



Ordinary Council Meeting Minutes

Date: 15 February 2012

Please Note: These minutes and the decisions recorded therein have not as yet been confirmed by Council as a true and accurate record of the meeting.

The Shire of Moora Vision and Mission Statement

Vision

Our vision is that:

The Moora region will be a place of brilliant opportunity over the next twenty years. Sustainable growth will result in a vibrant, healthy, wealthy and diverse community.

Mission

Our mission is:

To identify and stimulate growth through creative leadership and a willingness to get things done.

SHIRE OF MOORA
MINUTES OF THE ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MOORA
15 FEBRUARY 2012

TABLE OF CONTENTS

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	3
	1.1 DECLARATION OF OPENING	3
	1.2 DISCLAIMER READING	3
2.	ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE	3
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	3
4.	PUBLIC QUESTION TIME	4
5.	PETITIONS AND PRESENTATIONS	4
6.	APPLICATIONS FOR LEAVE OF ABSENCE	4
7.	ANNOUNCEMENTS BY THE PRESIDING MEMBER	4
8.	CONFIRMATION OF MINUTES	4
	8.1 ORDINARY COUNCIL MEETING - 14 DECEMBER 2011	4
9.	REPORTS OF OFFICERS	5
	9.1 CORPORATE SERVICES	5
	9.1.1 List of Payments Authorised Under Delegation 1.31 *	5
	9.1.2 Statement of Financial Activity for Period Ended 31 December 2011 *	6
	9.1.3 Statement of Financial Activity for Period Ended 31 January 2012 *	7
	9.1.4 Shire of Moora Annual Compliance Audit Return for 2011 *	9
	9.1.5 Outcomes of the 8 Yearly Review of the Shire of Moora's Local Laws	10
	9.1.6 Budget Review *	18
	9.1.7 Minutes of Annual General Meeting of Electors Held on 14 December 2011*	20
	9.2 HEALTH, BUILDING & PLANNING SERVICES	21
	9.2.1 Proposed Scheme Amendment No.10 – Shire of Moora Town Planning Scheme No 4 *	21

9.3	COMMUNITY & ECONOMIC DEVELOPMENT	32
9.3.1	West End Development Plan *	32
9.3.2	Shire of Moora Community Cultural Plan *	35
9.3.3	Wildflower Country Committee – Voting Delegates	37
9.4	ENGINEERING SERVICES	38
	Nil	
10.	ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	38
11.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	38
11.1	Shed Application – T Higgins – 46 Keane Street, Moora	38
12.	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	39
13.	CLOSURE OF MEETING	39

* Separate Attachments

<i>Item 9.1.1</i>	<i>List of Payments Authorised Under Delegation 1.31</i>
<i>Item 9.1.2</i>	<i>Statement of Financial Activity for the Period Ended 31 December 2011</i>
<i>Item 9.1.3</i>	<i>Statement of Financial Activity for the Period Ended 31 January 2012</i>
<i>Item 9.1.4</i>	<i>2011 Compliance Audit Return</i>
<i>Item 9.1.6</i>	<i>Budget Review</i>
<i>Item 9.1.7</i>	<i>Minutes of Electors Meeting held 14 December 2011</i>
<i>Item 9.2.1</i>	<i>Table of Submissions</i>
<i>Item 9.3.1</i>	<i>Maps indicating area and lots</i>
<i>Item 9.3.2</i>	<i>Shire of Moora Community Cultural Plan 2012-2016</i>

I. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

I.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 5.33pm, welcomed visitors and formally welcomed new Chief Executive Officer Alan Leeson and announced:

I.2 DISCLAIMER READING

No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

ATTENDANCE

CE Gardiner	-	Shire President
AR Tonkin	-	Councillor
CD Hawkins	-	Councillor
DV Clydesdale-Gebert	-	Councillor
R Keamy	-	Councillor
OC Cocking	-	Councillor
TG Humphry	-	Councillor
AJ Leeson	-	Chief Executive Officer
JL Greay	-	Manager Engineering Services
RL McCall	-	Manager Community & Economic Development
P Williams	-	Manager Health Building & Planning Services

APOLOGIES

SA Bryan	-	Councillor
JW McLagan	-	Councillor
LJ Parola	-	Manager Finance & Corporate Services

PUBLIC

Audrey Smith (until 5.50pm)	-	Principal, Central Midlands SHS
Michael Humphry (from 6.45pm)	-	Ratepayer / Farmer

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME**Audrey Smith**

Expressed her concerns over the truancy issue at the high school and is introducing a new program to encourage parents to the school to participate in their child's education with the outcome of better engagement and attendance.

5. PETITIONS AND PRESENTATIONS

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER

- 23/1 Attended the Avon Zone meeting in Toodyay
- 26/1 Attended Australia Day Awards

At 5.50pm Audrey Smith left the meeting

- 1/2 Met with Minister Terry Redman MLA, Mia Davies MLC & Paul Rosair, Director General of the Department of Regional Development & Lands
- 10/2 Attended the Sub Regional Road Group meeting
- 14/2 Attended the LEMC Desktop Exercise & chaired the quarterly meeting

Cr Cocking

10/2 chaired the Town Planning Committee meeting

Cr Humphry

10/2 attended the Sub Regional Road Group meeting as an observer

Cr Tonkin

14/2 attended the Wildflower Country Committee meeting in Three Springs

8. CONFIRMATION OF MINUTES**8.1 ORDINARY COUNCIL MEETING - 14 DECEMBER 2011****COUNCIL RESOLUTION**

1/12 Moved Cr Hawkins, seconded Cr Humphry that the Minutes of the Ordinary Meeting of Council held on 14 December 2011, be confirmed as a true and correct record of the meeting.

CARRIED 7/0

9. REPORTS OF OFFICERS

9.1 CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 9 February 2012

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: Leanne Parola, Manager Finance & Corporate Services

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

BACKGROUND

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

COUNCIL RESOLUTION (OFFICER RECOMMENDATION)
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2/12 Moved Cr Hawkins, seconded Cr Cocking that Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation 1.31

Municipal Fund	Cheques 60612 to 60682	\$416,705.45
	Trust Cheques 4743 to 4750	\$829.70
Direct Debits	EFT 7256 to 7519	\$795,175.57
	Net Pays – PPE 6 December 2011	\$88,440.96
	Net Pays – PPE 20 December 2011	\$86,687.75
	Net Pays – PPE 3 January 2012	\$75,707.67
	Net Pays – PPE 17 January 2012	\$83,350.08
	Net Pays – PPE 31 January 2012	\$83,143.63
	Credit Cards to 15th January 2012	\$4,784.51
Total		<u>\$1,634,825.32</u>
		<u>CARRIED</u> <u>7/0</u>

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2011

REPORT DATE: 12 January 2012

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Leanne Parola, Manager Finance & Corporate Services

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 December 2011

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 December 2011.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2011/12 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATION)**

3/12 Moved Cr Hawkins, seconded Cr Tonkin that Council notes and receives the Statement of Financial Activity for the period ended 31 December 2011.

CARRIED 7/0

9.1.3 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2012

REPORT DATE: 6 February 2012

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Leanne Parola, Manager Finance & Corporate Services

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 January 2012

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 January 2012.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2011/12 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATION)**

4/12 Moved Cr Hawkins, seconded Cr Tonkin that Council notes and receives the Statement of Financial Activity for the period ended 31 January 2012.

CARRIED 7/0

9.1.4 SHIRE OF MOORA ANNUAL COMPLIANCE AUDIT RETURN FOR 2011

FILE REFERENCE: GA/SCO1

REPORT DATE: 6 February 2012

APPLICANT/PROPONENT: Department of Local Government and Regional Development

OFFICER DISCLOSURE OF INTEREST: The author has no financial or other interest in this matter.

