

SHIRE OF BRUCE ROCK

MINUTES – ORDINARY MEETING 15 OCTOBER 2020

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SHIRE OF BRUCE ROCK

MINUTES – ORDINARY MEETING 15 OCTOBER 2020

1. Declaration of Opening

The Shire President Cr SA Strange declared the meeting open at 3.12pm.

2. Record of Attendance/Apologies/Leave of Absence (Previously Approved)

President	Cr SA Strange
Deputy President	Cr R Rajagopalan
Councillors	Cr AR Crooks
	Cr IS Dolton
	Cr KP Foss
	Cr NC Kilminster
	Cr PG Negri
	Cr BJ Waight
	Cr RA Way
Chief Executive Officer	Mr DRS Mollenoyux
Deputy Chief Executive Officer	Mr A O’Toole
Executive Assistant	Mrs Melissa Schilling
Manager of Finance	Mrs JL Bow (3.35pm – 3.45pm)
Environmental Health Officer	Mr J Goldacre (4.31pm – 4.40pm)
Presentation	Mr Leigh Strange (3.12pm to 3.28pm)

3. Declarations of Interest

In accordance with Section 5.65 of the Local Government Act 1995 the following disclosures of **financial** interest were made at the Council meeting.

Date	Name	Item No	Reason

In accordance with Section 5.65 of the Local Government Act 1995 the following disclosures of **Closely Association Person and Impartiality** interest were made at the Council meeting.

Date	Name	Item No	Reason
15.10.20	Cr ISA Dolton	11.3.2	Ex-Secretary of the Bowling Club and some input into the application.
15.10.20	Mr D Mollenoyux	11.3.2	Secretary of Bruce Rock Football Club
15.10.20	Cr Negri	11.3.2	I am a member of the Bruce Rock Bowling Club

In accordance with Section 5.60B and 5.65 of the Local Government Act 1995 the following disclosures of **Proximity** interest were made at the Council meeting.

Date	Name	Item No	Reason
15.10.20	Cr Negri	11.3.1	Joint owner of adjoining land

4. Response to Previous Public Questions Taken on Notice

5. Public Question Time

6. Petitions/Deputations/Presentations/Submissions

Leigh Strange, Bruce Rock Football Club

Leigh Strange left the Council Chambers at 3.28pm.

7. Applications for Leave of Absence

8. Announcements by Presiding Member

9. Confirmation of Minutes

Ordinary Meeting of Council held on Thursday 17 September 2020.

COUNCIL DECISION

Resolution OCM Oct 20 – 9.1

Moved: Cr Crooks

Seconded: Cr Dolton

That the minutes of the Ordinary Meeting of Council held Thursday 17 September 2020 be confirmed as a true and correct record.

Carried 9/0

Audit Committee Meeting of Council held on Thursday 17 September 2020.

COUNCIL DECISION

Resolution OCM Aug 20 – 9.2

Moved: Cr Waight

Seconded: Cr Foss

That the minutes of the Audit Committee Meeting held Thursday 17 September 2020 be confirmed as a true and correct record.

Carried 9/0

10. Regional Reports

Agenda Reference and Subject:	10.1.1 WEROC Inc Meeting Minutes October 2020
File Reference:	1.6.9.1 WEROC Inc Meeting Agendas and Minutes
Reporting Officer:	Mr Darren Mollenoyux, Chief Executive Officer
Author:	Mr Darren Mollenoyux, Chief Executive Officer
Disclosure of Interest:	Nil
Attachments:	<i>Item 10.1.1 - WEROC Inc. Special General Meeting Minutes 011020</i>

Summary

Council is asked to receive the minutes from the previous WEROC Inc Board Meeting.

Background

The last WEROC Inc Board Meeting was held on the 1st October 2020 via videoconference.

Comment

To encourage the WEROC Inc partnership and promote a better understanding by all Councillors it is recommended that WEROC Inc minutes be read and received by Council.

The following items are highlighted for Councils attention:

4.1 Application for Membership

WEROC Inc received formal application for membership from the Shire of Tammin on the 1st September 2020. Tammin was requested to provide relevant information, confirm their commitment to the new WEROC Strategic Plan and a financial contribution to join.

The board considered the application and it was resolved to accept the Shire of Tammin's application to become a member of WEROC Inc. Their first meeting will be on the 26th November 2020.

Consultation Nil

Statutory Implications Nil

Policy Implications Nil

Risk Implications

Risk: That Council does not receive the minutes or object to decisions of the WEROC Inc Board meeting.		
Likelihood	Consequence	Rating
Rare	Insignificant	Low
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock's Risk Management Procedure's Risk Matrix. The perceived level of risk is considered to be "Low" risk and will be managed by routine procedure and is unlikely to need specific application of resources.		

Financial Implications Nil

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

- Goal 12 Council leads the organisation in a strategic and flexible manner
12.2 Continue to build our voice and strategic projects within our regional groupings

Voting Requirements Simple Majority

OFFICE RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Aug 20 – 10.1.1

Moved: Cr Waye
Seconded: Cr Waight

That Council receives the minutes of the WEROC Board Meeting held on the 1st October 2020 via videoconference.

Carried 9/0

Mr A O’Toole left the Council Chambers at 3.33pm.

Mr A O’Toole returned to the Council Chambers at 3.35pm.

Mrs JL Bow entered the Council Chambers at 3.35pm.

