

SHIRE OF MERREDIN



“Heart of the Wheatbelt”

MINUTES OF COUNCIL MEETING

21 APRIL 2009

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MINUTES

Minutes for the Ordinary Meeting of the Shire of Merredin held in the Council Chambers, Corner King and Barrack Streets, Merredin on Tuesday 21 April 2009 commencing at 1.00pm.

ATTENDANCE: Cr KA Hooper – Shire President
Cr RM Crees – Deputy Shire President
Crs S Elliott; P Forbes; M Hayden; A Hooper; M Morris; J Townrow; W Wallace; M Young

Messrs FB Ludovico, Chief Executive Officer; J Garrett, Executive Manager of Engineering Services; V Green, Executive Assistant to Chief Executive Officer; E Hooper, Executive Manager of Finance and Administration; P McDonald, Recreation Centre Manager; J Mitchell, Executive Manager of Development Services and D Morris, Executive Manager of Community Services

Mr John Goodier, Mr Stephen Crook and Mrs Rebecca Hutton

1.0 OFFICIAL OPENING

The Presiding Member declared the meeting open at 1.01pm.

Peter McDonald, Recreation Centre Manager, Debbie Morris, Executive Manager of Community Services, Mr John Goodier, Mr Stephen Crook and Mrs Rebecca Hutton were in attendance.

2.0 PUBLIC QUESTION TIME

Nil

3.0 APOLOGIES AND LEAVE OF ABSENCE

Cr Simmonds (**CMRef 29789**) has been granted Leave of Absence for this meeting.

29926

Moved Cr Elliott

Sec Cr Morris

That Cr Wallace be granted Leave of Absence for July 2009.

CARRIED 10/0

4.0 DISCLOSURE OF INTEREST

Nil

5.0 PETITIONS AND PRESENTATIONS

Mr John Goodier, Mr Stephen Crook and Mrs Rebecca Hutton, on behalf of the Merredin Tennis and Hockey Turf Alliance, addressed Council in relation to seeking financial support in the 2009/2010 Budget for a multi-use synthetic playing surface as detailed in their correspondence to Council dated 15 April 2009. (copy attached).

Points emerging from the presentation (copy attached) were:

1. The surface would be a multi-use polyethylene surface for hockey, tennis and soccer to be developed on the site to the western side of the bowling ring at the Merredin Regional Community and Leisure Centre;
2. The area would be fully fenced with some requirement for seating, lighting and a Captains Box;
3. The total cost for the project was estimated at \$865,600.00 which includes \$315,600.00 for earth and site works, \$400,000.00 for the underlay and surface and \$150,000.00 in additional requirements;
4. Contributions towards the project of \$265,600.00 in cash and in kind donations, \$75,600.00 in sponsorship and fundraising, grants of \$300,000.00 and a requested contribution from the Shire of Merredin 2009/2010 Budget of \$300,000.00;
5. The suggested benefits of the project were savings on maintenance costs, increased water conservation, the attraction of new members and events to Merredin and the Merredin Regional Community and Leisure Centre and it would allow for future development of the existing site.

Peter McDonald, Recreation Centre Manager, left the meeting at 1.15pm.

Peter McDonald, Recreation Centre Manager, entered the meeting at 1.16pm.

Cr Hayden left the meeting at 1.39pm.

Mr John Goodier, Mr Stephen Crook, Mrs Rebecca Hutton and Mr Peter McDonald left the meeting at 1.41pm.

6.0 CONFIRMATION OF MINUTES**6.1 Previous Council Meeting**

Confirmation of the Minutes of the previous Council Meeting held on 17 March 2009.

Frank Ludovico, Chief Executive Officer, left the meeting at 1.41pm.

Frank Ludovico, Chief Executive Officer, entered the meeting at 1.42pm.

- 29927** Moved Cr Crees Sec Cr Morris
That the minutes of the meeting of Council held on 17 March 2009 be confirmed as a true and correct record of proceedings.
CARRIED 9/0

Cr Hayden entered the meeting at 1.42pm.

7.0 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

7.1 Local Government Structural Reform

Council were advised of the outcomes from the recent meetings held with the Shire of Yilgarn and the Minister for Local Government and the Shire of Merredin Structural Reform Project Team.

Jim Garrett, Executive Manager of Engineering Services, entered the meeting at 1.43pm.

Cr Townrow left the meeting at 1.47pm.

Cr Townrow entered the meeting at 1.49pm.

Cr Forbes left the meeting at 1.50pm.

Cr Young left the meeting at 1.50pm.

Cr Young entered the meeting at 1.57pm.

Cr Forbes entered the meeting at 1.58pm.

8.0 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

17.1 Offer to Purchase Land – Future Development – Lot 104 South Avenue, Merredin

Please refer to Page 41 for information in relation to this Agenda Item.

13.6 Recruitment of Executive Manager of Development Services

Please refer to Page 49 for information in relation to this Agenda Item.

9.0 RECEIVAL OF MINUTES OF COMMITTEE MEETINGS HELD SINCE THE PREVIOUS MEETING OF COUNCIL

- 9.1 Wheatbelt North Regional Road Group Meeting held on 9 February 2009
Attachment 9.1A
- 9.2 Central Wheatbelt Visitor Centre Think Tank Meeting held on 6 March 2009
Attachment 9.2A
- 9.3 Be-Active Community Sport and Recreation Management Committee Meeting held on 10 March 2009
Attachment 9.3A
- 9.4 Merredin Regional Community and Leisure Centre Advisory Committee Meeting held on 23 March 2009
Attachment 9.4A
- 9.5 Wheatbelt East Regional Organisation of Councils Executive Meeting held on 25 March 2009
Attachment 9.5A
- 9.6 Western Australian Local Government Association Great Eastern Country Zone Meeting held on 26 March 2009
Attachment 9.6A
- 9.7 Merredin Heritage Management Committee Meeting held on 26 March 2009
Attachment 9.7A
- 9.8 Engineering Services Committee Meeting held on 26 March 2009
Attachment 9.8A
- 9.9 Kellerberrin Sub Regional Road Group Meeting held on 3 April 2009
Attachment 9.9A
- 9.10 Merredin Local Emergency Management Committee Meeting held on 7 April 2009
Attachment 9.10A

29928

Moved Cr Morris

Sec Cr Elliott

That Council receive the minutes of the Wheatbelt North Regional Road Group Meeting held on 9 February 2009, the Central Wheatbelt Visitor Centre Think Tank Meeting held on 6 March 2009, the Be-Active Community Sport and Recreation Management Committee Meeting held on 10 March 2009, the Merredin Regional Community and Leisure Centre Advisory Committee Meeting held on 23 March 2009, the Wheatbelt East Regional Organisation of Councils Executive Meeting held on 25 March 2009, the Western Australian Local Government Association Great Eastern Country Zone Meeting held on 26 March 2009, the Merredin Heritage Management Committee Meeting held on 26 March 2009, the Engineering Services Committee Meeting held on 26 March 2009, the Kellerberrin Sub Regional Road Group Meeting held on 3 April 2009 and the Merredin Local Emergency Management Committee Meeting held on 7 April 2009.

CARRIED 10/0

9.1 Wheatbelt North Regional Road Group

Nil Recommendations to Council

9.2 Central Wheatbelt Visitor Centre Think Tank

Nil Recommendations to Council

9.3 Be-Active Community Sport and Recreation Management Committee

Nil Recommendations to Council

9.4 Merredin Regional Community and Leisure Centre Advisory Committee

Nil Recommendations to Council

9.5 Wheatbelt East Regional Organisation of Councils Executive

Nil Recommendations to Council

9.6 Western Australian Local Government Association Great Eastern Country Zone

Nil Recommendations to Council

9.7 Merredin Heritage Management Committee

Nil Recommendations to Council

9.8 Engineering Services Committee

7.2 Five Year Road Program

Moved Cr M Morris Sec Cr W Wallace

That the Engineering Services Committee recommend to Council the adoption of the 2009/2010 five Year Road Program.

CARRIED 5/0

29929

Moved Cr Townrow Sec Cr Young

That Council adopt the 2009/2010 Five Year Road Program.

