



Ordinary Council Meeting Minutes

Date: 9 December 2015

Please Note: These minutes and the decisions recorded therein have not as yet been confirmed by Council as a true and accurate record of the meeting.

The Shire of Moora Vision and Mission Statement

Vision

Our vision is that:

Shire of Moora - a vibrant, affordable Regional Centre with a growing, caring community.

Mission

Our mission is:

To provide the leadership, services and infrastructure that will meet the needs of the community and surrounds.

SHIRE OF MOORA
MINUTES OF THE ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MOORA
9 DECEMBER 2015

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**1.1 DECLARATION OF OPENING**

The Shire President declared the meeting open at 5.33pm.

1.2 DISCLAIMER READING

No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**ATTENDANCE**

KM Seymour	-	Shire President / Presiding Member
MR Pond	-	Deputy Shire President
CE Gardiner	-	Councillor
TG Humphry	-	Councillor
DV Clydesdale-Gebert (until 6.00pm)	-	Councillor
MR Holliday	-	Councillor
PF Nixon	-	Councillor
LC House	-	Councillor
AJ Leeson	-	Chief Executive Officer
DK Trevaskis	-	Deputy Chief Executive Officer
JL Greay	-	Manager Engineering Services
PR Williams	-	Manager Development Services
MM Murray	-	Executive Support Officer (minute taker)

APOLOGY

EI Hamilton	-	Councillor
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3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. PETITIONS AND PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER**Shire President**

20/11 Avon-Midland Zone meeting, Jurien

26/11 Meet the Staff

1/12 Fluoridation briefing with Gary Mack, Council Chambers

Cr Pond

20/11 Avon-Midland Zone meeting, Jurien

25/11 Cataby Abattoir

1/12 Childcare Christmas party

1/12 Fluoridation briefing with Gary Mack, Council Chambers

4/12 St Joseph's Primary School end of year awards night, MPAC

7 & 8/12 WALGA Training, Perth

Cr House

26/11 Meet the Staff

4/12 WALGA Training, Perth along with Cr Hamilton

Cr Clydesdale-Gebert

8/12 Facebook for Business workshop, Council Chambers

Cr Holliday

25/11 Moora CRC Committee meeting

1/12 Fluoridation briefing with Gary Mack, Council Chambers

Cr Humphry

24/11 Vice Chancellor of Curtin University re Muresk

1/12 Fluoridation briefing with Gary Mack, Council Chambers

8. CONFIRMATION OF MINUTES

8.1 ORDINARY COUNCIL MEETING - 18 NOVEMBER 2015

COUNCIL RESOLUTION

164/15 Moved Cr Pond, seconded Cr Holliday that the Minutes of the Ordinary Meeting of Council held on 18 November 2015 be confirmed as a true and correct record of the meeting.

CARRIED 8 / 0

9. REPORTS OF OFFICERS

9.1 GOVERNANCE AND CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 3 December 2015

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, Finance Creditors Officer

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

BACKGROUND

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

165/15 Moved Cr Holliday, seconded Cr Nixon that Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31

<i>Municipal Fund</i>	<i>Cheques 62089 - 62107</i>	<i>\$1,034,069.23</i>
	<i>EFT 14604 - 14760</i>	<i>\$717,327.06</i>
	<i>Credit Card 15/10/15 – 15/11/15</i>	<i>\$8,999.68</i>
	<i>Net Pays – PPE 03/11/15</i>	<i>\$88,804.36</i>
	<i>Net Pays – PPE 17/11/15</i>	<i>\$88,831.36</i>
<i>Trust Fund</i>	<i>Cheques 5137 - 5141</i>	<i>\$1,701.61</i>
<i>Total</i>		<i><u>\$1,939,733.30</u></i>

CARRIED 8 / 0

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 30 NOVEMBER 2015

REPORT DATE: 3 December 2015

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: David Trevaskis, Deputy Chief Executive Officer

ATTACHMENTS: Statement of Financial Activity for the Period Ended 30 November 2015

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 30 November 2015.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2015/16 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

166/15 Moved Cr House, seconded Cr Pond that Council notes and receives the Statement of Financial Activity for the period ended 30 November 2015.

CARRIED 8 / 0

9.1.3 DONATION – ESPERANCE FIRES APPEAL

FILE REFERENCE: F/DONI

REPORT DATE: 19 November 2015

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: 17/3/2010 (Res. 26/10) and 18/3/09 (Res. 41/09)

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Nil

PURPOSE OF REPORT:

Formally endorse the actions of the Shire President in approving a Council donation to the Shire of Esperance due to major fires which occurred during November 2015.