11. Officers' Reports

11.1 Environmental Health Officer

Nil

11.2 Manager of Finance

Agenda Reference and Subject:

11.2.1 Statement of Financial Activity

File Reference:

8.2.6.2 Financial Reporting

Reporting Officer:

Jennifer Bow, Manager of Finance

Author:

Jennifer Bow, Manager of Finance

Disclosure of Interest

Nil

Attachment:

*Item 11.1.1 Attachment A – Statement of Financial Activity
September 2020*

Summary

A statement of financial activity must be produced monthly and presented to Council.

Background

In accordance with the Local Government Act 1995, a Statement of Financial Activity must be presented to each Council meeting, including a comparison of actual year to date to the budget year to date and variances from it. It must also include explanations of any variances and any other associated information that would be useful for readers of the report.

Comment

The financial statements for the month ending 30th September 2020 are available in the agenda attachment document.

Consultation

Darren Mollenoyux, Chief Executive Officer
Alan O'Toole, Deputy Chief Executive Officer
David Holland, Manager of Works and Services
Mike Darby, Senior Finance Officer and other staff

Statutory Implications

r. 34 Local Government (Financial Management) Regulations 1996

34. Financial activity statement required each month (Act s. 6.4)

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail –

(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and

(b) budget estimates to the end of the month to which the statement relates; and

(c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and

(d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and

(e) the net current assets at the end of the month to which the statement relates.

(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be –

(a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and

(b) recorded in the minutes of the meeting at which it is presented.

Policy Implications

Nil

Risk Implications

Risk: Financial performance is not monitored against approved budget		
Likelihood	Consequence	Rating
Possible	Minor	Moderate
Action / Strategy		
The monthly financial report tracks the Shire’s actual financial performance against its budgeted financial performance to ensure that the Council is able to monitor to Shire’s financial performance throughout the year.		

Financial Implications

Comparison of actual year to date to the 2020/21 Budget

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION Resolution OCM Oct 20 – 11.2.1</p> <p>Moved: Cr Rajagopalan Seconded: Cr Wayne</p> <p>That the Statements of Financial Activity for the month ending 30th September 2020 as presented be received.</p> <p style="text-align: right;">Carried 9/0</p>
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Agenda Reference and Subject:	11.2.2 List of Payments
File Reference:	8.2.3.3 Accounts Payable (Creditors)
Reporting Officer:	Jennifer Bow, Manager of Finance Officer
Author:	Mike Darby, Senior Finance Officer
Disclosure of Interest:	Nil
Attachments:	<i>Item 11.2.2 Attachment A – List of Payments September 2020</i>

Summary

List of payments made since the last Ordinary Council Meeting.

Background

As the Chief Executive Officer has been delegated the authority to make payments from the municipal and trust funds, a list of payments made is to be presented to Council each month. Also, in accordance with Finance Policy Number 2.3, included is a list of payments made with the CEO’s credit card.

Comment

Following is a list of payments made from Council’s Municipal and Trust Accounts and payments made with the CEO’s credit card for the month of September 2020.

If you have any queries regarding the list of payments, please advise prior to the meeting to enable staff to seek relevant information.

Consultation

Nil

Statutory Implications

s.6.10 Local Government Act 1995

r.13(1) Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Risk Implications

Risk: Payments are not monitored against approved budget and delegation.		
Likelihood	Consequence	Rating
Possible	Minor	Moderate
Action / Strategy		
The monthly list of payments provides an open and transparent record of payments made under the appropriate approved delegations.		

Financial Implications

Payments must be made in accordance with 2020/21 Budget

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.2.2

Moved: Cr Waight

Seconded: Cr Negri

That Council endorse the list of payments from the:

- 1. Municipal Account consisting of:**
 - a. EFT voucher numbers EFT16172 to EFT16309 totalling \$265,026.93**
 - b. Cheque number 24031 to 24033 totalling \$7,183.16**
 - c. Trust Cheques Nil**
 - d. Wages and Superannuation payments totalling \$185,966.27 and**
 - e. Credit Card payments \$335.54**
- With all payments totalling \$458,176.36 for the month of September 2020.**

Carried 9/0

Mrs JL Bow left the Council Chambers at 3.45pm and did not return.

11.3 Deputy Chief Executive Officer

Agenda Reference and Subject:

11.3.1 Shire President Stamp

File Reference:**Reporting Officer:**

Alan O’Toole, Deputy Chief Executive Officer

Author:

Melissa Schilling, Executive Assistant

Disclosure of Interest:

Nil

Attachments:

Nil

Summary

Use of Shire President Stamp September 2020

Background

Nil

Comment

As per Council’s policy, the Shire President Stamp has been used during the months of September 2020 as follows:

- MOU between Bruce Rock Community Resource Centre and Shire of Bruce Rock

Consultation

Nil

Statutory Implications

Council Policy

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Shire of Bruce Rock Strategic Community Plan 2017-2027

Governance

Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.3.1

Moved: Cr Kilminster

Seconded: Cr Foss

That Council endorse the use of the Shire President Stamp during September 2020.

Carried 9/0

Agenda Reference and Subject:

11.3.2 Community Crop Lease

File Reference:

2.4.1.11 Airstrip Cropping Program

Reporting Officer:

Alan O’Toole, Deputy Chief Executive Officer

Author:

Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

CEO, Darren Mollenoyux (Closely Associated Person)

Cr Negri (Impartiality)

Cr Dolton (Impartiality)

Attachments:

Item 11.3.2 - CONFIDENTIAL Expressions of Interest from Bruce Rock Football Club and Bruce Rock Bowling Club

Mr D Mollenoyux left the Council Chambers at 3.46pm.

