



SHIRE OF YORK

**MINUTES OF THE ORDINARY
MEETING OF THE COUNCIL
HELD ON 15 APRIL, 2013
COMMENCING AT 3.00pm
IN COUNCIL CHAMBERS,
YORK TOWN HALL, YORK**

SHIRE OF YORK

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of York for any act, omission or statement or intimation occurring during Council meetings.

The Shire of York 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 meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council 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 license, any statement or intimation of approval made by any member or Officer of the Shire of York during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of York.

The Shire of York notifies that anyone who has any application lodged with the Shire of York 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 York in respect of the application.

RAY HOOPER
CHIEF EXECUTIVE OFFICER

Table of Contents

1. OPENING	7
1.1 <i>Declaration of Opening</i>	7
1.2 <i>Chief Executive Officer to read the disclaimer.....</i>	7
1.3 <i>Suspension of Standing Orders (undergoing the repeal process)</i>	7
1.4 <i>Announcement of Visitors</i>	7
1.5 <i>Announcement of any Declared Financial Interests</i>	7
2. ATTENDANCE	7
2.1 <i>Members.....</i>	7
2.2 <i>Staff.....</i>	7
2.3 <i>Apologies.....</i>	7
2.4 <i>Leave of Absence Previously Approved.....</i>	7
2.5 <i>Number of People in Gallery at Commencement of Meeting.....</i>	8
3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	8
3.1 <i>Previous Public Questions Taken on Notice</i>	8
4. PUBLIC QUESTION TIME.....	9
4.1 <i>Written Questions – Current Agenda</i>	9
4.2 <i>Public Question Time.....</i>	9
5. APPLICATIONS FOR LEAVE OF ABSENCE	10
6. PETITIONS / PRESENTATIONS / DEPUTATIONS.....	10
7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING	11
7.1 <i>Minutes of the Ordinary Council Meeting held March 18, 2013</i>	11
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	11
9. OFFICER'S REPORTS.....	11
9.1 <i>Development Services.....</i>	13
9.1.1 <i>Old Lawn Tennis Centre – RDAP Program.....</i>	15
Item 9.1.1 – Appendices	19
9.1.2 <i>Scheme Amendment No. 50 – Omnibus Amendment.....</i>	21
Item 9.1.2 – Appendices	29
9.2 <i>Administration Reports</i>	31
9.2.1 <i>South East Avon Regional Transition Group.....</i>	33
Item 9.2.1 – Appendices	35
9.2.2 <i>Information Services</i>	37
Item 9.2.2 – Appendices	41
9.2.3 <i>101.3 York FM – Application to be Recognised as a Community Group</i>	43
9.2.4 <i>Request For Approval To Instigate Legal Action - Dog Attack.....</i>	45
9.2.5 <i>Private Swimming Pool and Smoke Alarm Infringement Notices</i>	47
9.3 <i>Works Reports</i>	51
9.4 <i>Financial Reports</i>	53
9.4.1 <i>Investments – March 2013</i>	55
Item 9.4.1 – Appendices	57
9.4.2 <i>Monthly Financial Reports – March 2013.....</i>	59
Item 9.4.2 – Appendices	61

9.5 <i>Late Reports</i>.....	63
9.5.1 Engineer – Works Management	65
Item 9.5.1- Appendices.....	69
9.6 <i>Confidential Reports</i>.....	71
9.6.1 Saint's Diner – Planning Prosecution.....	71
10. NEXT MEETING	73
11. CLOSURE	73



SHIRE OF YORK

THE ORDINARY MEETING OF THE COUNCIL HELD ON MONDAY, 15 APRIL, 2013, COMMENCING AT 3.00PM IN COUNCIL CHAMBERS, YORK TOWN HALL, YORK

The York Shire Council acknowledges the traditional owners of the land on which this meeting will be held.

1. OPENING

- 1.1 Declaration of Opening
Cr Tony Boyle, Shire President, declared the meeting open at 3.00pm
- 1.2 Chief Executive Officer to read the disclaimer
Ray Hooper, Chief Executive Officer, read the disclaimer
- 1.3 Suspension of Standing Orders (undergoing the repeal process)
Moved: Cr Hooper; Seconded: Cr Scott - Carried: 6/0
- 1.4 Announcement of Visitors
Nil
- 1.5 Announcement of any Declared Financial Interests
Cr Boyle – Item 9.6.1 – Financial – Complaints made by Mr & Mrs Saint against me. Defamation claim by H&S Saint
Cr Scott – Item 9.6.1 – Impartial – Complaints made by Mr & Mrs Saint against me

2. ATTENDANCE

- 2.1 Members
Cr Tony Boyle, Shire President; Cr Roy Scott, Deputy Shire President; Cr Brian Lawrance; Cr Pat Hooper; Cr Mark Duperouzel, Cr Denese Smythe
- 2.2 Staff
Ray Hooper, Chief Executive Officer; Tyhscha Cochrane, Deputy Chief Executive Officer; Jacky Jurmann, Manager Planning Services; Gordon Tester – Manager Environmental Health & Building Services; Kira Strange – Planner; Helen D'Arcy-Walker, Executive Support Officer
- 2.3 Apologies
Nil
- 2.4 Leave of Absence Previously Approved
Nil

2.5 Number of People in Gallery at Commencement of Meeting
There were 18 people in the Gallery at the commencement of the meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice

Ms Tanya Richardson

Questions Taken On Notice

Question 2(a):

Your events policy clearly states that event holders must submit TMP, Business Plans, Risk Management Plans, Budgets P/L, COC, etc. Why then did the recent CRC Women's Day event go ahead in the Town Hall without any of the above?

Response:

The Women's Day function was deemed to be a community level event constrained to a single location as an occasional hire and as such the events management process was not required.

Question 2(b):

Why have I not been supplied with a copy of the traffic management plan for the York Fair after repeated requests?

Response:

There is no requirement for you to be supplied with a copy of any traffic management plan for events in York.

Question 3:

Further to a letter to the Presiding Judge in a recent court case by an elected member acting in a private capacity I want to know if he or any other Councillor ever read the YTB Manager's reports for the last twelve months of operations of the Visitor's Centre?

Response:

Unknown and irrelevant to the operations of Council.

Question 4:

Why are my questions being censored and providing no context in the Minutes?

Response:

Your questions are not censored they are summarised, as per the Local Government (Administration) Regulations 1996, Part 2, Section 11(e), as public question time is not intended to be for statements and claims, only questions.

Mrs Robyn Davies

Questions Taken On Notice

Question 1:

How much money has the Shire of York budgeted for this financial year for legal fees and how much has been spent?

