

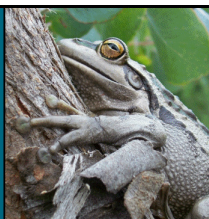
Shire *of* Capel

MINUTES

ORDINARY COUNCIL MEETING
Wednesday, 11 February 2009



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Shire of Capel



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SHIRE OF CAPEL
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SHIRE OF CAPEL

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS ON WEDNESDAY 11 FEBRUARY 2009, COMMENCING AT 4.38PM.

PRESENT:	President	MT Scott
	Deputy President	KV Caratti
	Councillors	BW Bell
		JA Fuller-Hill
		K Gibson
		NR Jones
		SC Manley
		GJ Norton
		JA Scott
		MM Smith
	Chief Executive Officer	PF Sheedy
	Director, Planning and Development Services	CM Burwood
	Manager, Health Services	CR Dent
	Director, Corporate & Community Services	AJ Ross
	Director, Technical Services	JD Wesley
	Minute Secretary	AD Evans
APOLOGY:	Councillor	S Akl

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Ms Pippa McMullen raised the following question regarding Lot 5 Buchanan Road, Capel, at the Council meeting on 28 January 2009.

- Q. Why has the Shire allowed my neighbours across the road to reduce their landfill for their subdivisions, and the Shire is now not allowing me the same rights?
- A. The neighbours that subdivided Lot 28 Buchanan Road, Capel between February 2005 and 2007 were imposed with the same conditions of development by the WAPC regarding fill material:

"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 Council and in accordance within its requirements."

Both subdividers were advised to retain a clearance of 1.2m separation between AAMGL and slab.

Due to the existing swale drain within the road reserve on the eastern side of Buchanan road, the consultant for Lot 28 included subsoil drainage in their application to reduce the amount of fill required.

The consultant for Lot 5 did not include subsoil drainage to reduce the amount of fill material required. The Shire met with the consultant this week to suggest investigation to use subsoil to reduce fill and the success of this will also be dependent on the ability to create a shallow swale in the verge. A shallow swale may only be an option because the subdivision is at the end of the stormwater catchment.

The above response and a copy of a detailed report on the matter have been hand delivered to Ms McMullen.

PUBLIC QUESTION TIME Nil

OC0201 APPLICATIONS FOR LEAVE OF ABSENCE

OC0201 COUNCIL DECISION

Moved Cr Bell, Seconded Cr Gibson

That Cr J Scott’s application for leave of absence from the Ordinary Council meeting to be held on 11 March 2009 be approved.

Carried 10/0

VOTING REQUIREMENTS

Simple Majority

DECLARATION OF INTEREST Nil

NOTICE OF ITEMS TO BE DISCUSSED BEHIND CLOSED DOORS Nil

OC0202 CONFIRMATION OF MINUTES – 28.01.09

OC0202 COUNCIL DECISION

Moved Cr J Scott, Seconded Cr Caratti

That the minutes of the Council Meeting held on 28 January 2009, as printed, be confirmed.

Carried 10/0

VOTING REQUIREMENTS

Simple Majority

ANNOUNCEMENTS BY PERSON PRESIDING WITHOUT DISCUSSION

After the round table discussion at the end of this meeting there will be a discussion of issues relating to Minister Castrilli’s announcement last week.

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

OC0203 (13.1.1) Unbudgeted Expenditure - Radiological Survey Capel Recreation Ground Reserve 15635 Goodwood Road, Capel

REPORTING OFFICER

C Dent - Manager Health Services
A Ross - Director Corporate & Community Services

Date: 21.01.09

DISCLOSURE OF INTEREST

Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Council to consider approving unbudgeted expenditure of up to \$65,000 to employ a consultant to carry out a radiological survey of the Capel basketball/tennis courts.

ATTACHMENT

See attached précis of the survey of the Capel townsite carried out by the Radiological Section of the WA Department of Health in 1981/02.

