



CONFIRMED

MINUTES

SPECIAL COUNCIL MEETING

Held

12 November 2020

At

Shire of Dardanup
ADMINISTRATION CENTRE EATON
1 Council Drive – EATON

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VISION STATEMENT

“Provide effective leadership in encouraging balanced growth and development of the Shire while recognizing the diverse needs of our communities.”

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COUNCIL ROLE

Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government / body /agency.
Executive/Strategic	The substantial direction setting and oversight role of the Council e.g. Adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
Legislative	Includes adopting local laws, town planning schemes and policies.
Review	When Council reviews decisions made by Officers.
Quasi-Judicial	<p>When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.</p> <p>Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g.: under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</p>

DISCLAIMER

"Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity that has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request."

RISK ASSESSMENT

Inherent Risk	The level of risk in place in order to achieve the objectives of the Council and before actions are taken to alter the risk's impact or likelihood.
Residual Risk	The remaining level of risk following the development and implementation of Council's response.
Strategic Context	These risks are associated with achieving Council's long term objectives.
Operational Context	These risks are associated with the day-to-day activities of the Council.
Project Context	<p>Project risk has two main components:</p> <ul style="list-style-type: none">• Direct refers to the risks that may arise as a result of project, which may prevent the Council from meeting its objectives.• Indirect refers to the risks which threaten the delivery of project outcomes.

SHIRE OF DARDANUP

MINUTES OF THE SHIRE OF DARDANUP SPECIAL COUNCIL MEETING HELD ON THURSDAY, 12 NOVEMBER 2020, AT SHIRE OF DARDANUP - ADMINISTRATION CENTRE EATON, COMMENCING AT 4.00PM

1 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding Member, Cr. M T Bennett declared the meeting open at 4.00pm, welcomed those in attendance and referred to the Disclaimer, Acknowledgement of Country, Emergency Procedure and the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers:

Acknowledgement of Country

The Shire of Dardanup wishes to acknowledge that this meeting is being held on the traditional lands of the Noongar people. In doing this, we recognise and respect their continuing culture and the contribution they make to the life of this region and pay our respects to their elders, past, present and emerging.

Emergency Procedure

In the event of an emergency, please follow the instructions of the Chairperson who will direct you to the safest exit route. Once outside, please proceed to the Assembly Area points located to the western side of the front office car park near the skate park and gazebo where we will meet (and complete a roll call).

Affirmation of Civic Duty and Responsibility

Councillors and Officers of the Shire of Dardanup collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the Shire's Code of Conduct and Standing Orders to ensure efficient, effective and orderly decision making within this forum.

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

2.1 Attendance

Cr. Michael Bennett	-	Shire President
Cr. Peter Robinson	-	Deputy Shire President
Cr. Janice Dow	-	Elected Member
Cr. Carmel Boyce	-	Elected Member
Cr. Tyrrell Gardiner	-	Elected Member
Cr. Patricia Perks	-	Elected Member
Cr. Mark Hutchinson	-	Elected Member
Cr. Stacey Gillespie	-	Elected Member
Mr André Schönfeldt	-	Chief Executive Officer
Mr Phil Anastasakis	-	Deputy Chief Executive Officer
Ms Susan Oosthuizen	-	Director Sustainable Development
Mr Luke Botica	-	Director Infrastructure
Mr Nathan Ryder	-	Manager Infrastructure & Design
Mr James Reilly	-	Project Development Engineer
Mr Allan Hutcheon	-	Procurement Officer
Ms Cathy Lee	-	Manager Governance & HR
Mrs Ella Rafferty	-	Executive Support Officer

2.2 Apologies

Cr. Luke Davies	-	Elected Member
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2.3 Leave of Absence

None.

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

None.

4 PUBLIC QUESTION TIME

None.

5 APPLICATIONS FOR LEAVE OF ABSENCE

None.

6 PETITIONS/DEPUTATIONS/PRESENTATIONS

None.

