

Please note: These minutes are yet to be confirmed as a true record of proceedings

SHIRE OF BUSSELTON

**MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL
HELD ON 14 OCTOBER 2009**

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE	1
2.	OPENING PRAYER	1
3.	PUBLIC QUESTION TIME	2
4.	SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE	2
5.	APPLICATIONS FOR LEAVE OF ABSENCE	2
6.	CONFIRMATION OF MINUTES	2
6.1	Minutes of an Ordinary Meeting of the Council held on 23 September 2009.	2
7.	ANNOUNCEMENTS by the Presiding Member without discussion	2
8.	PETITIONS AND MEMORIALS	3
9.	DECLARATION OF DUE CONSIDERATION	3
10.	DECLARATIONS OF INTERESTS	3
11.	PRESENTATIONS BY PARTIES WITH AN INTEREST	4
12.	BUSINESS FROM PREVIOUS MEETING	4
12.1	DONATION OF FEE – HIRE OF CHURCHILL PARK HALL	4
13.	LIFESTYLE DEVELOPMENT REPORT	25
13.1	DRAFT SCHEME AMENDMENT NO. 138: PROPOSED REZONING OF LOT 6 CHAMBERS ROAD, CARBUNUP RIVER FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION' (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)	25
13.2	BUSSELTON JETTY HERITAGE INTERPRETATION AND DESIGN PLAN - SELECTION AND COMMISSIONING PROCESS FOR INTERPRETIVE ARTWORKS	28
13.3	DRAFT SCHEME AMENDMENT NO. 135: PROPOSED REZONING OF LOT 3 BROADHURST ROAD, METRICUP FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION' (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)	34
13.4	PETITION REPORT - PETITION OPPOSING THE DEVELOPMENT GUIDE PLAN FOR AGED PERSONS HOUSING ON LOT 29 AND 30 WILLIAM DRIVE, BROADWATER	34
13.5	DRAFT (REVISED) HERITAGE CONSERVATION POLICY & PROPOSED SCHEME AMENDMENT - ADOPTION FOR FINAL APPROVAL	34
13.6	LOCAL PLANNING POLICY REVIEW - PROPOSED RESTRUCTURING OF THE LOCAL PLANNING POLICY FRAMEWORK	35
14.	SYSTEMS AND INFORMATION REPORT	41
14.1	LIST OF PAYMENTS - AUGUST 2009	41

14.2	FINANCIAL ACTIVITY STATEMENT - 31 AUGUST 2009	41
14.3	BUSSELTON GOLF CLUB (INC) - REQUEST FOR RATES EXEMPTION/ CONCESSION	41
15.	COMMUNITY INFRASTRUCTURE REPORT	43
15.1	TENDER SELECTION CRITERIA - TEN 09/09 SUPPLY, DELIVERY AND CONSTRUCTION OF NEW PRODUCTION BORE FOR SIR STEWART BOVELL PARK	43
16.	COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT	43
16.1	REGIONAL ECONOMIC DEVELOPMENT STRATEGY	43
16.2	SHIRE PROPERTY LOCAL LAW	43
16.3	SMALL LOCAL PROJECTS FUND 2009/10 - NOS. 6-8	46
16.4	BUSSELTON JETTY - RESERVE MANAGEMENT ORDER; STATE LICENCE AGREEMENT; BJECA MANAGEMENT AGREEMENT	46
17.	CHIEF EXECUTIVE OFFICER'S REPORT	48
18.	MOTIONS of which notice has been given	48
18.1	COUNCIL POLICY NO. 240 - RESERVES VEGETATION PROTECTION	48
18.2	RATES CONCESSION POLICY	50
18.3	POLICY ON THE PRINCIPLES BY WHICH SHIRE FEES AND CHARGES ARE CALCULATED	51
18.4	YALLINGUP SURFILM FESTIVAL SPONSORSHIP	53
19.	CONFIDENTIAL REPORTS	54
20.	NOTICES OF MOTION proposed for consideration at a future Meeting	54
21.	QUESTIONS FROM MEMBERS WITHOUT NOTICE	55
22.	NEXT MEETING	63
23.	CLOSURE	63

SHIRE OF BUSSELTON**MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON WEDNESDAY, 14 OCTOBER 2009 AT 5:30 PM**

The Presiding Member opened the meeting at 5.42 p.m.

1. ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE

Presiding Member:	Cr Wes Hartley	Shire President
Members:	Cr Bethwyn Hastie Cr David Binks Cr Ian Stubbs Cr Anne Ryan Cr Tom Tuffin Cr Jackie Emery Cr Bernie Masters Cr Bev Clarke Cr Don Hanran-Smith Cr David Reid	
Officers:	Mr Matthew Smith Mr Nigel Bancroft Mr Oliver Darby Ms Cathryn Hutton Mr Paul Martin Miss Lynley Rich	Acting Chief Executive Officer Director, Lifestyle Development Director, Community Infrastructure Executive Manager, Systems and Information Acting Director, Community and Organisational Development Governance Manager
Apologies:	Nil.	
Leave of Absence:	Cr Ross Bromell Cr Rob Underdown	
Media:	"Busselton-Dunsborough Times" "Busselton-Dunsborough Mail"	
Public:	17	

2. OPENING PRAYER

The Opening Prayer was delivered by Captain Alison Footer of the Busselton Salvation Army.

3. PUBLIC QUESTION TIME

Nil.

4. SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

- 4.1** At the Council meeting on 23 September 2009, Ellen Clayton referred to the South West Regional Airport Study of February 2009, specifically Page 84, which stated 2008 Busselton Airpark Proposal, Flight Training Centre, 120 Room Resort. Mrs Clayton asked if she could be told about the proposal and the Shire's involvement, with details of any decisions and negotiations to be included.

The Director, Community Infrastructure advised that the Shire has received a proposal. The proponents have asked for that proposal to be confidential at this stage. The proposal will be presented to Council for its consideration.

- 4.2** At the Council meeting on 23 September 2009, Frank Ketjen asked if Point Piquet had been earmarked as a fishing sanctuary.

The Director, Community Infrastructure advised that a marine park management plan had been drafted by the Department of Environment and Conservation, which included pockets of fishing sanctuary areas. I cannot confirm if Point Piquet generally is one of those as the draft has not been endorsed for distribution.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. CONFIRMATION OF MINUTES

- 6.1** Minutes of an Ordinary Meeting of the Council held on 23 September 2009.

C0910/341 Moved Councillor Reid, seconded Councillor Hastie:

That the minutes of an Ordinary Council Meeting held at 5.30 p.m. on Wednesday, 23 September 2009, be confirmed as a true and correct record.

CARRIED 10/1
Dissenting Voter
Cr Anne Ryan

7. ANNOUNCEMENTS by the Presiding Member without discussion

The Presiding Member announced that this agenda item would be moved to near the end of the meeting to allow retiring Councillors to give a final speech.

8. PETITIONS AND MEMORIALS

Nil.

9. DECLARATION OF DUE CONSIDERATION

The Presiding Member requested Councillors to acknowledge, in accordance with Clause 8.1 of the Standing Orders, that they have given due consideration to the matters contained within the Agenda.

Declared Due Consideration	No Declaration
Councillor Wes Hartley	
Councillor Bethwyn Hastie	
Councillor David Binks	
Councillor Ian Stubbs	
Councillor Anne Ryan	
Councillor Tom Tuffin	
Councillor Jackie Emery	
Councillor Bernie Masters	
Councillor Bev Clarke	
Councillor Don Hanran-Smith	
Councillor David Reid	

10. DECLARATIONS OF INTERESTS

10.1

DECLARATION OF INTEREST	
Name / Position	Councillor Bev Clarke
Item No. / Subject	Item 13.6, Local Planning Policy Review
Type of Interest	Financial Interest

10.2

DECLARATION OF INTEREST	
Name / Position	Councillor Bernie Masters
Item No. / Subject	Item 14.1, List of Accounts Paid
Type of Interest	Financial Interest

10.3

DECLARATION OF INTEREST	
Name / Position	Councillor Bernie Masters
Item No. / Subject	Item 16.3, Small Local Projects Fund 2009-10
Type of Interest	Interest Affecting Impartiality

10.4

DECLARATION OF INTEREST	
Name / Position	Councillor David Reid
Item No. / Subject	Item 16.4, Busselton Jetty Agreements
Type of Interest	Interest Affecting Impartiality

11. PRESENTATIONS BY PARTIES WITH AN INTEREST

- 11.1 Ms Jesca Maas addressed the Council in accordance with Section 9 of the Standing Orders as a party with an interest in Item 18.4, Yallingup Surf Film Festival. Ms Maas, representing the Festival, was in agreement with the proposed notice of motion.
- 11.2 Mr Butch Sharpe addressed the Council in accordance with Section 9 of the Standing Orders as a party with an interest in Item 18.1, Council Policy 240 – Reserves Vegetation Protection. Mr Sharpe, representing a group of landowners in front of whose land a sign has been erected under the policy, was in agreement with the proposed notice of motion.

12. BUSINESS FROM PREVIOUS MEETING**12.1 DONATION OF FEE – HIRE OF CHURCHILL PARK HALL**

NoM NO: 09/10: 10

Councillor Anne Ryan had previously given notice of her intention to move the following motion at the 23 September Council Meeting. As she was not in attendance at that meeting it was not able to be moved and was therefore introduced as Business from Previous Meeting.

COUNCIL DECISION

C0910/342 Moved Councillor Ryan, seconded Councillor Masters:

That the Shire donates all fees raised from the hire of the Churchill Park Hall on the night of Friday, 16 October 2009, to the account of Mike and Ceri Drummond to add to the fundraising and donations by Shire employees to assist the Drummonds in their time of need.

CARRIED 11/0

EN BLOC COUNCIL RESOLUTION

At this juncture Items 15.1, 16.2, 16.4 and 16.6 were considered in accordance with Clause 11.1 of the Standing Orders via an En Bloc resolution of Council.

C0909/343 Moved Councillor Binks, seconded Councillor Hastie:

That the Officer Recommendations for Items 13.3, 13.4, 13.5, 14.2 and 16.1 be adopted.

CARRIED 11/0

13.3 DRAFT SCHEME AMENDMENT NO. 135: PROPOSED REZONING OF LOT 3 BROADHURST ROAD, METRICUP FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION' (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)

SUBJECT INDEX:	Town Planning Scheme Amendments
APPLICATION NUMBER:	10474AMD
STRATEGIC INITIATIVE:	4.3.1 Implement Environmental Strategy
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	28 October 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	The draft amendment would rezone Lot 3 Broadhurst Road, Metricup from 'Agriculture' to 'Bushland Protection'. The draft Development Guide Plan would facilitate the subdivision of the land into two lots.
LOT SIZE:	39.96 hectares
ZONE:	Agriculture
POLICIES:	1. Biodiversity Incentive Strategy 2. Local Rural Planning Strategy 3. Planning for Bushfire Protection
ATTACHMENT(S):	A. Location Plan B. Draft Development Guide Plan C. Draft Fire Management Plan D. Schedule of Submissions

PRÉCIS

On 10 December 2008 the Council resolved (CO812/368) to initiate draft Amendment No. 135 to the Scheme to rezone Lot 3 Broadhurst Road, Metricup from 'Agriculture' to 'Bushland Protection'. A draft Development Guide Plan (DGP) was also adopted for community consultation, which proposes two bushland protection lots.