APPLICANT'S SUBMISSION

The above survey found that extensive use of tailings had occurred at the Capel Recreation Ground, and elevated readings (300 uR/hr) were found over most of the oval which was replaced in 1988. (Background radiation is taken as 120 uR/hr, anything over this is regarded as above background radiation and can therefore be a long term threat to human health)

The playing surface of the basketball courts had a reading of 100 uR/hr with the banks recording a reading of 300 uR/hr. The tennis court banks also had a reading of 300 uR/hr. An agreement was made with the Department of Health, the mining company and Shire officers not to remove the tailings from the courts and banks of the basketball and tennis courts as there was no human activity on the banks and it was felt that there was very little threat to health.

With the proposal to revamp the Capel Recreation Ground it has become evident that both the basketball and tennis courts may need to be remodelled which may involve the removal of the tennis courts. As the recreation ground is a declared contaminated site under the Contaminated Sites Act, Council, as owner of the site is required to engage an approved auditor to carry out radiological survey of the site. The survey needs to be carried out to determine the extent of the radiation and what steps need to be taken to remediate the area and what the approximate cost will be to rehabilitate the site.

BACKGROUND

Following problems with radiation in the late 1970's the Radiological Council carried out a survey of the Capel townsite in 1981/82. One of the sites identified was the Capel Recreation Ground. Two areas of the recreation ground were identified as having a higher than background radiation reading, these were the football oval and the basketball/tennis courts. The oval was replaced in 1988 but it was decided to leave the courts as they were as they did not pose a threat to human health.

With the proclamation of the Contaminated sites Act in 2006 all sites classed as contaminated had to be registered. Before any remedial action can be taken to carry out any work on the site Council must employ an approved consultant to prepare a report on the site.

STATUTORY ENVIRONMENT

Section 6.8 of the Local Government Act 1995 requires a local government not incur any expenditure that is not included in its budget.

Radiation Safety (General) Regulations 1983 Schedule 1 Dose limits and maximum permissible exposure levels.

Radiological Council: Guidelines for remedial action of enhanced background gamma radiation levels.

Contaminated Sites Act 2003
Contaminated Sites Regulations 2006

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS

The need to conduct the survey is the result of planning and design work for the new Capel Sports Pavilion. The location of this building and its proximity to the current and future hard courts it is intended to service and overlook may require some disturbance of the existing courts and their surrounds. To determine viable options from a cost and risk management perspective it is imperative a radiological survey be commissioned.

It could therefore be argued that the cost of this survey could be included within the 2008/09 budget for the Capel Sports Pavilion of \$640,000. However, the magnitude of the cost and the fact the item was not considered when project costs were initially estimated justify considering this item as unbudgeted expenditure for 2008/09. Additionally, the expenditure is of an operating nature rather than capital.

This unbudgeted expenditure will need to be funded from municipal funds as there are no suitable reserve funds available for this purpose.

STRATEGIC IMPLICATIONS

The Shire of Capel's Strategic Plan identifies that the project is an integral part of Core Business Area 1: INFRASTRUCTURE, Strategy 6: Plan, construct and maintain an appropriate level of community infrastructure. Action 6.1 states: Provide, improve (where appropriate) and maintain community infrastructure for the enjoyment of the community in accordance with the Five Year Recreation Plan.

CONSULTATION Nil

COMMENT

Before work can begin on the Capel sports pavilion the extent of the radiation must be quantified; this can only be carried out by an approved consultant. This type of work is highly specialised and there is a limited number of consultants in this State who can undertake the work. The results and recommendations from the survey must be acceptable to both the Radiological Council and the Department of Environment and Conservation. The site work will comprise a combination of a site wide screening walk to assess the level of radiological activity at the ground surface, followed by a

number (approximately ten) of shallow soil bore holes to obtain soil samples at a range of depths to assess the physical nature and quality of the material belowground. One sample from each bore hole will be dispatched to Australian Radiation Services laboratory for radiological analysis and characterisation.