Summary

Council are asked to consider the Expressions of Interest (EOI) for allocation of the cropping right to its “Community Crop” located adjacent to the Bruce Rock airstrip, and award the Lease to the most suitable party.

Background

The Shire of Bruce Rock leases the cropping rights to the community crop located on the land immediately surrounding the Airstrip. The intention of this is to assist local community groups to raise funds for their activities and thus provide benefit to the wider community. For the past five years the lease of the community crop has been held by the Bruce Rock Football Club, but this Lease is due to expire on 28 February 2021.

At the September 2020 Ordinary Meeting, Council made the following resolutions:

1. *That Council call for Expressions of Interest, to be received from September 21 2020 to 5 October 2020, for the cropping rights to the Bruce Rock Community Crop for up to a maximum of five years.*
2. *That the Expressions of Interest be presented to Council in the form of a Report to the October 2020 Ordinary Meeting of Council.*

Following notices being placed in community information resources, at the close of business on 5th October 2020, EOIs were received from the Bruce Rock Bowling Club (the Bowling Club) and the Bruce Rock Football Club (the Football Club).

Comment

The Public Notice for Expressions of Interest requested that applicants signal their intentions for:

1. Future management of the area, and 2. Intent for the monies raised. A summary of each Club’s submission addressing these factors is below:
 - a) 1. The Bowling Club’s EOI states that they will form a Cropping Committee which will oversee the maintenance of the land, with work undertaken by its members, many of whom are farmers. Cropping rotation will be adopted with consideration of previous chemical use, the plant back period, and specific weeds to be targeted. Soil testing will be undertaken if required and crops planted in consideration of previous rotations, e.g. canola, then two cereals. Steps will be taken to prevent soil erosion and cropped land will be fertilised according to best practice. Chemical control of weeds and pests will be undertaken, and firebreaks maintained as per Council Policy.
 2. The Bowling Club intends to use monies raised from the cropping rights to contribute towards the replacement of the bowling green surface and attendant works. (A financial summary is contained in the confidential attachment).

The Bowling Club have requested a three year lease, and if there are funds additional to the green replacement, then these will be saved towards the next resurfacing in ten years' time, as to have a functioning bowling green is important to keep the community (all ages) healthy.

- b) 1. The Football Club's EOI includes details of how during their current five year lease they have both improved the quality of the land and also increased the area by reclamation. A program of rotation has been implemented which has seen crops of hay, canola, wheat and acid tolerant barley. They have also cleared the bush back to the original boundary, maintained the firebreaks and sprayed alongside the drive and along the rear of the building. The plan is to continue this management method and thus continually increase the quality and viability of the land.
2. The Football Club intends to use the monies raised from the cropping rights to secure the Club's ongoing financial viability. As well as their core activities, they also organise and otherwise contribute to community events. Fundraising and awareness activities focus on youth development and rural men's health and there is also a women's team which played in the annual EDFL carnival. The Football Club have requested a five year lease and if successful in obtaining this, have stated they will make an annual \$500 donation to both the St John Ambulance and Royal Flying Doctor Service.

Both of the EOIs are Confidential attachments to this report

Consultation

Melissa Schilling – Executive Assistant
 Caris Negri – Community Development Officer

Statutory Implications

Nil

Policy Implications

Nil

Risk Implications

Risk: That the cropping rights to the Community Crop are not leased and therefore this important asset and the benefits from its revenue are lost to the Bruce Rock community.		
Likelihood	Consequence	Rating
Rare	Moderate	Moderate
Action / Strategy		
That a Lease to the Community Crop be granted to a party able to make best use of the resource.		

Financial Implications

There is no cost associated with the lease.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Infrastructure

2.2 Encourage greater usage of current Council owned facilities

Governance

Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

Officer Recommendation

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to _____ for a period of _____ years.

Council decision varied to Officer Recommendation to outline the awarding of the cropping lease to the successful applicant and terms of the lease, following the consideration of needs, merit, planned cropping program and community benefits of both submissions.

COUNCIL MOTION

Resolution OCM Oct 20 – 11.3.2.1

Moved: Cr Dolton

Seconded: Cr

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to Bruce Rock Bowling Club for a period of 3 years.

Motion Lapsed due to lack of a seconder.

COUNCIL DECISION

Resolution OCM Oct 20 – 11.3.2.2

Moved: Cr Waye

Seconded: Cr Foss

1. That Council considers the Expressions of Interest and awards the cropping rights to the Community Crop to Bruce Rock Football Club for a period of 3 years.

Carried 6/3

Mr D Mollenoyux returned to the Council Chambers at 4.09pm.

Cr Waye left the Council Chambers at 4.10pm.

Agenda Reference and Subject:

11.3.3 Amendment to the Vehicle and Fuel Usage Policy

File Reference:

2.3.1.1 Policy Manual

Reporting Officer:

Alan O’Toole, Deputy Chief Executive Officer

Author:

Alan O’Toole, Deputy Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Item 11.3.4 Attachment A – Vehicle and Fuel Usage Policy

Summary

Council is requested to consider and endorse the amendment to Policy 9.1 “Vehicle and Fuel Usage.”