PREVIOUS MEETING REFERENCES: N/A

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: 2011 Compliance Audit Return

PURPOSE OF REPORT:

The 2011 statutory Compliance Audit Return has been completed for the 2011 calendar year and is being presented to Council for adoption.

BACKGROUND:

Section 7.13(i) of the Local Government Act 1995 contains provisions for the making of regulations requiring local governments to carry out, in the manner and form prescribed, an audit of compliance whether of a financial nature or not. Local Government (Audit) Regulations prescribe in more detail the requirements of the compliance audit including the requirement for Council to submit a certified copy of the return by 31 March to the Executive Director of the Department of Local Government.

The Return is considered a very useful device for local governments to check their level of compliance with the legislative requirements of the Local Government Act 1995 and other relevant legislation. Also, the Return forms an important part of the Shire's monitoring program. There is a legal requirement to annually complete the Return.

COMMENT:

Overall the compliance return requirements have been significantly reduced to that of previous years. There are not any areas of non-compliance. On page 6 of the return the question is asked ***“Did the local government approve the selection process to be used for the selection and appointment of the CEO before the position of CEO was advertised”***.

I have ticked “Yes” for this, although I could not identify a formal resolution of Council. Naturally Council selected the recruiting consultant and were conversant with the process prior to formally embarking on the recruiting of the CEO. I believe this satisfies the requirements in the context of the question asked in the return.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 7.13(i)

Local Government (Audit) Regulations 13, 14 and 15

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Where items are required to be rectified, for example completion of Local Law review, further funding may be required to be budgeted in the 10/11 budget.

VOTING REQUIREMENTS

Simple Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATION)**

5/12 *Moved Cr Clydesdale-Gebert, seconded Cr Hawkins that Council adopts the attached Compliance Audit Return for the 2011 Calendar Year (1 January 2011 to 31 December 2011) and forward with the duly signed Joint Certification by the President and Chief Executive Officer, to the Executive Director of the Department of Local Government.*

CARRIED 7/0

9.1.5 OUTCOMES OF THE 8 YEARLY REVIEW OF THE SHIRE OF MOORA'S LOCAL LAWS

FILE REFERENCE: PL/LOLI

REPORT DATE: 8 February 2012

APPLICANT/PROPONENT: N/A

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: 20/7/11 (9.1.3 – 69/11)

AUTHOR: Consultant - Philip Swain

ATTACHMENTS: Nil

PURPOSE OF REPORT:

The purpose of this report is for Council to receive a report on the periodic review of the Shire of Moora's Local Laws in accordance with section 3.16 of the Local Government Act 1995, and to resolve various actions proposed for the same.

BACKGROUND:

Pursuant to Section 3.16 of the Western Australian Local Government Act 1995, a local government is required to periodically review its local laws. The Shire of Moora's existing Local Laws were gazetted on various dates, dating back to 1944. Whilst the local laws made pursuant to the Local Government Act 1995 were made in the late 1990's, there are a

number of antiquated statutes that have been included in the review to satisfy the current Act requirements, and to progress the efficient repeal of the same. The contemporary local laws were also overdue for review as the Act directs that a review should be undertaken of each local law every 8 years.

At its July 2011 meeting it was resolved that Council (69/11);

give state-wide and local public notice of its intention to review the following Local Laws pursuant to section 3.16 of the Local Government Act 1995 and the principles of National Competition Policy;

Local Government Act 1995

- 1 *Parking By-laws (Gazetted 14/10/1949)*
- 2 *By-laws for the Control and Management of Town Hall, Moora; Amenities Hall, Moora; Miling Hall, Miling; Watheroo Hall, Watheroo; Bindi Bindi Hall, Bindi Bindi; Coomberdale Hall, Coomberdale; and Round Hill Hall, Round Hill (Gazetted 25 March 1960)*
- 3 *TV Masts & Antennae (08/04/1960)*
- 4 *Obstructing Animals and Vehicles Draft Model by-law No. 7 (Gazetted 16/12/1963)*
- 5 *Stalls & Hawkers (Gazetted 19/03/1982)*
- 6 *Cemeteries (Gazetted 29/11/1999)*
- 7 *Prevention of Damage to Streets – Draft Model by-law No.15 (Gazetted 19/08/1965)*
- 8 *Fencing (Gazetted 12/10/1967)*
- 9 *Bylaws Relating to Verandahs and Removal Thereof (Gazetted 04/06/1970)*
- 10 *Standing Orders (Gazetted 04/07/1997)*
- 11 *Local Government Property Local Law (Gazetted 29/11/1999)*

Dog Act 1976

- 12 *Dogs Local Law (Gazetted 29/11/1999)*

Health Act 1911

- 13 *Model By-Laws Series A (Originally Gazetted 29/12/1944 and subsequently amended and reprinted)*

CARRIED BY ABSOLUTE MAJORITY 7/0

The review of the Shire of Moora Local Laws was commenced following the resolution of Council. The aim of a review is to determine whether or not the Shire considers that each local law should be retained unchanged, be repealed or be amended. In accordance with guidelines issued by the Western Australian Local Government Association (WALGA) the review process also has the following objectives:

- a) the use of plain English in all local laws that they are easy to read and readily understandable to both the public and the members of Administration;
- b) relevance to the needs of the Shire of Moora;
- c) compliance with the *Local Government Act 1995 (WA)* and other legislation;
- d) deletion of legislative duplication;
- e) avoidance of legislative inconsistency between other local laws, State and Federal legislation;
- f) the creation of laws that are able to stand alone without the need to be cross-referenced.

Furthermore, all local laws are required to be consistent with the National Competition Policy and unless justified under the Public Benefit Test, should not contain provisions that restrict competition.

COMMENT:

The Shire gave local public and state-wide notice of the review on 17 August 2011 and submissions closed on 29 September 2011. No submissions were received during the submission period.

The following comments are a summary of the findings by Administration in relation to the review for each local law:

Parking By-laws (Gazetted 14/10/1949)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law. Council can consider parking provisions in the context of current need and Policy 3.3 - Local Laws. If necessary a local law based on the model local law advocated by the Western Australian Local Government Association (WALGA) would be the most appropriate and would dismiss the need for a public benefit test of the same.

By-laws for the Control and Management of Town Hall, Moora; Amenities Hall, Moora; Miling Hall, Miling; Watheroo Hall, Watheroo; Bindi Bindi Hall, Bindi Bindi; Coomberdale Hall, Coomberdale; and Round Hill Hall, Round Hill (Gazetted 25 March 1960)

Following the resolution of Council a repeal for this local law was found in the subsequent adoption of the Local Government Property Local Law. The local law was removed from the review.

TV Masts & Antennae (Gazetted 08/04/1960)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law. If necessary, the construction of TV masts and antennae should now be managed through appropriate planning policy and building code requirements.

Obstructing Animals and Vehicles Draft Model by-law No. 7 (Gazetted 16/12/1963)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law.

Stalls & Hawkers (Gazetted 19/03/1982)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. The hawkers and stallholder provisions are not structured along the lines of similar local laws commonly in use in Western Australia. Consequently the local law has not been subjected to a public benefit test in accordance with the requirements of competition policy. It is proposed that a suitable amendment be drafted to repeal the local law and that Council consider the adoption of contemporary Trading in Public Places legislation based on a WALGA model local law.

Cemeteries (Gazetted 29/11/1999)

The cemeteries local law is based on the WALGA model cemeteries local law with various minor amendments. A review of the Shire's existing local law has revealed a need for minor amendments due to various grammatical errors, omissions and/or legislative changes. The local law has served the needs of the Shire since its adoption to assist in the management of the Moora Public Cemetery and hence retention is recommended. It is proposed that Administration prepare an amendment local law to correct the deficiencies contained in this local law.

Prevention of Damage to Streets – Draft Model by-law No.15 (Gazetted 19/08/1965)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law.

