

SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 14 FEBRUARY, 2011
COMMENCING AT 3.04pm
IN THE PAVILION, YORK**

SHIRE OF YORK
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RAY HOOPER
CHIEF EXECUTIVE OFFICER

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SHIRE OF YORK

THE SPECIAL MEETING OF THE COUNCIL
HELD ON WEDNESDAY, 14 FEBRUARY, 2011, COMMENCING AT
3.04PM IN THE PAVILION, 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 Pat Hooper, Shire President, declared the meeting open at 3.04pm
- 1.2 Chief Executive Officer to read the disclaimer
Ray Hooper, Chief Executive Officer, read the disclaimer
- 1.3 Announcement of Visitors
One
- 1.4 Announcement of any Declared Financial Interests
Cr Scott – 9.1.1 – Impartial – due to storm damage
Cr Boyle – 9.1.1 – Impartial – due to storm damage

2. ATTENDANCE

- 2.1 Members
*Cr Pat Hooper, Shire President; Cr Brian Lawrance, Deputy Shire President;
Cr Roy Scott; Cr Tony Boyle*
- 2.2 Staff
*Ray Hooper, CEO; Gordon Tester, Environment Health Officer; George Johnson,
Technical Officer; Helen D'Arcy Walker, Executive Support Officer*
- 2.3 Apologies
Cr Randell
- 2.4 Leave of Absence Previously Approved
Nil
- 2.5 Number of People in Gallery at Commencement of Meeting
There were no 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
Nil

3.2 Written Questions
Nil

4. PUBLIC QUESTION TIME
Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE
Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS
Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING
Nil

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION
Nil

9. OFFICER'S REPORTS

9.1 Development Services

9. OFFICER'S REPORTS

9.1 DEVELOPMENT REPORTS

9.1.1 Application For Demolition – York Race Course Tote & Bar Structure

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: CCP.10
COUNCIL DATE: 14 February 2011
REPORT DATE: 9 February 2011
LOCATION/ADDRESS: Lot 102 Spencers Brook Road, York
APPLICANT: Amstel Pty Ltd
SENIOR OFFICER: Ray Hooper, CEO
REPORTING OFFICER: Gordon Tester, EHO
DISCLOSURE OF INTEREST: Cr Scott; Cr Boyle
APPENDICES: Appendix A - Heritage Council Advice
Appendix B - Site Plan
Appendix C – Application for Demolition
Licence
DOCUMENTS TABLED: Nil

Summary:

Council is requested to consider issuing planning consent for the proposed demolition of the Tote Area Building, the steel framed Marquee and adjacent ticket box near the entry gates.

Council is also requested to consider issuing a Demolition Licence under the Local Government (Miscellaneous Provisions) Act 1960, section 374A.

Background:

The York Racing Club is situated on Lot 102 Spencers Brook Road and is zoned Recreation and Open Space under Councils Town Planning Scheme No 2.

Several buildings situated at the York Racing Club suffered catastrophic storm damage on 29 January 2011 due to extreme wind loads.

On 31 January 2011 Council Officers contacted the Heritage Council of WA advising of the proposal to demolish several buildings on the York Race Club site.

On 31 January 2011 the Heritage Council of WA confirmed that the proposal to demolish the ticket box, adjoining marquee, and the undercover tote was supported subject to the following condition.

1. A photographic archival record is to be prepared for the undercover tote, paying particular attention to the former tote building, which the Conservation Plan identifies as a structure of significance.

Consultation:

Councils Regional Heritage Advisor has visited the site and has also liaised with the Heritage Council of Western Australia prior to Council receiving advice from the Heritage Council.

Statutory Environment:

Town Planning and Development Act 2005

Local Government (Miscellaneous Provisions) Act 1960 Section 374 A

Building Regulations 1989, Regulation 10, (2)

Policy Implications:

The Shire of York Local Planning Policy – Heritage Precincts and Places is of significance, as Councils policy suggests that this course of action is a last resort.