The rezoning would facilitate the subdivision of the subject land in accordance with the Shire's *Biodiversity Incentive Strategy* (BIS) and policies of the Bushland Protection zone, pursuant to the Scheme.

Amendment No. 135 was advertised for 42 days and one objection was received from the Department of Mines and Petroleum on the basis that a conservation covenant over the remnant vegetation would deny the landowner the right to conduct, permit or consent to any investigation or exploration for minerals and other resources on their land.

Given the conservation values of the remnant vegetation and the consistency of the proposal with the planning framework, it is recommended that the Council adopts draft Amendment No. 135 and the draft DGP for final approval.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/344 Councillor Binks, Councillor Hastie (En Bloc):

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005*, adopt draft Amendment No. 135 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval for the purposes of rezoning Lot 3 Broadhurst Road, Metricup from Agriculture to Bushland Protection.
2. That the Council adopt for final approval the draft Development Guide Plan for Lot 3 Broadhurst Road (dated 24 October 2008), pursuant to clause 25 of the Scheme, subject to the addition of the following condition:

“the new lot boundary to be demarcated with bollards or other DEC approved markers to avoid additional clearing of vegetation.”
3. That the Council endorse the Schedule of Submissions prepared in response to the community consultation undertaken in relation to Amendment No. 135 and the draft Development Guide Plan.
4. That the Council refer Amendment No. 135 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the Town Planning Regulations 1967, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0
EN BLOC

13.4 PETITION REPORT - PETITION OPPOSING THE DEVELOPMENT GUIDE PLAN FOR AGED PERSONS HOUSING ON LOT 29 AND 30 WILLIAM DRIVE, BROADWATER

SUBJECT INDEX:	Land Use and Planning Control: petitions. -
APPLICATION NUMBER:	SP09/0002 –CO908/271
STRATEGIC INITIATIVE:	2.1.3 Work with developers to ensure community sensitive townsites and neighbourhoods layouts and functionality
BUSINESS UNIT:	Strategic Planning
SERVICE:	Strategic Land Use and Sustainability Planning
DATE OF COMPLETION:	21 October 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Petition opposing the proposed Draft Development Guide Plan for 137 Aged Persons Dwellings on Lot 29 and 30 William Drive, Broadwater
LOT SIZE:	8.5 ha – Development Area 3.0 ha
ZONE:	Special Purpose
POLICIES:	Nil
ATTACHMENT(S):	A. Petition

PRÉCIS

A petition was received at the Council meeting of 12 August 2009 objecting to the draft DGP for Lots 29 and 30 William Drive and referred to staff for a report back to the Council.

The development guide plan (DGP) was recommended for advertising, however, the application was cancelled prior to the Council making a decision. The Council resolved to note the cancellation of the application and provided direction for the preparation of a future DGP.

It is recommended that the report be noted.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/345 Councillor Binks, Councillor Hastie (En Bloc):

That this report be noted as meeting the requirement of resolution C0908/271 and that advice be provided to the applicant for the Development Guide Plan on the content of the petition.

CARRIED 11/0
EN BLOC

13.5 DRAFT (REVISED) HERITAGE CONSERVATION POLICY & PROPOSED SCHEME AMENDMENT - ADOPTION FOR FINAL APPROVAL

SUBJECT INDEX:	Local Planning Policies & Town Planning Schemes and Amendments:
APPLICATION NUMBER:	853/6/6/21Pt139 & PCY47
STRATEGIC INITIATIVE:	2.4 Review Town Planning to reflect emerging diversity whilst retaining identity and character.
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	November 2009
VOTING REQUIREMENT:	Simple
PROPOSAL:	Draft (Revised) Heritage Conservation Policy & Proposed Scheme Amendment – Adoption for Final Approval
LOT SIZE:	N/A
ZONE:	N/A
POLICIES:	<ol style="list-style-type: none"> 1. <i>State Planning Policy 3.5 'Historic Heritage Conservation' (2007)</i> 2. <i>The Model Scheme Text as set out in Appendix B of the Town Planning Regulations 1967</i> 3. <i>Shire of Busselton Municipal Heritage Inventory</i>
ATTACHMENT(S):	<ol style="list-style-type: none"> A. Draft revised Policy B. Draft revised Scheme Amendment provisions. C. Schedule of submissions in relation to the revised policy. D. Schedule of submissions in relation to the draft Scheme amendment.

PRÉCIS

This report seeks the Council's adoption for final approval of the draft (revised) *Heritage Conservation Policy* pursuant to Clause 103 of District Town Planning Scheme No. 20 ('the Scheme'). The Council is also requested to adopt for final approval an Amendment to the heritage provisions set out in clauses 36 as well as a minor modification to clause 16 of the Scheme, to facilitate implementation of the policy.

The draft revised *Heritage Conservation Policy* (Attachment A) has been prepared to assist and guide the Shire and landowners in achieving the conservation of significant heritage places and areas, and to assist the Shire in meeting its responsibilities pursuant to the *Heritage of Western Australia Act 1990*. The revised Policy also seeks to apply the development control principles set out in *State Planning Policy No. 3.5 Historic Heritage Conservation (SPP 3.5)*.

The draft amendment (Attachment B) proposes to replace some of the existing heritage provisions [clauses 36(1) to 36(10)] with provisions taken from Part 7 of the Model Scheme Text (MST) (clauses 7.1 to 7.4). It is proposed to delete clause 36(3) of the Scheme which refers to the *Municipal Heritage Inventory* (MHI) as the Heritage List and insert a clause specifying that the Heritage List means the MHI until such time as the Council has established a Heritage List. It is further proposed to insert provisions that set out the process for including places on the Heritage List, taken from the MST.

The revised policy and amendment are considered to provide improved certainty to landowners and the community about the planning processes for heritage identification and protection within the Shire of Busselton, and are consistent with SPP 3.5.

The revised policy and draft amendment were advertised for a period of 42 days. Only one submission was received, which was from the Heritage Council of WA. A number of minor changes are recommended as a result of the comment received. It is recommended that the draft revised policy and draft Scheme amendment be adopted for final approval as proposed.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/346 Councillor Binks, Councillor Hastie (En Bloc):

- A. That the Council adopt, for final approval, the draft revised *Heritage Conservation Policy* dated October 2009 at Attachment A pursuant to Clause 103 of the Shire of Busselton District Town Planning Scheme No. 20.
- B. That the Council, in pursuance of Part V of the *Planning and Development Act 2005*, adopt draft Amendment No. 139 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval, which proposes the following:
 1. Amending clause 36 of the Scheme to reword the title as follows:

'36. HERITAGE PROTECTION'
 2. Replacing clauses 36(1) – 36(10) with new clauses 36(1) – 36(15) as follows:

'Heritage List'

 - (1) *The Council is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation*

under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

- (2) Until such time as the Council has established a Heritage List, the Heritage List means the municipal inventory prepared by Council pursuant to section 45 of the Heritage of Western Australia Act 1990.*
- (3) In the preparation of the Heritage List the Council is to-*

 - (a) have regard to the municipal inventory prepared by the local government under section 45 of the Heritage of Western Australia Act 1990; and*
 - (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.*
- (4) In considering a proposal to include a place on the Heritage List the Council is to-*

 - (a) notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 36(1) and the reasons for the proposed entry;*
 - (b) invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;*
 - (c) carry out such other consultations as it thinks fit; and*
 - (d) consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.*
- (5) Where a place is included on the Heritage List, the Council is to give notice of the inclusion to the Heritage Council of Western Australia and to the owner and occupier of the place.*
- (6) The Council is to keep a copy of the Heritage List with the Scheme documents for public inspection.*
- (7) The Council may remove or modify the entry of a place on the Heritage List by following the procedures set out in clause 36(4).*

Note: 1. The purpose and intent of the heritage provisions are-

- (a) *to facilitate the conservation of places of heritage value; and*
 - (b) *to ensure as far as possible that development occurs with due regard to heritage values.*
2. *“Place” has the same meaning as it has in the Heritage of Western Australia Act 1990.*

Designation of a Heritage Area

- (8) *If, in the opinion of the Council, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area, the Council may, by resolution, designate that area as a heritage area.*
- (9) *The Council is to-*
- (a) *adopt for each heritage area a Local Planning Policy, which is to comprise-*
 - (i) *a map showing the boundaries of the heritage area;*
 - (ii) *a record of places of heritage significance; and*
 - (iii) *objectives and guidelines for the conservation of the heritage area; and*
 - (b) *keep a copy of the Local Planning Policy for any designated heritage area with the Scheme documents for public inspection.*
- (10) *If the Council proposes to designate an area as a heritage area, the local government is to-*
- (a) *notify in writing each owner of land affected by the proposed designation and provide the owner with a copy of the proposed Local Planning Policy for the heritage area;*
 - (b) *advertise the proposal by-*
 - (i) *publishing a notice of the proposed designation once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;*
 - (ii) *erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation;*

Heritage List without first having applied for and obtained the planning approval of the Council. For the purposes of this clause, the term "development" shall have the meaning as set out in the Planning and Development Act but shall also include, in relation to any place entered on the Heritage List or contained within a heritage area, any act or thing likely to cause significant change to the external character of the building, structure or place.

(17) In dealing with any matters which may affect a heritage area or individual entry on the Heritage List, including any application for planning approval, Council shall have regard to any Local Planning Policy of the Council.

(18) The Council may, in considering any application that may affect a heritage area or individual entry on the Heritage List, solicit the views of the Heritage local government of Western Australia and any other relevant bodies, and take those views into account when determining the application.'

4. Replacing clause 36(16) with a new clause 36(19) as follows:

'Formalities of Application

(19) In addition to the application formalities prescribed in sub-clauses (16) to (18) above, formalities or requirements associated with applications for planning approval contained in any other provision of the Scheme, the Council may require an applicant for planning approval, where the proposed development may affect a place of cultural heritage significance or a heritage area, to provide one or more of the following to assist the Council in its determination of the application:

(a) Street, rear and side elevations as required drawn to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application and drawn as one continuous elevation.

(b) In addition to a site plan, a plan of the proposed development site showing existing and proposed ground levels over the whole of the land the subject of the application, and the location, type and height of all existing structures and of all existing vegetation exceeding 2 metres in height, and marking any existing structures and vegetation proposed to be

removed; such plan shall be drawn to the same scale as the site plan.

- (c) A detailed schedule of all finishes, including materials and colours of the proposed development and, unless the local government exempts the applicant from the requirement or any part of it, the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.*
- (d) An assessment of the likely impacts the proposal may have during the construction phase on the cultural heritage values of the heritage place or area, including structural, aesthetic and social impacts.*
- (e) Any other information which the Council indicates that it considers relevant.'*

5. Inserting new clauses 36(20) and 36(21) which read as follows:

'Heritage Agreements

(20) The Council may, in accordance with the Heritage of Western Australia Act 1990, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.

Note:1. A heritage agreement may include a covenant intended to run with the land relating to the development or use of the land or any part of the land.