Fencing (Gazetted 12/10/1967)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. The local law outlines basic requirements that limit the use of certain materials, the height of fences and requirements for applications to the Shire. Due to the lack of contemporary provisions it is proposed that a suitable amendment be drafted to repeal the local law. The Dividing Fences Act provides for the establishment of agreements between adjoining land owners for boundary fencing, however does not establish standards for that fencing other than by agreement between owners. Consequently, via the local law, limited controls on fencing have existed within the Shire for many years and Council will need to determine the extent to which new provisions apply.

Council Policy 8.4 allows for persons with land adjoining Council property to make claim for 50% of the cost of a dividing fence, which is made as an ex-gratia payment. In this regard, the Dividing Fences Act will continue to apply within the Shire irrespective of whether the Shire has Fencing Local Laws or not. This does however mean that the Shire will need to consider at least basic requirements for fences within the Shire in a new local law.

The existing WALGA model for fencing has moved away from prescription to a policy and licensing model for fences. This model has merit but would require the development of a draft local law with substantial policy development required to set the standards, prohibitions and fees and charges for fencing within the Shire. This would give the Shire substantially more flexibility with respect to setting and varying standards, however would entail a significantly increased compliance role to ensure applications are being made and standards are being met.

As to the extent to which the local law has been called upon to control fencing within the Shire and the absence of major issues with the existing local law, it is proposed that consideration be given to adopting another local government's local law by reference in order to establish standards throughout the Shire.

Bylaws Relating to Verandahs and Removal Thereof (Gazetted 04/06/1970)

The statute is an antiquated provision for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law. There are existing provisions within building legislation to address unsafe structures and compel removal of the same.

Council Policy 6.2 – Verandah Posts, supports an intention for parts of the Shire to install or retain verandah posts, and is contrary to the requirements of the local law which compelled the removal of the same in 1971. Policy 6.2 adequately deals with approval of verandahs as it requires the submission of building licence applications for the same.

Standing Orders (Gazetted 04/07/1997)

The Shire's Standing Orders Local Law is not consistent with the more recently developed WALGA model *Local Government (Council Meetings) Local Law*. Whilst the existing local law has served the Shire well there have been changes to governance requirements and community expectations in regard to issues such as public participation in Council Meetings, petitions and other aspects.

The continued development of the WALGA local law in line with the various accountability requirements of the Act and community expectations means that the "model" document with minor amendments would better serve the Shire in the management and control of meetings.

It is proposed that Administration finalise a new draft local law for community and Council consultation. It should be noted that a draft local law, based on the WALGA model, has been prepared by a former CEO.

As a local law directly effecting the conduct of Council business it is proposed that Councillors be given the opportunity to comment on the document prior to its submission to Council for resolution

Local Government Property Local Law (Gazetted 17 January 2000)

The Local Government Property Local Law is based on the WALGA model local law with minor amendments to suit the locality. The local law enables various activities to be permitted or prevented on land;

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Local Government Act;

A minor amendment is needed in relation to Part 7 of the local law relating to objections and appeals due to a regulatory amendment undertaken in 2004 in the establishment of the State Administrative Tribunal. The current clause does however still have effect. The local law has

served the needs of the Shire since its adoption to assist in the management of Shire lands and hence retention is recommended with minor amendments.

Dog Act 1976 Dogs Local Law (Gazetted 29/11/1999)

Many issues relating to dog control are provided for within the Act and Regulations and local laws developed by WALGA are utilised to manage impounding, the numbers of dogs kept on a property, kennel establishments, dog exercise areas and implementing enforcement provisions.

The Dogs Local Law was made pursuant to the Dogs Act 1976 and the Local Government Act 1995. The Local Law is based on the WALGA model local law with various minor amendments. The review has revealed a need for minor amendments due to various numbering errors, omissions and/or legislative changes. It is proposed that Administration prepare an amendment local law to correct the deficiencies in this local law.

Health Act 1911

Model By-Laws Series A (Originally Gazetted 29/12/1944 and subsequently amended and reprinted)

The Shire's Model By-laws Series A are antiquated provisions for which no subsequent repeal has been gazetted. Consequently it is proposed that a suitable amendment be drafted to repeal the local law and that Council give consideration to adopting contemporary Health and Waste Local Laws typically in use within other local governments.

Waste provisions now require adoption pursuant to the Waste Avoidance and Resource Recovery Act. Hence, adoption of a Health Local Law and the adoption of a separate Waste Local Law in accordance with the requirements of the Department of Environment and Conservation will be required. Given the magnitude of changes required it is proposed that the Shire consider adoption of a Health Local Law by reference. Several Local Governments have adopted health local laws since the legislative changes to waste management and adopting one of these by reference, with amendments as required, will save considerable gazettal costs. The adoption of a waste local law is also proposed as part of the resolution of local law arrangements for the Shire.

Consequently the Shire will need to pursue an amendment local law, to undertake repeal and at least minor alterations and changes of some local laws and to pursue the adoption of new local laws relating to Health, Waste Management, Dogs, Parking and Standing Orders.

Council is therefore requested to resolve the outcomes of the review and direct Administration to prepare the various draft amendments, replacement local laws and a new waste local law for the Shire. Once drafted the local laws and amendments will be forwarded to Council to commence the adoption process. It will be necessary at that time to again give statewide public and local notice of the proposed local laws and amendments and copies of the report of the review and the draft amendment are to be made available upon request.

POLICY REQUIREMENTS:

The following current Council policies relate to the making and/or enforcement of the Shire's existing Local Laws:

3.3 Local Laws

6.2 Verandah Posts

8.4 Fencing Property Adjoining Shire Land

8.14 Cemetery

Whilst policies 8.4 & 8.14 do not materially affect the outcome of the review they relate to matters that could be captured in any amendments if these are proposed as an outcome of the review. Policy 3.3 needs to be considered in the context of any proposed repeals, retention or amendments. Policy 6.2 is outlined in the comments relating to verandahs above.

LEGISLATIVE REQUIREMENTS:

The Shire of Moora Local Laws, have not previously been reviewed. In undertaking a review of the local laws, and pursuant to Section 3.16 of the Act, the Shire gave statewide and local public notice. Although there were no submissions, Council must resolve its intention with respect to each local law as to whether it should be repealed, amended or remain unchanged.

If it is determined by Council that a local law should be repealed or amended, a local government is required to again give state-wide notice of the proposed local law. Submissions must be accepted for a period of six (6) weeks. The Council must consider any submissions made before making or amending a local law.

The review of the Shire of Moora Local Laws is both a legislative and consultative process.

STRATEGIC IMPLICATIONS:

The Shire of Moora Community Strategic Plan includes a Governance and management Goal, which the review will contribute to the compliance aspects of, viz;

Review and revise organisational policies and procedures

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Direct costs associated with this report will be limited to consultant fees to finalise the review. These costs and the preparation of the draft local laws and amendments will be undertaken via budgeted expenditure. Where a draft amendment local law or new local law are required, there will be additional advertising costs associated with the State-wide and local public notice of the same. Following the discussion period, and depending upon any submissions, further amendment review and legal advice may be incurred. Once the local law adoption has been finalised by Council, there will be gazettal costs in due course. Fees will be incurred for any gazettal.

