

SHIRE OF CAPEL
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SHIRE OF CAPEL

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS ON
WEDNESDAY, 8 SEPTEMBER 2004, COMMENCING AT 4.33PM

PRESENT: President MT Scott
Councillors BW Bell
KD Gibson
NR Jones
TF Hutton
RG Lamb
GJ Norton
BH Piesse
JA Rees
MM Smith (4.35pm)
PF Sheedy
Chief Executive Officer AJ Ross
Manager Finance and Corporate Services GE Bishop
Manager Planning and Development Services RJ Evans
Manager Operational Services CR Dent
Principal Environmental Health Officer LA Taylor
Minute Secretary

APOLOGIES: Deputy President KV Caratti

**RESPONSE TO PREVIOUS PUBLIC QUESTIONS
TAKEN ON NOTICE** Nil

PUBLIC QUESTION TIME Nil

Councillor Smith arrived in the Chambers.

OC0901 APPLICATIONS FOR LEAVE OF ABSENCE

OC0901 COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Rees

That Councillor Bell's application for leave from the Ordinary Council meetings to be held on 13 and 27 October and 10 November 2004, be approved.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

**NOTICE OF ITEMS TO BE DISCUSSED BEHIND
CLOSED DOORS** Nil

OC0902 CONFIRMATION OF MINUTES – 25.08.04

OC0902 COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Bell

That the minutes of the Council meeting held on 25 August 2004, as printed, be confirmed.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

PETITIONS/DEPUTATIONS/PRESENTATIONS	Nil
MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	Nil
QUESTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	Nil

ENVIRONMENTAL HEALTH SERVICES REPORTS

ENVIRONMENTAL HEALTH SECTION

OC0903 (11.1.1) Waste & Recycle Conference 2004 (C.1.4)

REPORTING OFFICER

Colin Dent Principal Environmental Health Officer

Date 31.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Attendance at the 2004 Waste & Recycle Conference to be held at the Esplanade Hotel Fremantle 21-24 September 2004.

ATTACHMENTS

A copy of the program is attached.

APPLICANT'S SUBMISSION

The annual waste and recycle conference

BACKGROUND Nil

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS

Policy 12.3 "Travelling Expenses- Members" would be applicable should an elected member be nominated to attend the conference.

Policy 12.6 "Conferences, Training and Development Expenses" would be applicable should an elected member be nominated to attend the conference.

FINANCIAL IMPLICATIONS

Should Council nominate an elected member to attend the conference as per policy 12.3 travel expenses of \$143.00 would be incurred. The Principal Environmental Health Officer will be attending several sessions so travel costs may not be applicable.

There are registration fees for the conference ranging from \$85.00 for a full day workshop to the full registration of \$660.00

STRATEGIC IMPLICATIONS

To provide the opportunity for Elected Members to participate in ongoing professional development in areas directly related with the provision of local government services.

The Shire of Capel Strategic Plan 2003-2007 under Health and Environment (CBA 3) has one of its key outcomes being able to achieve an sustainable waste management service.

CONSULTATION

Nil

COMMENT

I will be attending the Tuesday session on recycled organics and probably the Friday session should any Councillor wish to attend those days.

OC0903 STAFF RECOMMENDATION

That Council approves the attendance of Cr Kingsley Gibson and Councillor _____ at the Waste & Recycle Conference in Fremantle on 21 – 24 September 2004, and meet travel expenses as per Policy 12.3 and registration expenses as per policy 12.6.

OC0904 COUNCIL DECISION

Moved Cr Bell, Se conded Cr Hutton

That Council approves the attendance of Cr Kingsley Gibson and at the Waste & Recycle Conference in Fremantle on Tuesday, 21 September 2004, and meet travel expenses as per Policy 12.3 and registration expenses as per policy 12.6.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0905 (11.1.2) Shire of Capel Environmental Health Plan 2001-2005. Annual Report for 2003/04 (H.8.1)

REPORTING OFFICER

Colin Dent-Principal Environmental Health Officer

Date 01.09.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Receive the Environmental Health report for 2003/04 being part of the Shire of Capel Environmental Health Plan 2001-2005.

ATTACHMENTS

Annual report.

APPLICANT'S SUBMISSION

The attached report gives a brief highlight of the relevant sections of the Shire of Capel Environmental Health plan. The format follows that of the Environmental Health Plan 2001-2005.

BACKGROUND

The original Environmental Health Plan was adopted by Council in September 1998 (Minute DS0907/98) and revised and upgraded in August 2001 (Minute OC0803/01)

The Department of Health requires each local government to have an Environmental Health Plan. The plans are to be incorporated into the proposed Public Health Act as a method to provide greater flexibility and accountability for Environmental Health Officers working in local government.