CARRIED 10/0

7.3 Ten Year Plant Replacement Program

Moved Cr M Morris Sec Cr W Wallace

That the Engineering Services Committee recommend to Council the adoption of the 2009/2010 ten Year Plant Replacement Program.

CARRIED 5/0

29930

Moved Cr Townrow Sec Cr Young

That Council adopt the 2009/2010 Ten Year Plant Replacement Program.

CARRIED 10/0

7.4 Restricted Access Vehicle Routes

Moved Cr J Townrow Sec Cr M Crees

That Council write to Main Roads and request that all roads that are not RAV routes on attachment 4A be assessed for RAV routes and included on the RAV network.

CARRIED 5/0

29931 Moved Cr Townrow Sec Cr Crees
That Council write to Main Roads WA and request that all roads that are not Restricted Access Vehicle Routes, as shown in the appendix to the Engineering Services Committee Minutes, be assessed for Restricted Access Vehicle Routes and included on the Restricted Access Vehicle Network.

CARRIED 10/0

8.1 Five Year Parks Program

Moved Cr M Morris Sec Cr J Townrow
That the Executive Manager of Engineering Services put forward a proposed 5 year parks program.

CARRIED 5/0

29932 Moved Cr Townrow Sec Cr Young
That the Executive Manager of Engineering Services put forward a proposed 5 Year Parks Program.

CARRIED 10/0

8.3 Department of Water Culvert Designs

Moved Cr M Young Sec Cr J Townrow
That the Engineering Services Committee recommend to Council that they use the surplus \$39,206 from the Roads to Recovery funds for 2009/2010 to put towards the construction of the culvert on Nangeenan North Road.

CARRIED 5/0

Moved Cr Townrow Sec Cr Young
That Council use the surplus \$39,206.00 from the Roads to Recovery funds for 2009/2010 to put towards the construction of the culvert on Nangeenan North Road.

WITHDRAWN

29933 Moved Cr Elliott Sec Cr Young
That Council, in order to receive funding from the Department of Water (\$75,000.00), defer the scheduled works to Korbelkulling Road until 2009/2010 and undertake the Shire of Merredin designed works on the culverts on the Nangeenan North, Caughey and Neening Roads in 2008/2009.

CARRIED 10/0
ABSOLUTE MAJORITY

REASON: Funding from the Department of Water will enable Council to resolve the long outstanding issues regarding these culverts.

8.4 Employment of Extra Outside Staff

Moved Cr J Townrow Sec Cr W Wallace

*That the Engineering Services Committee request that Council consider an inclusion of 4 extra outside employees in the 09/10 budget.*CARRIED 5/0**29934**

Moved Cr Townrow Sec Cr Young

*That Council consider an inclusion of 4 additional outside employees in the 2009/2010 Budget.***CARRIED 10/0**8.5 Employment of an Apprentice or Trainee for Workshop

Moved Cr J Townrow Sec Cr M Young

*That the Engineering Services Committee request that Council make provisions in the 2009/2010 for an apprentice or trainee for the Shire workshop.*CARRIED 5/0**29935**

Moved Cr Elliott Sec Cr Townrow

*That Council make provisions in the 2009/2010 Budget for an Apprentice or Trainee for the Shire Workshop.***CARRIED 10/0**

Note: All Attachments mentioned in the Recommendations to Council from the Engineering Services Committee Meeting Minutes detailed above are included as an appendix to those Minutes.

9.9 Kellerberrin Sub Regional Road Group

Nil Recommendations to Council

9.10 Merredin Local Emergency Management Committee

Nil Recommendations to Council

MINUTES

10.0 COMMUNITY SERVICES

10.1 MEMBERSHIP FEES FOR SCHOOLS - CUMMINS THEATRE

Reporting Department:	Community Services
Reporting Officer:	Jane Bandurski – Manager, Cummins Theatre
Legislation:	Local Government Act 1995
File Reference:	CP/19/5

Background

At its October 2008 meeting Council discussed the implementation of an annual membership fee for the Merredin Senior High School (MSHS) for the use of Cummins Theatre.

An extract from the October 2008 Minutes detailing the item is included as **Attachment 10.1A**.

The Officer's Recommendation for a \$2,000.00 membership was based on the number of recurring annual events at Cummins Theatre by the MSHS and subsequent discussions held between the Theatre Manager and the Principal of the MSHS.

It appears by the motions proposed at the October 2008 Council meeting, that Council may have been of the opinion that \$2,000.00 was excessive.

Correspondence from Kath Ward, Principal of MSHS (**Attachment 10.1B**) outlines the school's willingness to pay \$2,000.00 per annum for the proposed arrangements, which included six (6) full theatre usages inclusive of associated rehearsal time and bump-in/bump-out access with Cummins Theatre Manager retaining the ability to negotiate with the school, their entitlements, within the scope of the set entitlements.

Statutory Implications

Local Government Act 1995 Section 6.12.

Financial Implications

The hire fee structure for Cummins Theatre was adopted for the 2008/2009 financial year. No provisions were made for the introduction of membership fees for any organisations.

Comment

A \$1,500.00 membership fee for MSHS's use of the Merredin Regional Community and Leisure Centre was agreed upon by Council at its July 2008 Meeting (**CMRef 29598**) along with the Recreation Centre Manager having the ability to negotiate the entitlements in October 2008 (**CMRef 29679**).

Given that the MSHS use of the Theatre can be anticipated, that each usage would be of the full Theatre facilities and that the Principal of the MSHS has provided written confirmation of the willingness to pay the proposed annual membership fee of \$2,000.00, it would seem appropriate for Council to endorse the recommendation.

In addition to the membership fee, MSHS should still be required to pay the bond fee, as there have been numerous issues with damage on previous occasions.

If Council endorse the proposed \$2,000.00 annual membership fee for the MSHS, authority is also sought for the Manager of Cummins Theatre to negotiate directly with the school in relation to dates and times.

Officer's Recommendation

That Council endorse:

- 1. A \$2,000.00 annual membership fee for the Merredin Senior High School for use of Cummins Theatre. The membership fee includes six (6) full Theatre usages inclusive of associated rehearsal time and bump-in/bump-out access.*
- 2. That the Cummins Theatre Manager retains the ability to negotiate with the Merredin Senior High School, within the scope of the set entitlements.*

ABSOLUTE MAJORITY REQUIRED

29936

Moved Cr Wallace

Sec Cr Elliott

That Council endorse:

- 1. A \$2,000.00 annual membership fee for the Merredin Senior High School for use of Cummins Theatre. The membership fee includes six (6) full Theatre usages inclusive of associated rehearsal time and bump-in/bump-out access.*
- 2. That the Cummins Theatre Manager retains the ability to negotiate with the Merredin Senior High School, within the scope of the set entitlements.*

**CARRIED 10/0
ABSOLUTE MAJORITY**

10.2 CHILD(REN) IN THE WORKPLACE POLICY

Reporting Department:	Community Services
Reporting Officer:	Debbie Morris – Executive Manager, Community Services
Legislation:	Local Government Act 1995, Occupational Safety and Health Act 1984, Local Government Officers (Western Australia) Award 1999
File Reference:	P/17/6

Background

There have been requests (for various reasons) from some employees to Managers seeking permission to bring child(ren) into the Shire's workplaces during work hours.

The Shire's work environment is not designed for child(ren) and there are potential hazards for child(ren), particularly young child(ren), which include electrical equipment, chemicals, cleaning products, motor vehicles and machinery. There are also some areas which are intrinsically hazardous and to which child(ren) cannot be admitted. These areas include areas licensed to sell alcohol, maintenance workshops, pools and designated kitchens.

Statutory Implications

Local Government Act 1995 Part 5, Division 4, Section 5.40, Occupational Safety and Health Act 1984, Local Government Officers (Western Australia) Award 1999

Comment

The Shire is a place of work, and the activities of the Shire and its employees and volunteers should be respected and not unduly interrupted, however the Shire recognises that employees may have parenting responsibilities that may in some instances require the Shire to treat requests with flexibility and sensitivity.