Background

Council Policy on Vehicle and Fuel Usage requires some minor amendment to reflect accurately the purpose and intent of allowing Private Use of vehicles while on leave.

Comment

It has been noted that there has been some confusion regarding the allowed usage of Shire owned vehicles for staff who have Private Use as part of their employment conditions. This issue has been clarified by the addition of the following clause:

Use of Vehicles while on Leave

For those staff members, (excluding the CEO), who have been granted Private Use of vehicles as part of their employment conditions, when on leave this right only extends to periods of Annual or Personal (Sick) leave. It does not extend to **any** other types of leave, including Long Service Leave, Parental (e.g. Maternity/Paternity) Leave, or Unpaid Leave (e.g. Leave Without Pay).

(The CEO may, upon application, be granted use of the allocated vehicle while on Long Service Leave, following approval by Council).

The updated Policy is attached.

Consultation

Chief Executive Officer, Darren Mollenoyux

Manager of Finance, Jennifer Bow

Statutory Implications

Nil

Policy Implications

Amended Policy 9.1 – Vehicle and Fuel Usage

Risk Implications

Risk: That Council does not adopt the amended Policy, which could potentially lead to further confusion in the future regarding access to Shire-owned vehicles while on leave.		
Likelihood	Consequence	Rating
Rare	Moderate	Moderate
Action / Strategy		
Council adopts the amendment as recommended in the Report.		

Financial Implications

Nil

Strategic Implications

Shire of Bruce Rock Strategic Community Plan 2017-2027

Governance

- Goal 10 Our organisation is well positioned and has capacity for the future
Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.3.3

Moved: Cr Rajagopalan

Seconded: Cr Waight

That Council adopts the amended Policy 9.1 regarding Vehicle and Fuel Usage.

Carried /08

Cr Waight returned to the Council Chambers at 4.14pm.

11.4 Chief Executive Officer

Agenda Reference and Subject:

11.4.1 CEO Annual Leave Request

File Reference:

Personnel

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Darren Mollenoyux, Chief Executive Officer

Attachments:

Nil

Summary

Council is asked to consider approval of annual leave for the Chief Executive Officer and appoint an Acting CEO during his absence.

Background

The Chief Executive Officer is seeking annual leave during the 2020 Christmas and January 2021 period.

The CEO's leave proposed leave is as follows;

25th Dec 2020 to 3rd January 2021 – The office is closed during this period and as all other staff are also on leave I will still be on call and therefore no Acting CEO is required to be appointed. The CEO will be taking 2 Executive Leave Days, 3 Public Holidays and 1 Annual Leave days during this period.

4th January 2021 up to and including the 26th January 2021 – The CEO will be taking 16 Annual Leave days, 1 Public Holiday during this period. There will be a requirement to appoint an Acting CEO during this period.

Adequate Annual Leave is accrued to take the requested leave.

The CEO will still be on call for the period between Christmas and New Year while the Shire Office is closed and adequate arrangements have been put in place to cover harvest ban readings during this period.

Comment

January is generally a quiet time, there is no Council meeting and the majority of the Works Crew are on leave.

I have held discussions with the Deputy CEO, Alan O'Toole and I am confident that Alan is capable and suitable to be appointed as Acting CEO during this period. Other Senior Managers will be working during this period to also support Alan.

Consultation

Deputy Chief Executive Officer, Alan O'Toole (Deputy Returning Officer)

Statutory Implications

Local Government Act 1995

In particular:

5.36. *Local government employees*

(1) *A local government is to employ –*

(a) *a person to be the CEO of the local government; and*

- (b) *such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.*

5.39. *Contracts for CEO and senior employees*

- (a) *an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting*

Policy Implications Nil

Risk Implications

Risk: That adequate staffing resources are not available to cover the CEO’s period of absence.		
Likelihood	Consequence	Rating
Unlikely	Minor	Low
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Low” risk and will be managed by routine procedure and is unlikely to need specific application of resources.		

Financial Implications

It is general practice that the Acting Chief Executive Officer is paid higher duties during this time. This is budgeted for in the annual salaries and wages provision.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

- Goal 10 Our organisation is well positioned and has capacity for the future
 Goal 12 Council leads the organisation in a strategic and flexible manner

Voting Requirements

Simple Majority

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION Resolution OCM Oct 20 – 11.4.1</p> <p>Moved: Cr Rajagopalan Seconded: Cr Foss</p> <p>That Council:</p> <ol style="list-style-type: none"> Approve the annual leave of the Chief Executive Officer, Darren Mollenoyux for the period commencing on 4th January 2021 to 26th January 2021, inclusive. Appoint the Deputy Chief Executive Officer, Alan O’Toole as the Acting Chief Executive Officer for the period from 4th January 2024 to 26th January 2021 inclusive and that Alan is paid at higher duties, equivalent to the current CEO, during this period. <p style="text-align: right;">Carried 9/0</p>
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Agenda Reference and Subject:

11.4.2 Firewood Collection

File Reference:

6.1.2.10 Permission to Remove Dead Wood

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Attachment A – Guide for exemptions of clearing regulations

Attachment B – Firewood facts sheet

Attachment C – Crown Land Supplier’s License

Summary

Council is asked to review its current practice of issuing permits for the collection of firewood within Council owned/controlled road reserves.

Background

Following a letter received from a member of the public, Council requested staff to undertake a review of the wood collection permits and the process currently administered by the Shire of Bruce Rock.