- 2. Detailed provisions relating to heritage agreements are set out in the Heritage of Western Australia Act 1990.*

Heritage Assessment

(21) Despite any existing assessment on record, the Council may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List and may require a conservation plan be prepared. The heritage assessment and conservation plan is to determine the extent of the cultural heritage significance of the place and how the place is to be conserved.'

6. Renumbering clauses 36(17) – 36(19) as clauses 36(22) - 36(24).

7. Amending (b) of clause 16 as follows:

'the development is located in a Heritage Area designated under the Scheme.'

- C. That the Council endorse the Schedule of Submissions prepared in response to the public consultation undertaken in relation to Amendment No. 139.
- D. That the Council refer Amendment No. 139 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
- E. That the local planning policy only become operative following gazettal of the scheme amendment and the required notification of the adoption of the policy, in accordance with clause 103 of the Scheme.
- F. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the Town Planning Regulations 1967, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0
EN BLOC

14.2 FINANCIAL ACTIVITY STATEMENT - 31 AUGUST 2009

SUBJECT INDEX:	Financial Operations
STRATEGIC INITIATIVE:	5.1.3 Ensure regulatory requirements are met
BUSINESS UNIT:	Finance
SERVICE:	Financial management and control
DATE OF COMPLETION:	Not applicable
VOTING REQUIREMENT:	Simple majority
ATTACHMENT(S):	Financial Activity Statements to 31 August 2009

PRÉCIS

A local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire's financial performance in relation to its adopted budget. The report is to include details of budget estimates and financial performance against those estimates to the end of the month to which the statement relates, is to disclose any material variances identified as a result of the above, and is also required to detail the net current asset position for the reporting period.

This report has been compiled to fulfil the statutory reporting requirements of the Local Government Act and associated Regulations and also to provide the Council with an overview of the Shire's financial performance on a year to date basis for the period ending 31 August 2009.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/347 Councillor Binks, Councillor Hastie (En Bloc):

That the statutory financial reports for the period ending 31 August 2009 be received.

CARRIED 11/0
EN BLOC

16.1 REGIONAL ECONOMIC DEVELOPMENT STRATEGY

SUBJECT INDEX:	Economic Development
STRATEGIC INITIATIVE:	3.1 ORG KPI - Finalise Regional Economic Development Strategy
BUSINESS UNIT:	Economic Development
SERVICE:	Economic Development
DATE OF COMPLETION:	30 June 2014
VOTING REQUIREMENT:	Simple majority
ATTACHMENT(S):	<ol style="list-style-type: none">1. Working Paper 3 – Industry and Infrastructure Plans2. Working Paper 4 – Capes Region Cluster Model3. Working Paper 5 – Regional Economic Development Strategy4. Working Paper 6 – Regional Economic Development Program

PRÉCIS

This report presents the Council with the Capes Regional Economic Development Strategy (the Strategy). The Capes Regional Economic Development Program (the Program) forms part of the Strategy and is an action-orientated framework outlining the actions to be done over the coming years.

The Strategy is the result of the past two years of work with the Shire of Augusta Margaret River and presents:

- * a vision for economic development in the Capes region, supported by a series of strategies, objectives, detailed actions for implementation, and performance measures;
- * a framework to enable the cooperation of the two Shires to be proactive in attracting new investment and businesses, and in creating an environment which fosters the retention and growth of existing businesses;
- * a long-term framework for the achievement of the long-term goals and aspirations of the community;
- * a leverage of the competitive advantages of the Capes region to capitalise on identified growth opportunities and to address the challenges facing the region; and
- * an identification of the main concerns and constraints that will require resolution of contingency planning in the two Shires vision to achieve economic development.

This report is seeking the adoption of the Strategy and dissolution of the Reference Group. It is also proposed to regularly review the Strategy and Program via the proposed Capes Regional Organisation of Councils (CapeROC).

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/348 Councillor Binks, Councillor Hastie (En Bloc):

1. That the Council adopt the Capes Regional Economic Development Strategy including the three Missions which are:
 - a. growing existing business
 - b. attracting new business, and
 - c. supporting economic growth.
2. That the CEO enters into an Agreement with the Shire of August Margaret River to implement the Capes Regional Economic Development Strategy.
3. That the Corporate Plan Strategic Initiative 3.1 be amended to read: "Implement the Capes Regional Economic Development Program".
4. That the CEO report to the Council annually of the level of completion of the activities and tasks of the Capes Regional Economic Development Program.
5. That the CEO dissolves the Reference Group and formally thanks them for their contribution to the development of the Capes Regional Economic Development Strategy.

CARRIED 11/0
EN BLOC

ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 11.2 of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests, but that had not otherwise been identified for debate, were considered.

14.1 **LIST OF PAYMENTS - AUGUST 2009**

SUBJECT INDEX: Financial Operations
STRATEGIC INITIATIVE: 5.1.3 Ensure regulatory requirements are met
BUSINESS UNIT: Finance
SERVICE: Financial management and control
DATE OF COMPLETION: Not applicable
VOTING REQUIREMENT: Simple majority
ATTACHMENT(S): List of Payments Made - August 2009

DECLARATION OF INTEREST	
Name / Position	Councillor Bernie Masters
Item No. / Subject	Item 14.1, List of Payments - August 2009
Type of Interest	Financial Interest
Declaration	I have been a contractor / consultant to the Shire and the August list of payments includes the final payment made by the Shire to my consultancy business for work relating to the assessment of non-target impacts in the use of mosquito larvicide within the Vasse Wonnerup Wetlands.
Councillor Masters left the meeting at 6.07p.m.	

PRÉCIS

This report provides details of payments made from the Shires bank accounts for the month of August 2009, for noting by the Council and recording in the Council Minutes.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/349 Moved Councillor Hanran-Smith, seconded Councillor Binks:

That voucher numbers M093933 – M094248, EF004713 – EF004966, T006524 – T006535 and DD001174 – DD001188, together totalling \$6,887,834.94 be noted.

CARRIED 10/0

6.08pm At this time Councillor Masters returned to the meeting.

15.1 TENDER SELECTION CRITERIA - TEN 09/09 SUPPLY, DELIVERY AND CONSTRUCTION OF NEW PRODUCTION BORE FOR SIR STEWART BOVELL PARK

SUBJECT INDEX:	Tenders / Successful : All successful tenders 2D.
STRATEGIC INITIATIVE:	1.2.1 Support and facilitate leisure information and sporting activities.
BUSINESS UNIT:	Infrastructure Services
SERVICE:	Parks & Gardens.
DATE OF COMPLETION:	30 April 2010.
VOTING REQUIREMENT:	1. Simple majority is required for Officer Recommendation 1. 2. Absolute majority is required for Officer Recommendation 2.
ATTACHMENT(S):	Nil.

PRECIS

This report seeks approval from the Council for the adoption of the selection criteria in order to call for Tenders for Supply, Delivery and Construction of New Production Bore for Sir Stewart Bovell Park.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/350 Moved Councillor Clarke, seconded Councillor Hastie:

1. That the Council adopt the selection criteria and approve the calling of tenders for Tender TEN 09/09, Supply, Delivery and Construction of New Production Bore for Sir Stewart Bovell Park.

SELECTION CRITERIA

The Principal has adopted a best value for money approach to this Tender. The Contract will be awarded to a Sole Tenderer who best demonstrates the ability to provide quality goods or services at a competitive price. Tendered prices will be assessed using the average based scoring method, along with the following qualitative and compliance criteria to determine the most advantageous outcome to the Shire of Busselton. This means that, although price is considered, the Tender containing the lowest price will not necessarily be accepted, nor will the Tender ranking the highest on the qualitative criteria.

COMPLIANCE CRITERIA

These criteria will not be point scored. Each Tender will be assessed on a Yes/No basis as to whether the criterion is satisfactorily met. An assessment of "No" against any criterion may eliminate the Tender from consideration.

Description of Compliance Criteria	
(a) Compliance with the Specification contained in the Request.	Yes/No
(b) Compliance with the Conditions of Tendering in the Request.	Yes/No
(c) Compliance with the Request for Tender Closing Date.	Yes/No
(d) Compliance with and completion of the Price Schedule(s).	Yes/No

QUALITATIVE CRITERIA

In determining the most advantageous Tender, the Principal will score each Tenderer against the qualitative criteria. It is essential that Tenderers address each qualitative criterion. The Tenders will be used to select the chosen Tenderer, and failure to provide the specified information may result in elimination from the Tender evaluation process. The qualitative criteria for this Request are as follows:

Description of Qualitative Criteria	Weighting
<p>A. RELEVANT EXPERIENCE</p> <p>Describe your experience in completing/supplying similar requirements. Tenderers must, as a minimum, address the following information in an attachment and label it "Relevant Experience":</p> <ul style="list-style-type: none"> (a) Provide details of similar work; (b) Provide the scope of the Tenderer's involvement including details of outcomes; (c) Provide details of issues that arose during the project and how these were managed by the Tenderer; (d) Demonstrate sound judgement and discretion; and (e) Demonstrate competency and proven track record of achieving outcomes. 	10%
<p>B. ABILITY TO DELIVER SERVICES WITHIN THE STIPULATED TIME FRAME(S) - A brief written statement detailing the Tenderer's ability to supply the services in accordance with the Principal's requested timeframe(s).</p>	10%

PRICE CONSIDERATIONS

Criteria	Weighting
Tendered price	80%

Tender prices will be assessed using the average based scoring method contained in the WA Local Government Purchasing and Tender Guide. Unit Rate Prices along with related factors affecting the total cost to the Principal, including the Principal's contract management costs, may also be considered in assessing the best value for money outcome.

The average base scoring method will be used by applying the tendered rates to the estimated annual quantities of a representative mix of work, as determined by the Principal.

ABSOLUTE MAJORITY REQUIRED

2. That the Council delegate authority to the CEO to award Tender TEN 09/09 Supply, Delivery and Construction of New Production Bore for Sir Stewart Bovell Park, subject to the tender contract not exceeding \$350,000.

CARRIED 9/2By Absolute Majority
Dissenting VotersCr Ian Stubbs
Cr Anne Ryan

16.3 SMALL LOCAL PROJECTS FUND 2009/10 - NOS. 6-7

SUBJECT INDEX:	Sponsorship and Grant Applications
STRATEGIC INITIATIVE:	1.1.1 Encourage and Support Cultural Activities and Events
BUSINESS UNIT:	Finance
SERVICE:	Financial Management and Control
DATE OF COMPLETION:	Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	Letter from Busselton Chamber of Commerce in support of application

DECLARATION OF INTEREST	
Name / Position	Councillor Bernie Masters
Item No. / Subject	Item 16.3, Small Local Projects Fund 2009/10 - Nos 6-7
Type of Interest	Interest Affecting Impartiality
Declaration	With regard to the above item, I disclose that I have an association with the Geographe Catchment Council, the proposed beneficiary of a small local projects grant, of which I am a board member. I declare that I will consider the item solely on its merits and vote or act accordingly.

PRÉCIS

The following allocations of funds for expenditure from the Small Local Projects Budget allocation have been proposed. Funds are available and expenditure is permissible under the Local Government Act 1995.