To ensure that the workplace is not unreasonably inconvenienced by child(ren)'s presence and to provide employees and Managers with the necessary guidelines to either seek permission or the authority to decline requests for child(ren) in the workplace a Policy addressing these issues has been developed. (**Attachment 10.2A**)

Officer's Recommendation

That Council endorse the Child(ren) in the Workplace Policy as shown in Attachment 10.2A.

29937

Moved Cr Wallace

Sec Cr Morris

That Council endorse the Child(ren) in the Workplace Policy as shown in Attachment 10.2A.

CARRIED 7/3

**10.3 EASTERN WHEATBELT DECLARED SPECIES GROUP –
REGIONAL WILD DOG MANAGEMENT PLAN**

Reporting Department:	Community Services
Reporting Officer:	Debbie Morris – Executive Manager, Community Services
Legislation:	Local Government Act 1995, Dog Act 1976, Animal Welfare Act 2002
File Reference:	EM/14/8

Background

The Eastern Wheatbelt Declared Species Group (EWDSG) consisting of the Shires of Kondinin, Kulin, Lake Grace, Merredin, Mt Marshall, Mukinbudin, Narembeen, Westonia and Yilgarn was formed in 2001 to compliment the work by Department of Environment and Conservation (DEC) in managing wild dogs in the Eastern Wheatbelt.

DEC are responsible for managing wild dogs on Unallocated Crown Land (UCL) and DEC Land and employ a dogging contractor to undertake wild dog control in the region. EWDSG employ a second dogger to carry out wild dog control on private property. An agreement between DEC and EWDSG provides the ability for both doggers to operate on both public and private lands, with the DEC dogger operating north of Great Eastern Highway and DSG dogger operating below the Great Eastern Highway.

The Eastern Wheatbelt Wild Dog Management Plan 2008/2009 – 2010/2011 **Attachment 10.3A** outlines the objectives for the management of wild dogs and details the management strategies, risk profiles, appropriate contributions and responsibilities by stakeholders. The Plan also describes required future monitoring and review of the plan.

Outlined in the Finances section of the Plan are the Shire's contributions –

2008/2009 - \$44,600.00

2009/2010 - \$42,500.00

2010/2011 - \$42,500.00

Statutory Implications

Local Government Act 1995, Dog Act 1976, Animal Welfare Act 2002.

Financial Implications

2008/2009 Budget allocation of \$2,500.00, proposed 2009/2010 Budget allocation of \$5,000.00.

Comment

The primary focus or aim of the EWDSG is to improve the coordination of wild dog eradication and ongoing management within the Shires of the EWDSG.

In order for the Group to manage the region effectively contributions are required from all the members – Shire's of Kondinin, Kulin, Lake Grace, Merredin, Mt Marshall, Mukinbudin, Narembeen, Westonia and Yilgarn. Currently all Shires, other than Merredin, contribute \$5,000.00 with Merredin contributing \$2,500.00.

It is acknowledged that due to Merredin's location, the wild dog issues are not as prevalent as the other Shires within the group, however if these fringe areas are not managed and maintained then Merredin may experience serious consequences.

The Department of Environment and Conservation have approved the EWDSG Regional Wild Dog Management Plan 2008/2009 – 2010/2011.

Endorsement of the Plan is required by the EWDSG members along with the financial contribution commitment.

Officer's Recommendation

That Council endorse:

- 1. The Eastern Wheatbelt Declared Species Group – Regional Wild Dog Management Plan 2008/2009 – 2010/2011.*
- 2. A \$5,000.00 allocation in the 2009/2010 Budget.*

John Mitchell, Executive Manager of Development Services, entered the meeting at 2.32pm.

29938

Moved Cr Townrow

Sec Cr Forbes

That Council endorse:

- 1. The Eastern Wheatbelt Declared Species Group – Regional Wild Dog Management Plan 2008/2009 – 2010/2011.*
- 2. A \$5,000.00 allocation in the 2009/2010 Budget.*

CARRIED 10/0

John Mitchell, Executive Manager of Development Services, left at the meeting at 2.33pm.

John Mitchell, Executive Manager of Development Services, entered the meeting at 2.34pm.

This Agenda Item 12.1 was brought forward due to the attendance of Jim Garrett, Executive Manager of Engineering Services.

12.0 ENGINEERING SERVICES

12.1 LAND ADMINISTRATION ACT 1997, LOCAL GOVERNMENT ACT 1995 – STREET NAMING – LANEWAY BETWEEN ALBUERY STREET AND PEREIRA DRIVE, MERREDIN

Reporting Department: Engineering Services
Reporting Officer: Jim Garrett – Executive Manager, Engineering Services
Legislation: Land Administration Act 1997
File Reference: R13267 and R/12/2

Background

At its March 2009 meeting, Council discussed the request by the developer of the subdivision on Reserve 13267 (**Attachment 12.1A**) to provide a name for the laneway between Allbuery Street and Pereira Drive created to service the Lots created.

Council resolved to advertise, calling for public submissions in the naming of the laneway (**CMRef 29907**).

The request for submissions was advertised in the Merredin Mercury on 25 March 2009, with a closing date of 14 April 2009.

One submission was received and is included as **Attachment 12.1B**.

Statutory Implications

A person cannot assign a name to a road unless the name is first approved by Council and then by the Minister for Land Information. (penalty \$1,000.00 and a daily penalty of \$100.00).

Comment

Verbal advice from the Geographic Names Committee suggests the use of the word “Street” is not considered appropriate. The use of the word “Lane” is acceptable.

Some streets that are in the vicinity of the new laneway are named after pioneering engine drivers. Investigations carried out by staff of the Commemorative Wall at the Railway Museum and Cemetery records indicate that we already have streets named to cover pioneering engine drivers listed.

The Executive Manager of Engineering Services suggests that the laneway be named Evans Lane after the late Mr Ray Evans whom was:

1. Responsible for the construction of our local swimming pool being involved in fund raising for the pool. One of the fund raising events was a boxing match between Mr Evans and an unidentified person.
2. Mr Evans was also a Shire Councillor from 1991-1994.
3. Mr Evans was also involved in various communities groups.

Officer's Recommendation

That the Laneway shown on Attachment 12.1A be named Evans Lane by Council and be submitted to the Minister for Land Information for approval.

29939

Moved Cr Townrow

Sec Cr Forbes

That the Laneway shown on Attachment 12.1A be named Evans Lane by Council and be submitted to the Minister for Land Information for approval.

CARRIED 7/3

Jim Garrett, Executive Manager of Engineering Services, left the meeting at 2.40pm.

Emma Hooper, Executive Manager of Finance and Administration, entered the meeting at 2.41pm.

Emma Hooper, Executive Manager of Finance and Administration and Debbie Morris, Executive Manager of Community Services, left the meeting at 2.42pm.

11.0 DEVELOPMENT SERVICES

11.1 RESOLUTION TO COMMENCE THE ADOPTION PROCESS FOR THE SHIRE OF MERREDIN WASTE LOCAL LAWS 2009 IN ACCORDANCE WITH SECTIONS 3.11 AND 3.12 OF THE LOCAL GOVERNMENT ACT 1995

Reporting Department:	Development Services
Reporting Officer:	John Mitchell – Executive Manager, Development Services
Legislation:	Waste Avoidance and Resource Recovery Act 2007, Local Government Act 1995
File Reference:	LE/8/6 (New File)

Background

Since 1911 the Health Act 1911 has been the legislative head of power controlling the provision of Local Government waste services.

The Shire of Merredin Health Local Laws 1999, were gazetted on 11 October 1999 and contain specific provisions relating to the local provision of waste services. The Local Laws have recently been reviewed. The development and subsequent adoption of the Waste Avoidance and Resource Recovery Act 2007 (WARR Act), which changed the legislative provisions relating to the Town's waste services, contained in the Health Local Laws 1999, has meant that these provisions are currently being removed from the same.

