



SHIRE OF YORK

**MINUTES OF THE SPECIAL
MEETING OF THE COUNCIL
HELD ON 24TH MARCH, 2009
COMMENCING AT 7.02PM IN THE
COUNCIL CHAMBERS, YORK**

MISSION STATEMENT

"To build on our history to create our future"

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 Declaration of Opening | 7 |
| 1.2 Chief Executive Officer read the disclaimer | 7 |
| 1.3 Announcement of Visitors | 7 |
| 1.4 Announcement of any Declared Interests | 7 |
| 2. ATTENDANCE | 7 |
| 2.1 Members | 7 |
| 2.2 Staff..... | 7 |
| 2.3 Apologies | 7 |
| 2.4 Leave of Absence Previously Approved | 7 |
| 2.5 Number of People in Gallery at Commencement of Meeting..... | 7 |
| 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE..... | 8 |
| 3.1 Previous Public Questions Taken on Notice – Not applicable | 8 |
| 3.2 Written Questions – Current Agenda | 8 |
| Karen D’Orsogna | 8 |
| 4. PUBLIC QUESTION TIME | 8 |
| 5. APPLICATIONS FOR LEAVE OF ABSENCE | 9 |
| 6. PETITIONS / PRESENTATIONS / DEPUTATIONS..... | 9 |
| 7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING | 9 |
| 8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION..... | 9 |
| 9. OFFICER’S REPORTS..... | 9 |
| 9.1 Development Services - NIL | 11 |
| 9.2 Administration Reports | 13 |
| 9.2.1 York Racecourse..... | 15 |
| 9.3 Finance Reports - NIL | 35 |
| 9.5 Late Reports - NIL | 39 |
| 10. NEXT MEETING | 41 |
| 11. CLOSURE..... | 41 |



SHIRE OF YORK

THE MINUTES OF THE SPECIAL MEETING OF THE COUNCIL
HELD ON TUESDAY 24 MARCH 2009, COMMENCING AT
7.02PM IN THE Council Chamber, Upstairs in the 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

The Shire President, Cr Pat Hooper, declared the meeting open at 7.02PM.

1.2 Chief Executive Officer read the disclaimer

1.3 Announcement of Visitors

NIL

1.4 Announcement of any Declared Interests

Impartiality Interest – Cr Boyle – Item 9.2.1 – Committee Member of York Racing (Inc.)

As per Department of Local Government and Regional Development No. 1 (May 2000) –

Disclosure of Interests affecting Impartiality Cr Boyle is entitled to stay in the meeting, speak and vote on the resolution.

2. ATTENDANCE

2.1 Members

Cr Hooper, Cr Lawrance, Cr Boyle, Cr Fisher, Cr Randell, Cr Walters

2.2 Staff

R Hooper, CEO, G Stanley

2.3 Apologies

Nil

2.4 Leave of Absence Previously Approved

Nil

2.5 Number of People in Gallery at Commencement of Meeting

Twelve (12)

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

3.1 Previous Public Questions Taken on Notice – Not applicable

3.2 Written Questions – Current Agenda

Karen D'Orsogna

Question 1:

What is the York Shire Council's agenda in relation to the trainers of racehorses and pacers in the event the Shire takes over the titles for the racecourse land?

Response:

The Shire of York would enter into a Memorandum of Understanding and/ or a legal agreement for the operational side of the racecourse facilities.

The York Shire Council would continue to work with Racing & Wagering WA, the Wheatbelt Development Commission and York Racing (Inc.) to develop appropriate training facilities for both codes at the racecourse.

Question 2:

What role will the Shire of York have if the racing industry is established at the racecourse in supporting trainers to use the facilities?

Response:

The Shire of York does not envisage it having any role in the use of the facilities by trainers as this will be covered by the operational agreement with York Racing (Inc.).