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
6.	Cr Hastie	\$500	Busselton Chamber of Commerce	2009 Photographic Competition
	Cr Hartley	\$500		
	Cr Clarke	\$200		
7.	Cr Masters	\$733.50	Geographe Catchment Council and Cape to Cape Catchment Group	Dieback injection kit comprising two drill bits, one container of chemical, and 50 syringes to be shared between two NRM groups

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/351 Moved Councillor Hanran-Smith, seconded Councillor Clarke:

That the following amounts be allocated from the Council's Small Local Projects Budget Allocation:

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
6.	Cr Hastie	\$500	Busselton Chamber of Commerce	2009 Photographic Competition
	Cr Hartley	\$500		
	Cr Clarke	\$200		
7.	Cr Masters	\$733.50	Geographe Catchment Council and Cape to Cape Catchment Group	Dieback injection kit comprising two drill bits, one container of chemical, and 50 syringes to be shared between two NRM groups

CARRIED 11/0

13. LIFESTYLE DEVELOPMENT REPORT

13.1 DRAFT SCHEME AMENDMENT NO. 138: PROPOSED REZONING OF LOT 6 CHAMBERS ROAD, CARBUNUP RIVER FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION' (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)

SUBJECT INDEX:	Town Planning Scheme Amendments
APPLICATION NUMBER:	15188AMD
STRATEGIC INITIATIVE:	4.3.1 Implement Environmental Strategy
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	28/09/2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	The proposed amendment would rezone Lot 6 Chambers Road, Carbunup River from 'Agriculture' to 'Bushland Protection'. The draft Development Guide Plan would facilitate the subdivision of the land into two lots.
LOT SIZE:	54 hectares
ZONE:	'Agriculture'
POLICIES:	Biodiversity Incentive Strategy Local Rural Planning Strategy Leeuwin Naturaliste Ridge State Planning Policy Planning for Bushfire Protection
ATTACHMENT(S):	A. Location Plan B. Draft Development Guide Plan C. Draft Fire Management Plan D. Schedule of Submissions

PRÉCIS

On 26 November 2008 the Council resolved (CO811/347) to initiate draft Amendment No. 138 to the Scheme to rezone Lot 6 Chambers Road, Carbunup River from 'Agriculture' to 'Bushland Protection'. A draft Development Guide Plan (DGP) was also adopted for community consultation, which proposes two bushland protection lots.

The rezoning would facilitate the subdivision of the subject land in accordance with the Shire's *Biodiversity Incentive Strategy* (BIS) and policies of the 'Bushland Protection' zone, pursuant to the Scheme.

Amendment No. 138 was advertised for 42 days and one objection was received from the Department of Mines and Petroleum on the basis that the proposal has the potential to sterilise Crown minerals.

Given the conservation values of the remnant vegetation and the consistency of the proposal with the planning framework, it is recommended

that the Council adopt draft Amendment No. 138 and the draft DGP for final approval.

OFFICER RECOMMENDATION

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005*, adopt draft Amendment No. 138 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval for the purposes of rezoning Lot 6 Chambers Road, Carburnup River from 'Agriculture' to 'Bushland Protection'.
2. That the Council adopt for final approval the draft Development Guide Plan for Lot 6 Chambers Road, Carburnup River (dated 4 September 2008), pursuant to clause 25 of the Scheme.
3. That the Council endorse the Schedule of Submissions prepared in response to the community consultation undertaken in relation to Amendment No. 138 and the draft Development Guide Plan.
4. That the Council refer Amendment No. 138 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the *Town Planning Regulations 1967*, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

Note: Officers had provided a revised recommendation on the basis that the proposed conservation covenant areas shown on the draft DGP contain degraded land and land identified for rehabilitation works. Referencing the DGP with the requirement for the preparation and implementation of a revegetation plan for these areas will ensure that the rehabilitation of these areas is undertaken.

COUNCIL DECISION / REVISED OFFICER RECOMMENDATION

C0910/352 Moved Councillor Masters, seconded Councillor Hanran-Smith:

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005*, adopt draft Amendment No. 138 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval for the purposes of rezoning Lot 6 Chambers Road, Carburnup River from 'Agriculture' to 'Bushland Protection'.

2. That the Council adopt for final approval the draft Development Guide Plan for Lot 6 Chambers Road, Carburnup River (dated 4 September 2008), pursuant to clause 25 of the Scheme, subject to the addition of the following condition:

For proposed Lots 1 and 2, a condition of subdivision will require the preparation and implementation of a revegetation plan for degraded land and land identified for rehabilitation within the areas to be the subject of a conservation covenant. The revegetation plan is to be prepared and implemented to the satisfaction of the Shire of Busselton and Department of Environment and Conservation, prior to clearance of subdivision.

3. That the Council endorse the Schedule of Submissions prepared in response to the community consultation undertaken in relation to Amendment No. 138 and the draft Development Guide Plan.
4. That the Council refer Amendment No. 138 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the *Town Planning Regulations 1967*, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0

13.2 BUSSELTON JETTY HERITAGE INTERPRETATION AND DESIGN PLAN -
SELECTION AND COMMISSIONING PROCESS FOR INTERPRETIVE
ARTWORKS

SUBJECT INDEX:	Busselton Jetty and Foreshore Revitalisation
APPLICATION NUMBER:	N/A
STRATEGIC INITIATIVE:	1.1.2 Build and recognise the value of our cultural heritage
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Cultural Planning
DATE OF COMPLETION:	February 2010
VOTING REQUIREMENT:	Simple Majority for Recommendations 1-6, Absolute Majority for Recommendation 7
PROPOSAL:	Busselton Jetty Heritage Interpretation and Design Plan - Selection and commissioning process for interpretive artworks
LOT SIZE:	N/A
ZONE:	N/A
POLICIES:	N/A
ATTACHMENT(S):	Busselton Jetty Heritage Interpretation and Design Plan (issued separately)

PRÉCIS

In response to a previous Council resolution (CO904/102), this report presents the Busselton Jetty Heritage Interpretation and Design Plan to the Council for consideration of items for expenditure of the Percent for Art budget allocation associated with the Jetty re-construction. The report recommends a two stage tender process for the commissioning of interpretive artworks on the Busselton Jetty.

OFFICER RECOMMENDATION

1. That the Council endorse the Busselton Jetty Heritage Interpretation and Design Plan as the guiding document for progression of commissioning of the interpretive artworks and future interpretation, subject to confirmation of the satisfaction of Development Condition 9 by the Heritage Council of WA;
2. That the Council authorise the CEO to form a Selection Panel for EOI TEN 10/09 comprising:

Heritage Council of Western Australia
Busselton Historical Society
Artsource
Busselton Shire Council (Councillor)
Shire of Busselton (Project Manager)
Busselton Jetty Environmental and Conservation Association Inc
Palassis Architects

3. That the Councillor be endorsed as the Council representative on the Selection Panel.
4. That the Council adopt a two stage tender process and approve the calling of Expressions of Interest for EOI TEN 10/09 - Supply and Delivery of Heritage Interpretive Artworks for the Busselton Jetty, with the following selection criteria adopted for the EOI phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Expression of Interest.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Expression of Interest.	Yes / No
(c)	Compliance with the Expression of Interest Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting
(a)	Personnel and Qualifications	30%
(b)	Relevant Experience	40%
(c)	Methodology	30%

5. That *Policy 049/1 – Regional Price Preference* not be applied to EOI TEN 10/09.
6. That the CEO provides the Council with a report that recommends the preferred tenderer, based on recommendations of the Selection Panel, by February 2010 in order to consider award of the tender.

ABSOLUTE MAJORITY REQUIRED

7. That the Council delegate authority to the CEO to assess EOI submissions, establish a short-list of pre qualified tenderers on the basis of recommendations of the Selection Panel, as defined in Recommendation 1, and invite tenders for Tender EOI TEN 10/09, with the following selection criteria adopted for the Tender phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Tender.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Tender.	Yes / No
(c)	Compliance with the Tender Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting

(a) Description of Works (concept designs)	40%
(b) Methodology	30%
(c) Timeframe for delivery	30%

Note: Officers had provided an alternative recommendation to recognise that there will be a new group of Councillors following the election on Saturday, October 17 so removed the identification of a Councillor to be on the Selection Panel until after that time. Also, the original Officer Recommendation had a clause relating to not applying the Regional Price Preference policy. This has been removed, as while this policy will have limited application to a tender that is not going to be assessed against price criteria, there would be no real impact with leaving the policy to apply in the unlikely circumstance two otherwise identical tenders needed to be separated.

MOTION / REVISED OFFICER RECOMMENDATION

Moved Councillor Hastie, seconded Councillor Hanran-Smith:

1. That the Council endorse the Busselton Jetty Heritage Interpretation and Design Plan as the guiding document for progression of commissioning of the interpretive artworks and future interpretation, subject to confirmation of the satisfaction of Development Condition 9 by the Heritage Council of WA;
2. That the Council authorise the CEO to form a Selection Panel for EOI TEN 10/09 comprising:

Heritage Council of Western Australia
Busselton Historical Society
Artsource
Busselton Shire Council (Councillor) – to be appointed by the Council at its Special Meeting on 26 October 2009
Shire of Busselton (Project Manager)
Busselton Jetty Environmental and Conservation Association Inc
Palassis Architects
3. That the Council adopt a two stage tender process and approve the calling of Expressions of Interest for EOI TEN 10/09 - Supply and Delivery of Heritage Interpretive Artworks for the Busselton Jetty, with the following selection criteria adopted for the EOI phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Expression of Interest.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Expression of Interest.	Yes / No
(c)	Compliance with the Expression of Interest Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting
(a)	Personnel and Qualifications	30%
(b)	Relevant Experience	40%
(c)	Methodology	30%

4. That the CEO provides the Council with a report that recommends the preferred tenderer, based on recommendations of the Selection Panel, by February 2010 in order to consider award of the tender.

ABSOLUTE MAJORITY REQUIRED

5. That the Council delegate authority to the CEO to assess EOI submissions, establish a short-list of pre qualified tenderers on the basis of recommendations of the Selection Panel, as defined in Recommendation 1, and invite tenders for Tender EOI TEN 10/09, with the following selection criteria adopted for the Tender phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Tender.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Tender.	Yes / No
(c)	Compliance with the Tender Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting
(a)	Description of Works (concept designs)	40%
(b)	Methodology	30%
(c)	Timeframe for delivery	30%

AMENDMENT MOVED

Moved Councillor Masters, seconded Councillor Stubbs:

That the motion be amended by identifying that the representative from Palassis Architects will be on the selection panel in an advisory capacity only and will not have voting rights.