2.4.3 Demolition of Heritage Places or in a Heritage Precinct

Demolition of a place listed on the State Register of Heritage Places is rarely appropriate and is not likely to be supported by Council. Applications for demolition of a place on the State Register will be referred to the Heritage Council of Western Australia for comment prior to Council's determination.

Demolition of a Heritage Place should be avoided wherever possible. An application to demolish a heritage place must include clear justifications for the demolition and should be based upon the following:

- a) The significance of the building or place;*
- b) The feasibility of restoring or adapting it or incorporating it into new development;*
- c) The extent to which the community would benefit from the proposed development; and*
- d) The provisions of this Local Planning Policy.*

Council is unlikely to support the demolition of a heritage place based solely on the economic viability of redeveloping a site or because a building has been neglected.

If structural failure is cited as the primary justification for the demolition of a heritage place, evidence must be provided from a registered structural engineer that the structural integrity of the building has failed to the point where it cannot be rectified without removal of a majority of its significant fabric and/or prohibitive costs.

Where Council supports the demolition of a heritage place, the applicant may be required, as a condition of approval, to submit an archival record of the place prior to the demolition occurring.

The archival record is to be in accordance with the Council's standards for archival.

Financial Implications:

It is believed that the demolition costs will be the responsibility of the applicant's insurance company.

All waste materials delivered to Northam are to be costed under the York Storm account created by the Shire of Northam.

Strategic Implications:

Modern safe buildings will replace the demolished buildings and should enhance the intended use of the facility for many years to come.

Voting Requirements:
Absolute Majority Required: No

Site Inspection:
Site Inspection Undertaken: Yes

Triple bottom Line Assessment:
Economic Implications:

The economic implications likely to arise are whether or not the replacement buildings are not completely covered by insurance. For example, the construction of accessible toilets.

Social Implications:

Improvements that enhance the use of the York Racing Club for a range of community activities are to be encouraged.

Environmental Implications:

Nil

Comment:

It is recommended that the application to demolish storm damaged buildings situated at Lot 102 Spencers Brook Road be approved in accordance with the conditions required by the Heritage Council of Western Australia.

Cr Scott and Cr Boyle declared an Interest Affecting Impartiality to this item due to storm damage and the urgent need for remedial action.

RESOLUTION
010211

Moved: Cr Lawrance

Seconded: Cr Hooper

“That Council:

Issue planning consent for the demolition of the ticket box, adjoining marquee, and former tote building and the undercover area north of the grandstand at the York Racing Club situated at Lot 102 Spencers Brook Road to Amstel Pty Ltd subject to the following conditions;

- 1. A photographic archival record being prepared for the undercover area and buildings.***
- 2. A demolition licence being obtained from the Shire of York prior to undertaking any of the proposed works.”***

CARRIED: 4/0

Your ref:

Our ref: P3426/26990

Enquiries: A Siew / (08) 9220 4123
adelyn.siew@hc.wa.gov.au



**HERITAGE
COUNCIL**
OF WESTERN AUSTRALIA

31 January 2011

Chief Executive Officer
Shire of York
PO Box 22
YORK WA 6302

Attention: Brooke Newman

Dear Sir

**York-Beverley Racecourse
Proposed demolition due to storm damage**

Thank you for your email received on 31 January 2011 regarding the proposed demolition to be undertaken due to extensive storm damage at the *York-Beverley Racecourse*.

Thank you for providing us with photographs of the place. We understand from your email that the ticket box and the marquee behind it was demolished by the storm and are no longer standing. The grandstand has lost its roof and sustained some damage to the roof structures. The stables have also lost most of the roof sheeting but like the grandstand is structurally sound. The undercover tote area has sustained most damage and is required to be demolished as soon as possible.

A Conservation Officer has assessed the development referral in the context of the identified heritage significance of the place. We confirm that the proposed demolition of the ticket box, adjoining marquee and the undercover tote are supported subject to the following condition:

1. A photographic archival record is to be prepared for the undercover tote, paying particular attention to the former tote building, which the Conservation Plan identifies as a structure of some significance.