Response:

Below is a table outlining costs to date:

		Original Budget	Current Budget	Actual Balance
Rate Revenue	Rate Debt Recovery Cost	\$20,000.00	\$20,000.00	\$21,365.08
Administration – General	Legal Expenses	\$5,000.00	\$5,000.00	\$3,423.15
Health Admin & Inspection	Health Control Expenses	\$13,000.00	\$13,000.00	\$1,653.84
Town Planning & Regional Development	Legal Expenses	\$15,000.00	\$20,000.00	\$23,965.64
Economic Services	Legal Expenses	\$3,300.00	\$3,300.00	\$0.00
Other Property & Services	Engineering Expenses Other	\$0.00	\$0.00	\$435.34
Other Property & Services	Property Transaction Costs	\$0.00	\$0.00	\$19,671.78
		\$56,300.00	\$61,300.00	\$70,514.83

Note: Court fines imposed totalling \$43,400 and legal costs to be recovered \$6,700 to date.

Question 2:

How come SITA was allowed to put a display in the Shire Office? Why aren't ratepayers/residents allowed to put a display in the Shire? Why aren't ratepayers/residents allowed to put a petition next to the SITA display?

Response:

The SITA display of a landfill process is similar to DrumMuster, mobile phone collection and RoadWise and other displays for community information which have been provided in the Shire Office and Library for a significant number of years.

Residents/Ratepayers can apply to put a display in the Shire Office at any time and if it is factual and of community interest it will be permitted.

The SITA display is a general information one which is not site specific and no request has been made to Council to locate a petition opposing a SITA application near the display. It would not seem to be appropriate to locate a site specific petition adjacent to a general information display.

4. PUBLIC QUESTION TIME

Public Question Time commenced at 3.04pm

4.1 Written Questions – Current Agenda
Nil

4.2 Public Question Time

Ms Tanya Richardson

Question 1:

Is it correct that legal advice indicated that Councillors Boyle and Scott have placed themselves in the public arena the courts would not issue a restraining order.

Response:

No

Ms Jane Ferro

Question:

Why weren't my questions from the March Meeting published in the Minutes?

Response:

Please refer to page 12 of the March Ordinary Council Meeting Minutes.

Mr Bill Roy

Question:

Would Council please advise what the code GG stands for in the investment portfolio for the Beirut Hellenic Bank Ltd.

Response:

GG stands for Government Guarantee.

Mrs Roma Paton

Question 1:

Was Michael Watts the Chair of the York Tourist Bureau Committee when Kate Watts was employed at the York Tourist Bureau?

Response:

York Tourist Bureau was an independent body and is not Shire business.

Question 2:

Was Cr Pat Hooper the Shire of York representative or a member of the York Tourist Bureau Committee?

Response:

Yes

Ms Tanya Richardson

Question:

Why are my questions being censored or altered in relation to Councillors reading the Managers reports for the last 12 months of operations of the York Visitor Centre?

Response:

Noted

Public Question Time was declared closed by the Shire President at 3.17pm

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Minutes of the Ordinary Council Meeting held March 18, 2013

Corrections

Confirmation

**RESOLUTION
010413**

Moved: Cr Lawrance

Seconded: Cr Scott

“That the minutes of the Ordinary Council Meeting held on March 18, 2013 be confirmed as a correct record of proceedings.”

CARRIED: 6/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Cr Boyle congratulated Carol Littlefair, Curator of the York Residency Museum for the outstanding booklet prepared for the Western Australian Heritage Festival – York Programme. Cr Boyle gave Carol the highest accolades from all Councillors.

Cr Boyle congratulated Bill Roy and The York Society for a wonderful day on Saturday, 13th April, 2013 on the Opening of the new Archives Building.

The Easter Fair run by Chris & Ruth Baker held in the York Town Hall was very successful event, as well as the markets run by Yvonne Dols in Pearce Park.

Café Bugatti's Coffee Shop closes today after giving 20 years of a high standard of service to York. The Shire wishes the new owners all the very best with their new venture.

9. OFFICER'S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Old Lawn Tennis Centre – RDAP Program

When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.

FILE NO:	PS.TPS.48
COUNCIL DATE:	15 April 2013
REPORT DATE:	4 April 2013
LOCATION/ADDRESS:	
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Draft Plan, Landcorp Correspondence
DOCUMENTS TABLED:	Nil

Summary:

This report considers information provided to the Shire of York from Landcorp as part of the assessment of the Shire's application for the 2012 Regional Development Assistance Program and requests the Shire to endorse the development of the site for residential purposes by Landcorp.

Background:

In 2012, an application to Landcorp's Regional Development Assistance Program was submitted for development of the old Lawn Tennis Centre for residential purposes and for the development of Springbett Reserve for a composite development of home business and light/service industrial purposes.

These applications were accepted into the Program and as part of this process the rezoning of both sites were initiated.

Council at its meeting held on 17 December 2012 resolved to finally adopted Scheme Amendment No. 48 to rezone the old lawn tennis centre site from Recreation and Open space to Residential. This amendment has been forwarded to the Minister for Planning for final approval in accordance with the Council resolution.

Landcorp, as part of their development assessment have been conducting the relevant preliminary investigations for the purposes of establishing the development potential of both sites and likely development costs.

With regards to the old Lawn Tennis Centre site, McDowell Affleck was appointed by Landcorp to provide costings on the construction of a residential development. These costings have been provided to Council for the purposes of determining if the project is to continue to be progressed by Landcorp or withdrawn from the RDAP2012 Program so that the Shire can pursue other options for the site. A preliminary subdivision design has also been provided. Refer to the appendices of this report.

The costings have been based on plans provided by Landcorp (the design provided to Council by Landcorp) and on typical conditions that may be imposed by the Western Australian Planning Commission, being earthworks, roads, lot drainage, sewer and water reticulation, underground power and telecommunications. The total cost for 10 lots based on Landcorp's design is estimated to be \$756,641, or \$65,549 per lot. The degree of accuracy of the estimate is within ± 20%.

Consultation:

Community consultation was carried out as part of the rezoning process. Any planning application will also be subject to community consultation.

Statutory Environment:

The provisions of the *Planning and Development Act 2005* and the York Town Planning Scheme No. 1 will be applicable to any future subdivision and planning applications.

Policy Implications:

There are no Policy implications associated with this proposal. The rezoning is consistent with the York Local Planning Strategy.

Financial Implications:

As a condition of the Regional Development Assistance Program, the Shire of York will be required to be ceded at no cost, prior to the commencement of construction and demolish the existing building (i.e. provide the land 'shovel ready'). The costs of demolition has been estimated at \$50,000.

It is estimated that the land could be sold for \$250-300,000 based on recent sales for land in the locality. The cost of development has been estimated at \$756,641 in the McDowell Affleck report. As can be seen, the costs of development are quite high at \$65,549 per lot. The RDAP Program is specifically designed to facilitate development for local government where the development costs could be considered prohibitive.

If Council chose to sell the land and not participate in the Landcorp process there will be no guarantee of development, and therefore no rateable lots created. Landcorp has a standard condition on their developments to ensure that construction commences within a stipulated period of time and if the buyer defaults the land returns to Landcorp for re-sale.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

The development of the site is consistent with the goals of the Community Strategic plan in that it will provide additional fully serviced housing lots to build the population and provide a planned development that will protect the environment through the creation of a foreshore reserve.