STATUTORY ENVIRONMENT

Health Act 1911

Section 26. Every local government is hereby authorised and directed to carry out within its district the provisions of this Act and Regulations, local laws and orders hereunder.

Section 38. Every local government shall, report to the Executive Director, Public Health concerning the sanitary condition of its district, and all works executed and proceedings taken by the local government.

Local Government Act 1995

Section 5.53 (1). The local government is to prepare an annual report for each financial year.

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS Nil

STRATEGIC IMPLICATIONS

The report outlines how the objectives outlined in the strategic plan, Core Business Area 3, Health and Environment, Strategy 1, Sustainably manage environmental health programs action 1.1, have been achieved over the past financial year.

CONSULTATION Nil

COMMENT

This year has been busy, with the ongoing work associated with the proposed mosquito strategy and the increase in the number of Ross River virus cases experienced throughout the southwest. All but eight of the one hundred and one cases of Ross River virus notified in the Shire were interviewed, the eight cases could not be traced.

OC0905 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Rees

That Council receive the report on the operation of the Shire of Capel Environmental Health Plan 2001-2005 for the 2003/04 financial year.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

PLANNING AND DEVELOPMENT SERVICES REPORTS

BUILDING SERVICES SECTION Nil

PLANNING SERVICES SECTION

OC0906 (12.2.1) Subdivision (School Site) – Lot 11 Armstrong Street, Boyanup (C5.1.B.71)

REPORTING OFFICER

I Hastings – Planning Officer (Temporary)

Date 31.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Iluka Resources Pty. Ltd/Harley Survey Group Pty. Ltd

MATTER FOR CONSIDERATION

It is proposed to subdivide a 2.7ha lot from Lot 11 for the purposes of accommodating a school.

ATTACHMENTS

- Plan of Subdivision
- East Boyanup Structure Plan

APPLICANT’S SUBMISSION

The applicant has submitted various justifications for the proposal with this summarised below:

- The proposed lot is to be created to accommodate the ‘Child Side School’, which presently operates from another site in East Boyanup (Lot 66 Timperley Street)
- The proposed lot does not compromise the intentions of the East Boyanup Structure Plan, which is presently being reviewed and includes surrounding residential, special rural development, an extension of Stephen Street to abut the western boundary of the proposed school site and provision of Public Open Space to the east of the school site
- The subject site was chosen on the basis of land availability, central/regional location to anticipated catchment, semi-rural environment, location on local distributor road and proximity to wetlands, Joshua Creek and State Forest
- The site will ultimately accommodate school buildings and playgrounds for 40-80 students and staff
- The land has previously been used for grazing purposes with land to the west rehabilitated after mineral sand mining
- It is understood that the intention is for Iluka to ‘gift’ the land to the school. This has been verbally confirmed by the applicant with written confirmation to be forwarded by Iluka.

BACKGROUND

1997 – The East Boyanup Structure Plan was adopted and endorsed for the subject land and surroundings, proposing extensive low-density residential subdivision and development. Subdivision of 54 residential lots and 5 special rural lots is proposed to the east of the proposed school lot.

2003 February – Planning consent was issued for the use of a dwelling on Lot 66 Timperley Street, Boyanup for an ‘educational establishment’ for a period of 12 months ending January 2004 and subject to a range of conditions to allow for the establishment of the ‘Child Side School’.

2003 October - A subdivision application for large residential lots was submitted over part of Lot 11. This is presently in abeyance awaiting resolution of environmental issues.

2003 November – Planning consent was renewed for the school use on Lot 66 up until February 2005. An update on the intended timing of lodgement of an application for Planning Consent was requested in granting this approval.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 7

Lot 11 has a total area of 100.5 ha. The western half of the land including the proposed lot area is zoned Rural, the eastern portion is mainly zoned Residential R2.5 and portions are ‘Special Rural’ Zone and Recreation Reserve pursuant to Town Planning Scheme No 7.

Clause 5.7.1 – In the Rural Zone, Council’s objective in the assessment of subdivision referrals is, in part, to preserve the character of the rural area and discourage the removal of prime agricultural land from agricultural production.

Clause 5.7.2 – Council’s policy in assessing subdivision application referrals from the Western Australian Planning Commission is, in part, to have regard to:

- (a) The objective set out above and any adopted Town Planning Policy; and
- (b) The need to provide for land to be held in lots that are suitable for the long-term use of the land for Rural Pursuits.
- (e) The need to impose such conditions as Council deems appropriate in order to minimise any adverse affect the development or subdivision may have on the environment of the area.