VOTING REQUIREMENTS

Absolute Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATIONS)****6/12 Moved Cr Cocking, seconded Cr Tonkin that Council:**

1. **Receives the report of review in relation to the Shire of Moora local laws as advertised on 17 August 2011 and following the closure of the submission period on 29 September 2011;**
2. **Resolves to retain the following local laws**
 - a) **Local Government Property Local Law**
 - b) **Cemeteries Local Law**
3. **Directs Administration to prepare the necessary amendments for the following local laws;**
 - a) **Local Government Property Local Law**
 - b) **Cemeteries Local Law**
4. **Directs Administration to prepare the necessary amendments to repeal for the following local laws;**
 - a) **Parking Bylaws**
 - b) **TV Masts and Antennae**
 - c) **Obstructing Animals and Vehicles Draft Model by-law No. 7**
 - d) **Stalls & Hawkers**
 - e) **Prevention of Damage to Streets – Draft Model by-law No15**
 - f) **Bylaws Relating to Verandahs and Removal Thereof**
5. **Directs Administration to prepare draft local laws to replace the following existing local laws;**
 - a) **Fencing Local Law**
 - b) **Standing Orders Local Law**
 - c) **Dogs Local Law (Dog Act 1976)**
 - d) **Model By-Laws Series A (Health Act 1911)**
6. **Directs Administration to prepare a new draft Waste Local Law.**

CARRIED BY ABSOLUTE MAJORITY 7/0

9.1.6 **BUDGET REVIEW**

FILE REFERENCE: F/BUE I
REPORT DATE: 6 February 2012
AUTHOR: Leanne Parola, Manager Finance & Corporate Services
ATTACHMENTS: Budget Review

PURPOSE OF REPORT:

To consider and adopt the budget review for the period 1 July 2011 to 31 January 2012.

BACKGROUND:

Local Governments are required to formally conduct a budget review at least once each financial year, between 1 January and 31 March. The budget review allows a detailed comparison of the year to date (YTD) actual results with the adopted or amended budget.

The budget review is to be submitted to Council within 30 days of the review for Council to consider and determine whether or not to adopt the review and any recommendations made within the review.

A copy of the review and Council decision is to be provided to the Department of Local Government and Regional Development within 30 days of the decision by Council.

COMMENT:

The budget review for the period 1 July 2011 to 31 January 2012 has been conducted by management and is provided as a separate attachment to this agenda.

The adopted Budget for 2011/12 used a brought forward surplus which was estimated to be \$190,332. When preparing the annual financial statements for 2009/10, it was found that there should have instead been a brought forward surplus of \$228,704. There was also a significant variance in the amount of restricted cash brought forward, \$201,821 had been estimated, however only \$80,089 was unspent.

A number of changes to the budget are recommended as part of this budget review to address this imbalance, to recognise grants that were not received, savings achieved and changes requested by Council.

The changes are shown in the attached review document, the most significant of them being funding and capital projects including:

- Deferring the bulk of the Industrial Park Land Extension income and expenditure until 2012/13 (\$231,475 and \$400,725 respectively)
- Increasing Country Local Government Fund income \$364,803
- Reducing Grants Commission income \$303,986
- Including Watheroo Fire Truck and SES Landcruiser \$289,813
- Increased income and expenditure on Regional Roads (\$147,513 and \$186,000 respectively)
- Removing the proposed Coomberdale Fire Shed and funding \$137,401

The proposed Amended Budget estimates a balanced budget at 30 June 2012. This figure is just that, an estimate and should in no way be construed as an exact indication of Council's position at Balance Day.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Regulation 33A - Local Government (Financial Management) Regulations 1996

STRATEGIC IMPLICATIONS:

The budget review helps determine and document any projects that are unlikely to be completed during the budget year and new opportunities that have arisen during the year. The review process ensures management and elected members review the performance of the Council for the year to date and apply corrective actions, if required prior to 30 June to ensure proper financial management is maintained, leading to a balanced budget position at Balance Day.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
The budget review process provides a timely indication of ability of the local government to achieve the budgeted performance for the year and the timing allows corrective actions if required prior to 30 June.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

The budget review enables management to establish whether the local government continues to meet its budget commitments. It enables Council to determine whether income and expenditures are in accordance with adopted budget.

VOTING REQUIREMENTS

Absolute Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATION)**

7/12 Moved Cr Keamy, seconded Cr Tonkin that Council, having considered the budget review for the period 1 July 2011 to 31 January 2012 adopts the review as tabled, showing an estimated balanced budget at 30 June 2012.

CARRIED BY ABSOLUTE MAJORITY 7/0

9.1.7 MINUTES OF ANNUAL GENERAL MEETING OF ELECTORS HELD ON 14 DECEMBER 2011

FILE: EM/ANM1
AUTHOR: Alan Leeson, Chief Executive Officer
REPORT DATE: 9 February 2012
DECLARATION: The author has no financial interest in this matter
ATTACHMENTS: Minutes of Electors Meeting held 14 December 2011

BACKGROUND

The Annual General Meeting of Electors, in respect to the year ended 30 June 2011, was held in the Moora Performing Arts Centre on Wednesday 14 December 2011.

The provisions of the Local Government Act 1995 require that the minutes of the Electors Meeting must be presented to Council for consideration at the next available Ordinary Meeting.

The minutes of the meeting are now presented to Council and are appended for reference.

COMMENT

The minutes of the Annual Electors meeting contain a number of procedural resolutions that do not require any further action by Council.

STATUTORY ENVIRONMENT

Sections 5.32 and 5.33 of the Local Government Act 1995, deal with the recording of Minutes of the Annual Electors Meeting and the requirement for Council to consider any decisions made.

POLICY IMPLICATIONS

There are no policy implications in respect to the recommendation of this report.

BUDGET IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Demonstrating to the electors that Council has listened to their request enhances Council's standing and respect within the community.

PRECEDENT

The adoption of the recommendation of this report does not set a precedence.

VOTING REQUIREMENTS

Simple Majority Required

<h4>COUNCIL RESOLUTION (OFFICER RECOMMENDATION)</h4>

8/12 *Moved Cr Humphry, seconded Cr Tonkin that Council receives the minutes of the Annual General Meeting of Electors for the Year Ended 30 June 2011 held on 14 December 2011, and note the contents.*

CARRIED 7/0

9.2 HEALTH, BUILDING & PLANNING SERVICES

9.2.1 PROPOSED SCHEME AMENDMENT NO. 10 – SHIRE OF MOORA TOWN PLANNING SCHEME NO 4

FILE REFERENCE: TP/TPS1

REPORT DATE: 1 February 2012

APPLICANT/PROPONENT: Gray & Lewis on behalf of the Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Gray & Lewis receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.65 of *Local Government Act 1995*

PREVIOUS MEETING REFERENCES: 19/10/11 (139/11)

AUTHOR: Gray & Lewis Landuse Planners

ATTACHMENTS: 1. Table of Submissions

PURPOSE OF REPORT:

Council is to consider final adoption of Amendment 10 to the Shire of Moora Town Planning Scheme No 4 ('the Scheme') with or without modification.

The amendment substantially introduces revised provisions for land subject to flooding.

BACKGROUND:

The Shire of Moora Local Planning Scheme No 4 was published in the Government Gazette on 9 June 1998. Due to the age of the Scheme it was in need of revision and updating which was completed as part of omnibus Amendment No 9.

New scheme provisions relating to areas subject to flooding were introduced by Amendment 9. Amendment 9 was written based on the understanding that proposed development in floodways that is obstructive to major flows is not acceptable.

If a floodway is even partially blocked, then upstream flood levels may be raised and thereby affect areas which may not have been previously affected. Limiting development is therefore necessary to maintain the existing flood regime.

Gray & Lewis was requested by the Shire to review the existing Scheme provisions in 2011. New scheme provisions were drafted in close consultation with the Shire, Department of Water and Western Australian Planning Commission.

COMMENT:

Gray & Lewis and Officers from the WA Planning Commission provided information on the Draft amendment at the Council meeting held on 19 October 2011, and to the Shire's Town Planning Occasional Committee meeting held on the 17 November 2011.

A detailed summary of the scheme amendment is explained below:

1.0 Flood Controls

Amendment 10 will effectively delete the existing Scheme provisions over the Flood Control Area and proposes new provisions which:

1. Introduce new consolidated scheme provisions to deal with land subject to flooding. The provisions will apply to all lots that are affected fully or partially by the defined 'Floodway' or 'Flood Fringe' in the 'Review of Moora Flood Management Study'.
2. Introduce new terminology to replace the 'Floodway' term with 'High Flood Hazard' area and to replace the 'Flood fringe' term with 'Floodplain'. This will be reflected in new scheme text and a Flood Classifications map to be Schedule 12 in the Scheme.
3. Introduces a 'Special Control Area' for all lots potentially affected by flooding on the Shires Town Planning Scheme map. The Special Control Area (SCA) will follow lot boundaries rather than the boundaries of the 'High Flood Hazard' area and the 'Floodplain'.