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Not Applicable**

Triple bottom Line Assessment:**Economic Implications:**

The development of this site will provide additional housing choice in York that is located on the Avon River within walking distance to the town centre. The draft development plan indicates the creation of nine (9) single residential lots and a ground housing site. It is envisaged that the group housing site will contain villas and townhouses that will again provide another housing choice. The growth of York's housing choice and availability is important to the economic growth of York and the region.

Social Implications:

Variety of housing choice, both in design and affordability, is important to achieve the goals of the Community Strategic Plan to build the population and economic base.

Environmental Implications:

There are no environmental implications associated with this proposal. the creation of a foreshore reserve as a buffer in accordance with the Department of Environment and Conservation will be beneficial to the community and the environment.

Comment:

Due to the often prohibitive costs associated with undertaking developments in regional WA, many projects are not commercially viable and the supply of privately developed land is often limited or non-existent.

Through the Regional Development Assistance Program (RDAP) the State Government provides LandCorp with limited funding to progress regional projects that do not break-even, but is essential to supporting the revitalisation and growth of regional towns and centres, such as York.

OFFICER RECOMMENDATION

"That Council:

APPROVE to continue to progress the development of Lots 31, 150 and 151 Clifford Street, York, known as the old Lawn Tennis Centre, for residential purposes by Landcorp as part of the 2012 Regional Development Assistance Program and agree to cede the land at no cost to Landcorp prior to the commencement of works."

AMENDMENT

Moved: Cr Scott

Seconded: Cr Hooper

"That Council Amend the Officer Recommendation to read:

APPROVE to continue to progress the development of Lots 31, 150 and 151 Clifford Street, York, known as the old Lawn Tennis Centre, for residential purposes by Landcorp as part of the 2012 Regional Development Assistance Program and agree to cede the land at no cost to Landcorp prior to the commencement of works.

Addendum:

Subject to any created lots not being sold within three (3) years from the date of clearance of subdivision being deeded to the ownership of the Shire of York at no cost."

CARRIED: 4/2

RESOLUTION

020413

Moved: Cr Hooper

Seconded: Cr Duperouzel

The amendment became the motion.

CARRIED: 4/2

Item 9.1.1 – Appendices

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.2 Scheme Amendment No. 50 – Omnibus Amendment

When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.

FILE NO:	PS.TPS.50
COUNCIL DATE:	15 April 2013
REPORT DATE:	4 April 2013
LOCATION/ADDRESS:	Shire-wide
APPLICANT:	Shire of York
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	J Jurmann, MPS
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	1 – Scheme Amendment Documentation 2 – EPA Decision 3 – Schedule of Submissions

DOCUMENTS TABLED:

Summary:

Council at its ordinary meeting held on 19 November 2012 resolved:

"That Council resolve pursuant to Section 75 of the Planning and Development Act 2005 to:

1. *Initiate Scheme Amendment No. 50 to the York Local Planning Scheme No. 2 in accordance with the Scheme Amendment documentation and mapping by:*
 - a) *Amending Schedule 1 – Interpretations;*
 - b) *Replacing the Zoning Table;*
 - c) *Amending Clause 4.7 relating to provisions for operating home businesses and home occupations;*
 - d) *Amending Clause 4.14.4 by deleting sub-clause (a) requiring a planning consent for all development including a single house, which is contradictory to the Zoning Table and to amend the numbering of sub-clause 4.14.4 and references to number subsequently;*
 - e) *Amending Clause 5.3 and Schedule 8 relating to the control of advertisements to update provisions following the rescission of the relative local laws;*
 - f) *Amending Clause 5.8 relating to the control of transported dwellings to extend the application of the clause Shire-wide;*
 - g) *Amending Clause 6.1 and to create Clause 5.11 to correct an administrative error to the provisions relating to developer contributions and inserting mapping into Schedule 13 as proposed by Amendment 26;*
 - h) *Rezoning Lot 123 Horley Road from Road Reserve to Industrial to enable sale of the freehold land that was thought to be a portion of Horley Road;*
 - i) *Rezoning Lot R46915 Henrietta Street, York from Mixed Business to Reserve – Public Purposes to reflect the use for emergency services;*
 - j) *Rezoning portion of Sees Road, Malebelling from Reserve – Road to Reserve – Public Purposes to reflect the use for emergency services;*
 - k) *Rezoning Lots 593 Georgiana Street and 607 and 608 Gilford Street, York from Reserve – Recreation and Open Space to Reserve – Public Purposes to reflect the use by the York Scout Group, York Youth Centre and State-owned Respite Centre;*

- I) *Rezoning Lots 7 and 202 Joaquina Street, York from Town Centre to Reserve – Public Purposes to reflect the use for civic and community purposes by the Shire of York and York Masonic Lodge;*
- m) *Rezoning Lot 20 Avon Terrace, York from Reserve – Recreation and Open Space to Town Centre to reflect the private ownership and use in conjunction with the service station;*
- n) *Rezoning Lots 18 and 207 Broome Street, York from Residential (R40) to Town Centre to enable appropriate development of the site for a mix of commercial, tourism and residential uses;*
- o) *Rezoning Lot 619 Howick Street, York from Mixed Business (R9) to Town Centre and deleting the Restricted Use (R9) to enable appropriate development of a site within the town centre;*
- p) *Rezoning Lots 100 (58) Avon Terrace and Lot 15 (44) Balladong Road, York from Residential R40 to Town Centre to enable appropriate development of a site within the town centre; and*
- q) *Inserting ‘Special Use Zones 6’, as follows, to Schedule 3 to enable appropriate development of the site:*

	No	Particulars of Land	Special Use	Conditions
SU6	6	<i>Lots 1 & 2 (18) Panmure Road (Laurelville)</i>	<i>Function Centre, Exhibition Centre, Restaurant, Art Gallery, Education Establishment, Residential, Short Term Accommodation</i>	<i>All development (including change of use) shall be subject to application for approval by the Heritage Council of Western Australia and in accordance with an approved conservation plan. All development (including change of use) shall be subject to application for the local government's planning consent and in accordance with the Shire of York Local Planning Policy Heritage Places and Precincts (as amended).</i>

2. *Authorise the Shire President and the Chief Executive Officer to execute the relevant documentation;*
3. *Forward the Scheme Amendment to the Environmental Protection Authority and request permission to advertise;*
4. *Upon receipt of consent to advertise from the Environmental Protection Authority, advertise the Scheme amendment for public comment for a period of 42 days in accordance with the Town Planning Regulations 1967.”*

The scheme amendment has been advertised for a minimum of 42 days in accordance with the *Town Planning Regulations 1967*. Twenty-five (25) submissions were received regarding the amendment. These submissions have been considered in the assessment and finalisation of this amendment, and in particular due to the current issue surrounding a proposal landfill and to ensure that Councillor positions on any future Development Assessment Panel is not compromised, all new references and provisions relating to waste facilities have been removed from this amendment.

It is recommended that Council finally adopt the scheme amendment and forward it to the Minister for Planning for final approval.

Background:

The York Town Planning Scheme No. 2 was first gazetted in 1996, prior to the introduction of the Model Scheme Text (MST), which the name suggests, provides a template for all local planning schemes in Western Australia, and is the format now expected by the Western Australian Planning Commission.