POLICY IMPLICATIONS

Town Planning Policy 15.7 - Subdivision of Rural Land

- The objective of the policy is as per the Scheme objective stated under Clause 5.7.1 of the Scheme.
- Policy Statements applicable to the proposal are that Council will:
 - 1 Assess each application in the light of the principles and objectives of the Policy and Town Planning Scheme.
 - 2 Seek to avoid the setting of precedents in the creation of new lots that may lead to pressure for subdivisions of similar lots in the future.
 - 6 Not recommend approval of subdivision applications, which create lots smaller than the prevailing large lot size for land zoned Rural in the locality.

FINANCIAL IMPLICATIONS Nil

STRATEGIC IMPLICATIONS

Shire of Capel – Land Use Strategy 1999

The Shire of Capel Land Use Strategy includes the land within Planning Unit P3 –Preston Scarp and Plateau and is specifically identified as an ‘Area For Investigation for Settlement Expansion – Rural Residential’. Land use in the expansion area is to be guided by structure planning.

East Boyanup Structure Plan 1997

The structure plan, endorsed in 1997 identifies the subject portion of Lot 11 as ‘Residential Deferred’, being an expansion of the Boyanup townsite. The structure plan also identifies that the land in question will be bordered to the west by a proposed southern extension of Stephen Street and wetlands and drainage bordering to the east. Whilst the structure plan is presently the subject of a review by the landowner, it is not anticipated that this will result in any significant changes to the intent for the use of the subject portion of lot 11 for long-term residential purposes or the proposed extension of Stephen Street. As such, it is considered that the proposed use of the site for a school is consistent with the long-term urban development of the surrounding land and expansion of the Boyanup townsite.

Shire of Capel – Strategic Plan 2003-2007

The proposal is considered consistent with the following Key Objectives/Outcomes of Core Business Area 2: Land Use:

- Facilitate economic land use opportunities
- Maintain the special attributes/character of the district by continuing to provide a balance of rural and urban land development opportunities in a safe and attractive environment.

CONSULTATION

Nil

COMMENT

Whilst the portion of Lot 11 subject to this application is zoned ‘Rural’ (within which an ‘Educational Establishment’ may be approved with the consent of Council), the ultimate use as identified in the East Boyanup Structure Plan and Council’s Land Use Strategy is for urban related purposes. This future development is associated with expansion of the Boyanup townsite and ongoing development of land to the north and east for a mix of residential and rural residential purposes. The use and development of a school in such a location is consistent with the proposed urban framework and nature of the area and therefore the basis for the subdivision is supported. The adjoining wetland reserve/area and future extension of Stephen Street along the western boundary of the proposed school site are also positive criteria for the location of a school.

Notwithstanding the above, surety over the use of the proposed lot for school purposes is an important consideration. If the subdivision were to be approved with no condition or control that ensured the use of a school, the lot could technically be utilised as a small ‘Rural’ zoned lot and operate as a ‘quasi’ rural residential development. This would not be consistent with the Structure Plan for the area as it relates to the site and surrounds. Whilst it is understood that Iluka is intending to gift the land to the school operators, a suitable condition should be placed on the subdivision that requires the proposed lot to have a certain level of development and construction of buildings associated with a school use, prior to issue of clearances for title. Discussions with officers from the Department for Planning and Infrastructure indicate a willingness to impose such a condition.

OC0906 STAFF RECOMMENDATION/COUNCIL DECISION**Moved Cr Gibson, Seconded Cr Rees****That Council resolves to advise the Western Australian Planning Commission that:**

- 1 The application to subdivide Lot 11 Armstrong Street, Boyanup to create a school site should be approved subject to the following conditions:**

- (a) **The land being filled and/or drained at the subdivider’s cost to the satisfaction and specifications of the Shire of Capel, and any easements and/or reserves necessary for the implementation thereof, being provided free of cost to the Crown and in accordance with its requirements;**
 - (b) **That prior to issue of a final clearance of subdivision for the ‘school’ lot, that development of school buildings shall have been substantially commenced to the satisfaction of the Shire of Capel; and**
 - (c) **The boundaries of the lot being defined onsite by site survey, to the satisfaction of the Shire of Capel prior commencing development.**
- 2 The applicants being advised that access to the lot off Armstrong is considered acceptable in the interim, however when any future development of the school takes place, it should provide for the access to ultimately be from the Stephen Street road extension.**

Carried 9/1

VOTING REQUIREMENTS

Simple majority

OC0907 (12.2.2) Subdivision Clearance Requirements – Lot 501 Chislehurst Ave, Stratham (C5.1.N.57)**REPORTING OFFICER**

I Hastings - Planning Officer (Temporary)

Date 31.08.04

DISCLOSURE OF INTEREST Nil**OWNER/APPLICANT**

EW Brockman/Thompson McRobert Edgeloe

MATTER FOR CONSIDERATION

Authorisation of the President and Chief Executive Officer to sign and affix the seal to a restrictive covenant pursuant to section 129BA of the Transfer of Land Act that will apply to the titles of two new lots created by the subdivision of lot 501. The covenant will restrict the vehicular access to Minninup Road from the proposed lots so that only the new constructed subdivisional roads are used.