A report will be presented that will include the following:

- A method statement regarding assessment works and methods that were completed on site;
- Discussion of the magnitude and extent of the radiation contamination;
- Discussion of potential hazards associated with the radiation contamination;
- A qualitative health risk assessment for potential risk;
- A discussion on whether remedial actions are required and what remedial alternatives may be feasible;
- Assessment outcome evaluation in relation to the project objectives; and
- Recommendations.

OC0203 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr J Scott

That Council approve unbudgeted expenditure in 2008/09 of up to \$65,000 in account 126520, Capel Recreation Ground, to employ a consultant to conduct a radiological survey of the basketball/tennis courts at the Capel Recreation Ground Reserve 15635 Goodwood Road, Capel.

Carried by an Absolute Majority 10/0

VOTING REQUIREMENTS

Absolute majority

PLANNING AND DEVELOPMENT SERVICES REPORTS**BUILDING SERVICES SECTION** Nil**PLANNING SERVICES SECTION** Nil**TECHNICAL SERVICES REPORTS****TECHNICAL SERVICES SECTION** Nil**CORPORATE AND COMMUNITY SERVICES REPORTS****GOVERNANCE****OC0204 (16.1.1) Audit Committee Meeting Minutes for 28 January 2009 and Appointment of Auditor**

REPORTING OFFICER

A Ross – Director Corporate and Community Services Date: 03.02.09

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Council to receive the minutes of the Audit Committee Meeting held on 28 January 2009 and adopt the recommendations contained in the minutes.

ATTACHMENTS

Audit Committee Meeting Minutes for the meeting held on 28 January 2009.

APPLICANT'S SUBMISSION Nil

BACKGROUND Nil

STATUTORY ENVIRONMENT

Section 5.22 of the Local Government Act 1995 (as amended) requires that the minutes of a committee meeting are to be considered at the next Ordinary Council meeting.

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS Nil

STRATEGIC IMPLICATIONS Nil

CONSULTATION Nil

COMMENT

The Audit Committee Meeting was held on 28 January 2009 and the Committee were requested to consider the awarding of Tender 08/08 Audit Services and the completion of the Annual Compliance Return. The minutes of the meeting are self explanatory and are provided for Council's consideration.

With regard to the appointment of an Auditor, Section 7.3 of the Local Government Act requires a local government appoint a person on the recommendation of the audit committee to be its auditor and that this decision be by absolute majority. Therefore, to satisfy this legislative requirement a specific recommendation has been included for Council's consideration.

OC0204 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Gibson, Seconded Cr J Scott

That Council receive the minutes of the Audit Committee Meeting held on 28 January 2009 and adopt recommendations AC0102 to AC0104.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

OC0205 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Caratti, Seconded Cr Gibson

That Council appoint Mr Tim Partridge of AMD Chartered Accountants as auditor for the Shire of Capel for a period of five financial years from 1 July 2008 to 30 June 2013.

Carried by an Absolute Majority 10/0

VOTING REQUIREMENTS

Absolute majority

Mr C Burwood left the Chambers at 4.53pm.

OC0206 (16.1.2) Strategic Plan Six Month Review

REPORTING OFFICER

PF Sheedy – Chief Executive Officer Date: 04.02.09

DISCLOSURE OF INTEREST Nil

OWNER/APPLICANT

Chief Executive Officer

MATTER FOR CONSIDERATION

The six monthly progress report by the Chief Executive Officer on the delivery of outcomes as stated in the Shire’s Strategic Plan as required under his 2008/2009 Annual Performance Review.

ATTACHMENTS Nil

APPLICANT’S SUBMISSION Nil

BACKGROUND

The Chief Executives Officer’s Annual Performance Review 2008/2009 includes a KRA that requires him to provide a six monthly report on the deliver of outcomes stated in the Strategic Plan in February and August each year.