Currently permits are issued for local residents to collect firewood from Council controlled road reserves for personal use and to meet the requirements and required practices of wood collection. Each year the Shire issues between 6 to 13 permits, however in 2020 only 3 permits were issued.

Comment

The CEO initially contacted neighbouring Councils to ascertain their position on the issuing of firewood collection permits, where it was identified that this practice has been phased out in most Shires of the past 5 years.

Contact was made with the Environmental Team of WA Local Government Association to investigate parameters and requirements of wood collection. In addition, Council’s NRMO has also undertaken research through the Department of Biodiversity, Conservation and Attractions.

The following information gathered from WALGA and the Department of Biodiversity, Conservation and Attractions highlighted that Council needs to review its current firewood collection permit process and guidelines, whilst determining the practicalities of continuing the practice versus the benefit to the community.

Legislative context

The discussion below gives the legislative framework within which a Local Government could consider granting approval for individuals to take firewood from any of its Reserves.

Division 2 of Part 5 of the Environmental Protection Act 1986 (EP Act) regulates the clearing of native vegetation. In general, clearing of native vegetation is not permitted unless a permit is granted by the Department of Environment and Water Regulation (DWER). The taking of wood for firewood is considered clearing under the EP Act but is exempt from requiring a permit in certain circumstances, as follows:

- The wood is not live;*
- It is carried out by the land owner or occupier, or the land owner or occupier has granted a permit to a third party;*

- *It is used for non-commercial purposes;*
- *Firewood already cleared is not available; and*
- *The total taken is no more than 5 ha per year – extremely difficult to calculate for firewood.*

Schedule 5 of the EP Act sets out ten (10) Principles where native vegetation should not be cleared, one of which is “it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna.”

The definition of clearing also refers to ‘killing or destruction’, and a precautionary interpretation of this would be excessive trampling of vegetation.

The role of Local Government in controlling the taking of firewood from its reserves

An individual is not allowed to take firewood from a Local Government Reserve unless they have a permit from that Local Government.

Arguably, Division 2 of Part 5 of the Environmental Protection Act 1986 (EP Act) gives the ‘head of power’ to establish a permitting process (this is not a legal opinion!)

In summary, Local Governments can permit the collection of firewood from its reserves provided that:

- *The wood is not live;*
- *It is for personal use only;*
- *The wood is not a habitat for fauna;*
- *No other damage is caused to other vegetation; and*
- *It limited 5 ha per year.*

Some practical considerations

It is open to a Local Government to NOT allow the taking of firewood from its reserves, however small Local Governments are unlikely to have the resources to police this. As well, uncontrolled taking of firewood is more likely to cause significant damage to the vegetation than controlled taking of firewood where conditions can be applied. Granting a permit with appropriate conditions would also act as an educative opportunity, even if policing the permit is difficult for the Local Government.

With respect to the 5 ha rule, translating the volume of firewood into an area of native vegetation is very difficult, and it is suggested that a pre-cautionary approach is taken where the number of permits granted is limited and the number of trailer loads/utes is also limited.

Any person collecting firewood needs to abide by the terms of the permit which need to include the following conditions;

Council has granted you permission to collect firewood on Shire road verges or reserves within the Shire of _____ for a one year period subject to the following conditions:

- 1. Only dead timber is taken;*
- 2. Timber which is habitat for fauna is not to be taken – notably logs with hollows or have active nests for insects;*
- 3. The timber is used for your personal use and not sold for commercial gain;*
- 4. Vehicles are parked in a safe manner and are not causing a hazard for vehicles using a road,*
- 5. Vehicles are parked on existing tracks or areas already cleared;*
- 6. When removing timber, trampling of vegetation is to be minimised and no damage is caused to other shrubs, bushes and trees;*
- 7. You are limited to one standard trailer load;*
- 8. The day after you remove the firewood, you notify the CEO the locations from which you have taken the firewood;*
- 9. OR Before you collect the firewood you are to notify which areas you will take firewood from;*
- 10. You operate any machinery in a safe manner; and*

11. *The areas you work in, including where vehicles are parked and any sawing of timber, is left in a safe and tidy manner, ensuring that any leftover materials will not cause a future hazard by blowing or being washed onto the road and that working near roads can be hazardous*

Additional Information Provided by the Department of Biodiversity, Conservation and Attractions

“Attached is our factsheet that goes with the receipt of payment which constitutes a permit to collect firewood from a designated area up to one tonne for personal use. The details we collect are name, address, vehicle registration, date of collection and the location of collection which is noted on the receipt and an excel spreadsheet. Should a breach occur through this system it is managed under the Conservation and Land Management Regulations as there are designated areas set aside for firewood.

This is not the same for private property or Shire managed land and has been defined under the Biodiversity Conservation Act 2016 that the flora needs to be taken and supplied lawfully. In this case a supplying licence would need to be acquired through licensing demonstrating that the flora has been taken lawfully and then gifted to the public. I have attached a copy of this licence”

Due to the conditions listed above it will be extremely difficult to administer the requirements, and will create a significant increase in workloads for issuing permits and policing, in particular the ability to monitor the 5ha per year rule.

If Council does not continue the practice of issuing permits (as with most other Councils) we are not required to monitor. However it is acknowledged that this could result in collection being “open slather,” as at least the permit does provide some educational approach to the collection of firewood.