We understand that a scope of works will be prepared for other repair and conservation works to be undertaken at the place, such as the roof repairs for the grandstand and the stables. We wish to advise that it will be given high priority when we receive the scope of works to minimise exposure of the extant structures to the elements.

Should you have any queries regarding this advice please contact me at adelyn.siew@hc.wa.gov.au or on 9220 4123.

Yours sincerely

Adelyn Siew
MANAGER, DEVELOPMENT REFERRALS
cc: Kris Bizzaca, Regional Heritage Adviser - Avon Arc





Form 3. APPLICATION FOR DEMOLITION LICENCE

Local Government (Miscellaneous Provisions) Act 1960, s. 374A
Building Regulations 1989, reg. 10 (2)

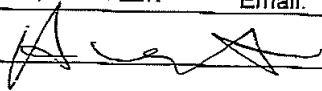
SHIRE OF YORK

(Office use)
Application No.

Building to be demolished	Address	No: L102	Street name: SPENCER BROOK ROAD	
		Suburb: YORK	Postcode: 6302	
	Lot/location No: YORK SUBURBAN LOT			
	Certificate of Title		Volume: 1998	Folio: 296
	To be demolished: <input type="checkbox"/> Whole of Building <input checked="" type="checkbox"/> Part only of Building. Give Details:			
	Type of construction (e.g. brick & tile): TIMBER, IRON			
	Number of storey's: ONE			
Previous use or classification: TOTE BUILDING SHELTER				

Owner	Name: YORK RACING INC
	Address: SPENCER BROOK ROAD YORK
	Phone Number: _____ Fax Number: _____

Demolition contractor	Name: AMSTEL PTY LTD
	Address: PO BOX 242, MADELEY WA 6065
	Phone Number: 92492112 Fax Number: 92492116

Applicant	Name: AMSTEL PTY LTD
	Address: PO BOX 242, MADELEY WA 6065
	Phone Numbers (H): _____ (W): 92492112
	Fax number: 92492116 Email: admin@planconstruction.com.au
	Signature:  Date: 10.02.2011

Fee Payable: \$50 for each storey

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 Fire Break Infingement

FILE NO: RS.FES.2
COUNCIL DATE: 14 February 2011
REPORT DATE: 17 January 2011
LOCATION/ADDRESS: Lot 135 Newcastle St, YORK
APPLICANT: Evenglow Pty Ltd
SENIOR OFFICER: T Cochrane - A/Deputy CEO
REPORTING OFFICER: A Plichota - Ranger Services
DISCLOSURE OF INTEREST: Nil
APPENDICES: Appendix A – Firebreak Offence Report and Photograph
Appendix B – Correspondence from the Shire of York dated 28th October 2010 re: hazard reduction within seven days.
Appendix C – Correspondence and infringement from the Shire of York dated 17th November 2010 re: failure to comply with correspondence of the 28th October 2010.
Appendix D – Correspondence from the landowner dated 23rd November 2010 re: infringement to be revoked.
Appendix E – Correspondence from the Shire of York dated 1st December 2010 in response to the landowners correspondence of the 23rd November 2010.
DOCUMENTS TABLED: Nil

Summary:

To determine whether Infringement No. 18943 issued to Evenglow Pty Ltd should be revoked.

Background:

Council's Ranger carries out firebreak inspections each year to assist with reducing the hazards within the Shire. Firebreaks and Hazard Reduction within the Shire needs to be in place by 25 October of every year.

An inspection was carried out on 27 October 2010 at 3:28pm and a photo was taken at this time as it was deemed a fire hazard (see Appendix 'A'). Correspondence regarding Hazard Reduction was sent to Evenglow Pty Ltd who is the registered owner of the property on 28th October requesting them to reduce the hazard on the property within seven (7) days (see Appendix 'B').