Since its gazettal, there have been 51 scheme amendments initiated, including this proposal.

Work has commenced on a new planning scheme and this amendment proposal is an interim measure to ensure that the scheme caters for current planning issues effectively and efficiently.

Scheme Amendment No. 50 (this proposal) is known as an 'Omnibus' Amendment. An omnibus amendment is a scheme amendment containing numerous, sometimes unrelated, proposals generally of a minor nature. In this case, the amendment contains textual and mapping changes that will be applicable to the local government area.

The amendment contains 5 main categories of proposals to the Scheme:

1. Interpretation;
2. Zoning table;
3. Textual changes;
4. Reserved land; and
5. Individual properties.

Interpretation

Schedule 1 is adopted under Clause 1.8.2 of the Scheme and contains general definitions and land use definitions. It is appropriate to periodically amend particularly land use definitions to reflect current and future land uses and proposals. Significantly these amendments will introduce tourism related definitions.

A review of the Scheme has also identified land uses that are not in the Zoning Table and land uses in the Table that are not defined. This amendment will correct this anomaly.

Zoning Table

Clause 3.2 of the Scheme incorporates the Zoning Table. The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the various zones.

It is proposed to delete the existing Zoning Table in its entirety and insert a new table to reflect changes in definitions and to provide users clearer guidance and interpretation.

Textual Changes

The proposed textual changes to the Scheme are to correct anomalies in the scheme, correct legislative changes and to reflect current regulatory practices. The amendments relate to:

- Home businesses and home occupations;
- Rural Smallholding zone;
- Control of advertisements;
- Transported dwellings; and
- Developer Contributions.

Reserved Land

There are 3 main proposals relating to reserved land in this amendment:

1. Use and development of reserved land;
2. Proposals relating to road reserves; and
3. Rezoning to and/or from reserved land.

Firstly, it is proposed to insert provisions from the Model Scheme Text into the scheme to better define the use and development of local reserves.

Secondly, it is proposed to rezone a property that is incorrectly reserved for road purposes, but is private property. This is an anomaly as it was thought historically that this property formed part of a road reserve. The rezoning will enable sale of this property.

Thirdly, it is proposed to correct zoning and/or reservations to reflect the current and future use of the land. In some of these circumstances, the land is reserved but is privately owned and used and in others, the land is used for public purposes but is zoned land. There are 5 properties in this group.

Individual Properties

It is proposed to rezone 4 properties as part of this amendment to enable appropriate development. Three of these properties are within the town centre and the other will enable complementary tourist uses.

The properties included in this group are:

1. Laurelville, 18-20 Panmure Road, York. This amendment proposes a special use zone consistent with other similar properties, such as Faversham House and the Old York Hospital.
2. 2 Broome Street, York. This amendment proposes to rezone the property from Residential R40 to Town Centre, which will facilitate a proposed mixed use development.
3. Old York School, 6 Howick Street, York. This amendment proposes rezoning the property from Mixed Business to Town Centre, which is a more appropriate zoning that will enable commercial uses on the site.
4. 58 Avon Terrace and 44 Balladong Road, York. This amendment proposes rezoning the property from Residential R40 to Town Centre. This is a gateway site and it is appropriate for this site to be developed for commercial purposes.

Consultation:

Following Council's resolution, the scheme amendment was referred to the Environmental Protection Authority. The EPA issued a decision on 17 December 2012 under Section 48A(1)(a) of the *Environmental Protection Act 1986* of 'not assessed'.

The Scheme Amendment was then publicly advertised in accordance with the *Town Planning Regulations 1967* for a minimum period of 42 days. All adjoining landowners were advised in writing, a notice was placed in the Avon Valley Gazette and on Council's website. The documentation was also available at the Council Administration Office for viewing and on Council's website. Appropriate government agencies were also invited to comment.

There were twenty-five (25) submissions received during the exhibition period that have been considered prior to finalising the scheme amendment documentation, and in particular due to the current issue surrounding a proposal landfill and to ensure that Councillor positions on any future Development Assessment Panel is not compromised, all new references and provisions relating to waste facilities have been removed from this amendment. For details of the submissions, refer to Appendix 3 of the report for the Schedule of Submissions.

Statutory Environment:Planning and Development Act 2005

Under Section 75 of the *Planning and Development Act 2005*, a local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment:

- a) Prepared by the local government, approved by the Minister and published in the Gazette; or
- b) Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.

Town Planning Regulations 1967

A Scheme Amendment must be prepared, advertised and adopted in accordance with the provisions of the Regulations.

York Local Planning Strategy

The LPS identifies economic, environmental, sustainable settlement, servicing and infrastructure and heritage and cultural as general objectives. To achieve these objectives, general strategies are to seek sustainable development, to protect and preserve significant heritage, and to provide opportunities for tourism.

This scheme amendment is consistent with the objectives and strategies of the LPS. Refer to the Scheme Amendment documentation for further assessment of the objectives and strategies.

Policy Implications:

The proposed rezoning is consistent with the York Local Planning Strategy and Scheme. It is necessary to continue to review the Town Planning Scheme to ensure its relevance to the York community and to ensure that it appropriately guides the sustainable development of York.

Financial Implications:

The costs associated with the preparation, advertising and gazettal of the scheme amendment will be borne by Council and are allocated within the current budget.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- Manage population growth, through planned provision of services and infrastructure.
- Strengthen community interactions and a sense of a united, cohesive and safe community.
- Build and strengthen community, culture, vibrancy and energy.

Environmental

- Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.
- Support sustainable energy and renewable resource choices.

Economic

- Build population base through economic prosperity.
- Value, protect and preserve our heritage and past.
- Grow the economic base and actively support local businesses and service provision.

This proposal is consistent with the goals of the Plan, particularly as it will grow the economic base and manage population growth through the planned provision of services and infrastructure.

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Yes (where applicable)**

Triple bottom Line Assessment:

Economic Implications:

The Shire's economy is influenced by world commodity prices for wheat, other cereals and livestock, and tourist demand. For York to maintain its role as a sub-regional centre and cater for sustainable growth, the Local Planning Strategy and Town Planning Scheme must guide and cater for development.

These amendments will better guide and cater for development, and importantly introduce tourism definitions and land uses into the scheme. Similarly, the rezoning of the properties included in the amendment will provide greater flexibility for landowners to cater for appropriate development of their land.

Therefore, it envisaged that the proposed amendments to the Scheme will have positive economic implications for the York community.

Social Implications:

There are no adverse social implications associated with this proposal. As indicated above, the amendments should have positive implications for the York community through the provision of increased residential and business/employment opportunities.

Environmental Implications:

There are no adverse environmental implications associated with the proposed scheme amendments.

Although, it should be noted that two (2) of the properties included in this amendment are identified by the Department of Environment and Conservation as contaminated. This status does not affect the rezoning, as the properties will be rezoned for less sensitive uses, remediation of these sites will need to be addressed prior to development.

Comment:

As discussed in this report and the scheme amendment report, this amendment is considered to be an interim measure and will provide the community and landowners with direction and certainty with regards to the development and use of property within the Shire.