BACKGROUND:

The Shire of Esperance were overcome with severe bushfires which burnt through thousands of hectares of farmland and scrubland along with the destruction of several farm houses, sheds, machinery and farm infrastructure including livestock. Several people lost their lives during the event

Subsequently, all Council members were contacted via email to gauge support for a donation and all indicated their full support.

COMMENT:

It was suggested by some Cr's that the Shire of Moora should make a donation to the appeal. It was recommended that Council consider donating \$10,000 to this appeal given the aftermath and impact from what is and has been such a horrific and tragic event.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Section 6.8 (1)(c) of the Local Government Act 1995

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

6.8. Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —

(a) is incurred in a financial year before the adoption of the annual budget by the local government; or

(b) is authorised in advance by resolution*; or

(c) is authorised in advance by the mayor or president in an emergency.

VOTING REQUIREMENTS

Absolute Majority Required

COUNCIL RESOLUTION

167/15 Moved Cr Clydesdale-Gebert, seconded Cr House that Council formally endorse Shire President, Cr Ken Seymour's decision in approving a \$10,000 donation to the Lord Mayor's Distress Relief Fund on behalf of the Shire of Moora towards the Esperance Fires Appeal.

CARRIED BY ABSOLUTE MAJORITY 8 / 0

9.1.4 PROPOSED PERMANENT ROAD CLOSURE – ORTON ROAD

At 5.40pm Cr Nixon declared a financial interest as he is the owner of the adjacent property and left the meeting.

Cr Gardiner declared an impartiality interest as he is related to the farmer wishing to use “the road”.

FILE REFERENCE: S/ROCI

REPORT DATE: 9 November 2015

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: 18/11/15 (155/15)

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Map

PURPOSE OF REPORT:

Council to consider the permanent closure of Orton Road – Part of. (refer map)

BACKGROUND:

Council received a letter from Mr Philip Gardiner on the 6 October 2015 expressing concern regarding access to Orton Road which is a gazetted but unmade road which runs between the Moora Miling Road and the Midlands Road (between Walebing and Moora).

Mr Gardiner has expressed an interest to move stock from his farm “Edale” on Cattady Road, Moora to a property to the east of Koojan. The road is not constructed and is situated in between farmlands owned by Jetlight Holdings and PM Manning Nominees and Manning and Sons. There is also one parcel on the south east corner of Orton Road where it intersects with the Midlands Road owned by the Glasfurd family.

COMMENT:

The item was initially presented to Council at their 18 November meeting and it was resolved ‘to lay the item on the table, pending further discussion with correspondents/applicant and receipt of legal advice from Civic Legal.’

The author sought comment and feedback from Nixon’s and Manning’s and is of the view that the most reasonable way forward given the “road” is not constructed, and has been fenced off in sections albeit without authorisation as part of the farming operations, is to permanently close Orton Road and have subject land merged with adjacent farming land.

The historic use around Orton Road has been very infrequent of any use as a public thoroughfare. There are a number of un-made public gazetted roads across the State and it is rare to have an issue of this nature forthcoming, whereby Council in effect is required to arbitrate over usage of a public road/thoroughfare.

There are a number of considerations around this issue;

- Council could request/direct the adjacent land owners (farmers) to Orton Road to fence the road reserve off, thus allowing public use of the road reserve for the purpose of stock movement. This would negate any issues bio-security around animal health that might otherwise occur on adjacent farmland as a result of straying stock that may otherwise occur if the road reserve was not fenced. The author would contend at this juncture that there would not be any intention from Council’s perspective to have the

road reserve constructed to a gravel road standard. It would simply allow for use around stock movement a request by Mr Gardiner.

- Should Council compel the adjacent farmers to fence off the road reserve it is likely that they may expect a better standard of access and maintenance of the road reserve. A lot of the road is impassable to not only vehicles but also stock with vegetation, weeds, rocks and even creeks.

To bring the road reserve to a passable state there would be significant earthworks involved not withstanding clearing permits.

POLICY REQUIREMENTS:

Council does not have a policy relevant to this matter. It maybe that a policy be developed, however the merits of individual cases/situations would make it difficult to develop a policy that would have a broad and practical application. The author is of the view that individual cases be considered on their merit.

LEGISLATIVE REQUIREMENTS:

Refer to attached guideline.

Also refer to actual legislation hereunder;

Land Administration Act 1997 – Section 58

58. Closing roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.
- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —
 - (a) by order grant the request; or
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (5) If the Minister grants a request under subsection (4) —
 - (a) the road concerned is closed on and from the day on which the relevant order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (6) When a road is closed under this section, the land comprising the former road —
 - (a) becomes unallocated Crown land; or

- (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.