Mr Tony Seabrook spoke to Council's Rangers on 8th November 2010 in regards to the hazard reduction letter received and advised that he had employed Mr Richard Boulton to carry out the work on the property. Council's Ranger then contacted Mr Richard Boulton to clarify this and was informed that Mr Seabrook had made contact regarding the matter and that if Mr Boulton was able to get to it then they would but it could not be guaranteed.

The property was re-inspected on 16th November at 2.40pm and it was noted that the hazard reduction still had not been completed. A letter was then sent on 17th November 2010 with Infringement number 18943 being enclosed for failure of owner/occupier of land to comply with a notice (see Appendix 'C').

Council staff carried out the hazard reduction on the said property to ensure that the property did comply and an invoice was sent to the property owners for this work.

Council's Ranger received a telephone call from Mr Tony Seabrook in regards to this property and expressed his disappointment at receiving the infringement in the mail for not completing the hazard reduction as he was under the impression that the work had been carried out.

Consultation:

Community Rangers;
Chief Executive Officer; and
Mr Richard Boulton.

Statutory Environment:

Bush Fires Act 1954; and
Fire Precaution - Local Laws.

Policy Implications:

Nil.

Financial Implications:

Infringement Notice Modified Penalty of \$250. Costs for Council staff to reduce the fire hazard of approximately \$210.00 which has been paid.

Strategic Implications:

Nil

Voting Requirements:

Absolute Majority Required: No

Site Inspection:

Site Inspection Undertaken: Various

Triple bottom Line Assessment:

Economic Implications:

Nil.

Social Implications:

Providing a bush fire safe community.

Environmental Implications:

Nil.

Comment:

It was advised to Mr Seabrook that he is required to write a letter addressed to the Chief Executive Officer requesting that the firebreak infringement be revoked (see Appendix 'D'). In consultation with the Chief Executive Officer it was advised that the firebreak infringement would not be revoked this was then advised to the property owner by letter (see Appendix 'E'). Mr Seabrook did not accept that the charge would not be revoked and requested the A/DCEO to provide the details to the Councillors, which is the purpose of this report.

Property owners are solely responsible to ensure they comply with either hazard reduction or firebreaks and it is only a courtesy that the Council's Ranger provides warnings.

Due the significant fires that occurred in the Cut Hill Road area it is deemed that Council needs to take a firm stance in relation to issues that could potentially be life threatening.

**RESOLUTION
020211**

Moved: Cr Scott

Seconded: Cr Boyle

“That Council does not revoke Bush Fires Infringement Notice 18943 issued to Evenglow Pty Ltd for non-compliance with fire hazard reduction requirements for Lot 135 Newcastle Street, York.”

CARRIED: 4/0

FIREBREAK OFFENCE REPORT

Fail Pass

Date of Inspection

Time

Date of Inspection

Time

Date of Inspection

Time

Owner

Phone No.

Contact Address

Lot No.

Lot Size

*Infringe
18943*

Assessment No.

Lot Location

OK PLOUGHED SLASHED BURNT

Adequate Fire Break - YES NO

and Needs to be Cleared - YES NO

Other

Photo No.

*Richard Bowthbee
to do
penalty*

Comments:

[2218ms]



27/10/2010 15:28

SHIRE OF YORK

1 JOAQUINA STREET, YORK WA 6302
TELEPHONE (08) 9641 2233
FACSIMILE (08) 9641 2202
WEBSITE www.york.wa.gov.au
EMAIL: records@york.wa.gov.au



P.O. Box 22, York
Western Australia, 6302

All communications to be addressed
to the Chief Executive Officer

OUR REF:
YOUR REF: RH:ap «File»
ENQUIRIES: Angela Plichota

28 October 2010

Evenglow PTY LTD
PO Box 18
YORK WA 6302

Dear Tony

**HAZARD REDUCTION NOTICE - ASSESSMENT NO: 5896 – LOT 135
NEWCASTLE STREET**

Council advises that a recent inspection on the above property has revealed that Hazard Reduction work needs to be completed on the above property as required by Bush Fires Act 1954.