LOST 5/6**Dissenting Voters**

Cr Wes Hartley
Cr Bethwyn Hastie
Cr David Binks
Cr Tom Tuffin
Cr Bev Clarke
Cr Don Hanran-Smith

COUNCIL DECISION / REVISED OFFICER RECOMMENDATION

C0910/353 Moved Councillor Hastie, seconded Councillor Hanran-Smith:

1. That the Council endorse the Busselton Jetty Heritage Interpretation and Design Plan as the guiding document for progression of commissioning of the interpretive artworks and future interpretation, subject to confirmation of the satisfaction of Development Condition 9 by the Heritage Council of WA;
2. That the Council authorise the CEO to form a Selection Panel for EOI TEN 10/09 comprising:

Heritage Council of Western Australia
Busselton Historical Society
Artsource
Busselton Shire Council (Councillor) – to be appointed by the Council at its Special Meeting on 26 October 2009
Shire of Busselton (Project Manager)
Busselton Jetty Environmental and Conservation Association Inc
Palassis Architects
3. That the Council adopt a two stage tender process and approve the calling of Expressions of Interest for EOI TEN 10/09 - Supply and Delivery of Heritage Interpretive Artworks for the Busselton Jetty, with the following selection criteria adopted for the EOI phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Expression of Interest.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Expression of Interest.	Yes / No
(c)	Compliance with the Expression of Interest Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting
(a)	Personnel and Qualifications	30%
(b)	Relevant Experience	40%
(c)	Methodology	30%

4. That the CEO provides the Council with a report that recommends the preferred tenderer, based on recommendations of the Selection Panel, by February 2010 in order to consider award of the tender.

ABSOLUTE MAJORITY REQUIRED

5. That the Council delegate authority to the CEO to assess EOI submissions, establish a short-list of pre qualified tenderers on the basis of recommendations of the Selection Panel, as defined in Recommendation 1, and invite tenders for Tender EOI TEN 10/09, with the following selection criteria adopted for the Tender phase:

Description of Compliance Criteria		
(a)	Compliance with the Specification contained in this Tender.	Yes / No
(b)	Compliance with the Conditions of Responding contained in this Tender.	Yes / No
(c)	Compliance with the Tender Closing Date and Time.	Yes / No
Description of Qualitative Criteria		Weighting
(a)	Description of Works (concept designs)	40%
(b)	Methodology	30%
(c)	Timeframe for delivery	30%

CARRIED 11/0
By Absolute Majority

13.3 DRAFT SCHEME AMENDMENT NO. 135: PROPOSED REZONING OF LOT 3 BROADHURST ROAD, METRICUP FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION' (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)

This item was considered earlier in the meeting as part of the En Bloc resolution of Council ([C0910/344, page 5](#)).

13.4 PETITION REPORT - PETITION OPPOSING THE DEVELOPMENT GUIDE PLAN FOR AGED PERSONS HOUSING ON LOT 29 AND 30 WILLIAM DRIVE, BROADWATER

This item was considered earlier in the meeting as part of the En Bloc resolution of Council ([C0910/345, page 7](#)).

13.5 DRAFT (REVISED) HERITAGE CONSERVATION POLICY & PROPOSED SCHEME AMENDMENT - ADOPTION FOR FINAL APPROVAL

This item was considered earlier in the meeting as part of the En Bloc resolution of Council ([C0910/346, page 8](#)).

13.6 LOCAL PLANNING POLICY REVIEW - PROPOSED RESTRUCTURING OF THE LOCAL PLANNING POLICY FRAMEWORK

SUBJECT INDEX:	Local Planning Policies
APPLICATION NUMBER:	N/A
STRATEGIC INITIATIVE:	2.4.5 Develop a New Town Planning Scheme to Provide for the Lifestyle We Cherish and Protect
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	18 November, 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	<p>Restructuring of local planning policies adopted under Schedule 10 of District Town Planning Scheme No 20 (the Scheme) for community consultation.</p> <p>Adopting an amended/ revised Busselton Heritage and Special Character Area Policy for community consultation.</p> <p>Rescinding various obsolete policies.</p> <p>Adopting a minor modification to the Residential Design Guidelines and Percent for Art policy to assist the implementation of these policies.</p> <p>Adopting a new policy initiative - Food and Wine Sales Policy for community consultation.</p> <p>Various minor amendments to assist the implementation of existing policies.</p> <p>Adopting the draft amended and new policies as policy provisions within a consolidated set of 9 local planning policies.</p>
LOT SIZE:	N/A
ZONE:	Various Zones
POLICIES:	All Local Planning Policies
ATTACHMENT(S):	<p>A. Chart of proposed Policy Framework.</p> <p>B. Draft integrated local planning policy manual. (due to its size this Attachment can be uploaded from the Councillor's portal.)</p> <p>Hard copies of specific revised policies are available on request.</p>

DECLARATION OF INTEREST	
Name / Position	Councillor Bev Clarke
Item No. / Subject	Item 13.6 – Local Planning Policy Review – Proposed Restructuring of the Local Planning Policy Framework
Type of Interest	Financial Interest
Declaration	My family owns a rural enterprise business that could be affected by the food and wine sales promotion.
Councillor Clarke left the meeting at 6.20p.m.	

PRÉCIS

This report recommends reformatting the local planning policy framework to improve the coherence, functionality and efficiency of the policies in anticipation of a revised Town Planning Scheme and the further progressive consolidation and review of the local planning policy framework.

As they are no longer necessary or have been superseded by the Scheme and/or other provisions the report recommends that six (6) policies be rescinded; the Viticulture Subdivision Policy, the Dams Policy, Performance Standards - Abbey Green Housing and Development, Floodplain Development and Management Policy, Residential Design and Landscaping Guidelines on Controlled Access Highways, and the Town Centre Development Policy.

The reformatting proposes a number of minor amendments to a range of policies to improve implementation.

The revised policy format also includes a draft revised Busselton Heritage and Special Character Area Policy (now renamed the Adelaide Street Special Character Area Provisions) and a new policy initiative, the draft 'Food and Wine Sales Provisions' as part of a consolidated Rural Area Land Use and Development Policy. This draft provides for small ancillary restaurants and cafés, many of which currently exist, to operate in limited circumstances in the rural areas. If the draft attracts significant objections during the advertising period, then the matter may be reported to Council separately to avoid delaying the consideration of the other policy framework changes.

Due to the complexity and extent of the proposed changes, the revised Extractive Industry policy (which involved substantial modifications to the policy) were dealt with in a separate report to Council on the 10 June 2009.

All changes to the framework, including the rescission of certain policies, are to be advertised to the community for consultation purposes prior to final approval and adoption.

OFFICER RECOMMENDATION

1. That Council adopts the draft integrated Shire of Busselton Local Planning Policy Manual and Policy Framework at Attachments A and B to this report for community consultation pursuant to Clause 103 of District Town Planning Scheme No. 20 for the purpose of:
 - * Amending the Community Facilities Implementation Policy, the Percent for Art Policy, the Commonage Implementation Policy, the Mosquito Contribution Policy and Car parking Policy to index the contribution rates in these policies from Consumer Price Index (CPI) to General Construction Index (GCI);
 - * Defining the eligible uses; and removing delegation provisions for Percent for Art Policy; and incorporate a review of the Percent for Art and Community Facilities Implementation Policy every 5 years rather than annually;
 - * Deleting reference to Terms and Definitions from all policies where these conflicts with the Scheme, or these terms are replaced by reference to definitions in other more relevant source documents;
 - * Adopting local planning policy provisions for the Dunsborough Lakes Service Industry Park;
 - * Amending the Rural Tourist Accommodation Policy to align with the rural strata provisions of the Local Rural Planning Strategy (2006);
 - * Adopting draft reviewed existing Policies – Busselton Heritage and Special Character Area Policies (renamed Adelaide Street Special Character Area Provisions), and the Residential Design Guidelines Policy (renamed Residential Development Policy.)
 - * Introducing a new Policy - Food and Wine Sales provisions;
 - * Rescinding the following policies – Residential Design and Landscaping Guidelines on Controlled Access Roads - Including Entry Statements Requirements Policy, Viticulture Subdivision Policy, Dams Policy, Abbey Green Performance Standards, Floodplain Development and Management Policy Residential Design and Landscaping Guidelines on Controlled Access Highways and the Town Centre Development Policy;
 - * Making various minor amendments to current policies to improve their implementation;
 - * Adopting the amended policies and draft new policy as policy provisions within a consolidated and reformatted framework of 9 policies;

- * Developing a more coherent and logical approach to the provision of a local planning policy framework.

Note: Councillor Anne Ryan had provided an alternative motion for this item in order that it be deferred for a workshop following the election.

MOTION

Moved Councillor Ryan, seconded Councillor Emery:

That this item be deferred pending a briefing session of all new councillors by the Director of Planning (or his delegate) prior to the matter being adopted by the Council of the day for advertising purposes.

FORESHADOWED MOTION

During debate on this matter Councillor Hanran-Smith foreshadowed his intention to move the Officer Recommendation.

AMENDMENT

Moved Councillor Stubbs, seconded Councillor Masters:

That the motion be amended by deleting the word "new".

CARRIED 7/3

Dissenting Voters

Cr Wes Hartley

Cr Bethwyn Hastie

Cr Don Hanran-Smith

MOTION PUT

Moved Councillor Ryan, seconded Councillor Emery:

That this item be deferred pending a briefing session of all councillors by the Director of Planning (or his delegate) prior to the matter being adopted by the Council of the day for advertising purposes.

LOST 5/5

On the casting vote

Dissenting Voters

Cr Wes Hartley

Cr Bethwyn Hastie

Cr David Binks

Cr Bernie Masters

Cr Don Hanran-Smith

Note: As the motion was lost, Cr Hanran-Smith was able to move the motion that he had previously foreshadowed.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/354 Moved Councillor Hanran-Smith, seconded Councillor Binks:

1. That Council adopts the draft integrated Shire of Busselton Local Planning Policy Manual and Policy Framework at Attachments A and B to this report for community consultation pursuant to Clause 103 of District Town Planning Scheme No. 20 for the purpose of:
 - * Amending the Community Facilities Implementation Policy, the Percent for Art Policy, the Commonage Implementation Policy, the Mosquito Contribution Policy and Car parking Policy to index the contribution rates in these policies from Consumer Price Index (CPI) to General Construction Index (GCI);
 - * Defining the eligible uses; and removing delegation provisions for Percent for Art Policy; and incorporate a review of the Percent for Art and Community Facilities Implementation Policy every 5 years rather than annually;
 - * Deleting reference to Terms and Definitions from all policies where these conflicts with the Scheme, or these terms are replaced by reference to definitions in other more relevant source documents;
 - * Adopting local planning policy provisions for the Dunsborough Lakes Service Industry Park;
 - * Amending the Rural Tourist Accommodation Policy to align with the rural strata provisions of the Local Rural Planning Strategy (2006);
 - * Adopting draft reviewed existing Policies – Busselton Heritage and Special Character Area Policies (renamed Adelaide Street Special Character Area Provisions), and the Residential Design Guidelines Policy (renamed Residential Development Policy.)
 - * Introducing a new Policy - Food and Wine Sales provisions;
 - * Rescinding the following policies – Residential Design and Landscaping Guidelines on Controlled Access Roads - Including Entry Statements Requirements Policy, Viticulture Subdivision Policy, Dams Policy, Abbey Green Performance Standards, Floodplain Development and Management Policy Residential Design and Landscaping Guidelines on Controlled Access Highways and the Town Centre Development Policy;
 - * Making various minor amendments to current policies to improve their implementation;

- * Adopting the amended policies and draft new policy as policy provisions within a consolidated and reformatted framework of 9 policies;
- * Developing a more coherent and logical approach to the provision of a local planning policy framework.

