.A. Planning commission being held.

**CARRIED 4/0
Absolute Majority.**

Council adjourned at 10.48am

Council resumed at 11.07am

11.12am Moved Cr. Dwyer. *Seconded Cr Tucker*
That Council move behind closed doors.

Carried 4/0

11.14am CEO and Deputy CEO vacate chambers.

11.55am Cr Stubbs vacates chambers

12.20pm Moved Cr Dwyer (J) *Seconded Cr Dwyer (G)*

That Council come out from behind closed doors.

Due to Loss of Quorum, meeting closed at 12.20pm

9.3 FORTRESS HOMES BUILDING SYSTEMS PTY LTD.

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	
FILE REF:	
DISCLOSURE OF INTEREST:	None
DATE:	June 3rd, 2011
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer.
SIGNATURE OF SENIOR OFFICER:	

SUMMARY:

To consider the issues surrounding the contract with Fortress Home Building Systems Pty Ltd in terms of a potential unauthorized variation to the contract enacted without Council approval and what legal avenues remain open to Council as a result.

BACKGROUND:

Council entered into the contract with Fortress to construct the dwelling, on the basis of completion by June 30, 2009 and the submission was adopted due to the suggestion the residence could be constructed within three months, This did not happen.

COMMENT:

This issue has been the subject of a recent enquiry from the Department of Local Government, the results of which are yet to be received.

This issue was raised at the April meeting resolving to **"Identify what legal avenues are available to Council and report back to the May meeting with the results."**

Council's Solicitors "Civic Legal" have been engaged for this purpose and a purchase order with the required covering letter were despatched on May 9th, 2011 and a response has been received dated May 18th, 2011, where response from the Shire remains outstanding.

Formal advices received from the Shire's solicitor reflect the position that the firm of Fortress Home Building systems Pty Ltd has gone into "Voluntary Administration", which suggests an unlikelihood of recovery of damages. However, we will be guided by the Solicitors and Council kept informed as we proceed.

CONSULTATION:

President Dwyer has sought comment from the Legal firm of Kott Gunning (Laurie James) and may be able to shed some light on the situation Council is in with this, though no contract with that firm has issued.

STATUTORY ENVIRONMENT:

POLICY IMPLICATIONS:

FINANCIAL IMPLICATIONS:

VOTING REQUIREMENTS: Simple Majority required

COUNCIL DECISION

ITEM 9.3

MOVED Cr

SECONDED Cr

To pursue the legal avenues with "Civic Legal" as available to Council relative to the issues applicable to the construction of the dwelling by Fortress Home building systems Pty Ltd at the corner Mercer/Reid Street and report back to Council with the results of the enquiry and relative to the awareness that the company has gone into "Voluntary Administration."

NOT ADDRESSED

9.4 POLICY MANUAL AMENDMENT – DRUG AND ALCOHOL POLICY.

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	
FILE REF:	
DISCLOSURE OF INTEREST:	B.W.Seale declares an interest in this item, although he does not have a voting right, nevertheless, as a staff member an interest in this item applies.
DATE:	June 3rd, 2011.
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer.
SIGNATURE OF SENIOR OFFICER:	

SUMMMARY.

To consider an amendment to the Council Policy at clause 5.3 relative to fitness for work relative to having alcohol on the premises and driving a shire vehicle to the Hotel.

BACKGROUND.

This issue was addressed on March 11th, 2010 to clarify and tighten the policy regarding this potential issue and where the policy was edited to reflect a “Ban’ of having alcohol on shire premise excluded Shire owned residences occupied by staff. Furthermore, the policy was edited to reflect inclusion amendment recognition of the State legal limit of 0.05 for driving.

COMMENTS.

It appears a concern exists over the issues of staff members driving shire owned vehicles to the Menzies Hotel and also having alcohol at the Depot, where this allegedly leads to a potential hazard in the driving home.

The following dot points illustrate some of the factors impacting on this issue:

1. Council can adopt an item of Policy at any time it feels it is required to contain an issue.
2. Given the limited recreational and social opportunities available to employees, it may be unwise to restrict this limited facility even further by prohibiting access to the Hotel.
3. Restriction of the use of a Shire vehicle may require a further adjustment of the employee’s entitlement resulting from the reduced value of entitlement of the vehicle illustrated by the reduced use.
4. The hotel is the only provider of grocery and dry goods, so it is arguable in determining accurately if the staff member is at the Hotel buying alcohol or groceries, and if purchasing groceries, then the staff member would be necessity be required to walk home with the parcels of groceries if a policy was introduced restricting the use of the vehicle....

5. It is further arguable that a policy item in this issue is not “Strategic” and more likely to be “Operational” and if the later, then it remains under the auspice of the CEO and not Council as this does not seem to be Strategic/Corporate (i.e.) the province of Council, then policy should not be introduced..
6. As the issue of driving a shire vehicle when exceeding the alcohol limit of 0.05 remains the matter for the driver, then perhaps an increased penalty against the employee may assist and satisfy this requirement?

CONSULTATION.

Workplace Solutions. – W.A.L.G.A. Group of facilities. – Simon White

STATUTORY ENVIRONMENT

Not applicable.