Council would like to advise that your property constitutes a fire hazard and therefore needs to be hazard reduced by way of ploughing or slashing. You are hereby directed to reduce the hazard within **7 days** of this notice or an infringement will be issued and costs incurred to Council will be forwarded on to yourself.

Should you have any further questions, please do not hesitate to contact Ranger Services during office hours on 96412489 or 0417 181 349.

Yours faithfully

RAY HOOPER
Chief Executive Officer

RH:ap RS.FES.2

Angela Plichota

17 November 2010

Evenglow Pty Ltd
PO Box 18
YORK WA 6302

Dear Sir / Madam

**FIREBREAKS INFRINGEMENT 18943 - ASSESSMENT NO: 5896 LOT 135
NEWCASTLE STREET, YORK**

Council advises that further to Councils letter dated 2 November 2010 hazard reduction has not been completed within the seven (7) days as requested.

Please find enclosed infringement No: **18943** being for failure of owner/occupier of land to comply with a notice requiring him to take action to plough or clear firebreaks or take other action to prevent the outbreak or spread of bushfires.

Council would also like to advise that your property constitutes a fire hazard and therefore needs to be hazard reduced by way of ploughing, slashing or whipper snipping. Councils contractor will carry out the works on the above property with costs incurred to Council being forwarded on to yourself.

Should you have any further questions, please do not hesitate to contact Ranger Services during office hours on 96412489 or 0417 181 349.

Yours faithfully



RAY HOOPER
Chief Executive Officer



Form 1
Western Australia
BUSH FIRES INFRINGEMENT NOTICE
Bush Fires Act 1954, Section 59A(2)
ABN 39 563 851 304

18943

M EVENGLOW PTY Ltd Date 17/11/2010
Surname (Block letters) Other Names (in full)

Address (Number and Street) PO Box 13

(Town or Suburb) YORK WA Postcode 6302

It is alleged that at LOT 135 NEWCASTLE ST YORK

on the 16/11/2010 you committed the following offence:-

No. 21 Offence: refer schedule on reverse. Penalty \$250

Name of officer issuing notice A Pichota

You may dispose of this matter:-

- (a) by payment of penalty as shown within twenty-one days of the date of the notice to Shire of York PO Box 22 York WA 6302, or
- (b) by having it dealt with by a Court.

IF THE PENALTY IS NOT PAID WITHIN TWENTY-ONE DAYS COURT PROCEEDINGS MAY BE TAKEN AGAINST YOU.

03/03

Signature of Issuing Officer [Signature]

PA and K Seabrook

924 Gwambygine rd East
PO Box 18, York
Western Australia, 6302
Office: (08) 96414025
Mob: 0427 908201

Re: Firebreaks Infringement Notice

Angela,

As a result of our conversation yesterday afternoon, it was agreed that I should state my objection to the "Bushfires Infringement Notice, Number 18943" that you have served on a company that I am involved in by letter.

I was never my intention to not attend to the firebreaks of the block in question. We were not aware that the contractor who normally attends to the firebreaks had not done so until your first correspondence dated 28th October 2010, with your letter giving 7 day notice not arriving until day 6.

I immediately contacted Richard Boulton to attend to the issue, this was on a Wednesday, and he undertook to do the jobs two days later (on the Friday). I rang you and explained the situation and that we had organized Richard to do the job. You said then that you would liaise with Richard and between you make sure the job was done.

We are working 7 days a week trying to harvest a difficult crop and I was not focused well enough on the block in town to check that someone, who I though was competent, had done what he said he would do.

I was shocked to receive the infringement notice in and also to find out that the work was already done by the shire work crew. I place a great deal of store on communication and spend a great amount of time on the telephone every day coordinating and making things work that otherwise wouldn't. The infringement notice was unnecessary when a phone call would have allowed me to deal with a problem that I did not for see.

We have three properties in town and another at Green Hills and we spend at least three days every year instating fire breaks on these properties. We are ever vigilant against the risk of fires with 4 fire units active currently, one of which is and 8 tonne truck with 4500litres of water that is frequently off farm attending fires around the York district and town. The most recent being the fire on Emin's property in October, which threatened the York town site.