CARRIED 7/3

Dissenting Voters

Cr Anne Ryan

Cr Jackie Emery

Cr David Reid

6.44pm At this time Councillor Bev Clarke returned to the meeting.

14. SYSTEMS AND INFORMATION REPORT**14.1 LIST OF PAYMENTS - AUGUST 2009**

This item was considered earlier in the meeting as part of the Items considered without debate ([C0910/349, page 19](#)).

14.2 FINANCIAL ACTIVITY STATEMENT - 31 AUGUST 2009

This item was considered earlier in the meeting as part of the En Bloc resolution of Council ([C0910/347, page 16](#)).

14.3 BUSSELTON GOLF CLUB (INC) - REQUEST FOR RATES EXEMPTION/ CONCESSION

SUBJECT INDEX:	Rating Operations
STRATEGIC INITIATIVE:	5.1.4 Ensure regulatory requirements are met
BUSINESS UNIT:	Finance
SERVICE:	Rates
DATE OF COMPLETION:	30 October 2009
VOTING REQUIREMENT:	Simple majority
ATTACHMENT(S):	Nil

PRÉCIS

The Busselton Golf Club (Inc) [the "Club"] has approached the Shire seeking its consideration in granting the Club a waiver from the payment of Shire rates. The primary reason for this request is that the Club believes it should be treated comparably with other sporting groups within the district that, in many instances, are not presently being required to pay Shire rates.

Whilst this report addresses the request from the Club for a rates exemption/ concession, this matter has also raised the issue of the Council's requirement for sporting and other community groups leasing property from the Shire to pay Shire rates. This matter has previously been identified for consideration as part of the Shire's ongoing rating review and will be the subject of a report to be presented to the Council in the new year.

OFFICER RECOMMENDATION

That the Busselton Golf Club (Inc) be formally advised that its request for a waiver from the payment of Shire rates be declined.

Note: Councillor Bernie Masters had provided an alternative motion seeking to defer consideration of this matter.

MOTION

Moved Councillor Masters, seconded Councillor Tuffin:

That this item be deferred until the report from the CEO arising from Item 18.3 Policy on the Principles by which Shire Fees and Charges are Calculated (should item 18.3 be approved) is presented at a future council meeting.

FORESHADOWED MOTION

During debate on this matter Councillor Hartley foreshadowed his intention to move the Officer Recommendation.

COUNCIL DECISION

C0910/355 Moved Councillor Masters, seconded Councillor Tuffin:

That this item be deferred until the report from the CEO arising from Item 18.3 Policy on the Principles by which Shire Fees and Charges are Calculated (should item 18.3 be approved) is presented at a future council meeting.

CARRIED 7/4

Dissenting Voters

Cr Wes Hartley

Cr Bethwyn Hastie

Cr Bev Clarke

Cr Don Hanran-Smith

Note: As the motion was carried Councillor Hartley was not able to move the motion that he had previously foreshadowed.

15. COMMUNITY INFRASTRUCTURE REPORT**15.1 TENDER SELECTION CRITERIA - TEN 09/09 SUPPLY, DELIVERY AND CONSTRUCTION OF NEW PRODUCTION BORE FOR SIR STEWART BOVELL PARK**

This item was considered earlier in the meeting as part of the Items considered without debate ([C0910/350, page 20](#)).

16. COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT**16.1 REGIONAL ECONOMIC DEVELOPMENT STRATEGY**

This item was considered earlier in the meeting as part of the En Bloc resolution of Council ([C0910/348, page 17](#)).

16.2 SHIRE PROPERTY LOCAL LAW

SUBJECT INDEX:	Local Laws
STRATEGIC INITIATIVE:	5.1.3 Ensure regulatory requirements are met
BUSINESS UNIT:	Legal
SERVICE:	Legal Services
DATE OF COMPLETION:	9 February 2009
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	Shire of Busselton Local Government Property Local Law 2009 2 x Prior reports to the Council

PRÉCIS

The Council has previously resolved to commence the law-making process in relation to the proposed Shire of Busselton Local Government Property Local Law "Shire Property Local Law" by advertising the local law. The Shire has also subsequently received the approval of the Governor for the local law to apply outside the district into the Indian Ocean to a distance of 200 metres seawards from the high water mark. The Department of Local Government has requested that the local law be re-advertised following this approval. It is recommended that the Council re-commence the process of making the proposed *Shire of Busselton Local Government Property Local Law 2009* "Shire Property Local Law".

OFFICER RECOMMENDATION

- (1) That the Council commences the law-making process, for the Shire of Busselton Local Government Property Local Law 2009, the purpose and effect of the local law being as follows:

Purpose: To regulate the care, control and management of all property of the local government except thoroughfares.

Effect: To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

- (2) That the Council authorise the CEO to carry out the law making procedure under section 3.12(3) of the *Local Government Act 1995* by following the procedures set out in sequence in the Act; by -
 - (i) giving Statewide public notice and local notice of the proposed local law; and
 - (ii) giving a copy of the proposed local law and public notice to the Minister for Local Government.
- (3) That the CEO, after close of the public consultation period, submit to the Council for consideration a report on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4).

6.53pm At this time Councillor Stubbs left the meeting.

Note: Councillor Masters had provided an alternative motion so a set of guidelines are prepared which provide clear guidance to staff on how, when and under what circumstances this Local Law should to be applied.

6.55pm At this time Councillor Stubbs returned to the meeting.

COUNCIL DECISION

C0910/356 Moved Councillor Masters, seconded Councillor Binks:

- (1) That the Council commences the law-making process, for the Shire of Busselton Local Government Property Local Law 2009, the purpose and effect of the local law being as follows:

Purpose: To regulate the care, control and management of all property of the local government except thoroughfares.

Effect: To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

- (2) That the Council authorise the CEO to carry out the law making procedure under section 3.12(3) of the *Local Government Act 1995* by following the procedures set out in sequence in the Act; by -
 - (i) giving Statewide public notice and local notice of the proposed local law; and
 - (ii) giving a copy of the proposed local law and public notice to the Minister for Local Government.

- (3) That the CEO, after close of the public consultation period, submit to the Council for consideration a report on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4).
- (4) That prior to the commencement of the Shire of Busselton Local Government Property Local Law 2009, a new policy be prepared and presented to the council which provides guidelines as to the manner of enforcement of the Local Law.

CARRIED 11/0

16.3 SMALL LOCAL PROJECTS FUND 2009/10 - NOS. 6-8

This item was considered earlier in the meeting as part of the Items considered without debate ([C0910/351, page 23](#)).

16.4 BUSSELTON JETTY - RESERVE MANAGEMENT ORDER; STATE LICENCE AGREEMENT; BJECA MANAGEMENT AGREEMENT

SUBJECT INDEX:	Busselton Jetty Rebuild and Foreshore Revitalisation
STRATEGIC INITIATIVE:	3.2.1 Build partnerships to promote and help fund our environmental and other assets to attract national and international tourists.
BUSINESS UNIT:	Legal and Compliance Economic Development
SERVICE:	Legal Services
DATE OF COMPLETION:	30 November 2009
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	1. Reserve Management Order 2. Jetty Licence 3. BJECA Agreement 4. Letter from BJECA 5. Letter of Offer from State Government

PRÉCIS

The Shire of Busselton is undertaking a major restoration of the iconic Busselton Jetty with funding from the State Government and BEJCA. One of the conditions on the \$24 million of funding received from the State Government requires the Shire to enter into a new Reserve Management Order and Jetty Licence with the State Government, and an Operating Agreement with Busselton Jetty Environment and Conservation Association (BJECA).

These agreements have been drafted with extensive negotiation between the relevant organisations involved and are now presented to the Council for consideration. Officers are recommending they be adopted and executed. Execution of these documents needs to occur prior to 31 October 2009 to be compliant with the funding agreement with the South West Development Commission.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0910/357 Moved Councillor Reid, seconded Councillor Hanran-Smith:

1. That the Shire agrees to take a new Management Order for reserve 46715 in the terms, or substantially the same terms, as attached to this report.

2. That the Shire agrees to execute the Jetty Licence between the State and the Shire in the terms, or substantially the same terms, as attached to this report.
3. That the Shire agrees to execute the BJECA Agreement between the Shire and BJECA in the terms, or substantially the same terms, as attached to this report.
4. That the wording of the Jetty Maintenance Reserve contained in the 2010/11 budget documentation be reworded as follows:

"A reserve fund for the specific purpose of funding the repair, restoration, refurbishment and maintenance of the Busselton Jetty structure in accordance with the Busselton Jetty Maintenance Plan."

CARRIED 11/0

COUNCIL DECISION 2

C0910/358 Moved Councillor Hartley, seconded Councillor Hastie:

That the appreciation of the Council be conveyed to all those involved in working towards these significant jetty agreements, including all staff and volunteers. The Council also recognises the significance of the contribution of \$24 million from the State Government.

CARRIED 11/0

17. CHIEF EXECUTIVE OFFICER'S REPORT

Nil.

7.04pm At this time the Acting Director, Community & Organisational Development left the meeting.

18. MOTIONS of which notice has been given**18.1 COUNCIL POLICY NO. 240 - RESERVES VEGETATION PROTECTION**

NoM NO: 09/10: 14

Mr Butch Sharpe had previously addressed the Council in relation to this matter. Item 11.2 refers. Mr Sharpe was in agreement with the proposed motion.

Councillor Anne Ryan had given notice of her intention to move the following motion.

MOTION

Moved Councillor Ryan, seconded Councillor Stubbs:

1. That the sign, the subject of Policy 240 - Reserves Vegetation Protection - which has been erected on the beachfront in front of 14 Geographe Bay Road, be removed forthwith.
2. That the Policy 240 - Reserves Vegetation Protection - be reviewed by the Council at a workshop within the next three months.

7.07pm At this time the Acting Director, Community & Organisational Development returned to the meeting.

Note: The Presiding Member indicated that the motion would be split such that the two parts would be considered separately.

MOTION

Moved Councillor Ryan, seconded Councillor Stubbs:

That the sign, the subject of Policy 240 - Reserves Vegetation Protection - which has been erected on the beachfront in front of 14 Geographe Bay Road, be removed forthwith.

LOST 3/8
Dissenting Voters
Cr Wes Hartley
Cr Bethwyn Hastie
Cr David Binks

Cr Jackie Emery
Cr Bernie Masters
Cr Bev Clarke
Cr Don Hanran-Smith
Cr David Reid

7.20pm At this time the Acting Director, Community & Organisational Development left the meeting.

MOTION

Moved Councillor Ryan, seconded Councillor Stubbs:

That the Policy 240 - Reserves Vegetation Protection - be reviewed by the Council at a workshop within the next three months.

AMENDMENT

Moved Councillor Masters, seconded Councillor Binks:

That the motion be amended by removing the words "within the next three months" and replacing with the words "to be held as soon as practicable".

CARRIED 11/0

7.22pm At this time the Acting Director, Community & Organisational Development returned to the meeting.

COUNCIL DECISION

C0910/359 Moved Councillor Ryan, seconded Councillor Stubbs:

That the Policy 240 - Reserves Vegetation Protection - be reviewed by the Council at a workshop to be held as soon as practicable.