ATTACHMENTS

- Plan of Subdivision (page 01)
- Copy of Restrictive Covenant (pages 02 and 03).

APPLICANT'S SUBMISSION

The Section 129BA documents have been submitted to satisfy condition 4 of the subdivision approval, which requires a restrictive covenant be placed over proposed Lots 58 and 59 to restrict vehicular access on to Minninup Road. A right of carriageway in favour of the Department of Environment is contained within the covenant to enable vehicle access to monitoring bores on the properties.

BACKGROUND

2001 April – The majority of the original lot 11(balance area now known as lot 501) received approval to be subdivided from the Western Australian Planning Commission (WAPC). Proposed lots were restricted from accessing Minninup Road by applying a 0.1m PAW along the frontage.

2004 March – WAPC granted subdivision approval to the subject lots.

STATUTORY ENVIRONMENTTown Planning Scheme No. 7

The subject lots are zoned 'Special Rural' pursuant to the Scheme. The subdivision is in accordance with the special provisions that apply under the zoning of the land.

Transfer of Land Act

Section 129BA of the Transfer of land Act provides for restrictive covenants to be placed on Certificates of Title to the benefit of a suitable authority.

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS

A fee is payable to the Registrar of titles on lodgement of the Section 129BA form which the subdivider is responsible for along with the preparation of the restrictive covenant.

STRATEGIC IMPLICATIONS Nil

COMMUNITY CONSULTATION Nil

COMMENT

The imposition of the restrictive covenant on the titles is important to ensure that vehicular access to and from Minnipup Road is restricted. Access will be allowed for the Department of Environment to check on monitoring bores. The use of restrictive covenants is the only mechanism the WAPC will consider for the restriction of vehicle access to roads, where previously 0.1m PAWs were applied. Whilst the PAW process was considered the most ideal mechanism for such purposes in the past, the WAPC has now adopted the position that it will only support the use of restrictive covenants.

OC0907 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Jones

That Council resolves to authorise the President and Chief Executive Officer to sign and affix the Common seal to the Section 129BA Notification to be lodged on the title of proposed Lots 58 and 59 being part of Lot 501 Chislehurst Avenue, Stratham.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OPERATIONAL SERVICES SECTION**Nil****GOVERNANCE****OC0908 (14.1.1) Western Australian Local Government Association – Member Vacancies (A.2.22)**

REPORTING OFFICER

PF Sheedy – Chief Executive Officer

Date 23.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Western Australian Local Government Association (WALGA).

MATTER FOR CONSIDERATION

Council is required to consider the vacancies and nominate any interested Elected Members.

ATTACHMENTS

Summary of current vacancies.

APPLICANT'S SUBMISSION

WALGA has advised that the current round of vacancies for various Committees is now open, with nominees being required to complete the relevant nomination form and return it by 13 September 2004.

BACKGROUND

The vacancies have become available as a result of the expiry of the existing members' term, the existing member resigning from the position or the creation of new committee vacancies.

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS

Policy 12.3 'Travel Expenses – Members' clause 1(f) indicates that Council will reimburse travel expenses where Members of Council attend meetings as a consequence of an appointment to a committee.

FINANCIAL IMPLICATIONS

The Council of National Trust of Australia Committee does not reimburse travel costs, so Council would be required to meet these cost (\$130 per trip) should it nominate a Councillor and that person is appointed to the committee. The other two committees reimburse travel costs and therefore there are no financial implications for Council.

STRATEGIC IMPLICATIONS Nil

CONSULTATION Nil

COMMENT

If any Councillors are interested in being nominated to any of the following positions, an indication prior to the Council meeting would be appreciated. Further details of each committee are available from the Chief Executive Officer for interested Councillors.

Details of the various committee vacancies are as follows:

1 Council of National Trust of Australia (WA)

Vacancy: One Member
 Term: Three Years from appointment
 Meetings: 5 Mondays per annum
 Duration: 3 hours and 7 hours per month on heritage and National trust matters
 Location: West Perth
 Fees: Nil as it is a voluntary position

2 Active Ageing Consultative Committee

Vacancy: One Member
 Term: Two years from appointment
 Meetings: Quarterly, with occasional forums and consultations
 Duration: Half a day
 Location: Perth
 Fees: Sitting fee to be set by the Department of Premier and Cabinet and travel costs paid to non-metropolitan members

3 Visitor Servicing Study Implementation group

Vacancy: Two Members
 Term: One year
 Meetings: Bi-monthly
 Duration: 2-3 hours
 Location: Perth
 Fees: Appropriate travel costs by arrangement for non-metropolitan members

OC0908 STAFF RECOMMENDATION

That Council nominated interested Councillors and meet appropriate travel costs as per policy 12.4, where not provided by the Committee.