The problem over the Newcastle street block has taken an unnecessary course and I think could have been solved with a small amount more communication. It is for all the reasons above that I believe the infringement should be withdrawn.

Regards,

Tony Seabrook.
23/11/10

RH:ap RS.FES.2 / i116820

Angela Plichota

1 December 2010

Evenglow PTY Ltd
C/- Mr T Seabrook
PO Box 18
YORK WA 6302

Dear Tony

FIREBREAK INFRINGEMENT

Thank you for letter received 24 November 2010 in relation to firebreak infringement number 18943.

Council appreciates the effort you have made to get the hazard reduction completed within the timeframe given however advises that it is the property owners' responsibility and not that of the contractors enlisted to ensure that the hazard reduction and firebreaks are installed on or before the 25th October each given year.

Council advises that infringement number 18943 that was issued to you will not be revoked.

Should you require any further information, please do not hesitate to contact Council's Ranger on 0417181349 or myself on 96412233.

Yours sincerely

RAY HOOPER
Chief Executive Officer

S:\RANGER\fire breaks\Infringe Withdrawal\Withdrawals 2010\Evenglow Fire infringe standing 011210.doc

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.2 Contract of Employment – Deputy Chief Executive Officer

FILE NO: P55
COUNCIL DATE: 14 February 2011
REPORT DATE: 9 February 2011
LOCATION/ADDRESS: N/A
APPLICANT: N/A
SENIOR OFFICER: R Hooper, CEO
REPORTING OFFICER: R Hooper, CEO
DISCLOSURE OF INTEREST: T Cochrane
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

Following the advertising and selection process for the position of Deputy Chief Executive Officer it is proposed that the following person be appointed to the position for a five (5) year term:

Deputy Chief Executive Officer – Tyhscha Cochrane.

Background:

Mrs Cochrane has been employed by the Shire of York for over 18 years and she has vast experience in most administrative and technical positions.

Tyhscha has been in the position of Acting Deputy Chief Executive Officer since the 8th January, 2010 and has met every requirement of the position during this period.

Tyhscha has been actively engaged in the SEAVROC resource sharing alliance and the structural reform processes leading to the formation of the South East Avon Regional Transition Group.

Consultation:

Every application for the position was assessed by a WALGA representative who analysed selection criteria, experience and capabilities for the position and endorsed Tyhscha Cochrane as the most suitable applicant.

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 subsection (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 governments

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 or 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:

Not applicable

Financial Implications:

The contract conditions for the position are covered in the budget.

Strategic Implications:

Shire of York Strategic Plan KRA8:

1. *To provide services in the most cost effective way.*
2. *To ensure the financial viability of council.*
3. *To develop one team of Councillors and Staff.*
4. *To develop an innovative workplace with devolved responsibility.*

Voting Requirements:

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Not applicable

Triple bottom Line Assessment:

Economic Implications:

Not applicable

Social Implications:

Employment contracts give the community a degree of continuity and security in who they deal with at the local government level.

Environmental Implications:

Not applicable

Comment:

Mrs Cochrane has wide ranging experience across the administration, technical services, banking, payroll, occupational health & safety, rating, finances and human resource functions of local government and she has provided loyal and committed service in all positions undertaken.

It is highly recommended that this exemplary staff member be appointed as the Deputy Chief Executive Officer for the Shire of York.