At its February 2009 meeting Council resolved (**CMRef 29872**);

That Council:

- 1. advertise the Shire of Merredin Health Amendment Local Laws 2009, as outlined in Attachment 11.7A, in accordance with Section 3.12 of the Local Government Act 1995, the Health Act 1911 and the principles of National Competition Policy.*
- 2. request the Administration to commence the drafting and submission to Council for the making of a Local Law to address the Shire of Merredin's waste management issues in accordance with the requirements of the Waste Avoidance and Resource Recovery Act 2007 and the Local Government Act 1995.*

This report proposes the commencement of the procedures described in Item 2 above, through the advertising of a draft Local Law for comment.

Statutory Implications

Section 64 of the WARR Act provides that Local Governments can make Local Laws for the following purposes –

- (a) *the provision and administration of waste services and related matters;*
- (b) *the establishment, provision, use and control of receptacles for the deposit and collection of waste, whether temporary or otherwise;*
- (c) *if a local government itself undertakes or contracts for removal of waste from premises, imposing on the owner or occupier of the premises requirements in connection with the removal so as to facilitate the removal, and prescribing the manner in which the requirement is to be complied with;*
- (d) *if a local government or the holder of a waste collection permit does not itself undertake or contract for removal of waste from premises, imposing on the owner or occupier of the premises a requirement to remove waste from the premises, and prescribing the manner in which the requirement is to be complied with;*
- (e) *if a local government itself undertakes or contracts for the removal of waste, requiring the waste to be placed in waste receptacles provided by the local government;*
- (f) *prescribing intervals at which the contents of the receptacles will be removed by a local government;*
- (g) *requiring the temporary placing of waste receptacles in streets or lanes by owners or occupiers of property for collection of waste, and requiring the replacement of the receptacles on the property;*
- (h) *providing for the maintenance by owners and occupiers of waste receptacles provided by a local government;*
- (i) *providing for the issue of approvals to collect local government waste and remove it from premises;*
- (j) *fixing fees and charges in relation to waste services provided by a local government and the issue of approvals under paragraph (i), and prescribing the persons liable and the method of recovery of amounts not duly paid.*

Although the Waste Local Law is made under the powers of Section 64 of the WARR Act, that Act requires that the Local Government Act 1995 process be used. Sections 3.11 and 3.12 of the Local Government Act 1995 outline procedures for the adoption of Local Laws in accordance with the Act and any other Act, (in this case the WARR Act). The following legislation has impacted upon the draft proposed Local Law;

1. Local Government Act 1995
2. Local Government (Functions and General) Regulations 1996
3. Health Act 1911
4. Shire of Merredin Health Local Laws 1999
5. Waste Avoidance and Resource Recovery Act 2007

It is a requirement of the Local Government Act 1995 that at a Council meeting the Person Presiding is to give notice to the meeting of the Purpose and Effect of any proposed Local Law including any Amendment. The Local Government (Functions and General) Regulations 1996 Part 1A - Local Laws, prescribe the following:

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

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

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

The intended Purpose and Effect of the Waste Local Law 2009 are:

Purpose: The purpose of this Local Law is to provide for the administration of waste services, the establishment, provision, use and control of receptacles for the deposit and collection of waste and related matters.

Effect: The effect of this Local Law is to control the collection and disposal of waste for the benefit of the community and protection of the environment.

Financial Implications

Direct costs associated with this report will be limited to advertisement fees. The preparation of the draft Local Laws has been undertaken via budgeted expenditure. Following the discussion period, and depending upon any submissions, further amendment review and legal advice may be incurred. Once the draft Local Law has been finalised by Council there will be gazettal fees for the Local Law adoption.

Comment

The WARR Act has effectively removed the provisions relating to the collection and disposal of waste from the Health Act 1911 and moved the state responsibility for waste from the Department of Health to the Department of Environment and Conservation (DEC).

The introduction of the new WARR Act effectively removes any ability to utilise the Health Act 1911 for the management of waste rubbish and refuse issues. Transitional provisions preserve the current local laws however the review of the Health Local Laws has compelled the removal of these provisions. As outlined above, a draft amendment of the Health Local Law 1999 is currently being progressed in order to finalise the review.

The relevant provisions that the new Local Law seeks to replace include issues such as the management of refuse receptacles and the transportation and disposal of waste. Part 4 of the Health Local Laws 1999 including all of Divisions 2 and 3 form the basis of a Local Law for the management of the Town's waste issues (**Attachment 11.1A**).

Although permitted under the WARR Act, no provisions have been included in the proposed Local Law for modified penalties and the issue of infringement notices. Penalty provisions have been included, however, consideration could be given to infringement provisions in the future.

After the last day for submissions, Council will need to consider any submissions made, and may make the Local Law provided what is submitted by Administration is not significantly different from the current draft. The Waste Local Law also requires the approval of the Executive Director of the Department of Environment and Conservation before it can be Gazetted. The Local Law will then be published in the Government Gazette and a copy sent to the relevant Minister and the State Parliament Joint Standing Committee on Delegated Legislation.

Officer's Recommendation

That Council:

1. *Adopt the Shire of Merredin Waste Local Law 2009 as a draft for consultation, the purpose and effect of which are;*

Purpose: The purpose of this local law is to provide for the administration of waste services, the establishment, provision, use and control of receptacles for the deposit and collection of waste and related matters.

Effect: The effect of this local law is to control the collection and disposal of waste for the benefit of the community and protection of the environment; and,

2. *Advertise the draft Shire of Merredin Waste Local Law 2009, as outlined in Attachment 11.1A, in accordance with Section 3.11 and 3.12 of the Local Government Act 1995, the Waste Avoidance and Resource Recovery Act 2007 and the principles of National Competition Policy.*

Cr A Hooper left the meeting at 2.42pm.

Cr A Hooper entered the meeting at 2.43pm.

29940

Moved Cr Crees

Sec Cr Morris

That Council:

1. *Adopt the Shire of Merredin Waste Local Law 2009, as amended with additional alterations, as a draft for consultation, the purpose and effect of which are;*

Purpose: The purpose of this local law is to provide for the administration of waste services, the establishment, provision, use and control of receptacles for the deposit and collection of waste and related matters.

Effect: The effect of this local law is to control the collection and disposal of waste for the benefit of the community and protection of the environment; and,

2. *Advertise the draft Shire of Merredin Waste Local Law 2009, as outlined in Attachment 11.1A as amended, in accordance with Section 3.11 and 3.12 of the Local Government Act 1995, the Waste Avoidance and Resource Recovery Act 2007 and the principles of National Competition Policy.*

CARRIED 10/0

11.2 CARRINGTON WAY – UPDATE AND ACTION ENDORSEMENT

Reporting Department:	Development Services
Reporting Officer:	John Mitchell – Executive Manager, Development Services
Legislation:	Land Administration Act 1997
File Reference:	LUP/13/5

Background

This report seeks endorsement of actions taken during the previous period and to provide an update of the state of play.

Statutory Implications

Clearances to conditions of development have been issued by the Water Corporation, Western Power and the Shire of Merredin. The Surveyor has been requested to take the development to “in order for dealings”. The Administration is awaiting confirmation of this request.

The sale documentation has been completed, read by the Executive Manager of Development Services (EMDS) and corrected and returned to the lawyers. Advertising of the development has commenced and includes large signage on site.

Advice was received from Landgate that the street names had not been endorsed or agreed to by the Geographic Names Committee. As this matter could take several weeks and sale of the land could not occur until the matter was finalised the EMDS commenced the process for street naming without a resolution of Council. Council endorsement of those actions are sought.

All works are complete including fencing.

Financial Implications

Final costings for the development are being received. At this time the project has been completed and at a saving of approximately \$200,000.00 from Budget. A square metre valuation has been prepared for the Chief Executive Officer. The BCDC Committee is to meet in the final week of April 2009 to determine reserve prices.

Comment

The issue of street naming was raised and through an oversight the naming of the streets did not occur. On record Carrington Way is actually Carrington Street.

The Street names Carrington Way (which extends from Dobson Avenue to McGinniss Way) and McGinniss Way (which extends from Cummings Crescent to Cummings Street) have been gazetted by the Geographic Names Committee. Council endorsement of this action is sought.

Officer's Recommendation

That Council endorse the actions of the Administration in seeking the gazettal of the street names Carrington Way and McGinniss Way for the street names within the Carrington Way subdivision.