At present, the Scheme is ambiguous and open to too much interpretation and it is acknowledged that a new scheme that is consistent with the Model Scheme Text is required in the medium to long term.

It is expected that a number of additional scheme amendments will be initiated in the near future to address issues within the Town Centre and the Rural-Residential Precincts.

Work has commenced on the preparation on the York Town Planning Scheme No. 3. However, it is likely that the Local Planning Strategy will also require review, and that any potential amalgamation of local councils may also impact on this process.

RESOLUTION
030413

Moved: Cr Lawrance

Seconded: Cr Hooper

"That Council resolve:

1. **Pursuant to Section 75 of the Planning and Development Act 2005 to adopt, with or without modification, Scheme Amendment No. 50 of the Shire of York Town Planning Scheme No. 2 by:**
 - (a) **Amending Schedule 1 – Interpretations;**
 - (b) **Replacing the Zoning Table;**
 - (c) **Amending Clause 4.7 relating to provisions for operating home businesses and home occupations;**
 - (d) **Amending Clause 4.14.4 by deleting sub-clause (a) requiring a planning consent for all development including a single house, which is contradictory to the Zoning Table and to amend the numbering of sub-clause 4.14.4 and references to number subsequently;**
 - (e) **Amending Clause 5.3 and Schedule 8 relating to the control of advertisements to update provisions following the rescission of the relative local laws;**
 - (f) **Amending Clause 5.8 relating to the control of transported dwellings to extend the application of the clause Shire-wide;**
 - (g) **Amending Clause 6.1 and to create Clause 5.11 to correct an administrative error to the provisions relating to developer contributions and inserting mapping into Schedule 13 as proposed by Amendment 26;**
 - (h) **Rezoning Lot 123 Horley Road from Road Reserve to Industrial to enable sale of the freehold land that was thought to be a portion of Horley Road;**
 - (i) **Rezoning Lot R46915 Henrietta Street, York from Mixed Business to Reserve – Public Purposes to reflect the use for emergency services;**
 - (j) **Rezoning portion of Sees Road, Malebelling from Reserve – Road to Reserve – Public Purposes to reflect the use for emergency services;**
 - (k) **Rezoning Lots 593 Georgiana Street and 607 and 608 Gilford Street, York from Reserve – Recreation and Open Space to Reserve – Public Purposes to reflect the use by the York Scout Group, York Youth Centre and State-owned Respite Centre;**
 - (l) **Rezoning Lot 7 Joaquina Street, York from Town Centre to Reserve – Public Purposes to reflect the use for civic and community purposes by the Shire of York;**
 - (m) **Rezoning Lot 20 Avon Terrace, York from Reserve – Recreation and Open Space to Town Centre to reflect the private ownership and use in conjunction with the service station;**
 - (n) **Rezoning Lots 18 and 207 Broome Street, York from Residential (R40) to Town Centre to enable appropriate development of the site for a mix of commercial, tourism and residential uses;**
 - (o) **Rezoning Lot 619 Howick Street, York from Mixed Business (R9) to Town Centre and deleting the Restricted Use (R9) to enable appropriate development of a site within the town centre;**
 - (p) **Rezoning Lots 100 (58) Avon Terrace and Lot 15 (44) Balladong Road, York from Residential R40 to Town Centre to enable appropriate development of a site within the town centre; and**

(q) Inserting 'Special Use Zones 6', as follows, to Schedule 3 to enable appropriate development of the site:

No	Particulars of Land	Special Use	Conditions
SU6	6 Lots 1 & 2 (18) Panmure Road (Laurelville)	Function Centre, Exhibition Centre, Restaurant, Art Gallery, Education Establishment, Residential, Short Term Accommodation	All development (including change of use) shall be subject to application for approval by the Heritage Council of Western Australia and in accordance with an approved conservation plan. All development (including change of use) shall be subject to application for the local government's planning consent and in accordance with the Shire of York Local Planning Policy Heritage Places and Precincts (as amended).

(r) Amending the Scheme Mapping accordingly.

2. Authorise the Shire President and the Chief Executive Officer to execute the relevant documentation; and
3. Forward the Scheme Amendment No. 50 to the Western Australian Planning Commission and the Minister for Planning requesting final approval."

CARRIED: 6/0

Recognition is given to Jacky Jurmann, Manager of Planning Services for the amount of work and commitment that has been given to this document.

Item 9.1.2 – Appendices

9.2 Administration Reports

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.1 South East Avon Regional Transition Group

FILE NO:	OR.RDT.5
COUNCIL DATE:	15 April 2013
REPORT DATE:	3 April 2013
LOCATION/ADDRESS:	South East Avon
APPLICANT:	SEARTG
SENIOR OFFICER:	R Hooper, CEO
REPORTING OFFICER:	R Hooper, CEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Minutes – SEARTG Board Meeting
DOCUMENTS TABLED:	Nil

Summary:

The minutes of the South East Avon Regional Transition Group Board Meeting held on 5th March, 2013 in Tammin are provided for Council and Community information.

Background:

The South East Avon Regional Transition Group (SEARTG) was formed from SEAVROC to investigate structural reform in this region under a formal agreement with the Department of Local Government.

The Regional Transition Group has received funding of \$500,000 to undertake Business Plans, Asset Management Plans, Community Strategic Plans and 10 Year Financial Plans to properly analyse the structural reform process.

Consultation:

Not Applicable

Statutory Environment:

Not Applicable

Policy Implications:

Nil

Financial Implications:

Fully funded by Department of Local Government grants.

Strategic Implications:

The Shire of York's 2012 Strategic Community Plan goals are:

Social

- *Manage population growth, through planned provision of services and infrastructure.*
- *Strengthen community interactions and a sense of a united, cohesive and safe community.*
- *Build and strengthen community, culture, vibrancy and energy.*

Environmental

- *Maintain and preserve the natural environment during growth, enhancing the 'rural' nature of York, and ensuring a sustainable environment for the future.*
- *Support sustainable energy and renewable resource choices.*

Economic

- *Build population base through economic prosperity.*
- *Value, protect and preserve our heritage and past.*
- *Grow the economic base and actively support local businesses and service provision.*

Voting Requirements:
Absolute Majority Required: No

Site Inspection:
Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:

Economic Implications:
Not Applicable

Social Implications:

The community will be fully informed of all plans and reports before any final decision is made in relation to any merger arising from the structural reform process.

Environmental Implications:

Nil

Comment:

Provide ongoing information on the current status of the structural reform studies.

RESOLUTION
040413

Moved: Cr Hooper

Seconded: Cr Duperouzel

“That Council:

Receive the Minutes of the South East Avon Regional Transitional Group Board Meeting.”

CARRIED: 6/0

Item 9.2.1 – Appendices

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Information Services

FILE NO: CS.LCS.8.1
COUNCIL DATE: 15 April 2013
REPORT DATE: 4 April 2013
LOCATION/ADDRESS: N/A
APPLICANT: Shire of York
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: Information Services Officer
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A and B
DOCUMENTS TABLED: Nil

Summary:

The following is a summary of items for York Information Services for the month of **March 2013**.