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Ordinary Meeting Held 28 October 2020

Note: The Minutes of the Ordinary Council Meeting held on Wednesday, 28 October 2020 will be confirmed at the next Ordinary Council Meeting on Wednesday, 25 November 2020.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

None.

9 ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED

9.1 Title: Endorsement of the Request for Tender Documentation and Procurement Plan for the New Administration/Library Building

9.2 Title: "Better Bins Plus; Go FOGO" Program – Successful Funding Application

It is recommended that Council go behind closed doors toward the end of the meeting in accordance with Shire of Dardanup Standing Orders & Local Government Act 1995 Section 5.23 (2) - Matters for Which Meeting May Be Closed:

Standing Order and the Local Government Act 1995 provides for Council to resolve to close the meeting to the public and proceed behind closed doors for matters:

- S 5.23 (1) Subject to subsection (2), the following are to be open to members of the public-
- (a) all Council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -
- (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal -
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to -
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Note: Shire President advised that the meeting would go behind closed doors toward the end of the meeting to discuss a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting - S 5.23, Part 2(c).

10 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

None.

11 DECLARATION OF INTEREST

"Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences."

Key Management Personnel (which includes Elected Members, CEO and Directors) are reminded of their requirement to disclose biannually transactions between Council and related parties in accordance with Council Policy CP039.

Discussion:

Cr. M T Bennett asked Councillors and staff if there were any Declarations of Interest to be made.

There were no Declarations of Interest.

12 REPORTS OF OFFICERS AND COMMITTEES

None.

13 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

None.

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

None.

15 PUBLIC QUESTION TIME

None.

16 MATTERS BEHIND CLOSED DOORS

It is recommended that the following item be heard behind closed doors.

Standing Order and the Local Government Act 1995 provides for Council to resolve to close the meeting to the public and proceed behind closed doors for matters:

- S 5.23 (1) Subject to subsection (2), the following are to be open to members of the public -*
- (a) all Council meetings; and*
 - (b) all meetings of any committee to which a local government power or duty has been delegated.*
- (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -*
- (a) a matter affecting an employee or employees;*
 - (b) the personal affairs of any person;*
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) a matter that if disclosed, would reveal -*
 - (i) a trade secret;*
 - (ii) information that has a commercial value to a person; or*
 - (iii) information about the business, professional, commercial or financial affairs of a person,*
where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to -*
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
 - (ii) endanger the security of the local government's property; or*
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
 - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) such other matters as may be prescribed.*
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION

306-20 MOVED - Cr. P S Robinson SECONDED - Cr. P R Perks

THAT in accordance with the Local Government Act 1995, S 5.23 (2)(c), the Council go Behind Closed Doors [4.06pm] to discuss a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

CARRIED
7/1

FOR THE MOTION	AGAINST THE MOTION
Cr. M T Bennett Cr. P S Robinson Cr. C N Boyce Cr. P R Perks Cr. T G Gardiner Cr. S L Gillespie Cr. M Hutchinson	Cr. J Dow

Note: Media left the room [4.06pm].

Note: Remaining in the room were staff listed in the Record of Attendance above, Councillors and four members of the Success for Projects who are the New Administration/Library Building project managers.

16.1 Title: Endorsement of the Request for Tender Documentation and Procurement Plan for the New Administration/Library Building

Reporting Department: Executive

Reporting Officer: Mr André Schönfeldt – Chief Executive Officer

Legislation: Local Government Act 1995

REPORT UNDER SEPARATE COVER

Note: In accordance with the Local Government Act 1995 5.23 (2) this report is not available to the public. The Shire President tables the confidential report on this matter and provides copies to each elected member. The report will be located in the Records Management System of the Council.