OC0909 COUNCIL DECISION

Moved Cr Piesse, Seconded Cr Smith

That Council nominate Councillor Lamb as a representative on the Active Ageing Consultative Committee and meet appropriate travel costs as per Policy 12.4, where not provided by the Committee.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0910 (14.1.2) Breakfast Seminar on Local Government (A.2.2)

REPORTING OFFICER

PF Sheedy – Chief Executive Officer

Date 31.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Leschenault Business Enterprise Centre (BEC).

MATTER FOR CONSIDERATION

Approval for interested Councillors to attend the breakfast seminar on local government in Bunbury on Tuesday, 21 September 2004.

ATTACHMENTS

Leschenault BEC flyer promoting the seminar.

APPLICANT'S SUBMISSION

BACKGROUND

Councillor Judy Jones, Deputy Mayor, City of Bunbury raised the matter with Alison Lannin, Leschenault BEC as an opportunity to better promote local government within the business community in the region and hopefully to encourage more people to become involved in local government.

The CEO's of the Shires of Capel, Dardanup, Harvey, Donnybrook-Balingup and City of Bunbury were contacted for their views and the proposal received the support of those officers.

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS

Policies 12.3 "Travel Expenses – Members" and 12.6 "Conferences and Training and Development Expenses" are applicable to this item.

FINANCIAL IMPLICATIONS

Council would be required to meet the registration cost (\$15) and any travel costs claimed for Councillors authorized to attend the seminar.

These costs can be covered within the Conference and Training and Travel Expenses budget allocation for Members of Council.

STRATEGIC IMPLICATIONS

The seminar would fall within strategy 5.1 'Provide adequate funding for all Councillors to attend appropriate training and education courses to enhance their corporate governance skills.' Core Business Area 5 'Governance' of the Shire of Capel's Strategic Plan 2003 – 2007.

The ongoing professional development of Councillors and encouragement of future Councillors is an important strategic action to ensure that the community is well represented.

CONSULTATION

Councillors have been contacted via email and facsimile in regards to this seminar. I have also contact the Capel Chamber of Commerce for their support in encouraging some of their members to attend and the Dalyellup Beach Community Association to bring the seminar to the attention of its members.

COMMENT

As indicated in the attachment, the primary focus is to have a number of speakers from local government to address the business people attending to provide them with a better understanding of the roles and responsibilities of local government and to encourage greater participation in local government as Councillors.

However it is also important that in addition to the speakers a number of Councillors from the five local governments also attend to interact with the seminar attendees on a one on one basis to answer any questions that may arise.

The only downside of this seminar is that it is the same day as the Shire of Capel/Leschenault BEC Sundowner to be held in the Council chambers commencing at 5.30pm.

OC0910 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Bell

That Council authorises the attendance of Councillors Caratti and Smith at the Leschenault BEC breakfast seminar on local government in Bunbury on 21 September 2004, and meet seminar and travel costs as per policies 12.3 and 12.6.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0911 (14.1.3) Sea Change Conference (A.2.2)

REPORTING OFFICER

PF Sheedy – Chief Executive Officer

Date 31.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

City of Rockingham.

MATTER FOR CONSIDERATION

Council to authorise the attendance of interested Councillors at the Sea Change conference in Rockingham, WA on 1 October 2004.

ATTACHMENTS

Seminar program.

APPLICANT'S SUBMISSION

An unprecedented fundamental shift in Australian values and an increase of those seeking alternative lifestyle changes was clearly evident in 2001 when it was recognised that 85% of Australians lived within 50kms of the coastline with over 4 million Australians lived in coastal communities outside of capital cities.

While rapid in its approach, this Sea Change phenomenon is showing no signs of slowing down and continues to present daily challenges to Councils aiming to achieve sustainable growth and triple bottom line measured outcomes.

Coupled with the transient tourism population also seeking coastal experiences this continued migration pattern is severely impacting on the economic, environmental and social fabric of communities.

As population and tourism numbers continue to surge so too does the high demand for essential infrastructure such as roads, water and sewerage, basic social services such as education, public transport, health, police and emergency services.

Community needs and service expectations are rapidly increasing and coastal Local Governments are struggling to fund the ongoing daily challenges and to address the implications of this remarkable growth.

The response by a group of pro-active coastal Councils around Australia is to facilitate a coordinated approach to the Sea Change phenomenon by sharing information and resources, and lobbying for the design and implementation of a national framework for sustainable growth.