- **Visitor Numbers-** (Appendix A) These numbers are counted manually and only include adults and older children actually walking through the doors of the Information Services office. They do not include people walking into the Town Hall to use toilets, view exhibits etc.

The Information Services are recording additional information on the visitor numbers visiting the Town Hall for such things as shopping, information only, events, family history, sightseeing, and walks. This count will assist any grant applications in the future and are available on request.

The number of visitors coming through the doors in March 2013 was **1416** as compared to **1015** in 2012. The numbers have increased due to the lovely weather we are having here in York for this month.

The above visitors to York does not include the count from Easter weekend from Friday to Monday as the weekend was too busy to be counted.

- **Product Sales-** (Appendix B) Net sales for the month of March 2013 were **\$636.70** compared to **\$487.20** for the same period 2012.
- **The York Map-** The York maps have just gone to print, so they should be ready within a month. Thank you to all the businesses that have purchased an advertising space for the 2013 York Maps.
- **Request for Services -** There are certain services that visitors ask for (verbally) on a regular basis, these include:

- Souvenir Gold Coin Machine	8
- Laundromat	5
- Stamps to be sold at the information Services	10
- **Souvenir Gold Coin Machine -** Vicki & Tamara have been working towards a Souvenir Gold Coin Machine for York, these machines are very popular with the tourists as they are like a collectable coin, the York coins will be stamped with the image of the York Town Hall they will be made available at a cost to Visitors and Residents of York.

- **Easter Weekend** - The Easter Weekend proved to be a very successful weekend. Visitors and residence alike commented on what a wonderful weekend they have had. We had no complaints and most said they would be back to visit York again. Many also decided to stay the night or for the weekend.

It was a very good long weekend, well done to Chris & Ruth Baker and the organizers of the other events.

- **Feedback**

- Visitors coming into the Info Services saying they are very impressed to see the 24 hour free RV parking site. Visitors have actually stayed in York because of this wonderful service.
- Visitors mentioned that it would be good to have showers at the Gwambygine Park and in town.

Background:

We have the calendar of Event for the year of 2013. All known details are listed on the Calendar of Events, which is distributed through York Information Services and available on the Shire of York website.

Consultation:

Shire of York and local business proprietors

Statutory Environment:

Nil

Policy Implications:

Not Applicable

Financial Implications:

Nil

Strategic Implications:

Not Applicable

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Not applicable**

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

Nil

Environmental Implications:

Nil

Comment:

This report serves to keep the community informed of the activities in place.

RESOLUTION
050413

Moved: Cr Scott

Seconded: Cr Lawrance

“That Council:

Receive the March 2013 report prepared by York Information Services.”

CARRIED: 6/0

Item 9.2.2 – Appendices

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.3 101.3 York FM – Application to be Recognised as a Community Group

FILE NO:	CS.INF.2
COUNCIL DATE:	15 April 2013
REPORT DATE:	5 April 2013
APPLICANT:	101.3 York FM
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Gordon Tester, MHB
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

It is a requirement that 101.3 York FM makes application to Council to be recognised as a Community Group in order to qualify to have fees waived for fund raising activities in public places and thoroughfares.

Background:

On 21st March 2013, Council received an application from 101.3 York FM seeking Council recognition as a community group for the purpose of having Council fees waived for “Not for Profit” fund raising activities in public places and thoroughfares.

Certificate of Incorporation and Public Liability Insurance of \$10,000,000 is required for community groups to qualify as being recognised as a York Community Group.

Consultation:

Nil

Statutory Environment:

Shire of York, Local Law – Trading in Thoroughfares and Public Places.

Policy Implications:

Nil

Financial Implications:

Annual Stallholder's fee of \$35.00.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: **No**

Site Inspection:

Site Inspection Undertaken: **Not Applicable**

Triple bottom Line Assessment:

Economic Implications:

Nil

Social Implications:

It is of benefit to enhance relationships between Council and Community Groups by waiving the Stallholder's fee for “Not for Profit” fundraising events.

Environmental Implications:

Nil

Officers Comment:

101.3 York FM has been long established at their Barker Street address and 101.3 York FM regularly conduct fundraising for the radio station.

A much needed community radio facility for York.

A current copy of the Certificate of Currency for Public Liability Insurance for \$10,000,000 has been provided.

RESOLUTION

060413

Moved: Cr Hooper

Seconded: Cr Boyle

“That Council:

Recognise 101.3 York FM as a Community Group for the purpose of waiving the Stallholders fee for “Not for Profit” fund raising activities in public places and thoroughfares to the 30th June, 2013.”

CARRIED: 6/0

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.4 Request For Approval To Instigate Legal Action - Dog Attack

FILE NO:	RS.ANC.1
COUNCIL DATE:	15 April 2013
REPORT DATE:	08 April 2013
LOCATION/ADDRESS:	74 Cardwell Rd, York
APPLICANT:	Matthew Sharpe (Ranger)
SENIOR OFFICER:	Gordon Tester, MHB
REPORTING OFFICER:	Ranger Services
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Councils Rangers recommend prosecution of Mr Shaun Geary of 74 Cardwell Rd who is the owner of a dog alleged to have attacked a person on the 3 of April 2013.

Background:

There have been several incidents in relation to this property and alleged dog attacks in the general area of 74 Cardwell Road which is situated adjacent to Candace Bateman Park Oval.

The most recent incident (the subject of this report) involved a passerby having to fend off the dog which caused bite injuries to the victim's arm that later required medical attention.

Councils Rangers seized the dog on 3 April 2013 under warrant.

This seizure was undertaken by Councils Rangers with the assistance of the York Police.

Consultation:

Rangers have interviewed the victim and witness of the attack, along with two previous attack victims.

Statutory Environment:

Dog Act 1976 (As Amended)

York Shire Council Dogs Local Law (2000)

Policy Implications:

Not Applicable

Financial Implications:

Shire of York will incur legal expenses in proceeding with a prosecution; however the Shire of York, if successful with the prosecution can apply to the court to claim expenses.

The maximum penalty for a dog attack is \$10,000.00

Strategic Implications:

Not Applicable

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Yes

Triple bottom Line Assessment:

Economic Implications:

In matters of public safety legal expenses can be justified.

Social Implications:

Dog attacks can have a dramatic affect on social cohesion within the community both from the dog owners and attack victims point of view.

Residents should be able to enjoy Councils recreational facilities without fear of a dog attack.

Environmental Implications:

Nil

Comment:

Shire Rangers have attended 74 Cardwell Street and interviewed the property tenants on a number of different occasions regarding complaints about the two large dogs being kept on this property.

The nature of the complaints is listed below.

1. Animal Welfare
2. Confinement of the dogs on the property without adequate fencing.
3. Dog Attacks

Shire Rangers are in receipt of three dog attack complaints.

All victims and witnesses are prepared to attend court proceedings to give evidence in relation to these events if required.

An application will be made to the court under section 40 of the Dog Act 1976, seeking the destruction of the dog.