4. PUBLIC QUESTION TIME

Pat Flynn

Question 1:

On page 27 of the Agenda under "Comment" some of the information appears to be at odds with what the current situation is, in particular the comment regarding the meeting with RWWA and the offer of 6 community race day meetings with no Sky Channel coverage. We have been advised that we will definitely be given 2 Sky Channel days.

Response:

The report covers what was said by RWWA at the meeting. As the report states "Negotiations on the day indicated that two Sky Channel dates for the Premier York events may be allocated to improve viability."

That was what was said at the meeting. If you have information on events that occurred subsequent to the meeting the Shire has not been party to that information and in any event the report is correct as to what occurred at the meeting with RWWA on the 18th March, 2009.

Rob Pearson from RWWA said only that it may be possible to hold 2 meetings with Sky Channel coverage. He would go in to bat for the York Beverley Turf Club at RWWA Board level but there were no guarantees that he would be successful.

Question 2:

Please clarify that the grant application is not for writing off the debt.

Response:

The Wheatbelt Development Commission have assisted with the preparation of a grant application that is for funds to bring the track and facilities up to an acceptable standard for racing. No part of it is for writing off debt. The move to write off the debt is the Shire's contribution to enable York Racing to be successful with its grant application. The grant application has no hope of success if the debt is still hanging over the club.

Rob Deadman

Question 1:

The Royalties for Regions grant application is only for the upgrading of the turf track. What about the trotting track?

Response:

RWWA has promised to put in excess of \$150,000 towards a trotting training track. The trotting training facility was put on last weeks agenda but RWWA refused to discuss it at the meeting.

Question 2:

Will Council approach RWWA requesting that the \$150,000 immediately be put towards installing a trotting training track inside the York Turf Club race track?

Response:

Yes.

Merve Gray

Question:

Development of the oval is planned to commence in September. What arrangements will be made for trotting training?

Response:

Council has been pursuing RWWA for the funding of a training track at the Turf Club and will continue to do so. The funding applications for the development of the oval have conditions requiring work to commence within 6 months and Council is not prepared to risk this funding by delaying the commencement of work.

Rob Deaman

Question:

Who is responsible for the submission of the grant through the Wheatbelt Development Commission?

Response:

York Racing Inc. (Pat Flynn advised the meeting that it had been signed today.)

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS / PRESENTATIONS / DEPUTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Not applicable.

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Congratulations to the York Men's Bowls Club who won the Division 1 Pennant for the first time in 42 years on Sunday.

9. OFFICER'S REPORTS

9.1 Development Services - NIL

9.2 Administration Reports

9. OFFICER'S REPORTS
9.2 ADMINISTRATION REPORTS
9.2.1 York Racecourse

FILE NO: CCP.10
COUNCIL DATE: 24 MARCH 2009
REPORT DATE: 19 MARCH 2009
LOCATION/ADDRESS: YORK RACECOURSE
APPLICANT: N/A
SENIOR OFFICER: RAY HOOPER, CEO
REPORTING OFFICER: RAY HOOPER, CEO
DISCLOSURE OF INTEREST: CR BOYLE – COMMITTEE MEMBER – YORK
TURF CLUB
APPENDICES: A – YORK RACING CLUB MINUTES
B – COUNCIL MINUTES OF 15/9/03
DOCUMENTS TABLED: NIL

Summary:

Racing & Wagering WA require an application through the Wheatbelt Development Commission for funding for repairs/ upgrading of the racing surface as this work cannot be funded through RWWA funds.

Background:

The York race track has been closed since July 2008 due to safety concerns with the track surface.

York Turf Club has an outstanding debt to the Shire of York for unpaid rates totalling \$53,731.10 as at the 19th March 2009.

In September 2003 the York Shire Council provided rating and debt relief to the York Beverley Turf Club by:

- a. Allowing part payments of the outstanding rates provided the debt was cleared in full by the 30th June 2006.
- b. Waiving the penalty interest on the outstanding rates for the period 15/9/03 to 30/6/06.