Both WALGA and the Department of Biodiversity, Conservation and Attractions were not able to provide a definitive ‘yes’ or ‘no’ as to continuing with the practice of issuing wood collection permits.

As with many other local governments, Council may resolve to cease the practice due to the complex requirements and not being able to adequately ensure full legislative compliance going forward.

Consultation

Amanda Schilling, Natural Resource Management Officer
Environmental Team at WA Local Government Association
Fauna Staff at the Department of Biodiversity, Conservation and Attractions

The CEO also held conversations and sought responses on how other neighbouring Councils handled wood collection within their road reserves.

Statutory Implications

- Local Government Act 1995
- Shire of Bruce Rock’s Activities on Thoroughfares Local Law 2004 (amended 2019)
- Environmental Protection Act 1986 (EP Act)

Division 2 of Part 5

Regulates the clearing of native vegetation. In general, clearing of native vegetation is not permitted unless a permit is granted by the Department of Environment and Water Regulation (DWER). The taking of wood for firewood is considered clearing under the EP Act but is exempt from requiring a permit in certain circumstances, as follows:

- The wood is not live;
- It is carried out by the land owner or occupier, or the land owner or occupier has granted a permit to a third party;
- It is used for non-commercial purposes;
- Firewood already cleared is not available; and

- The total taken is no more than 5 ha per year – tricky to calculate for firewood.
 - Under the Biodiversity Conservation Act 2016
 - 171. Taking flora
 - (1) A person must not take flora on Crown land unless the person —
 - (a) is engaged in clearing that does not involve the commission of an offence under the Environmental Protection Act 1986 section 51C; or
 - (b) otherwise has lawful authority to take it. (b) in any other case — a fine of \$50 000.
 - (2) A person must not take flora on private land unless the person is an owner or occupier of the land or is authorised in the prescribed way to take it by an owner or occupier of the land.
 - Sub (b) in any other case — a fine of \$50 000.
 - 176. Supplying flora
 - (1) A person must not supply flora except under the authority of a licence.
 - (e) in any other case — a fine of \$50 000.
- Both these offences come with an infringement of \$2500.

Policy Implications

Whilst no formal policy exists a Firewood Collection Permit outlining the requirements is issued upon request.

Risk Implications

Risk: If Council continues to issue firewood collection permits and breaches occur we are unable to meet the legislative requirements both the permit holder and Council may risk substantial financial penalties.		
Likelihood	Consequence	Rating
Likely	Major	High
Action / Strategy		
Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring.		

Financial Implications

There is no fee or charge associated with the Firewood Collection Permits, however should Council seek to continue this practice the administrative cost is considerable, including the policing of requirements such as the annual wood taken calculations and ensuring that permit holders are only taking within the required area and their limit of 1 trailer load.

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 12 – Council leads the organisation in a strategic and flexible manner

Goal 13 – Core environmental services help protect our natural environment

13.1 – Proactively manage reserves and natural bushland

Voting Requirements Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.4.2

Moved: Cr Rajagopalan

Seconded: Cr Waye

- 1. Council ceases the issuing of firewood collection permits on Council owned road reserves effective 15th October 2020.**
- 2. The three current permit holders be advised in writing that their permits are cancelled.**
- 3. That staff undertake a public education campaign through various advertising methods informing the community of the prohibition of taking any wood, whether dead or alive, from any lands under the Shire of Bruce Rock's control.**

Carried 9/0

Agenda Reference and Subject:

11.4.3 Bruce Rock CRC – Council Representatives

File Reference:

1.3.11.1 Bruce Rock Community Resource Centre

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Nil

Summary

Council is asked to consider a request from Bruce Rock Community Resource Centre seeking a Council representative on their committee.

Background

The Bruce Rock Community Resource Centre have written to advise that they are holding their Annual General Meeting and as per their constitution Council is required to have a sitting representative on their Committee.

Comment

Cr Kilminster is the current delegate and Cr Waye is the proxy. Following discussions with the current representatives they have indicated their preference to switch places and it is asked that Council consider their appointment.

Consultation

Rochelle Guest, Bruce Rock CRC Coordinator
 Caris Negri, Community Development Officer
 Cr Natalie Kilminster
 Cr Rebecca Waye

Statutory Implications

Nil

Policy Implications

Nil

Risk Implications

Risk: Council does not support the increase, then a risk of not being a member may occur and we may not receive tourism benefits for our community.

Likelihood	Consequence	Rating
Unlikely	Minor	Low

Action / Strategy

This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedure’s Risk Matrix. The perceived level of risk is considered to be “Low” risk.

Financial Implications

Nil

Strategic Implications

Shire of Bruce Rock Strategic Community Plan 2017-2027

Infrastructure

3.5 – Improve signage, infrastructure and aesthetics to link both sides of the Bruce Rock main street that encourages patronage and a reason to visit /stop

Goal 6 – Tourism helps to diversify our local economy

6.1 - Promote our attractions, amenities and activities in a coordinated approach

Governance

12.5 – Lead the organisation in a financially responsible and viable manner

Voting Requirements Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.4.3

Moved: Cr Foss

Seconded: Cr Waight

That Council appoints Cr Rebecca Waye as its representative on the Bruce Rock Community Resource Centre Committee and Cr Natalie Kilminster as the Proxy until the October 2021 Council Election.