A 'Special Control Area' is typically used to target a single issue, such as flooding, where the issue may traverse and overlap a number of different zones.

4. Require all development in the Special Control Area to obtain planning approval and be referred to the Department of Water.

The Department of Water has the technical expertise and digital mapping to fully assess the implications of new development.

5. Require all applicants to demonstrate that the development will not detrimentally impact on the existing flood regime.

For some applications this may be achieved with simple information that the development is only of a small scale, or is located outside of the defined flood areas. It is likely that the Department of Water will require more specific assessment and modelling by an applicant proposing new development in the with 'High Flood Hazard'.

6. Broaden discretion over development within the 'High Flood Hazard' and have one set of development controls for land within the 'High Flood Hazard' area and 'Floodplain'.
7. Require the majority of new development to achieve a Finished Floor Level of 300mm (above the March 1999 levels).
8. Allow limited discretion to approve lesser finished floor levels (than 300mm) only for minor building extensions, ancillary residential development and new infill development in the 'Town Centre' where fill is considered impractical and / or has potential streetscape impact.
9. Provide clear discretion to require an applicant to undertake assessments and / or hydraulic modelling to demonstrate that development will not detrimentally impact on the existing flood regime. This is particularly important for any development in the 'High Flood hazard' area.
10. Outline matters that Council will have regard to when assessing applications.
11. Require building envelopes to be located in areas of the lowest flood hazard risk.

There are lots which are only partially affected by the boundary of the Floodplain, so new buildings and structures can be located in less risk areas. There are also lots which are traversed by both the 'Floodplain' and the 'High Flood Hazard'. In those

cases buildings should be located on the area with the lesser flood risk, being the 'Floodplain'.

12. Make it clear that Council has the ability to refuse any development which has potential to detrimentally impact on the existing flood regime or detrimentally obstruct the free passage of flood water.
13. Outline the types of conditions that may be imposed on development such as limiting building size or locations, imposing minimum floor levels, and placing notifications on title to alert prospective purchasers that the land is affected by the Moora Floodplain Definition Study.
14. Introduces a new section on subdivision and only allows for new lots to be created in the 'High Flood Hazard' area where they are for flood mitigation purposes.
15. Modify the provisions that apply to Lot 16 Ferguson Road, Moora which prevent residential development in the flood fringe. One of the requirements that applies to Lot 16 under 'Schedule 10 – Rural Residential' zones is no longer required as (i) there is an approved Subdivision Guide Plan which has building envelopes outside of the flood fringe and (2) the provisions of the new Special Control Area will now apply.
16. Include a requirement that effluent disposal for and subject to flooding will only be considered where sewer is not available.

It is important to note that whilst the amendment will give Council broader discretion to consider new development in the 'floodway' (which is now the "High Flood Hazard" area), the onus can be placed on the applicant to demonstrate that the development will not detrimentally impact on the existing flood regime.

2.0 Residential densities

A substantial portion of land zoned 'Residential' in Moora townsite has a flexible density code of 'R12.5/25' as shown on the existing Scheme map. The R-Code dictates the minimum and average lot size for development and subdivision.

At the R12.5 Code a minimum of 700m² and average of 800m² per dwelling applies. At the R25 Code a minimum of 320m² and average of 350m² per dwelling applies. There is discretion to approve development at an R25 density where sewer is available.

Whilst many residential lots currently have a flexible code depicted on the existing Scheme map, development and subdivision is restricted so that the higher density of R25 does not apply to any land located in the floodway as defined on the Flood Classifications Map (existing Clause 4.2 of the Scheme).

Amendment 10 proposes to change the density code on the Scheme Map for a substantial number of residential zoned lots in Moora Townsite from the flexible code of 'R12.5/R25' to a flat density code of 'R12.5'. The lower R12.5 density will be shown on the scheme map for all Residential lots which are subject to flooding.

The proposed map change will ensure that:

- I. Owners and prospective purchasers understand that development and subdivision is limited to low density (R12.5) as it will be shown on the Scheme map.

2. Currently the flexible code shown on the Scheme may give a false impression as the higher R25 code would not be applied to land subject to flooding.
3. The majority of lots subject to this map change are already restricted to the lower density code through the Scheme text under existing Clause 4.2 (b).

Existing Clause 4.2 will be modified to delete reference to land subject to flooding as it will only apply to a small section of residential that will remain R12.5/R25 that is located outside of flood areas (Lee Steere Street / Atbara Street).

Conclusion

The scheme amendment was advertised for public comment between the 8 December 2011 and 25 January 2012. Advertising included a letter drop throughout the Moora Townsite, a newspaper notice and individual letters to various government agencies and service providers.

During advertising a total of 9 submissions were received and are summarised in a 'Table of Submissions' – Attachment 1. No major issues have been identified and Gray & Lewis recommend that Council support the amendment without any further changes, and note all of the submissions.

POLICY REQUIREMENTS:

There are no Policy implications associated with this proposal.

LEGISLATIVE REQUIREMENTS:

The statutory requirements for Amendments are controlled by the *Planning and Development Act 2005* and the *Town Planning Regulations 1967*.

The amendment has been advertised for public comment in accordance with legislative requirements.

Final approval of the amendment is required by the Minister for Planning and is subject to final assessment by the WAPC.

STRATEGIC IMPLICATIONS:

The amendment will allow for greater clarity and strengthened landuse controls for areas subject to flooding. It also provides Council with greater discretion over development in the high flood hazard area.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

The proposed Special Control Area will recognise land subject to flooding.

➤ **Economic**

The extent of land subject to flooding in the Moora townsite is a constraint for future development and subdivision. The minimum floor levels required will be an added development costs.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

The Shire will likely need assistance to finalise the amendment. The Shire pays fees to Gray & Lewis for planning advice.

VOTING REQUIREMENTS:

Simple Majority Required

**COUNCIL RESOLUTION
(STAFF RECOMMENDATION)****9/12 Moved Cr Hawkins, seconded Cr Cocking that Council:**

A. Adopt Amendment 10 to the Shire of Moora Town Planning Scheme No. 4 for final approval (without modification) pursuant to Section 75 of the *Planning and Development Act 2005* for the purpose of:

1. Delete existing Clause 4.11 'Flood Control Area' including sub clause 4.11.1 to 4.11.4 which currently states:

“4.11 FLOOD CONTROL AREA**4.11.1 Purpose**

- (a) *To avoid inappropriate development of land subject to flooding during an event of similar magnitude to the March 1999 events.*
- (b) *To protect the free passage of floodwater in floodways by avoiding inappropriate development.*
- (c) *To ensure proposed development has adequate flood protection.*

4.11.2 Application requirements

Except where in the opinion of the local government the proposed development is for a minor outbuilding or improvement to an existing building, planning approval is required for all development, including a single house on land that is subject flooding (located in the floodway or flood fringe) as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme.