29941

Moved Cr Elliott

Sec Cr Young

That Council endorse the actions of the Administration in seeking the gazettal of the street names Carrington Way and McGinniss Way for the street names within the Carrington Way subdivision.

CARRIED 10/0

11.3 TOWN PLANNING REPORT – DELEGATED AUTHORITY

Reporting Department:	Development Services
Reporting Officer:	John Mitchell – Executive Manager, Development Services
Legislation:	Planning and Development Act 2005, Shire of Merredin Town Planning Scheme No.1 (the Scheme)

Background

The monthly report on the statutory planning activities for the previous month is provided below for Council's information.

Statutory Implications

It is an offence under the Planning and Development Act 2005 (as amended) for any person to use any land or any building or structure thereon contrary to or otherwise than in accordance with the provisions of the Scheme.

Financial Implications

Town Planning fees are levied on applications as per Councils Schedule of Fees and Charges and under the provisions of the Town Planning (Local Government Planning Fees) Regulations 2000 (as amended).

Comment

The following applications were granted Town Planning consent: –

App No.	Applicant Details	Land Address/Usage	Value
PA1-09	Philip Joy, 16 Coronation Street, Merredin WA 6415	Lot 189, 16 Coronation Street, Merredin, "Residential" – relaxation of setback – 3.75m setback on existing house – relaxation given for renovation on existing setback	\$50,000.00
PA2-09	DS Heffernan, 6 Railway Avenue, Merredin WA 6415	Lot 34, 6 Railway Avenue, Merredin, "Residential" – relaxation of setback on existing house – 3.75m for renovation and new veranda	\$19,000.00

The Chief Executive Officer acting under delegated authority conferred to him by Council Policy 6.2 granted planning consent to the above mentioned application.

Officer's Recommendation

That Council receive the Town Planning Report for April 2009.

29942

Moved Cr Crees

Sec Cr Morris

That Council receive the Town Planning Report for April 2009.

CARRIED 10/0

**11.4 RESERVE 13267 SUBDIVISION OF PUBLIC TRANSPORT LAND –
UPDATE AND ENDORSEMENT OF DEMOLITION LICENCE****ACTIONS TAKEN**

Reporting Department: Development Services
Reporting Officer: John Mitchell – Executive Manager,
Development Services
Legislation: Building Regulations 1989
File Reference: R13267

Background

Correspondence (**Attachment 11.4A**) has been sent to the Honourable Minister for Regional Development requesting support for the demolition of the Public Transport Authority (PTA) housing situated on Great Eastern Highway, Merredin.

An application to demolish the 19 buildings (8 dwellings and 11 outbuildings) fronting Great Eastern Highway and Pereira Drive, Merredin has been received from the PTA. A plan of the buildings to be demolished is contained in **Attachment 11.4B**.

A demolition licence has been prepared for issue.

Statutory Implications

Pursuant to Regulation 31 of the Building Regulations 1989 an application has been received, assessed and pending receipt of information relevant to asbestos collection, removal, transport and disposal a licence will be issued for the buildings removal.

However there are no guarantees the dwellings will be removed and no statutory powers to enforce the demolition until the land and buildings are sold to private persons and then only after we have issued appropriate orders.

Financial Implications

Fees of \$50.00 are applicable.

The cost to the PTA to demolish the buildings is estimated at \$100,000.00.

Comment

These actions have achieved a component of the March 2009 resolutions of Council which state (**CMRef 29903** and **CMRef 29904** respectively): -

That Council seek Ministerial support for the removal of the dwellings and fencing on Reserve 13267 Great Eastern Highway, Merredin at Public Transport Authority cost.

MINUTES

That Council negotiate for the Title of those blocks be given to Council freehold once demolition is complete for houses fronting Great Eastern Highway between Allbuery and Pereira Streets and the three Lots fronting Allbuery Street on Reserve 13267.

The issue of the demolition of the buildings will negatively impact on the ability of Council to negotiate the acquisition of the land facing Great Eastern Highway to the Shire of Merredin.

Control of future development and potential acquisition of the land in question is now an issue that cannot be easily resolved. Council direction is sought on the best approach. The land acquisition is now a commercial decision.

For future control the following suggestions are put forward: -

1. Develop a Town Planning Scheme Policy applicable to development of land currently under Title Lot 1420 Great Eastern Highway (GEH), Merredin limiting boundary encroachment from GEH, building design, fencing, outbuildings;
2. Seeking at Council expense the release of land in front of GEH for Public Open Space;
3. Continuing Ministerial intervention to acquire the land at no cost to Council.

The matter is submitted to Council for direction.

Administration believe Council's intentions will be satisfied with the demolition of the houses. Control of future development on the land can be implemented once the Town Planning Strategy, or the Interim Development Order (**CMRef 29617**), or the Omnibus Amendment (**CMRef 29902**) are approved.

Therefore staff believe the endorsement of its actions is the only resolution required.

Also associated with this item is the subdivisional works (laneway construction) that Administration have made an offer to complete.

PTA have issued an order to the Shire of Merredin to undertake the works. The implications of accepting this order is the Shire of Merredin **MUST** sign off the subdivision application as compliant with the relevant condition for provision of the roads within the subdivision.

This will permit the development to proceed to "in order for dealings" which means they can commence the land selling process.

Administration have not processed this matter due to Council's previous resolutions on the matter.

However, if Council believes its resolutions have been satisfied then the Administration will proceed with undertaking the subdivisional works.

Officer's Recommendation

That Council endorse the actions of the Administration in issuing Demolition Licence DA1-09 for the demolition of the dwellings and outbuildings within Lot 1420 abutting Great Eastern Highway, Merredin.

29943

Moved Cr Townrow

Sec Cr Elliott

That Council endorse the actions of the Administration in issuing Demolition Licence DA1-09 for the demolition of the dwellings and outbuildings within Lot 1420 abutting Great Eastern Highway, Merredin.

CARRIED 9/1

29944

Moved Cr Morris

Sec Cr A Hooper

That Council again request the Minister for Regional Development, the Minister for Local Government and the Minister for Planning and Infrastructure to give the land within Reserve 13267 to Council at no cost.

CARRIED 7/3

11.5 **APPLICATION TO RENEW LEASE – RESERVE 13267 - RAILWAY TENNIS CLUB, KITCHENER ROAD, MERREDIN – PUBLIC TRANSPORT AUTHORITY OF WA – LEASE L6880-2**

Reporting Department: Development Services
Reporting Officer: John Mitchell – Executive Manager,
Development Services
Legislation: Local Government Act 1995
File Reference: Reserve 13267 and Lease 6880

Background

Council has maintained a Lease over the Public Transport Authority of WA (PTA) land – Reserve 13267 for the purposes of the Railway Tennis Club buildings and courts and the Sportsman’s Club. **Attachment 11.5A** contains a locality plan.

The existing Lease expires on 31 October 2010. There is only one Lease over the entire Reserve area which extends from Kitchener Road to Haig Road.

The new Lease is a copy of the former Lease and is dated from 1 July 2008. It has been sought as the Railway Tennis Club seek long term tenure of their site.

Statutory Implications

The provisions of Section 3.58 of the Local Government Act 1995 and Regulation 30(2) (b) of the Functions and General Regulations 1996 apply. The Lease is exempt from the requirements to advertise.

The consent of Council is required to enter into the Lease and place the common seal of the Shire of Merredin upon the Lease.

Financial Implications

No agreement with the Railway Tennis Club or Sportsman’s Club can be located. It is therefore not possible to advise Council of any financial agreements reached with the Clubs. If Council agrees to enter into the Lease then a formal agreement will be sought with the two Clubs individually.

The costs of the PTA Lease to Council are: -

1. Maintenance of a \$10,000,000.00 public liability insurance cover over the property in the name of the Shire of Merredin;
2. Annual lease fees, payable on demand of \$1.00;
3. Annual Residual Circuit Device (RCD) inspections - \$200.00.

These costs should be conveyed to the occupiers.

Comment

The Administration is cognisant of the actions of Council to consolidate all recreation facilities at the Recreation Centre. There are positives and negatives associated with any action on this Lease. If Council declines to enter a Lease it loses control over the land and it is very likely that the PTA will enter a Lease with the Club directly.