CARRIED 7/4
Dissenting Voters
Cr Wes Hartley
Cr Bethwyn Hastie
Cr Bev Clarke
Cr Don Hanran-Smith

7.41pm At this time Councillor Hastie left the meeting.

18.2 RATES CONCESSION POLICY

NoM NO: 09/10: 15

Councillor Bernie Masters had given notice of his intention to move the following motion.

7.43pm At this time Councillor Hastie returned to the meeting.

COUNCIL DECISION

C0910/360 Moved Councillor Masters, seconded Councillor Stubbs:

That the CEO prepare a report on a new Council policy which will allow for a maximum of a two year rates concession to be granted to ratepayers who are living within the Busselton Shire on a property on which is situated a habitable dwelling for which a demolition permit has been issued by the Shire and for which a building permit to construct a new dwelling has been issued within a reasonable timeframe of the issue of the demolition permit. The report will investigate and/or contain provisions that address the following issues:

1. the ability of the Council to provide a concession under section 6.47 of the Local Government Act 1995 so that a concession on rates can be provided by Council to ratepayers residing on a particular property for which demolition and building permits have been issued such that the change of rating assessment - from Gross Rental Value to Unimproved Capital Value - does not increase the actual amount of money paid as rates for that property by more than 25% in each of the following two years.
2. the concession is to be carefully targeted so that it applies only to ratepayers who have been living in the dwelling for which a demolition order has been issued and where the same property also has been issued a building permit for construction of a new dwelling.
3. the concession is to apply for a maximum of two years.
4. the likely cost to the Shire each year in foregone rate revenue, should such a concessional scheme be created.
5. advice is to be sought from the Department of Local Government on the proposed concession.
6. any other issue considered relevant by the CEO
7. the CEO's report to Council will be provided prior to the final council meeting in March 2010.

CARRIED 11/0

18.3 POLICY ON THE PRINCIPLES BY WHICH SHIRE FEES AND CHARGES ARE CALCULATED

NoM NO: 09/10: 16

Councillor Bernie Masters had given notice of his intention to move the following motion.

COUNCIL DECISION

C0910/361 Moved Councillor Masters, seconded Councillor Stubbs:

1. That a report be prepared by the CEO to advise council on the merits or otherwise of developing a policy on the principles by which shire fees and charges are calculated each year as part of the council's budget preparation process;
2. that the report investigate and report on the following matters:
 - a. as a general policy principle, all fees and charges should reflect the actual cost (labour, materials, overheads, etc) to the shire of providing its services and facilities
 - b. fees and charges that relate to services provided to, or facilities used by, commercial for-profit individuals or groups, including ratepayers, residents and visitors, should attract a modest surcharge if the principle outlined in sub-clause d below to provide subsidised services and services to not-for-profit groups is accepted
 - c. fees and charges that relate to services and facilities provided by the private section should attract a surcharge such that the shire's fees and charges are generally comparable to those charged by the private section, such that the Shire does not unfairly compete with private business operators
 - d. fees and charges that relate to services provided to, or facilities used by, not-for profit groups and organisations should attract a discount on the actual cost to the Shire of providing those services or maintaining and operating those facilities, i.e., these fees and services are able to be subsidised by the Shire
 - e. advice is to be provided on the possible amounts or other parameters of relevance to the surcharge and discount as described in sub-clauses b., c. and d. above
 - f. fees and charges are to be generally rounded off to the nearest whole dollar for small fees and charges, to the nearest ten dollars for moderately large fees and charges and to the nearest one hundred dollars for large fees and charges

- g. as a general policy principle, fees and charges are to be escalated each year by an amount that incorporates the Local Government Cost Index (LGCI) increase in costs, with the increase to be applied to the fees and charges calculated in sub-clause a. above and not to the fees and charges otherwise agreed to from one year to the next as per sub-clauses b., c., d. and/or f.
 - h. all relevant fees and charges are to comply with the requirements of Local Government Act clauses 6.16 and 6.17 regardless of the desirability or not of the application of the above sub-clauses.
3. That the CEO report to council as soon as is practicable.

CARRIED 11/0

18.4 YALLINGUP SURFILM FESTIVAL SPONSORSHIP

NoM NO: 09/10: 17
ATTACHMENTS: Sponsorship Proposal

Ms Jesca Maas had previously addressed the Council in relation to this matter. Item 11.1 refers. Ms Maas was in agreement with the proposed motion.

Councillor David Binks had given notice of his intention to move the following motion.

MOTION

That the Council agrees to sponsor the 2010 Yallingup Surf Film Festival to the value of \$5000 and requires the CEO to identify a suitable cost centre from the 2009/2010 budget from which to draw these funds.

OFFICER RECOMMENDATION

The Yallingup Surf Film Festival 2009/10 be supported by the Shire of Busselton for the amount of \$1,000 from Unclassified Donations (351.10700.3640.0000).

MOTION

Moved Councillor Binks, seconded Councillor Clarke:

1. That the Yallingup Surf Film Festival 2009/10 be supported by the Shire of Busselton for the amount of \$1,000 from Unclassified Donations (351.10700.3640.0000).

ABSOLUTE MAJORITY REQUIRED

2. That the Yallingup Surf Film Festival 2009/10 be supported by the Shire of Busselton for the amount of \$4,000 from unbudgeted expenditure.

AMENDMENT

Moved Councillor Reid, seconded Councillor Tuffin:

That the motion be amended in part 2 to state that the \$4,000 will be drawn from Councillors' voluntary contributions from their Small Local Projects allocations.

LOST 4/7
Dissenting Voters
Cr Wes Hartley
Cr Bethwyn Hastie

Cr David Binks
Cr Jackie Emery
Cr Bernie Masters
Cr Bev Clarke
Cr Don Hanran-Smith

Note: The Presiding Member indicated that the motion would be split such that the two parts would be considered separately.

COUNCIL DECISION

C0910/362 Moved Councillor Binks, seconded Councillor Clarke:

That the Yallingup Surf Film Festival 2009/10 be supported by the Shire of Busselton for the amount of \$1,000 from Unclassified Donations (351.10700.3640.0000).

CARRIED 11/0

COUNCIL DECISION 2

C0910/363 Moved Councillor Binks, seconded Councillor Clarke:

ABSOLUTE MAJORITY REQUIRED

That the Yallingup Surf Film Festival 2009/10 be supported by the Shire of Busselton for the amount of \$4,000 from unbudgeted expenditure.

CARRIED 7/4

By Absolute Majority
Dissenting Voters

Cr Ian Stubbs
Cr Anne Ryan
Cr Tom Tuffin
Cr David Reid

19. CONFIDENTIAL REPORTS

Nil.

20. NOTICES OF MOTION proposed for consideration at a future Meeting

Nil.

21. QUESTIONS FROM MEMBERS WITHOUT NOTICE

- 21.1 Cr Masters asked if the Acting CEO could advise if the matter of the fine for Bill Franssen would be presented to the Council for resolution and if not, what are the reasons for the decision remaining with staff.

The Acting CEO advised that he was awaiting information from the Director, Lifestyle Development in order to make a determination. The decision would be made within the week using the existing authority to do so.

- 21.2 Cr Masters asked if the recent Holiday Homes Guidelines would have an impact upon the Shire of Busselton.

The Director, Lifestyle Development advised that the recent planning bulletin referred to would result in a report needing to come to the Council with recommendations. The Shire of Busselton is still waiting for the Minister to determine a planning scheme amendment (46) which had been with the Minister for 2 years. It is likely that Amendment 46 will not be determined and therefore the Council will need to consider this matter in the context of the recent planning bulletin.

- 21.3 Cr Reid asked if there could be a report provided to Councillors regarding the number of enquiries, verbal or otherwise, that had been received by the Shire regarding rate increases.

The Acting CEO advised that the information would be provided to the best of the Shire's ability.

- 21.4 Cr Binks asked if it would be possible for a new name plate to be prepared for the Acting CEO.

The Shire President advised that plenty of new name plates would be required after this week.

- 21.5 Cr Ryan asked when a sign regarding damaged vegetation would be erected in the median strip in the main street.

The Director, Lifestyle Development advised that the policy that had been under discussion this evening was a foreshore vegetation policy and therefore did not apply to the main street. Trees do get damaged in town, however, it is not clear that the damage is caused by someone seeking to benefit from the damage as it is usually an act of random vandalism. The foreshore policy and erection of signage is applied when it is evident that someone will benefit from the damage to the vegetation.

7. ANNOUNCEMENTS by the Presiding Member without discussion

The Presiding Member announced that he would read a statement from the CEO, Andrew Macnish and then give all retiring Councillors the opportunity to make a speech.

Those addresses provided in writing have been included in the minutes in full. A summary of the other speeches made throughout this section of the meeting, where not provided in writing, is also included.

Address from CEO Andrew Macnish as read by Cr Wes Hartley

The Shire President has indicated that he will read a note of farewell from me. I have commenced my extended period of leave and as such am not present to do so. In any event, it is not my style to seek or create a profile, including that of leaving the Shire's employ. I am, however, looking forward to speaking again to staff at this year's Christmas Party.

In departing, I congratulate the elected members on their public service and note again for the public record that I think the Councillor's role is a very challenging one. I acknowledge the Council resolution of thanks for my efforts and in achieving my KPIs during my time with the Shire.

I thank those Councillors who have passed their well wishes and I am deeply appreciative of those who have supplied quite moving accounts of their feelings regarding my performance in the role. I believe my record of achievement, for those who truly understand the role, will be appreciated in the passage of time.

Finally, I thank the Council for the opportunity six and a half years ago to contribute to the governance for the greater good of the district's community. I also wish it every continued excellent advice afforded by the newly acting CEO, Mr Matthew Smith, and would encourage the Council to fully support and nurture him in this role.

Summary of address from retiring Councillor Bernie Masters

Some years ago there was a supposed comedy program on the BBC called Yes, Minister and another program, Yes, Prime Minister. I was a parliamentarian for eight years, and I can tell you, it was not comedy. It was actually more of a training documentary and contained many, many truisms.

The equivalent regarding local government would have to be the ABC program Grass Roots. I have seen all 20 episodes which closely resemble my 10 months as a Councillor. Again, this is not a comedy and it contains so many similarities, I would like to donate the two DVDs containing all of the episodes to the Shire. I ask all new Councillors elected on Saturday to borrow them and look through them. The only stipulation is that they are

not lent to staff as there are displayed too many opportunities for them to pull the wool over Councillors' eyes more than they already do.

In all seriousness, I would like to thank my fellow Councillors for a very productive 10 months. In many ways I regret that it has come to an end. Congratulations and thank you to all of you and thank you to all of the staff who, without hesitation, provide information and assistance whenever required.

It has been a great privilege, and perhaps this is only a temporary retirement from local government.

Summary of response from Cr David Reid

When we arrived in the Chamber this evening, Cr Masters' seat was covered in rose petals and there were messages from all of the staff. They will be glad to see him go as he was worked them all to physical exhaustion.

While it may be hard to believe that in fact in his 10 months Cr Masters only put forward six notices of motion, unfortunately I do not have a tally of the amount of questions as four members of staff are still busily counting them all.

During his time as a Councillor, Bernie Masters has always given his all and it has been very appreciated.