RESOLUTION

070413

Moved: Cr Hooper

Seconded: Cr Scott

“That Council:

Refer this matter to its solicitors to instigate legal action against Mr Shaun Geary, occupier of 74 Cardwell Street, York for failure to prevent his dog from attacking and injuring a person under the Provisions of the Dog Act 1976 and;

That Council apply to the court under the provisions of the Dog Act 1976 to seek a Court Order for the destruction of the dog.”

CARRIED: 6/0

9. OFFICER'S REPORTS

9.2 ADMINISTRATION REPORTS

9.2.5 Private Swimming Pool and Smoke Alarm Infringement Notices

FILE NO:	BS.GEN.2
COUNCIL DATE:	15 April 2013
REPORT DATE:	9 April 2013
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	Ray Hooper CEO
REPORTING OFFICER:	Gordon Tester MHB
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Nil
DOCUMENTS TABLED:	Nil

Summary:

Council to appoint persons under the Building Regulations 2012 to issue, withdraw, or extend the period of payment for offences under the Building Regulations 2012 relating to the installation of smoke alarms and the enclosure of private swimming pools.

Background:

When the Building Regulations 2012 came into effect on 2 April 2012, the Building Regulations 1989 were repealed. At the time, schedule 1 of the Fines, Penalties and Infringement Notices Enforcement Regulations 1994 had not been amended to prescribe the Building Act 2011 as legislation for which infringement notices can be issued. This has now changed.

New regulation 69(1) of the Building Regulations came into effect on 19 December 2012 and provides for infringement notices to be issued for the following offences specified in Schedule 6 of the regulations.

Schedule 6

Offences		Modified penalty (\$)
r.50(1)	Enclosure of private swimming pool	100
r.56	Requirement to have smoke alarms or similar prior to transfer of dwelling	750
r.58	Requirement to have smoke alarms or similar prior to tenancy	750
r.59	Requirement to have smoke alarms or similar prior to hire of dwelling	750

Consultation:

Not applicable

Statutory Environment:

Building Regulations 2012

Policy Implications:

Nil

Financial Implications:

Non-payment of infringement notices may result in legal expenses.

Strategic Implications:

It is one of Councils priorities to facilitate community safety, security and well being.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:**Economic Implications:**

Not Applicable

Social Implications:

Not Applicable.

Environmental Implications:

Not Applicable

Officers Comment:

Regulation 70(2) of the building regulations empowers Council to appoint persons to issue infringement notices for the above offences. The persons must be appointed in writing under the Local Government Act 1995 to be authorised for the purposes of section 6(b) of the Criminal Procedure Act 2004.

Regulation 70(1) of the Building Regulations empowers Council to appoint persons to extend the period of payment of, or the withdrawal of infringement notices for the above offences. The persons must be appointed in writing under the Local Government Act 1995 to be approved for the purposes of section 6(a) of the Criminal Procedure Act 2004.

It is recommended that the following persons be appointed to issue infringement notices in regards to offences applicable to the enclosure of private swimming pool and the installation of smoke alarms.

1. Chief Executive Officer – Ray Hooper
2. Manager Health/Building – Gordon Tester
3. Senior Building Surveyor – Tim Jurman
4. Private Swimming Pool Inspector – George Johnson (Swimming Pool Enclosures Only)

It is further recommended that the following persons be appointed to extend the period of, or the withdrawal of infringement notices for the above offences.

1. Chief Executive Officer – Ray Hooper
2. Manager Health / Building – Gordon Tester

**RESOLUTION
080413**

Moved: Cr Lawrance

Seconded: Cr Duperouzel

"That Council:

Appoint the following persons in writing under the provisions of the Local Government Act 1995 to be authorised for the purposes of Section 6(b) of the Criminal Procedure Act 2004 to issue infringement notices for the below offences:

***Chief Executive Officer – Ray Hooper
Manager Health/Building – Gordon Tester
Senior Building Surveyor – Tim Jurman
Private Swimming Pool Inspector – George Johnson (Swimming Pool Enclosures Only)***

Offences		Modified penalty (\$)
r.50(1)	<i>Enclosure of private swimming pool</i>	100
r.56	<i>Requirement to have smoke alarms or similar prior to transfer of dwelling</i>	750
r.58	<i>Requirement to have smoke alarms or similar prior to tenancy</i>	750
r.59	<i>Requirement to have smoke alarms or similar prior to hire of dwelling</i>	750

Appoint the following persons in writing under the provisions of the Local Government Act 1995 to be authorised for the purposes of Section 6(a) of the Criminal Procedure Act 2004 to extend the period of or the withdrawal of infringement notices for the above offences:

***Chief Executive Officer – Ray Hooper
Manager Health / Building – Gordon Tester.”***

CARRIED: 6/0

9.3 Works Reports

9.4 Financial Reports

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.1 Investments – March 2013

FILE NO:	FI.FRP
COUNCIL DATE:	15 April 2013
REPORT DATE:	28 March 2013
LOCATION/ADDRESS:	Shire of York
APPLICANT:	N/A
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, FO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Shire of York Investment Portfolio
DOCUMENTS TABLED:	Nil

Summary:

That Council consider the investment portfolio as attached.

Background:

The investment policy requires Council to review the performance of its investments on a monthly basis.

Consultation:

Auditors; and
Dominic Carbone.

Statutory Environment:

Not Applicable.

Policy Implications:

In accordance with the Financial Management Investment Policy.

Financial Implications:

Credit Ratings:

Strategic Implications:

Not applicable.

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

In accordance with the policy, a report of investments is presented to Council to provide a summary of investments held by the Shire of York as at 31 March 2013.

The Shire of York Investment Portfolio identifies Council's investment type, term to maturity and investment value.

The reporting will be reviewed on an ongoing basis by the Auditors and staff.

**RESOLUTION
090413**

Moved: Cr Scott

Seconded: Cr Lawrance

"That Council receive the Shire of York Investment Portfolio as attached to this report."

CARRIED: 6/0

Item 9.4.1 – Appendices

9. OFFICER'S REPORTS

9.4 FINANCE REPORTS

9.4.2 Monthly Financial Reports – March 2013

FILE NO:	FI.FRP
COUNCIL DATE:	15 April 2013
REPORT DATE:	3 April 2013
LOCATION/ADDRESS:	Not Applicable
APPLICANT:	Not Applicable
SENIOR OFFICER:	Ray Hooper, CEO
REPORTING OFFICER:	Tabitha Bateman, Administration Officer
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Yes – Appendix A as detailed in Summary
DOCUMENTS TABLED:	Nil

Summary:

The Financial Report for the period ending 31 March 2013 is hereby presented for the consideration of the Council.

Appendix A includes the following:

- Monthly Statements for the period ended 31 March 2013
- Bank Account Reconciliations
- List of Creditors Payments
- Payroll Direct Debits Summary
- Corporate Credit Card Summary
- Fuel Card Summary

Consultation:

Dominic Carbone

Statutory Environment:

Local Government Act 1995 (As Amended).

Local Government (Financial Management) Regulations 1996 (As Amended).

Policy Implications:

Nil.