Land Administration Regulations 1998

9. Local government request to close road permanently (Act s. 58(2)), requirements for

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and
- (d) a copy of the relevant notice of motion referred to in paragraph (c); and
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and
- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.

STRATEGIC IMPLICATIONS:

There are no known relevant strategic considerations in relation to this matter.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

The only financial consideration for Council in relation to this matter is the cost of advertising which is likely to be in the vicinity of \$300. The cost could be apportioned to the adjacent land owners a 50/50 basis.

SUMMARY:

This situation is somewhat unusual. In the authors view given the history of the road reserve, its current state in being impassable in some locations and the fact that it serves little, if any broader public benefit or use, Orton Road should be permanently closed in accordance with the provisions of the Land Administration Act 1997.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

168/15 Moved Cr Gardiner, seconded Cr Pond that Council;

- 1. Acknowledge the correspondence of Messrs PW & JI Gardiner in relation to issues concerning Orton Road;***
- 2. Acknowledge the application from Manning's and Nixon's to have Orton Road closed permanently;***
- 3. Agree to give Public Notice of its intent to seek the permanent closure Orton Road and advertise the proposal in accordance with Section 58 of the Land Administration Act 1997 for period of not less than 35 days;***
- 4. Formally advise correspondents, applicants, affected land owners and public service – utility agencies advising them of Councils intended course of action in regards to Orton Road as request them to make public comment/submission back to Council within the 35 day period.***

LOST 4 / 3

At 5.50pm Cr Nixon rejoined the meeting.

9.1.5 POLICY MANUAL REVIEW

FILE REFERENCE: PL/POPI
REPORT DATE: 5 December 2015
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Alan Leeson, Chief Executive Officer
ATTACHMENTS: Draft Policy Manual provided

PURPOSE OF REPORT:

For Council to receive and consider the draft amended Policy Manual with a view to adopting it at the Ordinary Meeting of Council on the 17th February 2016.

BACKGROUND:

As part of its review of Council's policies, Management Executive met to review the Policy Manual in its entirety and proposed the following changes;

1. amendments to reflect correct titles, positions and officers;
2. changes to reflect current practices, processes and procedures; and
3. updates to areas that were affected by legislative changes.

COMMENT:

The review has been undertaken with a view of updating and improving existing policies.

POLICY REQUIREMENTS:

Review annually.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 2.7 Role of the Council

- (2) Without limiting subsection (1), the council is to —
(b) determine the local government's policies.

STRATEGIC IMPLICATIONS:

Operational practices need to be current and correct if strategic outcomes are to be met.

Shire of Moora Strategic Community Plan

Goal 5: Good Governance and an effective and efficient organisation

Outcome 5.3: Effective and efficient corporate and administration services

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Some of the amendments outlined in the attached documentation will require budget consideration in the 2015/2016 financial year.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

169/15 Moved Cr Gardiner, seconded Cr Holliday that Council receive the amended Policy Manual as reviewed by Council Management and table the Policy Manual for consideration with a view to adopting it at the Ordinary Meeting of Council on the 17th February 2016.

CARRIED 8 / 0

9.1.6 ADVERTISING OF THE SHIRE OF MOORA DRAFT AMENDMENT LOCAL LAW 2016, DRAFT HEALTH LOCAL LAW 2016, DRAFT WASTE LOCAL LAW 2016, DRAFT MEETING PROCEDURES LOCAL LAW 2016, DRAFT FENCING LOCAL LAW 2016 DRAFT ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2016 & DRAFT DOGS LOCAL LAW 2016

FILE REFERENCE: PR/ADVI & PL/LOLI**REPORT DATE:** 4 December 2015**APPLICANT/PROPONENT:** Shire of Moora**OFFICER DISCLOSURE OF INTEREST:** Nil**PREVIOUS MEETING REFERENCES:** 19/06/2013 (86/13)**AUTHOR:** Consultant, Phillip Swain**ATTACHMENTS:** Attachment A – Draft Local Laws provided**PURPOSE OF REPORT:**

For Council to progress, in accordance with the Local Government Act 1995 and other relevant Acts, local law adoption of new and amendment local laws for the Shire of Moora.