**RESOLUTION
030211**

Moved: Cr Lawrance

Seconded: Cr Scott

“That Council:

- 1. Approve the appointment of Tyhscha Cochrane to the position of Deputy Chief Executive Officer of the Shire of York for a contract term of five (5) years.***
- 2. Authorise the signing under Council seal of an employment contract under the provisions of Section 5.39 of the Local Government Act and utilising the standard WA Local Government Association contract and in accordance with the advertised salary and conditions.”***

CARRIED: 4/0

9.3 Works Reports

9. OFFICER'S REPORTS
9.3 WORKS REPORTS
9.3.1 Works Depot Loader - Implement Changeover

FILE NO: WK.NEQ
COUNCIL DATE: 14 February 2011
REPORT DATE: 9 February 2011
LOCATION/ADDRESS: Works Depot
APPLICANT: Shire of York
SENIOR OFFICER: Ray Hooper CEO
REPORTING OFFICER: Geoff Crossing, Works Depot
DISCLOSURE OF INTEREST: Nil
APPENDICES: Nil
DOCUMENTS TABLED: Nil

Summary:

Trade in Council's unused (new) skeleton bucket for a 3 stage crane jib.

Background:

When the Council's new loader was purchased in 2010, for some unknown reason a Skeleton bucket which is no use to the Shire was provided, but there is no Jib crane attachment with the loader making this useless.

Consultation:

Negotiations with Hitachi have been occurring for some time and their attempt to find a suitable loader through sales that fits our attachment has come up.

Sought and received costs of bucket sale and Jib purchase via Hitachi/John Deere (details provided under Financial Implications).

Statutory Environment:

Local Government Act – Section 6.8:

“6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- (a) is incurred in a financial year before the adoption of the annual budget by the local government;
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.
- * Absolute majority required.
- (1a) In subsection (1) —
- additional purpose** means a purpose for which no expenditure estimate is included in the local government's annual budget.
- (2) Where expenditure has been incurred by a local government —
- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.”

Policy Implications:

Not Applicable.

Financial Implications:

Details provided by Hitachi:

“If we are to separate the transactions between the bucket and jib, this would change the prices to:

- *New 3 Stage Jib - \$8,950 + GST (\$9,845 inc. GST)*
- *Hitachi to purchase 2nd hand Skeleton Bucket - \$12,950 + GST (\$14,245 inc. GST)*

This means you get \$4,000 + GST (\$4,400 inc.GST) from the total changeover by doing it this way. This is mainly due to our processes in purchasing from you as opposed to trading in from you on one sale/transaction.”

Strategic Implications:

Not applicable.

Voting Requirements

Absolute Majority Required: Yes

Site Inspection:

Site Inspection Undertaken: Bucket inspected and photos taken by Hitachi.

Triple bottom Line Assessment:

Economic Implications:

Adjustment of asset list.

The sale of the skeleton bucket for \$14,245 inc GST and then purchase Jib crane attachment for \$9,845 inc GST will return \$4400 inc GST to the Shire and we will end up with an implement that can be used for the Council purposes.

Social Implications:

Makes our loader more versatile and can be used for the benefit of the community and Council's ratepayers.

Environmental Implications:

Improved use of a valuable Shire asset.

Comment:

This is an ideal transaction to enable sale of an unnecessary item and replacement with an item that can be used by the works depot on the loader.

RESOLUTION

040211

Moved: Cr Boyle

Seconded: Cr Lawrance

“That Council:

- 1. proceed with the sale of the Skeleton Bucket for \$14,245 (inc GST) subject to the purchase of a new 3 stage Jib for \$9,845 with a changeover amount payable back to the York Shire of \$4,400 in accordance with an email from Hitachi on the 27th January 2011; and***
- 2. allocate the proceeds of the changeover to the 2010/11 Plant Purchases.”***

CARRIED: 4/0

9.4 Financial Reports

9.4.1 Half Yearly Financial Review 2010/11

Note: Review being finalised - Item deferred to Ordinary Council Meeting to be held on Monday, 21 February 2011

9.5 Confidential Reports

9.6 Late Reports

10. NEXT MEETING

RESOLUTION
050211

Moved: Cr Scott

Seconded: Cr Boyle

“That Council:

hold the next Ordinary Meeting of the Council on February 21, 2011 at 3.00pm in the Lesser Hall, York”

CARRIED: 4/0

11. CLOSURE

Cr Hooper thanked all for their attendance and declared the meeting closed at 3.14pm.