A review of the Lease document does not indicate any hidden issues within the Lease. Both parties can cancel the Lease with notice, the Shire of Merredin is required to maintain the land in good condition and report any known issues to the PTA. The contamination issue was reported previously and does not impact over the land actually used, though the Lease extends over the oval portion containing cinders.

An addendum to the Lease should be included indemnifying the Shire of Merredin from any claim arising from contaminated sites and the previous use of the land.

A copy of the Lease will be provided at the meeting.

If no agreement exists, direction is sought from Council regarding responsibility and cost allocation of: -

1. Lease rental value to the Clubs;
2. Annual costs allocation – payment of insurance of building, public liability, RCD inspections;
3. General maintenance of the buildings located within the Reserve.

Officer's Recommendation

1. *That the Shire President and Chief Executive Officer be authorised to sign and place the common seal of the Shire of Merredin on the ten year Lease expiring 30 June 2018 for the Reserve 13267 Kitchener Road, Merredin, Lease 6880 with the Public Transport Authority, providing Council is indemnified against claim from the alleged disposal of cinders to the rear (south) of the Lot.*
2. *That the following costs be allocated in a sub lease to the Railway Tennis Club and Sportsman's Club on an annual basis: -*
 1. *General Maintenance and insurance of the buildings and land;*
 2. *Provision of public liability insurance to a value of \$10,000,000.00 indemnifying the Shire of Merredin and the Public Transport Authority against any claim;*
 3. *Provide an annual certification in June annually of the inspection and certification of the Residual Circuit Device.*

29945

Moved Cr Townrow Sec Cr Young

1. *That the Shire President and Chief Executive Officer be authorised to sign and place the common seal of the Shire of Merredin on the ten year Lease expiring 30 June 2018 for the Reserve 13267 Kitchener Road, Merredin, Lease 6880 with the Public Transport Authority, providing Council is indemnified against claim from the alleged disposal of cinders to the rear (south) of the Lot.*

2. *That the following costs be allocated in a sub lease to the Railway Tennis Club and Sportsman's Club on an annual basis: -*
 1. *General Maintenance and insurance of the buildings and land;*

 2. *Provision of public liability insurance to a value of \$10,000,000.00 indemnifying the Shire of Merredin and the Public Transport Authority against any claim;*

 3. *Provide certification annually in June of the inspection and certification of the Residual Circuit Device.*

CARRIED 7/3

11.6 DELEGATED AUTHORITY – DEMOLITION LICENCES ISSUED SINCE FEBRUARY 2009

Reporting Department:	Development Services
Reporting Officer:	John Mitchell – Executive Manager, Development Services
Legislation:	Building Regulations 1989, Regulation 31
File Reference:	Various

Background

This report to outline the statutory building - demolition activities of the Development Services section is provided below for Council's information.

Statutory Implications

Demolition licences are issued pursuant Regulation 31 of the Building Regulations 1989 as amended and to Delegation Number 2.1 and cross referenced – Delegations to Other Officers No. 401.

Financial Implications

Building Demolition fees of \$50.00 per storey are applicable.

Comment

All demolition licences contain conditions relevant to: -

1. Hazardous waste recovery and safe disposal;
2. Asbestos removal, recovery and safe disposal;
3. Sealing of all sewer connections and compaction and removal of liquid waste (Leach drains and Septic tanks) disposal on site;
4. Vermin baiting;
5. Site cleanup.

For the month of March 2009 the following licences were issued: -

Licence No.	Applicant Details	Demolition address/details of demolition	Contractor/Completion date
DA1-09	Public Transport Authority, Gray & Lewis Land Use Planners, 5/2 Hardy Street, South Perth	Lot 1420 Todd Street, Merredin WA 6415; 11 out buildings 8 dwellings	TBA/30 June 2009
DA2-09	D. Murfit, PO Box 342 Merredin on behalf of Shire of Merredin, PO Box 42 Merredin WA 6415	Lot 3000 Todd Street, Merredin WA 6415, Railway Institute Hall	30 December 2009

Officer's Recommendation

That Council receive the March 2009 statistics for demolition licences issued (DA1-09 to DA2-09) by the Building Surveyor.

29946

Moved Cr Crees

Sec Cr Young

That Council receive the March 2009 statistics for demolition licences issued (DA1-09 to DA2-09) by the Building Surveyor.

CARRIED 10/0

11.7 **SWIMMING POOL SLIDE REFURBISHMENT – GRANT FUNDS EXPENDITURE – REQUEST FOR BUDGET INCLUSION**

Reporting Department: Development Services
Reporting Officer: John Mitchell – Executive Manager, Development Services
Legislation: Health (Aquatic Facilities) Regulations 2007
File Reference: CP/6/3

Background

Council will recall that the grant funds provided by the Regional and Local Community Infrastructure program (\$100,000.00) were allocated by Council to the Swimming Pool Slide refurbishment.

As a result of two quotations received from an expression of interest advertisement, Colour Tech Coatings, Moolap, Victoria was appointed to perform the slide refurbishments and improvements at a cost of \$63,556.31 plus GST.

Statutory Implications

The budget of \$100,000.00 will be exceeded to complete the repairs. Pursuant to the Local Government Act 1995, advice is provided to Council of the potential budget expenditure.

Financial Implications

Council was allocated \$100,000.00 for the works proposed, including repairs and improvements to the slide steps and a new diving board if funds permitted.

Budget expenditure to date is: -

Colour Tech Coatings	\$63,556.31	Confirmed and completed
Signage	\$ 143.00	Confirmed and completed
Quotation for Steps – supply and delivery	\$26,270.00	Estimate received
Plans for shop drawings	\$4,000.00	Estimate
Erection of Steps – allowance only	\$10,000.00 - \$15,000.00	Estimate
TOTAL	\$109,000.00	Rounded

An additional \$9,000.00 is requested from Council to allow the completion of the steps access system. If the minimum amounts are met expenditure of Council funds will be limited to that amount.

If Council seeks to reinstate the diving board an additional \$30,000.00 is required.

Council has budgeted \$50,000.00 to the Swimming Pool Reserve. Council, by resolution (**CMRef 29801**), has allocated \$10,000.00 from the Reserve towards the pool longevity testing, which will occur shortly.

The additional funds could be allocated, by absolute majority, from that account.

Comment

The diving board component was added to the grant application as an expenditure should the grant funds be underspent.

To open the slide for public use requires the remediation of the steps. All of the components are removable should Council determine to relocate the pool.

For information discussions have commenced with the Engineering firm to commence assessment of the pool bowl proper.

Officer's Recommendation

That Council allocate up to \$15,000.00 from the Swimming Pool Reserve Account for completion of the Swimming Pool Slide Steps.

ABSOLUTE MAJORITY REQUIRED

29947

Moved Cr Young

Sec Cr Forbes

That Council allocate up to \$15,000.00 from the Swimming Pool Reserve Account for completion of the Swimming Pool Slide Steps.

CARRIED 10/0

ABSOLUTE MAJORITY

11.8 CARRINGTON WAY – RETAINING WALLS – LOT 31 DOBSON AVENUE AND LOT 301 CARRINGTON STREET, MERREDIN

Reporting Department:	Development Services
Reporting Officer:	John Mitchell – Executive Manager, Development Services
Legislation:	Dividing Fences Act 1961
File Reference:	A2651

Background

During construction of the Carrington Way subdivision the retaining of Lot 31 Dobson Avenue, Merredin became an issue. As a result of the encroachment the land surveyor pegged the property and advised that the some of the fill and 1:3 camber is also deposited on adjacent lots – Lot 208 Dobson Avenue and Lot 301 Carrington Street.

Correspondence (**Attachment 11.8A**) was sent to the owners of Lot 31 Dobson Avenue seeking rectification and discussion. Mr Mario Discenza's response is contained in **Attachment 11.8B**. A locality plan is contained in **Attachment 11.8C**.

The fence in question (Adjacent to Lot 301 Carrington Street) is of colorbond post and rail construction with a brick corner pillar.