Join Members of the National Taskforce and high profile speakers as they continue to not only address Sea Change issues but seek solutions.

BACKGROUND

Approximately four million people live in Australia in coastal areas outside capital cities. It is estimated that the rate of population growth in these areas is 50% higher than the national average. Coastal population is predicted to increase by a further million people over the next 15 years.

This rate of growth is considered unsustainable. It poses a major risk to coastal communities and to the fragile coastal environment. Sea change growth, which involves an unprecedented shift of population to coastal areas, is a national issue that is impacting on coastal communities in every state in Australia. Urgent action is required to identify and implement strategies to better manage growth and reduce its adverse social, environmental and economic impacts.

A conference has been organised for WA coastal Councils to advise on the work undertaken by the National Sea Change Taskforce, a group of pro-active coastal Councils around Australia that have undertaken to facilitate a coordinated approach to the Sea Change phenomenon.

The aim to undertake research into the effects of sea change growth and prepare submissions based on this research to gain the support and cooperation of State and Federal Governments to address the issue.

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS

Policies 12.3 “Travel Expenses – Members” and 12.6 ‘Conferences and Training and Development Expenses’ are applicable to this item.

FINANCIAL IMPLICATIONS

Council would be required to meet the registration cost (\$200) and any travel costs claimed for Councillors authorised to attend the seminar.

These costs can be covered within the Conference and Training and Travel Expenses budget allocation for Members of Council.

STRATEGIC IMPLICATIONS

The seminar would fall within strategy 5.1 ‘Provide adequate funding for all Councillors to attend appropriate training and education courses to enhance their corporate governance skills.’ Core Business Area 5 ‘Governance’ of the Shire of Capel’s Strategic Plan 2003 – 2007.

The ongoing professional development of Councillors is an important strategic action to ensure that the community is well represented.

CONSULTATION Nil

COMMENT

Whilst the Shire of Capel is not in the same league to other major coastal local governments in Western Australia and the eastern states, the ongoing development of Dalyellup and its theme of ‘A village in the Forrest by the Sea’, together with the ongoing development of Peppermint Grove Beach and possible other future coastal developments will present some future challenges to this Council as its population in these areas continues to increase at a high rate.

The conference does provide the opportunity to network with other local government Councillors and staff who are already experiencing this pressure and hopefully be better informed and prepared to deal with these issues here in the Shire of Capel. The attendance of a couple of Councillors would be beneficial.

OC0911 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Jones

That Council authorises the attendance of Councillor Smith at the WA Sea Change conference to be held at the City of Rockingham on 1 October 2004, and meet conference and travel expenses as per policies 12.3 and 12.6.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0912 (14.1.4) Annual Leave – Chief Executive Officer (Personnel 110)

REPORTING OFFICER

PF Sheedy – Chief Executive Officer

Date 03.09.04

DISCLOSURE OF INTEREST

I declare an interest in this item, being the applicant requesting the leave.

OWNER/APPLICANT

PF Sheedy

MATTER FOR CONSIDERATION

Council approval is required for the Chief Executive Officer to take annual leave for the period 17 January to 4 February 2005 (15 days).

ATTACHMENTS

Nil

APPLICANT'S SUBMISSION

In order to avoid the busy times of the year, with budgets, elections etc, I endeavour to take my periods of annual during the October and December school holidays.

BACKGROUND

Council amended policy 13.1 at its 14 April 2004 (Minute OC0413), on the basis that any periods of leave exceeding five working days have to be approved by Council. The President can approve periods of leave of five days or less.

STATUTORY ENVIRONMENT

Local Government Officers' (Western Australian) Award 1999

POLICY IMPLICATIONS

Policy 13.1 indicates that:

- 1 That the Chief Executive Officer be required to submit annual leave applications to Council for approval where the period of leave to be taken exceeds five working days.
- 2 Where the Chief Executive Officer wishes to take periods of leave that is five working days or less, the President is to be advised of the proposal.
- 3 The details of all Chief Executive Officer annual leave periods, where time permits, shall be included in the monthly Information Brochure.
- 4 During all periods of annual leave by the Chief Executive Officer, the Manager, Finance and Corporate Services shall be appointed to the position of Acting Chief Executive Officer.

FINANCIAL IMPLICATIONS

Annual Leave and payment of higher duties remuneration are included in the annual budget provisions.

STRATEGIC IMPLICATIONS Nil

CONSULTATION Nil

COMMENT

I proposed to also take five days leave at the beginning of October 2004 (school holidays), however policy 13.1 allows for this to be approved by the President.

During my periods of annual leave the Manager Finance and Corporate Services is appointed as the Acting Chief Executive Officer as per policy 13.1.