ELECTED MEMBER RESOLUTION & COUNCIL RESOLUTION

307-20 MOVED - Cr. P S Robinson SECONDED - Cr. M T Bennett

THAT Council:

1. **Endorses the attached (Confidential Appendix SCM: 16.1) 'Request for Tender documentation for the Shire Administration and Library Project-Design and Construct', noting the following:**
 - **Confirmation of a 50% cost sharing guaranteed maximum price (GMP) arrangement forming part of the contract.**
 - **An addendum being issued as part of the contract to include a separable portion to cover contract works insurance in the event of contractor default or insolvency.**
 - **Removal of the last Clause of Section 2.2.5 and subject to legal advice, issuing an addendum allowing the Shire of Dardanup to utilise the designs should an alternative contractor be required.**
 - **A Governance Structure be put in place that consists of a Committee of Council called 'Shire of Dardanup New Administration, Library and Community Building Committee' and a separate Project Control Group consisting of staff who will report to the Committee.**
2. **Authorises the Chief Executive Officer to continue with the Closed Tender Process.**

3. Nominates the following three Councillors to be on the ‘Shire of Dardanup New Administration, Library and Community Building Committee’

- **Cr. M T Bennett**
- **Cr. P S Robinson**
- **Cr. M R Hutchinson**

CARRIED
5/2

<i>FOR THE MOTION</i>	<i>AGAINST THE MOTION</i>
<i>Cr. M T Bennett</i>	<i>Cr. J Dow</i>
<i>Cr. P S Robinson</i>	<i>Cr. M R Hutchinson</i>
<i>Cr. C N Boyce</i>	
<i>Cr. T G Gardiner</i>	
<i>Cr. S L Gillespie</i>	

16.2 Title: “Better Bins Plus; Go FOGO” Program – Successful Funding Application

Reporting Department: Infrastructure Directorate
Reporting Officer: Mr Luke Botica - Director Infrastructure
Legislation: Local Government Act 1995

REPORT UNDER SEPARATE COVER

Note: In accordance with the Local Government Act 1995 5.23 (2) this report is not available to the public. The Shire President tables the confidential report on this matter and provides copies to each elected member. The report will be located in the Records Management System of the Council.

OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION

308-20 MOVED - Cr. M T Bennett SECONDED - Cr. T G Gardiner

THAT Council:

- 1. Accepts the offer from the Waste Authority for Better Bins Plus funding to be received in the 2020-2021 and 2021-2022 financial years.**
- 2. Authorises the Chief Executive Officer to sign the funding agreement (Contract DWERT6131) between the State and the Shire of Dardanup.**
- 3. Approves unbudgeted income of \$59,051 to be received in the 2020-2021 Budget under the agreement.**
- 4. Endorses the following processes to be undertaken by the Chief Executive Officer in order to fulfil the requirements of Point 4 of Resolution 171-20:**

- a) A workshop with Councillors is undertaken to consider the updated Waste Management Plan following closure and assessment of tenders;
- b) Community consultation is undertaken on the draft Waste Management Plan and the possibility of introducing a FOGO service and;
- c) A report is brought back to the April 2021 Ordinary Meeting of Council to consider the outcomes of the community consultation and to award the contract(s).

CARRIED

7/0

*By Absolute Majority***OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

309-20 MOVED - Cr. T G Gardiner SECONDED - Cr. S L Gillespie

THAT Council return from Behind Closed Doors [5.41pm].

CARRIED

7/0

*Note: Cr. P S Robinson left the meeting [5.41pm].**Note: Media returned to the room [5.41pm].**Note: In accordance with Standing Order 5.2(6) the Presiding Officer, may cause the motion passed by Council whilst behind closed doors to be read out.**Note: Cr. M T Bennett read aloud Council resolution [308-20].***17 CLOSURE OF MEETING**

The Presiding Officer, Cr. MT Bennett advised that the date of the next Ordinary Meeting of Council will be Wednesday 25 November 2020, commencing at 5.00pm at the Shire of Dardanup - Administration Centre Eaton.

There being no further business the Presiding Officer declared the meeting closed [5.44pm].



CONFIRMATION OF MINUTES

“As the person presiding at the meeting at which these minutes were confirmed on 25 November 2020, I certify that these minutes have been confirmed as a true and accurate record of proceedings”.

Signature: 

Email: michael.bennett@dardanup.wa.gov.au