POLICY IMPLICATIONS.

Copy of the current policy at 5.3 is appended, as required.

FINANCIAL IMPLICATIONS.

None.

VOTING REQUIREMENTS.

OFFICER’S RECOMMENDATION - COUNCIL DECISION	ITEM 9.4
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Moved Cr.

Seconded Cr.

To decline an amendment to the Council Policy at clause 5.3 relative to fitness for work relative to having alcohol on the premises and driving a shire vehicle to the Hotel.

NOT ADDRESSED

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	N/A
FILE REF:	
DISCLOSURE OF INTEREST:	None
DATE:	June 3rd, 2011
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer
SIGNATURE OF SENIOR OFFICER:	

SUMMARY:

To consider an amendment to expand Council’s Policy Manual clause 3.15, consistent with the requirements of the Local Government (Functions and General) amendment regulations 2007, clause 11A (3.) (a.) and (b.), as required.

BACKGROUND:

Whilst Policy clause item 3.15 has been adopted, it does not include the requirements of obligation as stipulated under section 11A (3.) (a.) and (b.) of the Functions and General regulations of 2007 (the amendment regulation). This amendment clause requires policy to ensure a provision is established to enshrine :

1. That the form of quotations is acceptable., and
2. The recording and retention of written information, or documents, in respect of –
 - a.) All quotations received, and
 - b.) All purchases made. Is received, recorded and monitored.

CONSULTATION

STATUTORY ENVIRONMENT:

Local Government (Functions and General) Amendment Regulations 2007. – clause 11A (3.) (a.) and (b.)

POLICY IMPLICATIONS:

Not Applicable

FINANCIAL IMPLICATIONS:

VOTING REQUIREMENTS:

Simple Majority required

COUNCIL DECISION / OFFICER RECOMMENDATION	ITEM 9.5
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MOVED Cr

SECONDED Cr

To edit Policy clause item 3.15 as adopted, to include the requirements of obligation as stipulated under section 11A (3.) (a.) and (b.) of the Functions and General regulations of 2007 (the amendment regulation) and that a process is established to ensure the provision is designed to enshrine :

1. That the form of quotations is acceptable to Council., and
2. The recording and retention of written information, or documents, in respect of –
 - c.) All quotations received, and
 - d.) All purchases made, are received, recorded and monitored.

NOT ADDRESSED

SUBMISSION TO:	Ordinary Meeting of Council
LOCATION:	Shire of Menzies
APPLICANT:	
FILE REF:	
DISCLOSURE OF INTEREST:	Whilst not having a voting interest in this matter, nevertheless the C.E.O. declares an interest in this item as being the subject of this review process.
DATE:	June 3rd, 2011.
AUTHOR:	Brian Seale, Chief Executive Officer
SIGNATURE OF AUTHOR:	
SENIOR OFFICER:	Brian Seale, Chief Executive Officer.
SIGNATURE OF SENIOR OFFICER:	

SUMMARY:

To consider the process for the conduct of the annual review of the performance of the incumbent C.E.O. (B.W.Seale), for the third triennium of the contract, and this review falling due on July 16th, 2011, and with the potential recruitment of a consultant for that purpose.

BACKGROUND:

It is a statutory requirement to conduct the review of the performance of the C.E.O. on an annual basis, where this falls due on July 16th, 2011, being the conclusion of the final triennium of the current contract of employment for the incumbent.

COMMENT:

It is further advised that the K.P.I.'s as endorsed by Council for the new contract of employment commencing on July 17th, 2011 for a further period of two years requires some attention as the date frames for the achievement of some of these indicators have already passed before the contract commenced and this needs attention.

CONSULTATION:

Possible contractors for consideration in this matter, but not limited to, are as follows:

1. WALGA – Work Place Solutions.
2. Anne Lake.
3. Mike Fitz Gerald.
4. Gary Martin.

STATUTORY ENVIRONMENT:

Clause 8 of the current employment contract applies and covers the requirements of the review process.

POLICY IMPLICATIONS:

Not Applicable.

FINANCIAL IMPLICATIONS:

None

VOTING REQUIREMENTS:

Simple Majority required

COUNCIL DECISION

ITEM 9.6

MOVED Cr

SECONDED Cr

To approve of the process for the conduct of the annual review of the performance of the incumbent C.E.O. (B.W.Seale), for the third triennium of the contract, with this review falling due on or after July 16th, 2011, and with the recruitment of a consultant for that purpose in Gary Martin being selected for that function.

NOT ADDRESSED

10 STATUS REPORTS

10.1 Shire of Menzies Status Report

Not Presented.

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Not applicable.

12 INFORMATION BULLETIN

12.1 Information Bulletin not presented.

NEXT MEETING / MEETING CLOSURE

The next Meeting will be held on Thursday, June 23rd, 2011 at the Shire of Menzies Council Chambers, commencing at 9.00am.

There being no further business to discuss, the President declared the meeting closed at: 12.20pm.

These Minutes were confirmed as a True and Accurate record of proceedings at the Ordinary meeting of Council, held on Thursday June 23rd, 2011.

**Confirmed by the Shire of Menzies President,
Cr. Gregory Dwyer**