BACKGROUND:

The Shire of Moora's existing Local Laws were gazetted on various dates, dating back to 1944. Existing local laws made pursuant to the Local Government Act 1995 were made in the late 1990's. A review of the Shire of Moora Local Laws was commenced following the resolution of Council in July 2011. In February 2012, in relation to the review, Council resolved the following;

That Council:

1. *Receives the report of review in relation to the Shire of Moora local laws as advertised on 17 August 2011, and following the closure of the submission period on the 29 September 2011;*
2. *Resolves to retain the following local laws*
 - a) *Local Government Property Local Law*
 - b) *Cemeteries Local Law*
3. *Directs Administration to prepare the necessary amendments for the following local laws;*
 - a) *Local Government Property Local Law*
 - b) *Cemeteries Local Law*

4. *Directs Administration to prepare the necessary amendments to repeal for the following local laws;*
 - a) *Parking Bylaws*
 - b) *TV Masts and Antennae*
 - c) *Obstructing Animals and Vehicles Draft Model by-law No. 7*
 - d) *Stalls & Hawkers*
 - e) *Prevention of Damage to Streets – Draft Model by-law No15*
 - f) *Bylaws Relating to Verandas and Removal Thereof*

5. *Directs Administration to prepare draft local laws to replace the following existing local laws;*
 - a) *Fencing Local Law*
 - b) *Standing Orders Local Law*
 - b) *Dogs Local Law (Dog Act 1976)*
 - c) *Model By-Laws Series A (Health Act 1911)*

6. *Directs Administration to prepare a new draft Waste Local Law*

Subsequently Council resolved in June 2013 to commence the adoption of six (6) local laws by advertising to seek public comment for the draft local laws. The drafts at that time were as follows;

- a) Shire of Moora Waste Local Law 2013;
- b) Shire of Moora Health Local Law 2013;
- c) Shire of Moora Meeting Procedures Local Law;
- d) Shire of Moora Dogs Local Law 2013;
- e) Shire of Moora Fencing Local Law 2013; and,
- f) Shire of Moora Amendment Local Law 2013;

Since that time and despite initial advertising, that resulted in no submissions, there have been a number of impediments to finalising the local laws, including various Act changes and proposed Bills, other local governments experiencing difficulties with enacting new legislation with the intervention of the Joint Standing Committee on Delegated Legislation (JSCDL).

COMMENT:

All local laws are required to be consistent with National Competition Policy and unless justified, under the Public Benefit Test, should not contain provisions that restrict competition. Generally new local laws are adopted following models developed by the Western Australian Local Government Association (WALGA) to minimise legal costs and the complications of the benefit tests. The proposed local laws, (Attachment A) where possible, have been based on the various WALGA models.

The current drafts have been improved, following comments from the Department of Local Government and Communities (DLGC). The current proposed local laws are as follows;

- a) Shire of Moora Waste Local Law 2016;
- b) Shire of Moora Health Local Law 2016;
- c) Shire of Moora Meeting Procedures Local Law 2016;
- d) Shire of Moora Dogs Local Law 2016;
- e) Shire of Moora Fencing Local Law 2016; and,
- f) Shire of Moora Amendment Local Law 2016;
- g) Shire of Moora Activities in Thoroughfares and Public Places and Trading Local Law 2016

To progress this matter the Shire needs to again give local public and state-wide public notice, seeking comments on the proposed legislation.

Waste Local Law

Waste provisions now require adoption pursuant to the Waste Avoidance and Resource Recovery Act 2007. Hence, adoption of a Waste Local Law in accordance with the requirements of the Department of Environment and Conservation will be required. Administration had prepared a draft Waste Local Law for consultation, based on similar legislation, adopted by other local governments. The Department of Environmental regulation and WALGA have recently released a Model Local Law and hence re-advertising the draft on the basis of the model is proposed.

Health Local Law

The Shire has previously adopted various versions of the Model Bylaws series A, which were the basis of Health Act bylaws up until the early 1990's. Contemporary health local laws typically utilised by local governments were the result of a significant consolidation, led by the City of Perth, and undertaken by local governments in the late 1990's, to modernise health local laws. Many of the provisions serve to maintain basic sanitary conditions for dwellings, establishing maintenance standards and control community nuisance issues. Other provisions assist the City in the control of pests and certain noxious trades, as well as provision for the control of certain infectious diseases. Controls include the creation of offences with penalties and licensing and registration of activities such as offensive trades and lodging houses. At the February meeting Council resolved to repeal the historic model bylaws series A and adopt a new local law

The Department of Health has advised Local Governments that the current Act, (Health Act 1911), is likely to be repealed following the development of more modern public health legislation. Whilst the progress of a new Bill has been repeatedly delayed it has been highlighted in discussions with the Department, that many of the nuisance type provisions in the current Health Local Laws will not be adopted under the new Act. The new Act proposes different mechanisms for the implementation and enforcement of public health policy. Advice to date has confirmed that the various nuisance type provisions will most likely be adopted under the Local Government Act 1995 and that the various licensing and registration provisions will be protected under public health policies or be transferred to other legislation, such as the recently adopted Food Act. Irrespective of this it will be advantageous to the Shire to have adopted a contemporary health local law such that those provisions will be preserved under any transitional arrangements when the Bill is adopted. The Bill is currently before Parliament.

