



Mukinbudin - Classic, Dry, Red

Shire of Mukinbudin

Special Council Meeting

AGENDA

WEDNESDAY 30 March 2015



Floral Emblem
Eucalyptus erythronema (Red Flowering Mallee)

Notice of Meeting

Councillors

The next meeting of Council will be an Ordinary Meeting to be held on Wednesday 30th March 2015 commencing at 5.00pm.

Thank you

Stuart Billingham
Chief Executive Officer

30th March 2015

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Mukinbudin for any act, omission or statement or intimation occurring during Council or Committee meetings. The Shire of Mukinbudin disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the Shire of Mukinbudin during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire of Mukinbudin. The Shire of Mukinbudin warns that anyone who has any application lodged with the Shire of Mukinbudin must obtain and should only rely on written confirmation of the outcome of the application, and any conditions attaching to the decision made by the Shire of Mukinbudin in respect of the application.

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

Council is committed to a code of conduct and all decisions are based on an honest assessment of the issue, ethical decision-making and personal integrity. Councillors and staff adhere to the statutory requirements to declare financial, proximity and impartiality interests and once declared follow the legislation as required.

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 - 11.1 Nil

12. Confidential Items – Meeting to be closed to the Public in accordance with the provisions of the Local Government Act 1995.

12.1 Nil

13. Dates to Remember

13.1 See attached list

14. Closure of Meeting

14.1 Closure of Meeting

1. Declaration of Opening

1.1 The Deputy Shire President declared the Meeting open at 5. pm

2. Public Question Time (min 15 minutes)

2.1 Response to previous questions taken on notice.
Nil

2.2 Declaration of public question time opened (min 15 mins)

The Deputy Shire President will declare public question time open.

2.3 Declaration of public question time closed

The Deputy Shire President will declare public question time closed.

3. Record of attendance, apologies and approved leave of absence

3.1 Present:

3.1.1 Cr Comerford (Deputy Shire President
Cr O'Neil
Cr Seaby
Cr Palm
Cr Ventris

3.2 Apologies: Cr Shadbolt (Shire President)
Cr Lancaster
Cr Sippe
Cr Watson

3.3 On leave of absence:

3.3.1 Nil

3.4 Staff:

3.4.1 Stuart Billingham CEO

3.5 Visitors:

3.6 Gallery:

3.7 Applications for leave of absence:

4. Petitions, deputations and presentations

4.1 Petitions
Nil

4.2 Deputations
Nil

4.3 Presentations
Nil

5. Announcements by the Presiding person without discussion

5.1 Nil

6. Confirmation of the Minutes of previous meetings

6.1 Nil

7. Matters for which the meeting may be closed

7.1 Nil

The Local Government Act 1995 Section 5.23 states the following:

5.23. Meetings generally open to public

- (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; and
 - (b) the personal affairs of any person; and
 - (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; and
 - (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; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (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; and
 - (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; or
 - (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;

and

(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.

8. Reports of Committees and Officers

8.1 Chief Executive Officer

8.1.1 Sale of Property for Unpaid Rates – 17 Shadbolt Street, Mukinbudin	
Location:	Mukinbudin
File Ref:	A352
Applicant:	Stuart Billingham - CEO
Date:	30 March 2015
Disclosure of Interest:	Nil
Responsible Officer	Stuart Billingham - CEO
Author:	Stuart Billingham - CEO

Summary

To present Council with a request to consider an offer of \$30,000 to purchase 17 Shadbolt Street, Mukinbudin. The applicant is requiring an urgent response on the purchase offer. (Please refer to separate attachment - contract for sale of land or strata title by offer and acceptance) Zoning under Town Planning Scheme No4 is Town Centre (please refer to separate attachment zoning table for Permitted uses, discretionary use, uses requiring advertising and not permitted uses.