OC0912 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Smith, Seconded Cr Piesse

That Council approves the Chief Executive Officer's annual leave for the period 17 January to 4 February 2005.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0913 (14.1.5) Annual Elector's Meeting (A.2.1)

REPORTING OFFICER

Andrew Ross – Manager Finance & Corporate Services

Date 30.08.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Council to consider a suitable date for the Annual Elector's Meeting.

ATTACHMENTS Nil

APPLICANT'S SUBMISSION Nil

BACKGROUND

An annual meeting of electors is required to be held within 56 days after the Council accepts the Annual Report and at least 14 days public notice must be given in regards to the proposed meeting date.

Traditionally the meetings have been rotated between Capel, Boyanup and Gelorup. However, last year's meeting was held at Dalyellup.

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 5.27 indicates that the Elector's meeting shall be held once every financial year and not more than 56 days after the local government accepts the annual report for the previous year.

Section 5.29 states that the CEO is to convene an Elector's meeting by giving at least 14 days local public notice and each Council member 14 days notice.

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS

Travel expenses for Councillors and some minor expenses for refreshments.

STRATEGIC IMPLICATIONS

Associated with the Strategic Plan 2003 – 2007, core business area of Governance, although there are no specific strategies or action plans.

CONSULTATION Nil

COMMENT

Last year it was agreed to hold the meeting at Dalyellup and it was suggested that the following year's meeting would be held in Gelorup. Due to the close proximity of Dalyellup and Gelorup and the low elector turn out at Dalyellup last year, it is proposed this year's meeting be held at Boyanup.

The suggested date is Wednesday, 27 October 2004, with the meeting commencing at 7.30pm (after the Council meeting). The venue will be the Jack & Mary Kitchen Community Centre.

OC0913 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Rees, Seconded Cr Gibson

That Council hold the annual meeting of electors on Wednesday, 27 October 2004, at the Jack and Mary Kitchen Community Centre commencing at 7.30pm.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

COMMUNITY SERVICES SECTION**Nil****FINANCE AND RATING SECTION****OC0914 (14.3.1) Policy 21.10 - School Chaplaincy Program (A.2.11)****REPORTING OFFICER**

Andrew Ross – Manager Finance & Corporate Services

Date 27.08.04

DISCLOSURE OF INTEREST Nil**OWNER/APPLICANT** Nil**MATTER FOR CONSIDERATION**

Council to consider a policy that provides a framework for providing contributions to school chaplaincy programs.

ATTACHMENTS

Policy 21.10, Contribution to School Chaplaincy Programs

APPLICANT'S SUBMISSION Nil**BACKGROUND**

Council at its meeting on 14 January 2004 (refer minute OC0113), approved the inclusion of a contribution of \$9,000 for school chaplaincy programs in the 2004/05 draft Budget. The 2004/05 Budget, including this contribution, was adopted by Council at its meeting on 28 July 2004 (refer minute OC0729).

STATUTORY ENVIRONMENT

Local Government Act 1995

Section 6.2 of the Local Government Act 1995 requires a local government prepare an annual Budget. The Budget must include details of expenditure to be incurred.

POLICY IMPLICATIONS Nil**FINANCIAL IMPLICATIONS**

An amount of \$9,000 has been allocated for 2004/05 in account number 1002 in the Education and Welfare area.

STRATEGIC IMPLICATIONS

Broadly associated with the Strategic Plan 2003 – 2007, core business area of Community Services, although there are no specific strategies or action plans.

CONSULTATION Nil

COMMENT

The previous item to Council that discussed this proposal outlined a possible process for managing the allocation of contributions to schools that was based on equity and allowed the full use of Council's proposed budgetary allocation. These principles have been described in greater detail in proposed Policy 21.10 that is attached.

OC0914 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Rees, Seconded Cr Gibson

That Council approve Policy 21.10, School Chaplaincy Programs, as detailed in the attachment.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

COMMUNITY RANGER SERVICES

Nil

URGENT BUSINESS**OC0915 (15.1.1) Kingscape Holdings Pty Ltd (Trading as South West Waste Disposals) v Shires of Capel, Dardanup & Harvey, Supreme Court Action CIV 1796/2002 (C.1.1)**

REPORTING OFFICER

Colin Dent-Principal Environmental Health Officer

Date 07.09.04

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

McLeods, Barristers & Solicitors.

MATTER FOR CONSIDERATION

Council is requested to support the settlement of the Supreme Court proceedings by Kingscape Holdings and agree not to pursue the recovery of legal costs from Kingscape.

ATTACHMENTS Nil

APPLICANT'S SUBMISSION

Slee Anderson and Pidgeon, acting for Kingscape Holdings Pty Ltd, have contacted McLeod's with a proposal for settlement of the Supreme Court proceedings, which are due to be heard in the Supreme Court in Perth on 16 September 2004, on the basis that each party meets their own costs.