Following initial advertising there was some doubt regarding the notifications that should have gone to both the Department of Health and the Department of Environmental Regulation. Consequently, it is recommended that the draft Local Law be re-advertised.

Meeting Procedure Local Law

The draft meeting procedures local law is based on the WALGA Model, which has been subject to continuous improvement since the inception of the 1995 Act. The local laws address those matters not already dealt with under the Act and Regulations in relation to Committees, Council meeting procedures and the preparation of agendas and minutes. Once adopted the local law will be formatted including all the relevant Act and Regulation provisions to assist Councillors to comply with the relevant governance requirements at all times. Since original advertising the draft has required minor amendments only and Council could adopt the local law in its current draft. However, recent advice from the Department

of Local Government and Communities (DLGC) has indicated that where a draft local law has exceeded a period of 12 months since advertising and not been adopted, the JSCDL has taken the view that the draft law should be re-advertised. As the Council will not meet again until February 2016 it is proposed to re-advertise all draft local laws in December with a view to adoption early in the New Year.

Dogs Local Law

The Draft Dogs Local Law is based on the WALGA model. This local law has not changed substantially over time. Other than affirming provisions relating to dangerous dogs and areas prohibited for dogs as well as exercise areas, there are no substantial changes to the Shire's existing local law. Since original advertising the draft has required minor amendments however, re-advertising is proposed to ensure no disallowance results from the position of the JSCDL.

Fencing Local Law

The draft Shire of Moora Fencing Local Law 2013 is based on a previous WALGA model, which has been used by a number of local governments to provide minimum standards for the construction of fencing within municipalities. Licensing provisions under the proposed model are limited to dangerous fencing such as electric and razor wire fencing. It is proposed that the local law be adopted utilising the Shire of Murray Fencing Local Law 2012, adopted by reference. The local law is predominantly design and construction standards for fencing that have been uniformly applied in most circumstances throughout the state. Since original advertising the draft has required minor amendments however, re-advertising is proposed to ensure no disallowance results from the position of the JSCDL.

Amendment Local Law

An amendment local law has been prepared, to undertake repeal of a number of antiquated provisions that are currently empowered within the Shire of Moora. Additionally, minor alterations and changes of local laws relating to Cemeteries and Local Government Property are contained within the amendment local law.

One matter raised in consultations with Council is the issue with respect to the plot tenure within the Moora Cemetery. Under the 1986 Cemeteries Act, the maximum guaranteed tenure on any given plot is 50 years although this can be extended for further 25 year periods at the discretion of the Shire. Under the revised 1986 Cemeteries Act, the new stipulated tenure of Grants was 25 years with an automatic option for Grant holders to purchase an additional 25 years either initially or at any time during the first 25 years. The discretion of all cemetery authorities in Western Australia to issue 50 or 99 year Grants was revoked. Extensions can only be in 25 year increments. So as to set a uniform expiry date for all Grants issued under the 1897 Act and provide Cemetery authorities with the ability to both manage their land holdings and have a known consistency of Grant expiry dates across their cemeteries, Parliament endorsed legislation stipulating that Grants of Rights of Burial issued prior to July 1 1987 that had not expired by July 2 2012 would, collectively, expire on July 2 2012. The Shire can not legislate to vary these requirements as to do so would override the state Act, however, have the right to permit 25 year extensions of a plot during any 25 year term, at the agreement of the grant holder.

Since original advertising the draft local law has required minor amendments however, re-advertising is proposed to ensure no disallowance results from the position of the JSCDL.

Activities in Thoroughfares and Public Places and Trading Local Law 2016

Since the initial advertising of proposed amendments, repeals and new local laws in 2012, the Administration has identified an ongoing need for laws to control street trading. Whilst

repeal of the Stalls and Hawkers Bylaws, published in the *Government Gazette* of 19 March 1982 was proposed in the Amendment Local Law, it is now proposed that a new trading local law be adopted in accordance with the current WALGA model;

Council is therefore requested to resolve to re-advertise the local laws, as outlined in Attachment A, by giving state-wide public and local notice of the same and to advertise the draft Activities in Thoroughfares and Public Places and Trading Local Law 2016. The proposed local laws and amendments and copies of the report of the review are to be made available, upon request, to members of the public.

Whilst the *Shire of Moora General Amendment Local Law 2016*, the draft *Shire of Moora Dogs Local Law 2016*, the draft *Shire of Moora Meeting Procedures Local Law 2016* and the draft *Shire of Moora Fencing Local Law 2016* have not changed substantially since initial advertising re-advertising is proposed, in accordance with the advice from the DLGC.