4.11.3 Relevant considerations

- (a) *The local government in considering applications for planning approval is to have due regard to the recommendations of the Moora Floodplain Definition Study and any local planning policy.*
- (b) *Development which involves the construction of a building or structure which may obstruct the free passage of floodwater will not be permitted on land defined as a floodway on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless the building or structure replaces an existing approved building or structure, and subject to building conditions to ensure the proposed development is consistent with clause 4.11.1 (a) and the flooding risk is not increased.*
- (c) *On-site effluent treatment or disposal will not be permitted on land defined as a flood way on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless it is a replacement of an approved on-site effluent treatment or disposal system and the flooding, environmental and health risks are not increased.*

- (d) *A habitable building is to have a finished floor level not less than 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study unless the local government considers the proposed development to be a minor extension to an existing approved building or structure.*
- (e) *The local government will set the minimum floor level for non-habitable buildings and structures based on matters, including size, location, use, existing nearby development and flood risk.*
- (f) *The local government has the discretion to approve a minimum floor level of 0.15m above the March 1999 flood level as defined in the Moora Floodplain Definition Study for non-habitable buildings such as outbuildings, industrial, commercial and non residential uses subject to flood proofing conditions and having regard for the recommendations of the Moora Floodplain Definition Study.*
- (g) *When determining applications for planning approval the local government may impose conditions relating to:*
 - (i) *flood proofing for new industrial development;*
 - (ii) *best practice agricultural and soil conservation methods to mitigate flood risk; and*
 - (iii) *any other conditions designed to reduce flood risk.*

4.11.4 Referral of Applications

All applications for planning approval are to be referred by the local government to the department of water and the local government is to have due regard to recommendations / advice from the department of water when determining applications.”

2. Insert a new Clause 4.11 ‘Special Control Areas’ to state as follows:

‘4.11 SPECIAL CONTROL AREAS

4.11.1 OPERATION OF SPECIAL CONTROL AREAS

4.11.1.1 *The following Special Control Areas are shown on the Scheme Map:*

- *Special Control Area 1 : Land subject to Flooding*

4.11.1.2 *In respect of a Special Control Area shown on a Scheme Map, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.*

4.11.1.3 *Where conflict exists between any general provisions of the Scheme and Section 4.11, the provisions of the Special Control Areas will prevail.*

4.11.2 PURPOSE OF SPECIAL CONTROL AREAS

The purpose of Special Control Area 1 is;

- (a) *To avoid inappropriate development or subdivision of land subject to flooding during an event of similar magnitude to the March 1999 events.*
- (b) *To protect the free passage of floodwater in areas subject to flooding by avoiding inappropriate development.*

- (c) *To ensure proposed development has adequate flood protection.*
- (d) *To ensure new development will not detrimentally impact, alter or modify the existing flooding regime (as defined in the Moora Floodplain Definition Study).*

4.11.3 APPLICATION AND REFERRAL REQUIREMENTS

- 4.11.3.1 *Planning approval is required for all use or development of any land within or partially within Special Control Area No 1 including fill, excavation, a single house and ancillary development.*
- 4.11.3.2 *All applications for planning approval in Special Control Area No 1 are to be referred by the local government to the Department of Water, and the local government is to have due regard to recommendations / advice from the Department of Water when determining applications.*
- 4.11.3.3 *The local government, on the recommendation of the Department of Water, may require an applicant proposing development in Special Control Area No 1 to undertake assessments and/or hydraulic modelling to demonstrate that the proposed development is consistent with the floodplain management principles outlined in the Moora Floodplain Definition Study and Clause 4.11.2. Assessments and /or hydraulic modelling need to be to the satisfaction of the Department of Water and local government, and demonstrate that the proposed development does not detrimentally affect the existing flooding regime.*

4.11.4 RELEVANT CONSIDERATIONS

- 4.11.4.1 *Special Control Area 1*
 - (a) *The local government in considering applications for planning approval is to have due regard to:*
 - (i) *the recommendations of the Moora Floodplain Definition Study; and*
 - (ii) *the hazard category defined in the Moora Floodplain Definition Study and the appropriateness of the landuse having regard for the nature of the proposed use, extent of public access and building location; and*
 - (iii) *the size and location of buildings, structures, fill and use of external areas; and*
 - (iv) *relationship to existing and nearby development; and*
 - (v) *flood risk and need to maintain the existing flood regime; and*
 - (vi) *any relevant local planning policy; and*
 - (vii) *any other matter considered relevant by the local government.*
 - (b) *Any development or landuse including but not limited to construction of a new building, structure, fill, excavation, external storage, trade display, stockpiling of materials or any other development and/or use of the land shall not be permitted in Special Control Area 1 unless:*
 - (i) *The local government considers the proposed development to be a minor extension to an existing building or structure already approved and constructed; or*
 - (ii) *The building or structure is non habitable and replacing an*

- existing building or structure already approved and constructed, and is of a similar floor area, size and location as the building or structure being replaced; or
- (iii) The development is a single house within a Residential zone or Rural Residential zone with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or
 - (iv) The applicant demonstrates a building, structure, development and/ or landuse is wholly located outside of both the High Flood Hazard area and the Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or
 - (v) The development is of a commercial or industrial nature with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e); or
 - (vi) The development will not detrimentally obstruct the free passage of floodwater to the satisfaction of the Department of Water and the local government; and
 - (vii) The applicant demonstrates that the design of any new development and /or nature of the landuse will not detrimentally impact, alter or modify the extent of flood impact and existing flooding regime (as defined in the Moora Floodplain Definition Study) to the satisfaction of the Department of Water and the local government.
- (c) Any development or use of land and building envelopes shall be located to:
- (i) Maximise use of areas available on a lot that are located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or
 - (ii) Maximise use of the lowest flood hazard area where a lot has no available area outside of, or is traversed by both, the High Flood Hazard area and Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme).
- (d) Any building and/or structure on a lot in Special Control Area 1, (inclusive of development located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map), shall have a finished floor level not less than 300mm above the March 1999 flood level as shown on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e).
- (e) Council has discretion to consider a minimum finished floor level less than 300mm above the March 1999 flood levels where the local government determines that:
- (i) The non habitable buildings and structures are infill development in the Town Centre zone (with a minimum FFL of 0.15 metres above the March 1999 flood levels); or
 - (ii) The proposed development is a minor extension to an

- existing building or structure already approved and constructed; or
 - (iii) The non habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; and
 - (iv) The local government considers fill is impractical and/or will have a negative impact on an established streetscape.
- (f) The minimum finished floor levels outlined in Clause 4.11.4.1 (d) and Clause 4.11.4.1 (e) are not a standard or requirement for the purpose of Clause 4.4.2.

4.11.4.2 Council may refuse an application for any development or use of land within the High Flood Hazard Area and Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) where, in the opinion of the Department of Water and local government, it has potential to detrimentally impact on the existing flooding regime during an event similar in magnitude to the March 1999 event (as defined in the Moora Floodplain Definition Study).

4.11.4.3 All applications will be considered having regard for other relevant planning matters in accordance with Clause 7.5.

4.11.4.4 On-site effluent disposal treatment or disposal will not be permitted on land within the High Flood Hazard area and/or Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless the development cannot be connected to reticulated sewer and:

- (a) It is a replacement of an approved on site effluent treatment or disposal system; and/ or
- (b) It has been approved in liaison with the Department of Health WA; or
- (c) The flooding, environmental and health risks are not detrimentally increased.

4.11.5 PLANNING CONDITIONS

- 4.11.5.1 When determining applications for planning approval in Special Control Area 1 the local government may impose conditions relating to:
- (a) flood protection measures for new development;
 - (b) minimum finished floor levels;
 - (c) best practice agricultural and soil conservation methods to mitigate flood risk;
 - (d) limitations on fill, external storage, trade display, stockpiling of materials;
 - (e) limiting the size and location of buildings and structures;
 - (f) locating buildings, structure and/ or development in the lowest hazard category designated in the Moora Floodplain Definition Study;
 - (g) A Notification to be placed on the Certificate of Title at the proponents cost to alert prospective purchasers of the Flood Hazard Area (High) / or Floodplain and Moora Floodplain Definition Study;
 - (h) any other conditions designed to reduce flood risk or recommended by the Department of Water.