Carried 9/0

Agenda Reference and Subject:

11.4.4 Light Vehicle Fleet Replacement Policy

File Reference:

2.3.1.1 Policy Manual

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Attachment A – Draft Policy 9.4

Summary

Council is asked to consider adopting a new policy to provide guidance in the changeover of its light fleet vehicles.

Background

The 2018/2019 audit that was completed by the Auditor General in February 2020 and as part of the management letter the following was reported;

“Item 3. VEHICLE MANAGEMENT PRACTICES

Finding

We noted that the Shire does not have a vehicle fleet management policy. We understand that vehicles are sold after reaching a set mileage, and this may result in vehicles being replaced within a short period (ie within 12 months). However, without a formal policy to support the approach, it is unclear whether the Shire has assessed the cost/benefits of this practice.

During our review of vehicle sales in 2018-19 we also identified the following:

- For the July 2018 transaction the quoted price from the selected supplier did not agree to the purchase order price or the final sales invoice price. All 3 prices were different.*
- For the May 2019 transaction, 1 of the 3 supplier quotes obtained did not include a vehicle trade-in price from that supplier. Instead, there was a hand written amount within that quote which appears to be a trade-in price.*

Rating: Minor

Implication

Without a vehicle fleet management policy, there is a greater risk that the Shire will not be getting the best value for money from its vehicle purchases.

Unresolved discrepancies between quotations, purchase orders and invoices can increase the risk of financial loss or fraud. They can also result in non-compliance with the Shire’s procurement policy.

Recommendation

The Shire should

- (1) develop a vehicle fleet management policy. When developing this policy, the Shire should assess whether current practices reflect the best value for money*
- (2) investigate and resolve the discrepancies in the quotations identified above.*

Management Comment

Management will develop a policy for vehicle fleet management. Management will also direct staff involved in procurement and purchasing to ensure that all steps in the procurement process are followed.

Responsible Person: MOF

Completion Date: 30th September 2020

Comment

As per the recommendation from the Auditor General a Policy has been drafted that will assist Council and staff in providing guidance in the changeover and trade practices for its light fleet vehicles, whilst still ensuring the ability to still obtain value for money when considering the trade of light fleet vehicles.

As Council is aware, the market for light fleet vehicles can fluctuate considerably and a strictly defined Policy would prohibit Council from obtaining value for money with trades. This was most recently evidenced when quotes were received for a vehicle at 15,000km with the average changeover around \$8,000 and for the same vehicle at 30,000km new quotes were obtained with a changeover at \$3,000.

The new Policy would still require budget provision and any changeover/purchase to be undertaken in line with Council’s Purchasing Policy.

Consultation

Jennifer Bow, Manager of Finance
David Holland, Manager of Works and Services

Statutory Implications

Local Government Act 1995
Local Government (Functions & General) Regulations 1996

Audit Report - Local Government Act 1995 s. 7.9 and Local Government (Audit) Regulations 1996 r.9 & 10.

Management Letter - Section 7.9 & 7.12A of Local Government Act 1995 s7.9 & 7.12A and Local Government (Audit) Regulations 1996 r.9 & 10.

Policy Implications

Council Policy 2.7 Purchasing

Risk Implications

Risk: Compliance – Non-compliance with relevant sections and regulations of the Local Government Act 1995.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
This item has been evaluated against the Shire of Bruce Rock’s Risk Management Procedures Risk Matrix. The perceived level of risk is considered to be “Medium” risk and will be managed to mitigate the risks associated with each of the areas of the financial audit.		

Financial Implications Nil

Strategic Implications

Shire of Bruce Rock – Strategic Community Plan 2017-2027

Governance

Goal 12 – Council leads the organisation in a strategic and flexible manner

Goal 12.5 – Lead the organisation in a financially responsible and viable manner

Voting Requirements Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION

Resolution OCM Oct 20 – 11.4.4

Moved: Cr Waight

Seconded: Cr Foss

That Council adopt the new Policy 9.4 Light Fleet Vehicle Replacement, as presented.

Carried by absolute majority 9/0

Agenda Reference and Subject:

11.4.5 Cricket Training Facility Power Request

File Reference:

8.2.7.1 Annual Budget

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest:

Nil

Attachments:

Nil

Summary

The Bruce Rock Cricket Club are seeking the reinstatement of power to their training facility and requesting Council’s commitment to resolving the situation.

Background

In 2019 the installation of the new lighting (including power upgrade) was undertaken for the synthetic hockey turf with a mains power connection being installed on the old basketball courts. Western Power have since identified that the main power pole in the RV site (which only powered the cricket training facility) was no longer legal as it was classed as a secondary line onto the same reserve. Therefore, Western Power disconnected the power pole leaving the Cricket Club with no power to their training facility.

Alternative power sources were sought but there are no suitable options other than to run a new internal line from the new mains power that was installed on the old basketball court. In the interim the Cricket Club have been bringing a generator to training each week to run their ball machine, which is not ideal.

Comment

Staff have worked with Cricket Club representatives to investigate various options including the reinstatement of power, a battery pack for current ball machine and a new ball machine with charger.

The life cycle costing of installation of permanent power being reconnected to the site versus purchasing the correct rechargeable batteries or new machine options with built in charger evidences that it is more economical in the long term to reinstate power supply to the training facility.

The electrical contractor quote is \$3,126 ex gst
Council costs for trenching approximately \$800

As there was previously power provided to this site the Cricket Club are seeking Council’s consideration to reinstating the power, however their President advised that under Council’s current financial pressures they would make do for this current season and would like to see this project budgeted in 2021/2022 in readiness for the 2021 cricket season.