STATUTORY ENVIRONMENT Nil

POLICY IMPLICATIONS Nil

FINANCIAL IMPLICATIONS

A number of the Actions require the allocation of funds in the annual budget to be completed. Allocations are included in the budget in the next financial year that the action is identified in the strategic plan (i.e. an action identified for 2007 will be funded/completed in the 2007/08 financial year)

STRATEGIC IMPLICATIONS Nil

The report assists in informing Councillors as to the progress on the implementation of actions identified in the strategic plan.

CONSULTATION

A number of the actions require consultation by the Chief Executive Officer with various Directors of the organization and in some instances consultation with state government agencies or outside organizations.

COMMENT

Whilst the current Strategic Plan has reached the end of its stated period (2003-2007) there are still some carryovers from previous years that have not been completed and whilst a new strategic plan is being developed it was agreed that the six monthly reporting would continue.

Details of the carryovers and a brief explanation of where they are at are detailed below:

1. Coastal Facility Improvement Plan (due 2004/05)

The Coastal Facility Improvement Plan was to be a follow on once the Coastal Management Plan was completed which identified the need for a Foreshore Management Plan at Peppermint Grove Beach as one of its recommendations (recommendation 21). The Peppermint Grove Beach Foreshore Management Plan is seen as being a similar document to the Coastal Facility Improvement Plan and it will address the relevant issues at Peppermint Grove Beach.

Funding of \$15,000 has been included in the 2008/09 budget (grant of \$10,000). The steering committee has been established and has met on two occasions, and a consultant has been engaged to develop the plan. A questionnaire has been sent out to Peppermint Grove Beach landholders for completion.

A community workshop will be held in late March/April 2009 to consider the draft plan.

The Coastal Management Plan included recommendations for Forrest Beach which are being considered and implemented, where considered a priority, as part of the annual budget allocation process and Dalyellup has a Foreshore Management Plan that is being implemented by the developer as part of the subdivision approval.

Funding of \$15,000 has been included in the 2008/09 budget (grant of \$10,000).

2. Prepare a Strategy for recreational walking/riding trails and explore funding alternatives to assist funding such a strategy (due 2006/07).

A consultant has been engaged, survey of trail users completed and a public meeting is to be held in Capel on 18 February 2009.

3. Review and implement a Land Use Strategy and District Planning Scheme that incorporates sustainability principles (due 2006/07).

The Capel Townsite strategy has been adopted by Council and is with the Western Australian Planning Commission awaiting endorsement.

The Boyanup draft strategy and structure plan was presented to the community in September 2008 for comment and feedback. A workshop with Council was held in October 2008 and a draft strategy is being completed for Council consideration and approval; to commence advertising.

4. Heritage precinct in Boyanup that incorporates the Boyanup Transport Museum and other historical facilities (due 2006/07).

This will be considered as part of the Boyanup Townsite Structure Plan process.

5. Maintain Council's Municipal Heritage inventory and determine Council's role in the preservation, improvement and promotion of sites or heritage significance (due 2007/08).

No further progress has been made on this matter due to the Director of Planning and Development's workload and other priorities.

6. Pursue the establishment of regional saleyards in liaison with State Government agencies (due 2007/08)

The President and CEO met with SWDC and Western Australian Live Stock Association representatives in Bunbury on 4 February 2009 to discuss the way forward. A letter has been written to the Minister for Agriculture seeking a meeting with the President and CEO to discuss the project.

7. Shop Front presence at Dalyellup

Is dependent on the establishment of the District Centre at Dalyellup and senior staff have commenced preliminary discussions with the Satterley Property Group and their consultants for the project. Is still expected to be at least two years away from commencement.

Further comment on all of the outstanding Actions from the Strategic Plan are detailed in the attachment.