POLICY REQUIREMENTS:

The following current Council policies relate to the making and/or enforcement of the Shire's existing Local Laws:

3.3 Local Laws (Originally adopted by Council on 20th May 1998)

That Council make, publicise and review its local laws according to the guidelines below: -

Guidelines.

1. *That local law making powers be used sparingly and only after applying the following tests:-*
 - Can Council achieve the objective without making a law?*
 - Has Council the will and resources to enforce the law?*
 - Will practical benefits result from the law?*
2. *That local laws be worded as simply as possible.*
3. *That where local laws are site specific, e.g. laws relating to the hall, a copy of the laws be posted, where feasible at the site concerned, or where not considered feasible by the CEO, that an abbreviated version be kept posted at the site stating: - offences and penalties; and that the full laws can be inspected at the Shire Office.*
4. *That where registration or licensing of an activity, premises or animal is required, the opportunity be taken to issue a leaflet advising of local laws associated with that activity, premises or keeping of that animal.*
5. *That the President consider making the exercise of the legislative powers by the local government a component of the President's annual report as a means of identifying district problems and steps Council is taking to combat these.*

6.2 Veranda Posts

Council Policy 6.2 – Veranda Posts, supports an intention for parts of the Shire to install or retain veranda posts, and is contrary to the requirements of the local law, which compelled the removal of the same in 1971. Policy 6.2 adequately deals with approval of verandas as it requires the submission of building licence applications for the same.

8.4 Fencing Property Adjoining Shire Land

8.14 Cemetery

Whilst policies 8.4 & 8.14 do not materially affect the current local laws they relate to matters that can be captured the amendments. Policy 3.3 needs to be considered in the

context of any proposed repeals, retention or amendments.

Council Policy 8.4 allows for persons with land adjoining Council property to make claim for 50% of the cost of a dividing fence, which is made as an ex-gratia payment. In this regard, the Dividing Fences Act will continue to apply within the Shire irrespective of whether the Shire has Fencing Local Laws or not. This does however mean that the Shire needs to consider at least basic requirements for fences within the Shire in a new local law.

LEGISLATIVE REQUIREMENTS:

It is a requirement of the Local Government Act that at a council meeting the person presiding is to give notice to the meeting of the purpose and effect of any proposed local law including any amendment. The Local Government (Functions and General) Regulations 1996 Part 1A-Local Laws, prescribe the following:

Notice of purpose and effect of proposed local law - s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that -

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The intended Purpose and Effect of the Shire of Moora Amendment Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the repeal and amendment of the Shire of Moora Local Laws to provide for the good governance of the district of the Shire of Moora.

Effect: The effect of the local law is to repeal and amend existing local laws within the district of the Shire of Moora to provide for the good governance of the municipality.

The intended Purpose and Effect of the Shire of Moora Fencing Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of the fencing within the district of the Shire of Moora.

Effect: The effect of this local law is to ensure that fences are constructed and maintained to a satisfactory structural and aesthetic standard throughout the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Meeting Procedures Local Law 2016 are:

Purpose: The purpose of the local law is to provide for rules and guidelines which apply to the conduct of meetings of the Council and its Committees and to the meetings of electors within the district of the Shire of Moora.

Effect: The effect of the local law is to establish requirements for better decision making by the Council and Committees, the orderly conduct of meetings, better understanding of the processes of conducting meetings and the more efficient and effective use of time at meetings, within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Dogs Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of the keeping of dogs within the district of the Shire of Moora.

Effect: The effect of the local law is to establish the requirements with which owners and

occupiers of land within the district of the Shire of Moora must comply in order to keep dogs and provides the means of enforcing the local law.

The intended Purpose and Effect of the Shire of Moora Health Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to public health within the district of the Shire of Moora.

Effect: The effect of the local law is to control activities and manage influences on community public health within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Waste Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

Effect: The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the Shire of Moora.

The intended Purpose and Effect of the Shire of Moora Activities in Thoroughfares and Public Places and Trading Local Law 2016 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of trading and activities on thoroughfares and public places within the district of the Shire of Moora.

Effect: The effect of the local law is to establish the requirements with which persons using public places and thoroughfares for trading and prescribed activities, within the district of the Shire of Moora, must comply with.

Where Council has determined that a local law should be adopted or amended, a local government is required give state-wide notice of the proposed local law. Submissions must be accepted for a period of six (6) weeks. The Council must consider any submissions made before making or amending a local law. In some cases such as a, waste local law, health local Law or dogs local law

The adoption and amendment of the Shire of Moora Local Laws is both a legislative and consultative process.

STRATEGIC IMPLICATIONS:

Goal 5: Good governance and an effective and efficient organisation.