Background

The Shire of Mukinbudin is currently offering for sale 17 Shadbolt Street (Certificate of Title 1901/539), (1,012 M²) Mukinbudin (old Derrandee Aboriginal Corporation Video store) for rates unpaid over 3 years. The Shire has placed a memorial on the Certificate of Title which will last 12 months from the date it was placed on the property.

If the property was to remain unsold after the twelve months then the Shire would be able to apply to have the property returned to the Crown or transferred into the name of the Shire of Mukinbudin in Freehold. Based on a previous real estate agent valuation, currently the Shire of Mukinbudin is looking for between \$35,000-\$40,000, however Council may wish to accept the below offer.

The Shire of Mukinbudin at its 19 March 2014 Ordinary Council Meeting item 8.4.6 resolved the following:

“That Council:

1. proceeds to sell (2) properties A365, A352 which have rates in arrears of 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$24,254.64. The CEO to serve both properties Form 2 and attach Form 3 to a conspicuous part of the land in order to take possession of the land.
2. Issue a Statewide public notice (Form 5) of the sale in the West Australian Newspaper
3. Register at Landgate, a Memorial of the Statewide Public Notice
4. Appoints a public auction date to occur on or around 27 May 2014 for both properties.”

The Shire of Mukinbudin Advertised the Auction of the two properties in the West Australian newspaper in the Form 5 format and registered with Landgate a Memorial of Advertisement. An Auction was held at the Shire of Mukinbudin Offices at 3.00pm on 27 May 2014 by Mr P Sippe from Elders. Both properties were passed in due to no bids being made

Department of Local Government Guideline number 22 extract below states:

Transfer of the Land to the Crown or to the Local Government

Where the land has been offered for sale for non-payment of rates or service charges and a contract of sale has not been entered into at the expiration of 12 months from the date that the land is offered for sale by public auction notice (Form 5), the land may be transferred in fee simple, to the Crown in right of the State or to the local government. The transfer is subject to the Transfer of Land Act 1893, or by deed when it is not covered by the Transfer of Land Act 1893. (s.6.71(1); Sch. 6.3)

The local government must have taken possession of the land. (See 3.3)

Upon transfer to the Crown or to the local government, all encumbrances affecting the land are of no further force or effect against the land and the Registrar of Titles or Registrar of Deeds is to remove all encumbrances from the title to the land. (s.6.71(2))

A Transfer (Landgate Form T5) executed by the local government using its common seal is used for transfers of land that is under the *Transfer of Land Act 1893* (to either the Crown under section 6.71(1)(a) or to the local government under section 6.71(1)b)).

Sch 6.3 Clause 3 LG Act 1995

3. Power of sale

The power of sale includes —

- (a) *power to sell the whole or part of the land either together or in lots —*
 - (i) *by public auction; or*
 - (ii) *by private contract, if having been offered for sale by public auction, it has not been sold,*

subject to such terms and conditions with respect to the payment of the purchase money or any other matter, including power to fix a reserve price, as the local government thinks fit; and
- (b) *power to vary a contract of sale by agreement with the other party to the contract, and to buy in at auction; and*
- (c) *power to rescind a contract for sale on default by the other party to the contract, and to resell without being answerable for loss occasioned by the rescission and resale; and*

(d) power to make such thoroughfares and to grant such easements of right-of-way or drainage over the land as the circumstances of the case require and the local government thinks fit.

Council at the 18 June 2014 Ordinary Council Meeting Item 8.4.4 resolved the following:

Council Decision Number – 1090

Moved: Cr Sippe

Seconded: Cr Palm

That the Shire of Mukinbudin offers 17 Shadbolt St and 11 Greenslade St for Sale by Private Treaty for the next 12 months under Sch 6.3 clause 3(a)(ii) of the Local Government Act 1995 and if not sold by the completion of 12 months then Council Authorises the Shire President and CEO to sign and affix the Common Seal to a Form T5 Transfer of Land Form to request a transfer of 17 Shadbolt St and 11 Greenslade St Mukinbudin into the Shire of Mukinbudin's name under section 6.71(1)b of the Transfer of Land Act 1893.