Consultation

Caris Negri, Community Development Officer
David Holland, Manager of Works & Services
Bruce Rock Cricket Club, Keenan Verhoogt and Angus Padfield
Colestan Electrics

Statutory Implications Nil

Policy Implications Nil

Risk Implications

Risk: If budget allocation is not awarded then the project will not proceed.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
If budget or grant funding is not approved the cricket club will continue to not have access to power at their training facility.		

Financial Implications

Allocation of \$4,000 in the 2021/2022 Budget for the installation of power to the cricket training facilities at the Bruce Rock Recreation Centre.

Strategic Implications

Shire of Bruce Rock Strategic Community Plan 2017-2027

Goal 2: Maintain Shire owned facilities in a strategic manner and also to meet the needs of the community

Goal 7: Our community are engaged and have a healthy lifestyle

Governance

Goal 12 – Council leads the organisation in a strategic and flexible manner

12.5 – Lead the organisation in a financially responsible and viable manner.

Voting Requirements Absolute Majority

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION Resolution OCM Oct 20 – 11.4.4</p> <p>Moved: Cr Wayne Seconded: Cr Kilminster</p> <p>That; i. Council makes budget provision of \$4,000 in the 2021-22 Budget towards the installation of power to the cricket training facility located at the Bruce Rock Recreation Centre. ii. The Community Development Officer research and apply for any suitable grant funding towards this project.</p> <p style="text-align: right;">Carried 9/0</p>
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Cr Waight left the Council Chambers at 4.28pm.

12. New Business of an urgent nature introduced by discussion of the meeting

13. Confidential Items

Agenda Reference and Subject:

13.1 CEO Performance Appraisal 2020

File Reference:

Personnel

Reporting Officer:

Darren Mollenoyux, Chief Executive Officer

Author:

Darren Mollenoyux, Chief Executive Officer

Disclosure of Interest

Darren Mollenoyux, Chief Executive Officer

Attachments

Confidential Report from John Phillips Consulting

COUNCIL DECISION

Resolution OCM Oct 20 – 13.1.1

Moved: Cr Rajagopalan

Seconded: Cr Kilminster

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

(b) the personal affairs of any person;

Carried 9/0

COUNCIL DECISION

Resolution OCM Oct 20 – 13.1.2

Moved: Cr Rajagopalan

Seconded: Cr Kilminster

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

(b) the personal affairs of any person;

Carried 9/0

COUNCIL DECISION

Resolution OCM Oct 20 – 13.1.3

Moved: Cr Rajagopalan

Seconded: Cr Crooks

Report Recommendation

- (1) Notes that Mr Darren Mollenoyux’s Performance Review in his role as Chief Executive Officer for the Shire of Bruce Rock 2020 annual appraisal has been undertaken;**
- (2) Endorses Mr Mollenoyux’s overall rating of ‘Exceeds Performance Requirements’, and commends him for his work during 2019/20;**
- (3) Endorses the Key Performance Indicators for the 2020/21 appraisal period;**
- (4) Schedules the next review of the CEO’s performance to be commenced by 1 August 2021 and completed by the September 2021 Ordinary Meeting of Council.**
- (5) Notes that Mr Mollenoyux has elected to not apply for an increase to his Total Reward Package due to the prevailing economic and public health circumstances, and thanks him for leading by example.**

Carried 9/0

Mr J Goldacre entered the Council Chambers at 4.31pm.

Agenda Reference and Subject:

13.2 Landfill Site Operation and Management Service
Contract and Waste Collection Service Key
Performance Indicators Review for September
2020

File Reference:

4.1.1 Waste Management

Reporting Officer:

Mr Julian Goldacre, Environmental Health Officer

Author:

Mr Julian Goldacre, Environmental Health Officer

Disclosure of Interest:

Nil

Attachments:

*Item 13.2 Attachment A – Landfill site operation and
management service KPIs SEPTEMBER 2020;*
*Item 13.2 Attachment B – Waste Collection Service KPIs
September 2020*

COUNCIL DECISION

Resolution OCM Oct 20 – 13.2.1

Moved: Cr Rajagopalan

Seconded: Cr Kilminster

That in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting is closed to the members of the public for this item as the following sub-section applied:

(e) a matter that if disclosed would reveal - ...

(ii) information that has a commercial value to a person; or

(iii) information about the business, professional, commercial or financial affairs of a person

Carried 9/0

COUNCIL DECISION

Resolution OCM Oct 20 – 13.1.2

Moved: Cr Rajagopalan

Seconded: Cr Kilminster

That in accordance with Section 5.23(2) of the Local Government Act 1995, Council reopens the meeting to the members of the public.

Carried 9/0

COUNCIL DECISION

Resolution OCM Oct 20 – 13.1.3

Moved: Cr Rajagopalan

Seconded: Cr Foss

That Council resolves to:

Accept the Officer report for the Contractor Refuse and Landfill Contract Key Performance Indicators for the month of September 2020 and ongoing operational undertakings.

Carried 9/0

Mr J Goldacre left the Council Chambers at 4.40pm and did not return.

14. Closure of Meeting.

The Shire President Stephen Strange thanked everyone for their attendance and declared the meeting closed at 4.40pm.

These minutes were confirmed at a meeting on 19 November 2020.

Cr Stephen Strange
Shire President
19 November 2020