It is McLeod's view that the Shires should accept the settlement proposal.

BACKGROUND

Kingscape is proposing to withdraw or discontinue its current appeal against the decision of the Supreme Court to dismiss its challenge to the validity of the rubbish collection contract, let by the Shires of Capel, Dardanup and Harvey that commenced 1 July 2002, provided that all parties bear their own costs of the entire proceedings. The three Shires need to reach a unanimous decision on what response to make.

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS

The three shires have incurred total cost of approximately \$31,000 over three financial years since the waste collection tender was awarded to Cleanaway. However a substantial proportion of these costs was incurred prior to Kingscape Holdings commencing legal proceedings and are therefore not recoverable costs.

Where the Courts award costs a percentage (33 – 50%) is taken by the Courts (taxed) to cover some of their costs. As a result if the three local governments were successful in the current proceedings the total amount they could receive would only be \$3,000 - \$4,000 (\$1,000 - \$1,500 each). Bearing in mind that Kingscape Holdings is a \$2 company the local governments may in fact not recover any monies.

The 2004/05 Budget includes an expenditure and income allocation of \$5,000 in both areas for legal costs, resulting in a nil impact on the budget. If Council accepts this proposal it would result in nil income being received and possibly \$2,000 expenditure being incurred for legal costs in this matter for the 2004/05 financial year.

Should Kingscape Holdings appeal be successful and the matter proceeds to court and they win the case, the three local governments would be required to meet their costs, which could be quite high, given that Kingscape have engaged two separate legal Counsels to argue their case to date.

STRATEGIC IMPLICATIONS Nil

CONSULTATION

There has been ongoing discussion between the CEOs of the three local governments and the CEO has discussed the matter with the President, Councillor Scott.

COMMENT

This matter has been dragging on for over two years and if the appeal to the full bench of the Supreme Court in Perth on 16 September 2004, is successful, it could well last another two years.

Kingscape Holdings Pty Ltd submitted over three hundred pages of documents in its submission to the Court, this plus the cost of briefing two legal Counsels, could result in their total costs being several hundred thousands of dollars.

Whilst the unjustified adverse publicity the three Shires have received in this case may be annoying, it is considered that it is in the best interests of the local governments to agree to accept the recommendation from McLeod's, as:

- It will end the matter
- It will remove the uncertainty of what may, or may not, happen in the Supreme Court
- It will save future legal action costs if the appeal is successful
- There is no guarantee that we will win on all points if the appeal went ahead
- There is no guarantee that if the Shire's win that we will be compensated for all or any legal costs
- It will effectively secure our contract with Cleanaway.

In agreeing to support the settlement of the Supreme Court proceedings the three Shires would be seeking to have Kingscape Holdings agree to the following conditions:

- 1 That they sign a legally binding agreement that all legal action is to cease and that there will be no further action taken. This agreement is sought to clarify the position outlined by Slee Anderson and Pidgeon in their letter to McLeod's, which indicates that Kingscape Holdings are "proposing to withdraw or discontinue its current appeal".
- 2 That they release a public statement stating that they commenced proceedings and have now decided to withdraw on their own choosing and will not be making any further legal challenge against any of the three local governments in relation to the tender process or the contracts in place for the domestic waste collection service.
- 3 That they take action to remove any of its 240 litre mobile garbage bins still in dwellings within the three Shires.

Advice from McLeod's is that the above items may not be legally binding on Kingscape Holdings Pty Ltd, as part of the agreement to settle the case. If that is the case the points will be included in the letter to Kingscape Holdings, advising of the local governments agreement to finalise the matter, with a request that they comply with these requests. As it is unclear whether these conditions can be legally enforced, Council is requested to give the CEO the authority to negotiate on these matters in consultation with the other two local government CEOs.

OC0915 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Rees

That Council:

- 1 Support the settlement of the Supreme Court proceedings by Kingscape Pty Ltd and agree not to pursue the recovery of its legal costs regarding the Supreme Court case, CIV 1796/2002; and**
- 2 Authorise the Chief Executive Officer to seek an agreement with Kingscape Holdings Pty Ltd, in consultation with the other two local governments to settle the matter taking into consideration the three points outlined above at the conclusion of the 'COMMENT' section of the report**

Carried 10/0

VOTING REQUIREMENTS

Simple majority

PUBLIC QUESTION TIME

ITEMS FOR CONSIDERATION BEHIND CLOSED DOORS

MEETING CLOSURE

The meeting closed 4.50pm.

These minutes were confirmed at an Ordinary Council meeting on 22 September 2004.

Signed _____

Presiding Person at the meeting at which time the minutes were confirmed.

Date _____