Carried 9/0

Assessment Number A352 currently \$19,694.00 made up as listed below.

Levies	Receipts	Balance	C/A	Description
400.00	0.00	400.00	C	Rates
5,377.99	0.00	5,377.99	A	Rates
4,654.19	0.00	4,654.19	C	Interest
5,752.73	0.00	5,752.73	C	Legal Charges
125.00	0.00	125.00	C	COMMERCIAL RECYCLING CHARGE
150.00	0.00	150.00	C	COMMERCIAL RUBBISH CHARGE
860.00	0.00	860.00	A	DOMESTIC RECYCLING CHARGE
1,175.00	0.00	1,175.00	A	DOMESTIC RUBBISH SERVICE
312.09	0.00	312.09	A	ESL PENALTY
50.00	0.00	50.00	C	VOLUNTARY SWIMMING POOL LEVY
300.00	0.00	300.00	A	VOLUNTARY SWIMMING POOL LEVY
64.00	0.00	64.00	C	EMERGENCY SERVICES LEVY
473.00	0.00	473.00	A	EMERGENCY SERVICES LEVY
				=====
19,694.00	0.00	19,694.00		*** TOTALS ***

The WA Water Corporation is currently showing \$301.35 in charges and interest.

Comment:

This item is presented to Council to consider accepting or rejecting the offer.

Strategic Implications

Recovery of long term rates debtor, Property becomes a Assessable property again.

Policy Implications

Rates recovery Policy

Consultation:

Shire President

Peter Sippe Elders Real Estate Agent

Statutory Environment

Local Government Act 1995 Sch 6.3 clause 3(a)(ii)

Local Government (Function and General) Regulations 1996

Transfer of Land Act 1893 s6.71(1); Sch 6.3

Financial Implications

Recovery of \$19,694 in unpaid rates, fees and charges

Voting Requirements

Simple Majority

Officer recommendation:

That the Shire of Mukinbudin accepts the offer of \$30,000 including GST for the purchase of 17 Shadbolt Street Mukinbudin from Qingqing Hollick.

Council Decision Number –

Moved: Cr

Seconded: Cr

That the Shire of Mukinbudin accepts the offer of \$30,000 including GST for the purchase of 17 Shadbolt Street Mukinbudin from Qingqing Hollick.

Carried /

9. Information Report

9.1 Please refer to Correspondence and Information Report submitted as a separate attachment

10. Elected Members Motions of which previous notice has been given

Nil

11. Urgent Business without notice (with the approval of the president or meeting)

Nil

12. Confidential Items – Meeting to be closed to the Public in accordance with the provisions of the Local Government Act 1995.

12.1 Nil

Item 12.1 is Confidential in accordance with the Local Government Act 1995, Section 5.23

(2) If a meeting is being held by a Council.....the Council 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 -*

....

(ii) information about the business, professional, commercial or financial affairs of a person;.....

(3) A decision to close the meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Recommendation

That Council close the meeting to members of the public in accordance with the *Local Government Act 1995*, Section 5.23 as Item 12.1 deals with matters contained under Section 5.23

Council Decision Number –

Voting Requirements – Simple Majority

Moved: Cr

Seconded: Cr

That Council close the meeting to members of the public in accordance with the *Local Government Act 1995*, Section 5.23 as Item 12.1 deals with matters contained under Section 5.23

Carried /

Meeting went behind closed doors at am/pm

Council is now required to re-open the meeting to the public.

Council Decision Number –

Voting Requirements – Simple Majority

Moved:

Seconded:

That Council reopen the meeting to members of the public in accordance with the Local Government Act 1995.