Financial Implications:

The following information provides balances for key financial areas for the Shire of York's financial position as at 31 March 2013;

Sundry Creditors as per General Ledger	\$53,020.93
Sundry Debtors as per General Ledger	\$461,957.52
Unpaid rates and services current year (paid in advance inc. ESL)	\$505,681.60
Unpaid rates and services previous years (inc. ESL)	\$492,567.45

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:**Economic Implications:**

A zero balance or surplus end of year financial position will increase community confidence and cohesion and provide an opportunity for improved community benefits in future years.

Social Implications:

Not applicable.

Environmental Implications:

Not applicable.

Comment:

Not applicable.

RESOLUTION

100413

Moved: Cr Hooper

Seconded: Cr Lawrance

"That Council:

Receive the Monthly Financial Report for March and ratify payments drawn from the Municipal and Trust accounts for the period ending 31 March 2013:

	<u>VOUCHER</u>	<u>AMOUNT</u>
MUNICIPAL FUND		
<i>Cheque Payments</i>	<i>30574 - 30593</i>	\$ 30,090.23
<i>Electronic Funds Payments</i>	<i>10563 - 10645</i>	\$ 1,326,562.34
<i>Direct Debits Payroll</i>		\$ 160,448.20
<i>Bank Fees</i>		\$ 727.20
<i>Corporate Cards</i>		\$ 2,624.24
<i>Shell Cards</i>		\$ 214.99
TOTAL		<u>\$ 1,520,667.20</u>

TRUST FUND

<i>Cheque Payments</i>	<i>4107 - 4118</i>	\$ 2,694.65
<i>Direct Debits Licensing</i>		\$ 93,451.20
TOTAL		<u>\$ 96,145.85</u>

TOTAL DISBURSEMENTS

\$1,616,813.05"

CARRIED: 6/0

Item 9.4.2 – Appendices

9.5 Late Reports

9. OFFICER'S REPORTS

9.5 LATE REPORTS

9.5.1 Engineer – Works Management

FILE NO:	P
COUNCIL DATE:	15 April 2013
REPORT DATE:	15 April 2013
LOCATION/ADDRESS:	N/A
APPLICANT:	Shire of York
SENIOR OFFICER:	Ray Hooper, Chief Executive Officer
REPORTING OFFICER:	Tyhscha Cochrane, DCEO
DISCLOSURE OF INTEREST:	Nil
APPENDICES:	Advertisement
DOCUMENTS TABLED:	Job Description/Conditions of Employment
	Nil

Summary:

That Council approve the appointment of the Engineer – Works Management, as per the Local Government Act 1995.

Background:

Council advertised the position and received seven applicants of which three were shortlisted and interviewed.

Consultation:

Applicants.

Statutory Environment:

Local Government Act 1995

5.37. Senior Employees

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.
- (3) If the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

[Section 5.37 amended by No. 49 of 2004 s. 45 and 46(4).]

5.39. Contracts for CEO's and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

(1a) Despite section (1) –

- (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
- (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.

(2) A contract under this section –

- (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
- (b) in every other case, cannot be for a term exceeding 5 years.

(3) A contract under this section is of no effect unless –

- (a) the expiry date is specified in the contract;
- (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
- (c) any other matter that has been prescribed as a matter to be included in the contract has been included.

(4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

(5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.

(6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.

(7) A report made by the Salaries and Allowances Tribunal, under section 7A of the *Salaries and Allowances Act 1975*, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3).]

5.40 Principles affecting employment by local government

The following principles apply to a local government in respect of its employees –

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity;
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism and patronage;
- (c) employees are to be treated fairly and consistently;
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground;
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

Policy Implications:

No policy implications.

Financial Implications:

The salary has been provided for in the 2012/13 budget.

Strategic Implications:

This position will be partly responsible for the implementation of the following under the Built Environment: Enhanced Lifestyle Choices

Improved Quality of Our Assets	Upgrade and Maintain Our Infrastructure	<ul style="list-style-type: none">◆ Develop and implement Asset Management Plans.◆ Work towards applying safe system principles to provide and maintain safe, efficient transport, including roads, footpaths and cycle ways.◆ Provide and maintain facilities for youth and aged services.◆ Provide and maintain local area spaces and parks.◆ Implement asset plans for youth facility, skate park, park improvements, pool upgrades, archives centre, town hall upgrades.◆ Lobby for the development of infrastructure plans that link to land use planning.◆ Develop and implement a road safety management or action plan incorporating the safe system approach.
--------------------------------	---	--

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not Applicable

Triple bottom Line Assessment:**Economic Implications:**

Nil

Social Implications:

The community will be well served by a local government officer dedicated to customer service needs and standards.

Environmental Implications:

Not applicable, however all functions carried out will consider environmental implications associated with works.

Comment:

Mr Watkins has experience in similar Councils eg. Shire of Sandstone and Shire of Ravensthorpe.

**RESOLUTION
110413**

Moved: Cr Duperouzel

Seconded: Cr Boyle

“That Council:

- 1 *in accordance with Section 5.37 ratify the employment of Mr D Watkins, Engineer – Works Management, for the Shire of York for a five (5) year term with the option of renewal; and***

- 2 *authorise the Chief Executive Officer to negotiate, sign and affix the seal to a fixed term contract based on the WALGA standard contract of employment with Mr Darryn Watkins in accordance with Section 5.39 of the Local Government Act 1995, using the terms and conditions that were advertised and attached.”***

CARRIED: 6/0

Item 9.5.1- Appendices

9.6 Confidential Reports

9.6.1 Saint's Diner – Planning Prosecution

Cr Boyle declared a *Financial Interest* to this item and left the meeting at 4.08pm

Cr Scott declared an *Interest Affecting Impartiality* to this item

Cr Scott took the Chair

RESOLUTION

120413

Moved: Cr Scott

Seconded: Cr Hooper

“That Council:

Go “Into Committee” to consider the Confidential Report at 4.08pm.”

CARRIED: 5/0

RESOLUTION

130413

Moved: Cr Lawrence

Seconded: Cr Hooper

“That Council:

1. ***Write to Mr and Mrs Saint requesting that they provide the required accessible on-site car parking in accordance with the provisions of the York Town Planning Scheme No. 2 within 7 days from the date of the letter.***
2. ***Engage McLeods Barristers and Solicitors to initiate action to prosecute Mr and Mrs Saint if they do not comply with Council’s letter of request (as outlined in point 1 above).***

CARRIED: 4/1

Cr Smythe was recorded as voting against this motion

RESOLUTION

140413

Moved: Cr Duperouzel

Seconded: Cr Hooper

“That Council:

Come ‘Out of Committee’ at 4.16pm.”

CARRIED: 5/0

Cr Boyle returned to the meeting at 4.16pm

10. NEXT MEETING

RESOLUTION
150413

Moved: Cr Scott

Seconded: Cr Duperouzel

“That Council:

hold the next Ordinary Meeting of the Council on May 20, 2013 at 3.00pm in the Talbot Hall, Talbot.”

11. CLOSURE

Cr Boyle thanked everyone for their attendance and declared the meeting closed at 4.17pm.