It should be noted that this report only includes those actions that have specific a timeframe for completion and are still outstanding. The large number of Actions in the Strategic Plan that have an 'Annually' or 'Ongoing' timeframes are not reported to Council as part of the six monthly update as they are being dealt with by staff as part of their regular operations and are reviewed by me as part of the Managers annual performance review.

Mr C Dent left the Chambers at 4.56pm.

Mr Burwood returned at 4.57pm.

Mr Dent returned at 4.58pm.

Cr M Scott left the Chambers at 4.59pm.

Cr Caratti assumed the chair following Cr M Scott's departure.

Cr M Scott returned to Chambers at 5.04pm and reoccupied the chair.

OC0206 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Fuller-Hill, Seconded Cr J Scott

That the six monthly report (February 2009) submitted by the Chief Executive Officer on the delivery of Actions detailed in the Shire of Capel Strategic Plan 2003-2007, with specific timeframes, be received and noted.

Carried 10/0

VOTING REQUIREMENTS

Simple majority

COMMUNITY SERVICES SECTION

Nil

FINANCE AND RATING SECTION

OC0207 (16.3.1) Long Service Leave – Deferral of Leave

REPORTING OFFICER

PF Sheedy – Chief Executive Officer

03.02.09

DISCLOSURE OF INTEREST

I wish to disclose a financial interest in this item as the employee seeking the deferral.

OWNER/APPLICANT

Paul Sheedy

MATTER FOR CONSIDERATION

Council is requested to give consideration to allowing the CEO to defer the taking of his long service leave which fell due on 23 March 2008.

ATTACHMENTS

Nil

APPLICANT’S SUBMISSION

I had intended to take long service leave during 2009 with an overseas trip, however this has now been put on hold for at least the next 3-4 years and I would like to retain my long service leave entitlements until the time is suitable.

BACKGROUND

Nil

STATUTORY ENVIRONMENT

Local Government (Long Service Leave) Regulations clause 8(2) indicates that where the commencement of long service leave has been postponed to meet the convenience of the worker beyond the period of 6 months from the date the worker became entitled to it the rate of payment for that leave shall be the rate applicable for ordinary time at the end of that period of 6 months unless otherwise agreed in writing between the employer and the worker.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Deferral of leave will result in the employee being paid at a higher rate than when the leave was first due, however Council has an employee’s leave reserve fund that is used to meet the costs of employees taking accrued leave in future years.

STRATEGIC IMPLICATIONS

Nil

CONSULTATION

Nil

COMMENT

Nil

The wording in clause 8(2) of the Long Service Leave Regulations outlined above under Statutory Environment is to ensure that the employee makes suitable arrangements to either take the leave by the due date or seek a deferral from the employer which gives the employer the opportunity to consider the additional financial implications before making a decision.

Council has an Employees Leave Reserve account that can be used to meet the additional cost where an employee takes more than the normal yearly leave entitlement.

OC0207 STAFF RECOMMENDATION/COUNCIL DECISION

Moved Cr Smith, Seconded Cr J Scott

That Council approves the Chief Executive Officer deferring the taking of his long service leave for a period of five years from the due date of 23 March 2008 and that it be paid at the rate of remuneration applicable at the time the leave is taken.

Carried 8/2

VOTING REQUIREMENTS

Simple majority

COMMUNITY RANGER SERVICES

Nil

NEW BUSINESS OF AN URGENT NATURE**OC0208 (17.1) Waive Hall Hire and Cemetery Fees**

REPORTING OFFICER

A Ross – Director Corporate and Community Services 09.02.09

DISCLOSURE OF INTEREST

Nil

OWNER/APPLICANT

Shire of Capel

MATTER FOR CONSIDERATION

Council to consider waiving the hire fees for the Capel Community Centre and reducing the Cemetery Fees for the funeral service of C Davies.