Statutory Implications

It is a requirement of the Building Code of Australia 2009 that fill greater than 600mm be retained or cambered to 1:3 within the property; and the Dividing Fences Act 1961 that the fill be retained within the owners property.

Comment

Mr Discenza is correct the assessment and construction file is silent on the matters contained within his letter.

I can provide no comment on the past. Mr Linton Thomas has been verbally contacted and has advised that he would not have approved a spill of a sand pad into adjacent property. A sand pad is only required for the provision of the dwelling. A retaining wall for the outbuilding is not generally required as building legislation protects the dwelling as the major cost component.

It is standard practice to require a sand pad height of 300mm above crown of road. The Shire of Merredin Building Licence contains that requirement as a standard condition. The reason this is required is to protect the property from storm water damage and flooding. It can be stated that had the premises been located at that 300mm level the road raising (if it occurred) would not now be an issue.

Whilst the law is quite specific on retaining of the fill, it is silent on allowing neighbours to agree to place the retaining wall within the neighbour's property by agreement. Any such arrangement should include the obligation of responsibility on the proper person

It should also be noted that an order to maintain the wall entry to the neighbour's property is required and approved by the provisions of the Dividing Fences Act 1961.

It is not reasonable to leave the matter with a potential purchaser as there is no guarantee that the matter will get resolved.

It is suggested that if Council agree to the encroachment that the matter be included within the sales contract as an existing contractual arrangement.

Officer's Recommendation

That Council instruct Mr Mario Discenza to install the retaining wall within Lot 31 Dobson Avenue, Merredin immediately.

Moved Cr Crees

Sec Cr Elliott

That Council instruct Mr Mario Discenza to install the retaining wall within Lot 31 Dobson Avenue, Merredin immediately.

WITHDRAWN

29948

Moved Cr Young

Sec Cr Forbes

That Council allow a 200mm encroachment easement on Lot 301 Carrington Street, Merredin.

CARRIED 10/0

REASON: An easement is a practical and reasonable approach to resolve this matter.

This Agenda Item 17.1 was brought forward due to the attendance of John Mitchell, Executive Manager of Development Services.

- 29949** Moved Cr Elliott Sec Cr Young
That Council go behind closed doors to discuss a Commercial in Confidence matter in accordance with Section 5.23(2) of the Local Government Act 1995.
CARRIED 10/0

Council went behind closed doors at 3.26pm.

- 29950** Moved Cr Young Sec Cr Elliott
That Council come out from behind closed doors.
CARRIED 10/0

Council came out from behind closed doors at 3.33pm.

17.1 Offer to Purchase Land – Future Development – Lot 104 South Avenue, Merredin

- 29951** Moved Cr Young Sec Cr Elliott
That Council advise Mr Fred McCall that whilst interested in the land Council will need to assess the sales of Carrington Way prior to making a determination of purchase of Lot 104 South Avenue, Merredin and seeks an extension until 1 June 2009 to advise of any decision.
CARRIED 10/0

John Mitchell, Executive Manager of Development Services, left the meeting at 3.34pm.

- 29952** Moved Cr Elliott Sec Cr Young
That Council adjourn the meeting at 3.34pm.
CARRIED 10/0

- 29953** Moved Cr Crees Sec Cr Morris
That Council reconvene the meeting at 4.00pm.
CARRIED 8/0

Emma Hooper, Executive Manager of Finance and Administration, was in attendance.

13.0 FINANCE AND ADMINISTRATION

13.1 MONTHLY FINANCE REPORT – MARCH 2009**Reporting Department:** Finance and Administration**Reporting Officer:** Emma Hooper – Executive Manager, Finance and Administration**Legislation:** Local Government Act 1995

Comment

The attached Monthly Finance Report (**Attachment 13.1A**) is provided for Council's information.

Officer's Recommendation

That Council receive the Monthly Finance Report for March 2009.

29954

Moved Cr Morris

Sec Cr Forbes

*That Council receive the Monthly Finance Report for March 2009.***CARRIED 8/0**

13.2 LIST OF ACCOUNTS PAID

Reporting Department:	Finance and Administration
Reporting Officer:	Emma Hooper – Executive Manager, Finance and Administration
Legislation:	Local Government Act 1995 and Financial Management Regulations

Background

The attached List of Accounts Paid (**Attachment 13.2A**) during the month under Delegated Authority is provided for Council's information.

Statutory Implications

Local Government Act 1995 and Financial Management Regulations.

Financial Implications

All liabilities settled have been in accordance with the Annual Budget provisions.

Officer's Recommendation

That Council receive the schedule of accounts as listed, covering cheques as numbered and totalling \$564,432.74 and amounts directly debited from Council's Municipal Fund Bank Account BSB 066-518 Account Number 000-000-10 totalling \$407,963.90 and outstanding creditors totalling \$421,271.41.

Cr Young entered the meeting at 4.02pm.

29955

Moved Cr Morris

Sec Cr Townrow

That Council receive the schedule of accounts as listed, covering cheques as numbered and totalling \$564,432.74 and amounts directly debited from Council's Municipal Fund Bank Account BSB 066-518 Account Number 000-000-10 totalling \$407,963.90 and outstanding creditors totalling \$421,271.41.

CARRIED 9/0

13.3 ANNUAL ELECTORS AND SPECIAL ELECTORS MEETINGS

Reporting Department: Administration
Reporting Officer: Frank Ludovico – Chief Executive Officer
Legislation: Local Government Act 1995

Background

The 2007/2008 Annual Electors Meeting for the Shire of Merredin was held on 17 March 2009 and the minutes of the meeting are attached for Council information (**Attachment 13.3A**).

A Special Electors Meeting was also held on 17 March 2009 and the minutes of that meeting are attached for Council information (**Attachment 13.3B**).

Statutory Implications

Under Section 5.33 of the Local Government Act 1995 all decisions made at an Electors Meeting are to be considered at the next Ordinary Meeting of Council.

Officer's Recommendation

That Council receive the minutes of the Annual Electors Meeting and the Special Electors Meeting both held on Tuesday 17 March 2009.

29956

Moved Cr Townrow Sec Cr Morris

That Council receive the minutes of the Annual Electors Meeting and the Special Electors Meeting both held on Tuesday 17 March 2009.

CARRIED 9/0

This Agenda Item 16.1 was brought forward due to the attendance of Emma Hooper, Executive Manager of Finance and Administration.

16.1 **APPOINTMENT OF AUDITOR AND ADOPTION OF AUDIT COMMITTEE MINUTES**

Reporting Department: Financial Services
Reporting Officer: Emma Hooper, Executive Manager of Finance & Administration
Legislation: Local Government Act 1995
File Reference: FM/02/01

Background

The Audit Committee met on 21 April 2009 to assess quotes submitted for the provision of Audit Services. Minutes of the meeting are provided at **Attachment 16.1 A**.

Minimum Specifications for the Audit were set and a Call for Quotes was advertised. Three quotes were received and these were assessed and considered by the Audit Committee.

Statutory Implications

As described in the Minutes of the Audit Committee meeting.

Financial Implications

Adequate provision for Audit Services has been made in 2008/2009 Budget.

Committee Recommendation

Moved Cr Elliott Sec Cr Forbes
That it be recommended the Merredin Shire Council appoint David Tomasi of UHY Haines Norton as Auditor for the Shire of Merredin for the financial years 2008/2009 up to and including 2010/2011.

CARRIED 3/0

Officer's Recommendation

That the Merredin Shire Council appoint David Tomasi of UHY Haines Norton as Auditor for the Shire of Merredin for the financial years 2008/2009 up to and including 2010/2011.

29957

Moved Cr Forbes Sec Cr Elliott
That Council appoint Mr David Tomasi of UHY Haines Norton as Auditor for the Shire of Merredin for the financial years 2008/2009 up to and including 2010/2011.

**CARRIED 9/0
ABSOLUTE MAJORITY**

Emma Hooper, Executive Manager of Finance and Administration, left the meeting at 4.07pm.

13.4 LOCAL GOVERNMENT REFORM STRATEGIES**Reporting Department:** Administration**Reporting Officer:** Frank Ludovico – Chief Executive Officer**File Reference:** GR/17/11

Background

On 5 February 2009 the Minister for Local Government made an announcement “*inviting each of the 139 Councils within Western Australia to embrace the opportunity to voluntarily amalgamate and to voluntarily reduce the total number of elected members for each Council*”.