Carried /

The meeting was reopened at pm

13. Dates to Remember

13.1 Dates to Remember

ANNUALLY	
Date	Details
January	No Council Meeting this in January
February	Chief Executive Officer and Works Supervisor to inspect all plant evaluate and/or amend its plant replacement programme for recommendation to Council. Audit Committee to review Statutory Compliance Return, meet with Auditor and report to next full Council meeting Local Government Compliance Return 1 January to 31 December each year. Plan for the Future – commence review process (Every two years)
March	Buildings inspection Shire buildings with Property Manager and report to Council's March or April meeting Roads Inspection – Annual Road inspections to prioritise items of roadwork's for forthcoming year. Councillors to present road proposals to CEO for consideration prior to this inspection. Complete review of Annual Budget (FM Regulations (33A) Completion of Statutory Compliance Return (LG Act 7.13, Audit Regulations 13-15) to be sent to Department of Local Government prior to 31 March. Arrange Bush Fire Advisory Committee meeting with Chief Bush Fire Control Officer for April
April	Present any items Councillors or Community requests for Budget inclusion – Community & Recreation Grant Forms. (Advertise) Undertake Review of Delegation of Authority Register to Committee and CEO.(written confirmation to staff concerned)
May	Undertake Staff Annual Performance Reviews. National Volunteer Week Send out recoups of roads and other projects so grant funding can be received by 30 June Review Councils Fees and Charges for all Council services and facilities including rubbish service and charges DCEO to review and renew Council's insurance policies with LGIS
June	Sitting fees – Reminder to Councillors re: forthcoming years fees FOI Return (Note: not necessary if Nil return) FOI Statement – Review this month Works Supervisor to provide comments on RRG Submissions, which are due to go to Council in the August meeting. DCEO to conduct a Finance & Audit Committee meeting and meet with Auditor as per Committee Roles Council's Audit Committee to meet to discuss Interim Audit Every 4 years Financial Management Review due before 30 June Local Government Convention deadline for nominations 30 June each year – Public Interest Disclosure Return to be submitted for previous period 1/7 to 30/6. Chief Executive Officer's performance and remuneration review – commence this month
July	Draft Budget submitted by Chief Executive Officer Issue Employee Group Certificates Councillors and Senior Staff issued with Annual Interest Returns for completion Issue eating house licence renewals CEO performance review
August	Councillors and Senior Staff – reminder of Annual Financial Interest Return to be completed to CEO prior to 31 August Completion/Adoption of budgets (absolute majority). Send copy to Department of Local Government within 30 days (LG Act 6.2, FM Regulations 33) Resolution regarding timing of Annual Electors Meeting
September	CEO to commence a full review of Policies & Procedures manual Completion of Annual Financial Report & submitted to Auditor. AFR sent Dept. of Local Government within 30 days (LG Act 6.5, FM Regulations 5.1)
October	Policy / Procedures Manual Review – Commence review process by including as last item on Council Agenda (if necessary) Review of Council's Code of Conduct – Section 5.103 (if unable to complete full review at this meeting discuss with Council the need to convene a Special Meeting to finalise review at this meeting or simply complete review at December Ordinary Meeting) Local Govt is to review its Code of Conduct within 12 months after each ordinary election day & make such changes to the code as appropriate. Advise Council in the October Information Bulletin of the time, date and venue for the annual staff end of year function. Special Meeting (Election Years Only) advertise special meeting to swear in Councillors, Elect President, Deputy President, Committee etc. for Monday immediately after the Saturday elections.
November	Pensioner rates rebate claim to be lodged Call for nominations for Shire of Mukinbudin Citizens of the Year (Australia Day)
December	Annual Financial Report – Acceptance by Council within two months of receipt of the Auditors report Newsletter & Local Newspaper – advertise date, time and venue of all Council and Committee meetings for next calendar year (with delegated authority, if any) (S.5.251 (g) & Reg 12). Council's Audit Committee to meet to discuss Final Audit Report and Management Letter. Close of nominations for Shire of Mukinbudin Citizens of the Year (Australia Day)

14 Closure of Meeting

**14.1 The Deputy Shire President declared the meeting closed at
Next Ordinary Council Meeting – Wednesday 15th April 2015 9.00am.**

pm