ATTACHMENTS

Nil

APPLICANT'S SUBMISSION

Shire staff have been advised that William Barrett & Sons have agreed to provide the funeral for C Davies free of charge and will only be charging for external services such as advertising. The funeral directors have commented that it is hoped the Shire would provide similar consideration with regard to the charging of hall hire and cemetery fees.

BACKGROUND

Claire Davies, the 13 year old daughter of Vicki and Stephen Davies, passed away on Saturday 7 February 2009 after a long battle with illness. Her funeral service will be conducted on Thursday 12 February and will be held at the Capel Community Centre and the Capel Cemetery. Claire's battle against her illness and the courage she has shown in her short life has been well documented and culminated in her being one of the Telethon children for 2008. The Capel community have been very supportive of the Davies family and fundraising events last year successfully raised funds to assist the family with medical and other expenses.

STATUTORY ENVIRONMENT

Section 6.12 (1) (b) of the Local Government Act 1995 states that a local government may waive or grant concessions in relation to any amount of money.

POLICY IMPLICATIONS

Council has no relevant policies, however Delegation 146 to the Chief Executive Officer allows the CEO to waive or grant concessions in relation to any amount of money up to \$200.00 excluding GST. As the amount of the concession exceeds this limit Council approval is required.

FINANCIAL IMPLICATIONS

Cemetery fees total \$750 and include the cost of the land (\$250.00) and the burial (\$500.00). Hall hire charges are \$45.00 per hour and the Capel Community Centre has been booked from 9.00am to 1.00pm which is equivalent to a charge of \$135.00 as one hour is allowed at no charge for set up and cleaning.

It is proposed a concession to the hall hire charges equivalent to the total hire of \$135.00 be granted as well as waiving the cost of the land (\$250.00) and waiving half the cost of the burial (\$250.00). In total the amount of fees to be waived is \$635.00.

STRATEGIC IMPLICATIONS Nil

CONSULTATION Nil

COMMENT

The request to waive the hire fees and the cemetery fees is requested on compassionate grounds and to recognise the courage Claire displayed.

STAFF RECOMMENDATION

Moved Cr Smith, Seconded Cr J Scott

That Council grant a concession to waive the Hall hire fee for the Capel Community Centre for a funeral service on 12 February 2009 and to reduce the cemetery fees to \$250.00.

OC0208 AMENDMENT

Moved Cr Gibson, Seconded Cr Fuller-Hill

That Council grant a concession to waive the Hall hire fee for the Capel Community Centre for a funeral service on 12 February 2009 and to waive the cemetery fees in full; a sum totalling \$885.00.

Amendment Carried 9/1

The amendment became the substantive motion and was carried 9/1

VOTING REQUIREMENTS

Simple majority

PUBLIC QUESTION TIME

Nil

MOTIONS WITHOUT NOTICE (ABSOLUTE MAJORITY BY COUNCIL)

The President Cr M Scott advised that he wished to put a motion to contribute \$1,000 to the Victorian Bush Fire Appeal.

OC0209 COUNCIL DECISION

Moved Cr M Scott, Seconded Cr J Scott

That Council resolves to accept the motion without notice to make a donation to the Victoria Bush Fire Appeal as it is satisfied that sufficient information has been provided and the urgency of the matter is such as to warrant an immediate decision by Council.

Carried by an Absolute Majority 10/0

VOTING REQUIREMENTS

Absolute Majority

OC0210 COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Fuller-Hill

That Council make a donation of \$1,000 to the Red Cross Victorian Bush Fire Appeal from Account 102220 Donations.

Carried by an Absolute Majority 10/0

VOTING REQUIREMENTS

Absolute Majority

NOTICES OF MOTION FOR CONSIDERATION AT THE NEXT ORDINARY MEETING OF THE COUNCIL

ITEMS FOR CONSIDERATION BEHIND CLOSED DOORS

MEETING CLOSURE

The meeting closed at 5.32pm.

These minutes were confirmed at an Ordinary Council meeting on 25 February 2009.

Signed

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

Date