4.11.6 SUBDIVISION

- 4.11.6.1 *The local government shall not recommend approval of any subdivision with potential to create additional lots in the High Flood Hazard Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless the new lot(s) are for flood mitigation purposes with no development potential and is proposed to be purchased, or ceded free of cost, for management, care and control by the Shire of Moora, the crown or other relevant government body. Notifications or restrictive covenants registered on the Certificate of Title may be utilised to ensure no development occurs on lots created for flood mitigation.*
- 4.11.6.2 *The local government shall assess any subdivision application within the Floodplain as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) having regard to:*
- (a) The recommendations of the Moora Floodplain Definition Study; and*
 - (b) The need to locate building envelopes outside of the Floodplain; and*
 - (c) The need to consider regional impacts on flooding due to potential development; and*
 - (d) Potential obstructive or detrimental impact on flooding; and*
 - (e) The need to maintain the existing flood regime; and*
 - (f) Potential isolation and flood emergency response implications such as difficulties of emergency egress and evacuation; and*
 - (g) Potential flood risk and damage; and*
 - (f) In accordance with the relevant zone and other applicable Scheme requirements; and*
 - (g) any relevant local planning policy; and*
 - (h) any other matter considered relevant by the local government.'*

3. Modify Clause 7.1.2 (b) (iv) under 'Development of Land' of 'PART V – PLANNING APPROVAL' which outlines exceptions and requirements to obtain planning approval which currently states:

'(iv) is located on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'

To state:

'(iv) is located on land that is subject to flooding in Special Control Area 1 as designated on the Scheme Map and /or on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.

4. Modify 'Clause 4.2 SPECIAL APPLICATION OF THE RESIDENTIAL DESIGN CODES' which currently states:

'Within areas with split coding the local government may permit development above the lower code (R12.5) to the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme and complies with the following requirements:

- (a) the development is not located in the floodway as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme; and*
- (b) it can be connected to reticulated sewerage.'*

To state:

'Within areas with split coding the local government may permit development above the lower code (R12.5) to a maximum density of the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme, the Residential Design Codes and it can be connected to reticulated sewerage.'

5. Replace the existing Flood Zone Classifications Map in Schedule 12 with a new Flood Classifications Map that includes levels, replaces the terminology of 'Floodway' with 'High Flood Hazard' and replaces the terminology of 'Flood Fringe' with 'Floodplain'.
6. Delete Point '2.' applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones' which states as follows:

'Despite Clause 3.13.2, no residential development shall be permitted to occur within the flood fringe as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.

And re-number remaining Points 3 – 9 accordingly as applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones'.

7. Amending the Shire of Moora Scheme Map by:
 - (a) In the Legend on the Scheme Map including "Special Control Area" in the list of 'OTHER'.
 - (b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.
 - (c) Replacing the dual density code R12.5/25 with R12.5 wherever it occurs on land subject to flooding as depicted on the Scheme Amendment map.
- B.** Adopt the recommendations in the 'Table of Submissions' (Attachment 1) by noting each submission (with no modifications required as a result of submissions).
- C.** Authorise the Chief Executive Officer and Shire President to sign three hardcopy Amendment 10 documents and apply the Shire seal.
- D.** Request the Chief Executive Officer to return three (3) signed hardcopy sets of Amendment 10 documents to Gray & Lewis Landuse Planners.
- E.** Authorise Gray & Lewis Landuse Planners to lodge the signed Amendment 10 documents with the Western Australian Planning Commission (WAPC) seeking final approval by the Minister for Planning with required information including the WAPC amendment checklist, copies of all submissions, advertising details and copies of all Council reports.

CARRIED 7/0

9.3 COMMUNITY & ECONOMIC DEVELOPMENT

9.3.1 WEST END – DEVELOPMENT PLAN

FILE REFERENCE: ED/WEDI

REPORT DATE: 9 February 2012

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Rebecca McCall, Manager Community Economic Development

ATTACHMENTS: Maps indicating area and lots

PURPOSE OF REPORT:

For Council to make the necessary adjustments to the adopted Forward Capital Works Plan to bring forward \$50,000 for the West End Project from 2013/14 to 2012/13 for planning purposes.

BACKGROUND:

The land known as “West End” is located on the west side of the outskirts of Moora town bounded by Dandaragan Road, Cooper Street and Airstrip Road. The land was purchased by Council in 1971. It is zoned R5 and Farming and is currently being used partly for gravel purposes, partly by the various local horse and pony club groups as the Moora Equestrian Centre and the remainder of the land is being used by community groups for capital fundraising.

The land encompasses several lots and sizes.

Moora Address	Certificates of Title		Registered Owner	Area		Zoned
	Vol	Folio		Hectares	m ²	
Lot 1 Airstrip Road	529	178A	Shire of Moora	6.4718	64,718	Farming
Lot 12 Dandaragan Road	2098	220	Shire of Moora	64.9365	649,365	Farming
				5.6405	56,405	R5
				70.577	705,770	TOTAL
Lot 220 Dandaragan Road	1118	181	Shire of Moora	61.510	615,100	Farming
Lot 965 Molloy Street	29	147A	Shire of Moora	47.946	479,460	Farming
Lot 966 Dandaragan Road	1118	72	Shire of Moora	17.3356	173,356	Farming
				20.0954	200,954	R5
				37.431	374,310	TOTAL
Lot 718 Cooper Street	1700	109	Shire of Moora	39.0101	390,101	Farming
				1.6889	16,889	R5
				40.699	406,990	TOTAL

COMMENT:

In preparation to develop West End for residential purposes it is necessary complete a comprehensive development plan. The development plan will outline any issues and include;

- Land capacity report
- Infrastructure report
- Outline design showing density, traffic plan, public open spaces etc

Once the development plan is completed a new business case can be prepared to progress the project.

The Business Development Working Group met on the 11th January 2012 and recommended;

1. *The Shire of Moora make the necessary adjustments to the adopted Forward Capital Works Plan to bring forward \$50,000 for the West End Project from 2013/14 to 2012/13 for planning purposes.*
2. *The Shire of Moora engages a suitably qualified town planning consultant to complete a development plan for West End.*
3. *The Shire of Moora engages a suitably qualified consultant to revise and update the West End business plan.*

The Management Team (Manex) recommends that resources (financial and human) are concentrated on existing projects rather than revisiting the development of West End due to the scope of the project.

Manex suggests the following areas to concentrate efforts:

- Develop marketing and exit strategies for the Moora Lifestyle Village
- Development of the Industrial Park Extension
- Ascertain sale response to the up and coming Lee Steere Street housing lots

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

STRATEGIC IMPLICATIONS:

The Shire of Moora's Strategic Plan outlines the goal to plan and develop the Moora region through positive community and economic development to attract and retain people and businesses enabling sustainable growth.

Council also need to be mindful that by bringing forward expenditure from 2013/14 to 2012/13 will require an identified strategic project in the Forward Capital Works Plan to be removed or delayed to accommodate the adjustment. The review of the Forward Capital Works Plan will take place in March/April 2012.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are significant environmental implications associated with this proposal to develop residential lots on existing land predominately used for farming and community use.

➤ **Economic**

There are significant economic implications associated with this proposal as residential lots will accommodate the requirement for housing for existing and future employees.

➤ **Social**

There are significant social implications associated with this proposal if residential lots are developed through increased population and the impacts on existing social services and community infrastructure.

FINANCIAL IMPLICATIONS:

The financial implications to Council will include bringing forward planned expenditure of \$50,000 identified in the Forward Capital Works Plan from 2013/14 to 2012/13.

If the Business Development Group recommendation is adopted by Council, \$50,000 will need to be reduced off another project or a whole project be removed within the Forward Capital Works Plan for 2012/13.