At Council’s March 2009 meeting, Council were provided with a copy of the Guidelines to assist Local Governments in their Reform Processes.

Also in the March 2009 Report, a summary of the Stage 1 Actions suggested by the Guidelines was included.

One of the Actions that require completion by 30 April 2009 was the completion of the Reform Checklist. The draft document is included in **Attachment 13.4A**.

For Councils information, we have written to all Local Governments in the Central East Division of the Wheatbelt Development Commission’s “with the view of having open and honest discussions to achieve the best possible outcomes for our communities and the regions”. The Project Team are arranging meetings with these Local Governments.

Comment

WE-ROC Councils have requested a copy of each others Local Government Reform Checklist. Once this has been adopted by Council I will forward it to member Local Governments.

Officer’s Recommendation

That Council receive the Local Government Reform Checklist and forward it to the Minister for Local Government.

29958

Moved Cr Townrow

Sec Cr Young

That Council receive the Local Government Reform Checklist and forward it to the Minister for Local Government.

CARRIED 9/0

13.5 REVIEW OF COUNCILLOR REPRESENTATION

Reporting Department:	Administration
Reporting Officer:	Frank Ludovico – Chief Executive Officer
Legislation:	Local Government Act 1995

Background

At Council's November 2008 Meeting (**CMRef 29782**), Council agreed to undertake a Review of Councillor Representation.

At Council's December 2008 Meeting (**CMRef 29822**), a Discussion Paper concerning the Review of Councillor Representation was adopted by Council.

In order to align the Review with the Annual Electors/Special Electors Meetings, the first advertisement calling for submissions did not occur until 25 February 2009. In addition, a Review of Councillor Representation was added as an Agenda Item to the Special Electors Meeting to be held on 17 March 2009 and was advertised on 25 February 2009 and on 11 March 2009. The Review of Councillor Representation was discussed at the Special Electors Meeting on 17 March 2009 with no firm recommendations coming from the Meeting.

The submission period closed on 9 April 2009. There were no submissions received.

Statutory Implications

Schedule 2.2 of the Local Government Act 1995 applies.

Comment

I believe Council has extensively advertised this proposal through newspaper advertisements, letter drops and as part of the Chief Executive Officer's fortnightly radio interviews, however no submissions were received. Council needs to determine this matter and make a recommendation to the Local Government Advisory Board.

I am aware that Council has received reports the Local Government Advisory Board is not processing any Reviews into Councillor Representation. However, Bulletin No. 3 of the Local Government Reform Steering Committee suggests that Reviews are being considered for the October 2009 elections. So it is proposed to proceed with this matter as directed by Council as its November 2008 Meeting.

Council need to determine which of the three options discussed in the Discussion Paper it wishes to proceed with.

These options were:

1. Maintain the current system of representation with 11 Councillors and no wards;
2. Reduce the number of Councillors to 9 and no wards;
3. Reduce the number of Councillors to 7 and no wards.

The Discussion Paper clearly identifies the advantages and disadvantages of these particular scenarios.

It is recommended that Council reduce the number of Councillors from 11 to 9 on the following basis:

1. Decision making process will be more effective and efficient;
2. The cost of maintaining elected members is likely to reduce;
3. There will be an increase in the ratio of electors to Councillors (foreshadowed by the Minister of Local Government in his Press Release of 5 February 2009);
4. Fewer positions on Council may lead to greater interest in elections.

Officer's Recommendation

That Council recommends to the Local Government Advisory Board that an order be made under Section 2.18(3) of the Local Government Act 1995 to reduce the number of Councillors on Council from eleven to nine.

ABSOLUTE MAJORITY REQUIRED

29959

Moved Cr Crees

Sec Cr Morris

That Council recommends to the Local Government Advisory Board that an order be made under Section 2.18(3) of the Local Government Act 1995 to reduce the number of Councillors on Council from eleven to nine at the 2009 election.

**CARRIED 9/0
ABSOLUTE MAJORITY**

29960

Moved Cr Morris

Sec Cr Young

That to redress the imbalance in the number of Councillors, Council requests the Local Government Advisory Board to determine for the 2011 election that the first five elected members have a four year term and the sixth elected member has a two year term.

**CARRIED 9/0
ABSOLUTE MAJORITY**

13.6 RECRUITMENT OF EXECUTIVE MANAGER OF DEVELOPMENT SERVICES

Reporting Department: Administration
Reporting Officer: Frank Ludovico – Chief Executive Officer
Legislation: Local Government Act 1995
File Number: P/23/27

Background

I wish to formally advise that Mr John Mitchell, Executive Manager of Development Services, has resigned from the Shire of Merredin effective 30 June 2009.

The position was advertised on 4 April 2009 closing on 24 April 2009.

In order to facilitate the recruitment process it is proposed that the Senior Staff Review Committee be delegated authority to interview and appoint a candidate.

Statutory Implications

Under Section 5.37 of the Local Government Act 1995 a Council may designate employees to be classified as Senior Employees.

Council Policy 1.2 designates the Executive Manager of Development Services as a Senior Employee.

Section 5.37 of the Local Government Act 1995 indicates that Council is to inform the Council of each proposal to employ a Senior Employee and a Council may accept or reject the Chief Executive Officer's recommendation. Section 5.37 indicates that if the position of a Senior Employee becomes vacant it is to be advertised by a Local Government.

Section 5.17 limits the delegation of powers to certain Committees, under this section the Senior Staff Review Committee can be delegated the power to appoint a Senior Employee.

Comment

I believe delegating this power to the members of the Senior Staff Review Committee streamlines the process as it enables Committee members to participate in the process, working cooperatively with the Chief Executive Officer to make an appointment.

Officer's Recommendation

That Council authorise the Senior Staff Review Committee to interview and appoint the Executive Manager of Development Services.

ABSOLUTE MAJORITY REQUIRED

29961

Moved Cr Elliott

Sec Cr Young

That Council go behind closed doors to discuss a staff matter in accordance with Section 5.23(2) of the Local Government Act 1995.

CARRIED 9/0

Council went behind closed doors at 4.21pm.

Cr Wallace entered the meeting at 4.30pm.

Cr Townrow left the meeting at 4.55pm.

Cr Townrow entered the meeting at 4.56pm.

Cr Forbes left the meeting at 5.00pm.

Cr Young left the meeting at 5.04pm.

Cr Forbes entered the meeting at 5.04pm.

Cr Young entered the meeting at 5.05pm.

29962

Moved Cr Elliott

Sec Cr Young

That Council come out from behind closed doors.

CARRIED 10/0

Council came out from behind closed doors at 5.12pm.

29963

Moved Cr Young

Sec Cr Elliott

That Council authorise the Senior Staff Review Committee to interview and appoint the Executive Manager of Development Services.

CARRIED 9/1**ABSOLUTE MAJORITY**

14.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

15.0 QUESTIONS BY MEMBERS FOR WHICH DUE NOTICE HAS BEEN GIVEN
Nil

16.0 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

16.1 Appointment of Auditor and Adoption of Audit Committee Minutes

Refer to Page 45 for information in relation to this Agenda Item.

16.2 Grants Commission Nomination

29964 Moved Cr Elliott Sec Cr Forbes
That Council support Cr Morris' application to become a Country Rural Member of the WA Local Government Grants Commission.
CARRIED 10/0

16.3 Acknowledgements

The Shire President acknowledged the recent deaths of Mr John Arndt, Mr John Day and the mother of Mrs Gloria Banks. All had made valuable contributions to Merredin and the surrounding districts.

17.0 MATTERS BEHIND CLOSED DOORS

17.1 Offer to Purchase Land – Future Development – Lot 104 South Avenue, Merredin

Please refer to Page 41 for information in relation to this Agenda Item.

13.6 Recruitment of Executive Manager of Development Services

Please refer to Page 49 for information in relation to this Agenda Item.

18.0 CLOSURE

There being no further business, the Presiding Member declared the meeting closed at 5.25pm.