Scope: Governance, corporate and administrative services, financial management, statutory compliance and customer services.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Direct costs associated with this report will be limited to consultant fees to draft the local laws and reports. These costs will be borne via budgeted expenditure. Where a draft Amendment local laws and new local laws will attract additional advertising costs associated with the State-wide and local public notice of the same. Following the discussion period, and depending upon any submissions, further amendment review and legal advice may be incurred. Once the local law adoption has been finalised by Council, there will be gazettal costs in due course. Fees will be incurred for any gazettal.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

170/15 Moved Cr Holliday, seconded Cr Pond that Council receives the draft local laws as contained in Attachment A;

- a) the draft Shire of Moora Waste Local Law 2016;***
- b) the draft Shire of Moora Health Local Law 2016;***
- c) the draft Shire of Moora Meeting Procedures Local Law 2016;***
- d) the draft Shire of Moora Dogs Local Law 2016;***
- e) the draft Shire of Moora Fencing Local Law 2016;***
- f) the draft Activities in Thoroughfares and Public Places and Trading Local Law 2016; and,***
- g) the draft Shire of Moora Amendment Local Law 2016.***

and table them for consideration with the view of authorising local and state-wide public notice in accordance with section 3.12 of the Local Government Act 1995, seeking public comment; at the Ordinary Meeting of Council on the 17th February 2016.

CARRIED 8 / 0

9.2 DEVELOPMENT SERVICES

9.2.1 LOT 302 DANDARAGAN STREET – SHED WITH REDUCED SETBACK - VANZETTI

Cr Gardiner declared an impartiality interest as the proponent is his next door neighbour.

FILE REFERENCE: TP/PA18/1516

REPORT DATE: 16 November 2015

APPLICANT/PROPONENT: Chris Vanzetti

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Peter Williams, Manager Development Services

ATTACHMENTS: Plans

PURPOSE OF REPORT:

Mr Chris Vanzetti (Proponent) has applied to Council seeking permission to construct a steel framed and clad shed 10m width x 14.4m length with a reduced setback to 2 metres from his side boundary.

BACKGROUND:

Lot 302 Dandaragan Street Moora is located in the residential zone and has a R2.5 rating in the Residential Design Code which applies to blocks of land with a minimum area of 4,000sqm. Minimum setbacks for these blocks are:

- Primary Street – 15m
- Secondary Street – 7.5m
- Other/rear – 7.5m

Due to the position on the block of the house with it being set so far back and a swimming pool at the rear of the house; to maintain the side boundary setback of 7.5m would place the shed too close to the swimming pool. For this reason Mr Vanzetti has requested a reduced setback from the side boundary of 2 metres.

The House is located in the Town Flood Zone and therefore subject to Moora Town Planning Flood provisions. Council has the discretion to allow for a reduction of the finished floor level from 0.3m above the highest 1999 Moora Flood Level for dwellings to 0.15m above the highest flood level for outbuildings i.e. Sheds.

COMMENT:

Mr Vanzetti wishes to use the shed for general storage and carrying out repairs to his racing cars. There is no sewerage in this area so the position of the shed will not interfere with sewerage lines.

POLICY REQUIREMENTS:

No known policy requirements related to this item.

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION

171/15 Moved Cr Holliday, seconded Cr Pond that Council approve the application by Mr Chris Vanzetti of Lot 302 Dandaragan Street Moora, to construct a steel framed and clad shed for the purpose of storage and have a reduced setback to enable Mr Vanzetti to construct the shed 2m from the side boundary subject to the following conditions:

- 1. Shed is not to be used for accommodation;*
- 2. Any significant changes to plans of the shed, its size or its location will be subject to another Town Planning Application.*
- 3. Finished Floor Level of the Shed is required to be at least 0.15m above the 1999 flood level for the area. Levels to be obtained from the Department of Water.*

CARRIED 8 / 0

9.3 ENGINEERING SERVICES

Nil

10. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

The Chief Executive Officer raised an item of urgent business titled Alfresco Area – Drovers Inn Hotel for Councils consideration.

At 6.00pm Cr Clydesdale-Gebert declared a financial interest in item 11.1 as she has a hospitality / tourism business on Padbury Street with Alfresco facilities and retired from the meeting.

COUNCIL RESOLUTION

172/15 Moved Cr Holliday, seconded Cr Gardiner that Council consider the item of urgent business as tabled by the Chief Executive Officer titled ‘Alfresco Area – Drovers Inn Hotel’.