VOTING REQUIREMENTS

Simple Majority Required

BUSINESS DEVELOPMENT GROUP RECOMMENDATIONS

That:

- 1. The Shire of Moora make the necessary adjustments to the adopted Forward Capital Works Plan to bring forward \$50,000 for the West End Project from 2013/14 to 2012/13 for planning purposes.*
- 2. The Shire of Moora engages a suitably qualified town planning consultant to complete a development plan for West End.*
- 3. The Shire of Moora engages a suitably qualified consultant to revise and update the West End business plan.*

MANEX RECOMMENDATIONS

That Council as a matter of first priority as opposed to proceeding with further planning of the West End Development;

- 1. Develop a marketing and exit strategy for the Moora Lifestyle Village to include but not limited to;*
 - Investigation of options/potential for strata titles with the village;*
 - Dedicated sales strategy including representation at appropriate forums/conferences/conventions;*
- 2. Complete the Lee Steere Street residential subdivision in consultation with Landcorp and closely monitor the demand for residential land and how this may impact on the future of the West End land; and*
- 3. Complete the Light Industry Park extension in consultation and cooperation with Landcorp.*

COUNCIL RESOLUTION

10/12 Moved Cr Clydesdale-Gebert, seconded Cr Tonkin that

- 1. The Shire of Moora make the necessary adjustments to the adopted Forward Capital Works Plan to bring forward \$50,000 for the West End Project from 2013/14 to 2012/13 for planning purposes.**
- 2. The Shire of Moora engages a suitably qualified town planning consultant to complete a development plan for West End.**
- 3. The Shire of Moora engages a suitably qualified consultant to revise and update the West End business plan.**

CARRIED 5/2

9.3.2 SHIRE OF MOORA COMMUNITY CULTURAL PLAN

FILE REFERENCE: PD/STPI

REPORT DATE: 7 February 2012

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Rebecca McCall, Manager Community & Economic Development

ATTACHMENTS: Shire of Moora Community Cultural Plan 2012-2016

PURPOSE OF REPORT:

For Council to endorse the Shire of Moora Community Cultural Plan 2012-2016.

BACKGROUND:

The Shire of Moora currently provides a cultural service to the community through a variety of activities, events and programs. Funding of activities, events and programs are sourced through both municipal and grant funds.

There are also a number of stakeholders within the community who play a vital role in providing a specialised cultural service to the community.

As part of the regulative integrated planning process, the requirement to consult with the community and develop a high level of planning documentation the Shire of Moora's Community Cultural Plan will form a component of the overarching corporate plan to be developed.

COMMENT:

The Community Cultural Plan 2012-2016 (the Plan) has been developed to assist the Shire of Moora, relevant government agencies and various art and cultural groups in the Shire to work towards providing:

- A desirable level and range of artistic and cultural services, programs and activities in the Shire of Moora.
- Appropriate facilities in the Shire for such services, programs and activities.

The Plan is intended as a working document that sets out the goals, proposed actions to meet those goals and key performances indicators. The Plan also includes:

- A framework for the direction and development of artistic and cultural activities in the Shire of Moora.

- An action plan to assist Council and key stakeholders to work towards a desirable level and range of artistic and cultural services, programs and activities.
- An overview of Council's responsibilities under the Local Government Act (1995) to provide for the artistic and cultural needs of various groups within the community.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

STRATEGIC IMPLICATIONS:

The Shire of Moora's Strategic Plan outlines the goal to maintain, improve and increase community facilities and services within budget and practicability.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are potential environmental implications associated with this proposal with the opportunity to upgrade the existing facilities located within the Shire of Moora through capital improvements or construct new facilities within the Shire of Moora.

➤ **Economic**

There are economic implications associated with this proposal with possible employment opportunities.

➤ **Social**

There are significant social implications associated with this proposal with the opportunity to provide additional services that compliment existing services and facilities that will benefit the community.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item for the 2011/12 budget other than the adopted budgeted operational and capital allocations. The plan includes operational and capital expenditure over a five year period. The expenditure is subject to future external funding and Council budget approvals.

VOTING REQUIREMENTS

Simple Majority Required

<p>COUNCIL RESOLUTION (OFFICER RECOMMENDATION)</p>

11/12 Moved Cr Hawkins, seconded Cr Clydesdale-Gebert that Council adopts the Shire of Moora Community Cultural Plan 2012-2016 subject to funding availability, grants and other external resources.

CARRIED 7/0

Note: Council added 'subject to funding availability, grants and other external resources' to the recommendation in order ensure the community understands that the implementation of the plan is subject to sufficient resources.

At 6.45pm Michael Humphry joined the meeting.

At 6.47pm Cr Tonkin declared a proximity interest in item 9.3.3 as he is a partner in a wildflower tourist venture (Western Wildflower Farm) and left the meeting.

9.3.3 WILDFLOWER COUNTRY COMMITTEE – VOTING DELEGATION

FILE REFERENCE: ED/WCO1

REPORT DATE: 8 February 2012

PREVIOUS MEETING REFERENCES:

AUTHOR: Rebecca McCall, Manager Community & Economic Development

ATTACHMENTS: Nil

PURPOSE OF REPORT:

For Council to delegate the right to vote for matters concerning Wildflower Country Incorporated on behalf of the Shire of Moora to nominated staff members.

BACKGROUND:

Wildflower Country was developed in 2003 and consisted of seven council members. The purpose of the group was to stimulate economic growth and employment through tourism. A brand was established and marketed through a variety of mediums.

In 2008 the Shire of Moora and Dalwallinu bought into the group, Wildflower Country. It was seen that Moora was the 'gateway' to tourism and wildflowers. The Shire of Yalgoo made the decision to no longer partake in the group in 2008 leaving nine council members.

The group is now incorporated and operates under a constitution.

COMMENT:

Over the last twelve months Wildflower Country has tightened its governance and has committee to the following responsibilities:

- Provision of an annual report to Council members
- Provision of financial report to Council members
- Written confirmation from Council members notifying Wildflower Country the nominated delegates for voting (1 vote per council member)

POLICY REQUIREMENTS:

Wildflower Country Incorporated is not listed as a committee in the Shire of Moora Register of Delegations.

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

STRATEGIC IMPLICATIONS:

The Shire of Moora's Strategic Plan outlines the goal to plan and develop the Moora region through positive community and economic development to attract and retain people and businesses enabling sustainable growth.

SUSTAINABILITY IMPLICATIONS:

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

The Shire of Moora annually contributes towards Wildflower Country Incorporated. The Committee of Wildflower Country Incorporated control the expenditure which is based on the incorporations strategic plan and outlined budget. Each council member of Wildflower Country Incorporated is provided with an annual report and financials. The 2011/12 financial contribution consisted of \$4,000.

VOTING REQUIREMENTS

Absolute Majority Required

**COUNCIL RESOLUTION
(OFFICER RECOMMENDATION)**

12/12 Moved Cr Hawkins, seconded Cr Clydesdale-Gebert that Council delegates the right to vote for matters concerning Wildflower Country Incorporated on the behalf of the Shire of Moora to:

1. *Cr Arthur Tonkin*
2. *Manager Community Economic Development*
3. *Community and Economic Development Officer - Proxy*

CARRIED BY ABSOLUTE MAJORITY 6/0

At 6.51pm Cr Tonkin rejoined the meeting.

9.4 ENGINEERING SERVICES

Nil

10. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

The Chief Executive Officer tabled a late item dealing with the “Shed Application – T Higgins – 46 Keane Street, Moora” for Council’s consideration.

COUNCIL RESOLUTION

13/12 Moved Cr Tonkin, seconded Cr Hawkins that Council consider the late item as tabled by the Chief Executive Officer titled “Shed Application – T Higgins – 46 Keane Street, Moora”.

CARRIED 7/0

11.1 Shed Application – T Higgins – 46 Keane Street, Moora

An application has been received from Mr T Higgins of 46 Keane Street, Moora to build a shed forward of front boundary setbacks.

COUNCIL RESOLUTION

14/12 Moved Cr Tonkin, seconded Cr Hawkins that the applicant (T Higgins of 46 Keane Street, Moora) be advised that the proposed development needs to comply with the setback requirements of the Shire of Moora Local Town Planning Scheme No. 4.

CARRIED 7/0

12. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

13. CLOSURE OF MEETING

There being no further business, the Shire President declared the meeting closed at 7.00pm.

CONFIRMED

PRESIDING MEMBER