Address from retiring Councillor Bev Clarke

It has been an honour for me to serve as a Councillor for the Shire of Busselton for more than a decade and to serve as Shire President for a short period in 2007, following the resignation of Shire President, Kevin Douglas, a very respected friend.

I have always tried to give 100% to the office of Councillor – listening to the community, especially the rural sector, who are often left out. There are many more people in this Shire to listen to – not just the very vocal minority groups.

I have not sought re-election for several reasons:

- * My age – I should be doing other things at this time of my life and after all 10 years is enough to give of one's life to the community;
- * I am not happy with the way the Shire Council is moving at this time – it seems to be in a state of inertia;
- * While the first six years of my time on the Council had its challenges, I enjoyed my role. I served alongside Councillors such as Evelyn Brand, Frank Elliott, David Hunt, Helen Shervington and David Barton, who were born in the region and spent most of their time close to the Busselton area. They had a wealth of experience and so much to offer. I thank these former Council colleagues for their assistance and

guidance in my early years on the Council. I especially thank Evelyn Brand, a marvellous woman, who was a mentor for me in those early years and still is now.

There are too many other colleagues to mention, but I cannot overlook Arnold Bogaers (who I sat next to for years – we had fun); Kevin Douglas (a great Shire President); Jane Holland; Jim Todd and Elizabeth Stevens, to mention just a few. We certainly had our debates in the chamber – and we certainly did not always agree with each other's point of view, but after the vote in the Council and the decision was made – that was it – rarely were the decisions discussed over dinner or criticised by any Councillors in the press. Simply, we left things where they belonged – in the chamber, and in the minutes of the meeting. Many of the Councillors I worked with over the years will remain friends of mine for life.

In recent years Rob Underdown – such a pleasure to see a young person on the Council – Ross Bromell, Bethwyn Hastie, Wes Hartley, David Binks and Don Hanran-Smith. I thank you for all the support over the last four years – you have been great. I will miss you all very much indeed.

Another positive aspect over the years has been the number of great people in the community I have met through being on the Council, who I otherwise would have been unlikely to come into contact with. People such as Adele Farina MLC, whom I admire very much indeed and also the likes of Ray McMillan.

I have to say the last four years I have not enjoyed to the same extent and had I have known how it was going to pan out, I would not have stood for election four years ago. I have not enjoyed being part of a Council that has had the stigma of the Smiths Beach saga hanging over it, with the eventual findings of the CCC causing many in the Shire and the wider community to lose their respect for and confidence in the Busselton Shire Council.

Two years ago, I must confess, I was disappointed when I was not re-elected Shire President. However, sometimes things turn out for the best. I would have found it hard to cope with the disrespect that has occurred for the Shire President. No matter who is in the chair, Councillors owe respect to the chair and others in the chamber. The cruel cartoons and articles that have appeared in a local newspaper must have been very hard to take. I commend you Wes for the dignified way in which you have carried out the role of Shire President under trying conditions. They tell me that there is a life after Council and I'm sure that yours Wes will be an interesting and perhaps more peaceful one.

To the staff of the Shire – I hold you all in the highest regard. This Shire is so fortunate to have so many dedicated and experienced staff working here. Thanks to you all for your help and support over the years. Nothing ever seemed to be too much trouble.

I have been fortunate to serve with Andrew Macnish as CEO for the last six years. He has been a great CEO and during this time I have seen the Shire move forward in such a way as to see it sustainable into the future. Andrew, I wish you were here to tell you, but you are leaving the organisation in great shape.

Thanks Andrew, for being such a help to me, especially during my short time as Shire President. It is unfortunate that some people in the community had an agenda with regard to the CEO. A lot of misinformation has been published in a local paper that seemed to imply that the CEO was making a lot of unpopular decisions. I would like to remind these people that it is the 13 Councillors that make decisions for this Council, not the CEO.

This organisation is so fortunate to have senior staff, such as Nigel Bancroft (he must be one of the best planners in the State); Matthew Smith (nothing ever seemed too much trouble for Matthew); Cathryn Hutton; Darren Whitby – the Shire is so fortunate to have you. To Moira King, Lynley Rich and Jenny Mathies – thanks for all the help over the years. To everyone else – too numerous to mention – I also thank you for your help to me over these many years.

Disappointments

- * Not enough younger people prepared to put their hand forward as Councillors. The Shire of Busselton needs younger Councillors, as they have visions for the future and are generally happy to generate change;
- * No new hospital – if the hospital lobby group had not fought so hard against the hospital being at Vasse – the building of the hospital may have commenced some time ago. It is unlikely anything will happen except band-aids to old hospital for many years to come;
- * The current trend of Councillors not accepting decisions of the Council and rushing off to give their views to the local paper. This only creates a negative impression of Council to the wider community;
- * Confidential information has continually been leaked to a local newspaper;
- * The Busselton foreshore – I cannot see any changes occurring there for at least the next 10 years;
- * That two people, excellent in their respective offices, Kevin Dougals (as Shire President) and CEO Andrew Macnish, both parted company with the Shire of Busselton;
- * That Shire staff are still working in conditions that I and many others believe are not up to work safety standards. I suggest that people from the community tour the Shire offices and ask of themselves whether they would like to work in such poor conditions?
- * That the ward system was abolished – the rural sector will continue to have low representation.

Pleasing achievements of the Shire of Busselton over the last 10 years

- * The jetty is going to be repaired;
- * The Lottery House – a great example of working with the community – will go ahead;
- * Dunsborough Playing Fields reconstruction and extension;
- * The Ludlow Tourist Precinct (well done Marilyn Rulyancich);
- * The fly-in fly-out trial for the Busselton Regional Airport;
- * The upgrade of Queen Street – I love the roundabouts.

I would like to take this opportunity to wish the new Council all the best for the future.

Summary of response from Cr Don Hanran-Smith

When I was just a young bloke and was elected to Council in 2005, I had 12 mentors, among them those on either side of me, Councillors Helen Shervington and Bev Clarke. Their experience was very appreciated.

Cr Clarke has given 10 years of exemplary participation in local government and this has been recognised as such by our peak body. We are very sorry to see her go and encourage her to nominate in 2011. We wish her well in this hopefully brief retirement from local government and brief recreation time.

Address from retiring Councillor Wes Hartley, Shire President

The well known 19th Century novelist Samuel Langhorne Clemens, better known as Mark Twain, entertained me greatly as a child with such works as the *“Adventures of Huckleberry Finn”*. Mark Twain grew up in an interesting little port town in Missouri on the Mississippi River, called Hannibal, which featured in his writing as the mythical town of St. Petersburg. As a writer he is also remembered for the quotation *“Rumours of my death have been greatly exaggerated...”* The point of this will, hopefully, soon become clear.

My involvement in Local Government began as a child, in that my father was involved in the inner city missions of Melbourne, working with the poor and dispossessed. In the then City of Prahran, now the City of Stonnington, there was contrasted a great deal of poverty, alongside the wealth of Toorak, all within the same municipality. He stood for Council and was elected at his second attempt, the first Minister of Religion that I am aware of, elected to Local Government in Australia. After his re-election in 1971, he was elected as Mayor by his peers, but managed to drop dead in the Chamber before he could assume office. Needless to say, the Council meeting was abandoned that night.

Hence, you will understand that when I was elected as Shire President, my siblings and others who knew well the story, before offering their congratulations, asked the obvious question as to whether I was planning a repeat performance. However, after tonight, I anticipate I will be able to

announce to my family, that like Mark Twain, *"Rumours of my death have been greatly exaggerated..."*

Back in 2000 I visited Hannibal, Missouri, because of my lingering fascination. It was a town whose past determined much of its present malaise. It was better known as a place where great pioneering people lived, but many had wanted to keep things as they were – and as a consequence the town effectively died. The parallels in our region, in my view, should not be overlooked.

It has been a great privilege to be an Elected Member and to have been afforded the opportunity to serve as President of the Shire of Busselton for these past two years. As some of my immediate predecessors will testify, it can have its moments – and those who would quest for such office need to take a sober assessment – for all is not what it might at first appear.

When I look back to all 71 of the weekly articles I wrote for a local newspaper before being abruptly terminated last march due to "a lack of space", there were many important occasions recounted, such as involvement in earlier attempts at the jetty reconstruction and foreshore redevelopment; preparations for a civic precinct; a new Busselton hospital; through to broader considerations of preparing for rapid population growth; the effects on sea-change communities of unanticipated growth, paralleled with a bewildering change to our environment; and the big issues of Constitutional recognition of Local Government and the one that will **not** go away, Local Government reform and amalgamation, an issue that is much closer than most people think.

Some have made the observation that leading 12 other Councillors could be akin to what I do for a day job – to which I shall soon fully return. As the current crop of weekly Gospel lessons indicate – everybody wanted to be in charge; others wanted special consideration; still others were looking for zealot-like activities to undertake – with all indicating they would be loyal to the end. Now we all know how that story ended!

I have had many privileged opportunities during my life. I have witnessed the birth of my children. In my professional life I have been present in people's lives at times of great sorrow as well as in times of great joy – and all shades of circumstances in between. I have baptised people, married them, consoled them and buried them.

Added to that list, have been the privileged opportunities afforded me to officiate at ceremonies when new Australian citizens have taken on the mantle of citizenship. I have watched people burst into tears or grab hold of my hand as though they had been given the gift of renewed life – which in many circumstances was the actual reality.

I think the thing that has most impressed me – moved me – was that I was born in Australia, as were my children and it could be said that such citizenship is very much a birthright. I have never had to contemplate giving up the citizenship of my birth in order to take the citizenship of another country. A great number of Australians are in the same situation as I am. As such, it is sometimes difficult for many to fully appreciate the value of, or make the best use of, the responsibilities that come with citizenship.

So when we have an opinion of our Local Government, as will be expressed this coming Saturday, we all need to take the responsibilities of citizenship and serving the community more seriously. When I hear people complain they have had to stand too long in the queue at the Post Office for a new passport, or that they are too disinterested to vote at an election, even to the point of throwing out their ballot paper in the rubbish, there is an anger I experience at the lack of appreciation of the great privilege of citizenship we all enjoy.

In conclusion, to the Shire staff, I say a special thank you to you all. Your professionalism is without peer and I wish you and the Shire organisation every good wish for the future.

Summary of response from Cr Bethwyn Hastie

On behalf the Council as the deputy Shire President I would like to wish all three of the retiring Councillors all the best. You are a great orator Wes, although I think you have some competition in Cr Masters. It has always been a privilege to hear from you and thank you for your time as a Councillor and Shire President. At times this has been under huge duress and disrespect. It has been an honour to serve with you.

To Bev, former Shire President, Councillor and friend, you have been a huge support in my life and in recognition of the huge job you have done we wish you all well. It has been wonderful to serve with you all.

Shire President's final announcement

To all those Councillors standing for re-election on Saturday, I wish you all well. To the other candidates present here in the Chamber in the public gallery, all the very best also.

22. NEXT MEETING

Wednesday, 28 October 2009, commencing at 5.30 p.m.

23. CLOSURE

The meeting closed at 8.55pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 63 WERE CONFIRMED AS A TRUE
AND CORRECT RECORD ON _____

DATE: _____

PRESIDING MEMBER: _____