CARRIED 7 / 0

11.1 ALFRESCO AREA - DROVERS INN HOTEL

FILE REFERENCE: TP/PA21/15/16
REPORT DATE: 8 December 2015
APPLICANT/PROPONENT: Chris Papas
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Peter Williams, Manager Development Services
ATTACHMENTS: Site plan of area

PURPOSE OF REPORT:

The Shire is in receipt of an application from Drover's Inn Hotel owner Mr Chris Papas the (Proponent) who is seeking Council's approval to provide Alfresco Dining on the northern side of the hotel on the footpath.

BACKGROUND:

Mr Papas and his wife are seeking to expand their business and capture the weekend market in terms of lack of café/coffee type hospitality in Moora, in particular Saturday afternoons and Sundays.

The Drovers Inn Hotel is located at Lot 1 Dandaragan Street, Moora and is situated in the Town Centre Zone. The footpath is some 5 metres in width with ample area to provide tables and chairs without obstructing the footpath.

Objectives

- (a) to ensure the town centre remains the principal place for retail, commercial, civic, and administrative functions within the district.
- (b) to encourage development will not adversely affect local amenities, and will enhance the character of the town centre.
- (c) to provide sufficient parking spaces for vehicles without compromising pedestrian movements through the town centre.
- (d) to provide an increased level of public amenities including public toilets, shaded areas, and street furniture.

Development Requirements

- (a) Development shall not exceed 2 stories in height except where the local government considers that particular circumstances may warrant an exception being made and provided the local government's objectives are not compromised.
- (b) In considering an application for planning approval for a proposed development (including additions and alterations to existing development) the local government shall have regard to:
 - (i) the colour and texture of external building materials; the local government may require the building facade and side walls to be constructed in masonry;
 - (ii) building size, height, bulk, roof pitch;
 - (iii) setback and location of the building on its lot;
 - (iv) architectural style and design details of the building;
 - (v) function of the building;
 - (vi) relationship to surrounding development; and
 - (vii) other characteristics considered by the local government to be relevant.
- (c) Landscaping shall be provided to complement the appearance of the proposed development and the town centre.

- (d) The layout of car parking shall have regard for traffic circulation in existing car parking areas and shall be integrated with any existing and adjoining car park.

COMMENT:

Mr Papas has recognised a service in the Town that is not being provided (i.e.) coffee and cake on Saturday afternoons and Sunday's.

This service meets the objectives of the Shire of Moora Town Planning Scheme No 4 for the Town Centre Zone.

Mr Papas will be required to ensure his insurance has an indemnity clause indemnifying the Shire of Moora against any claim for damages associated with this development; also will be required to maintain the area in a clean condition free from food scraps dropped by patrons, and, ensure that chairs and tables do not obstruct the public. This will also be a Smoke free area.

POLICY REQUIREMENTS:

There are no known policies associated with this proposal

LEGISLATIVE REQUIREMENTS:

Local Planning Scheme No 4 provisions.

STRATEGIC IMPLICATIONS:**Outcome 4.1: A strong and diversified economic base.**

Strategy 4.1.1: Facilitate the development and implementation of a regional economic development strategy, thus ensuring Moora is positioned strongly to service the region.

Strategy 4.1.2: Promote and support local industry development initiatives.

Strategy 4.1.3: Facilitate affordable housing and accommodation initiatives.

Strategy 4.1.4: Ensure the provision of serviced commercial, industrial and residential land.

Strategy 4.1.5: Promote and market the benefits of working and living in the Shire.

Outcome 4.2: A dynamic and resilient business sector.

Strategy 4.2.1: Advocate for increased resources for business development.

Strategy 4.2.2: Identify and attract value adding businesses for agricultural products through monitoring of regional business trends.

Strategy 4.2.3: Advocate for training opportunities and apprenticeship programs to employ local youth.

Strategy 4.2.4: Investigate and attract investors to capitalise on local business opportunities.**SUSTAINABILITY IMPLICATIONS:****➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item.

VOTING REQUIREMENTS:

Simple Majority Required

COUNCIL RESOLUTION

173/15 Moved Cr House, seconded Cr Holliday that Council approve the application by the Proponent Mr Chris Papas at Lot 1 Dandaragan Street, Moora to provide an Alfresco Dining area on the northern side of the Drovers Inn Hotel near the main entrance subject to the following conditions:

- 1. Proponent to provide indemnity insurance indemnifying the Shire of Moora against any damages claim from the public;*
- 2. Proponent to ensure that the area is maintained clean of food scraps and rubbish dropped by the patrons;*
- 3. Tables and chairs are not to obstruct the footpath; and*
- 4. Area to be a smoke free zone.*

CARRIED 7 / 0

12. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

13. CLOSURE OF MEETING

There being no further business, the President declared the meeting closed at 6.06pm.

CONFIRMED

PRESIDING MEMBER