At this stage the relevant debt was \$10,458.68 and this has now increased to \$53,731.10 as at the 19th March 2009. No rates or service charges have been recouped since November, 2007.

Consultation:

Wheatbelt Development Commission
Racing & Wagering WA
York-Beverley Turf Club
Minister for Racing & Gaming
Minister for Regional Development

Statutory Environment:

Local Governemnt Act 1995 (As amended)
Sect. 6.63 – 6.75

6.1. In this Subdivision —

``**service charge**'' does not include a service charge imposed under section 6.38 (1) (b) on the occupier of land who is not the owner of that land.

Actions to be taken

6.2. (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —

- (a) from time to time lease the land;
- (b) sell the land;
- (c) cause the land to be transferred to the Crown; or
- (d) cause the land to be transferred to itself.

(2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.

(3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

Power to lease — procedure

6.3. Schedule 6.2 has effect in relation to the exercise of a power under section 6.64 (1) (a) (in this Subdivision and that Schedule referred to as the "**power to lease**").

Effect of lease

6.4. (1) Where a local government exercises the power to lease in relation to any land that land does not cease to be rateable land because of the exercise of that power.

(2) A lessee from a local government is entitled, during the term of the lease, to possession of the land as against persons who have an estate or interest in the land, but this subsection does not affect —

- (a) the rights of the local government under the lease;
- (b) easements in favour of the public which affect the land; or
- (c) the rights of the Crown in right of the State or Commonwealth or a department, agency, or instrumentality of the Crown in right of the State or Commonwealth.

(3) The exercise by a local government of a power to lease any land does not prejudice or affect the recovery of rates or taxes if any, due to the Crown in right of the State or Commonwealth, or a department or agency of the Crown in right of the State or Commonwealth.

Release of property after payment of arrears

6.5. (1) Where, within 12 years of the taking of possession of any land by a local government under section 6.64, an entitled person pays to the local government all rates and service charges due and payable in respect of the land, the local government is required to give up possession of that land to the person unless it has exercised a power under section 6.64 (1) (b), (c) or (d) in relation to the land.

(2) If the local government has granted a lease of the land referred to in subsection (1) and the term of the lease has not expired, the lease subsists for the balance of the term as if it had been made between the lessee and the entitled person.

(3) In this section —

“**entitled person**” means the person who, if the local government had not taken possession of the land under section 6.64, would be entitled to possession of that land.

Exercise of power to sell land

6.6. (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64 (1) (b) (in this Subdivision and Schedule 6.3 referred to as the “**power of sale**”) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.

(2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land.

(3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Right to pay rates, service charges and costs, and stay proceedings

6.7. (1) Up to 7 days prior to the time of the actual sale of any land for non-payment of rates or service charges a person having an estate or interest in the land may pay the rates or service charges and the costs and expenses incurred to that time in proceedings relating to the proposed sale.

(2) At any time after the 7 days referred to in subsection (1) but prior to the time of the actual sale of any land the local government may, upon such terms and conditions as are agreed between the parties, accept payment of the outstanding rates or service charges.

(3) On payment being made under subsection (1) or (2) the proceedings relating to the proposed sale are stayed and the local government is required to make such notifications and take such measures as are prescribed in relation to the payment and the cancellation of the proposed sale.

Effect of changes in boundaries of local government area

6.8. An alteration in —

- (a) the boundaries of a district of a local government;
- (b) the constitution of the local government or its council; or

- (c) its name or status,

does not preclude the local government from exercising in respect of any land on which rates or service charges were lawfully imposed by it under this Division, the powers conferred by this Subdivision.

Power to transfer land to Crown or to local government

6.9. (1) If under this Subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the *Transfer of Land Act 1893*, and by deed, where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —

- (a) the Crown in right of the State; or
- (b) the local government.

(2) When a local government exercises the power referred to in subsection (1) (a) in relation to any land all encumbrances affecting the land are, by virtue of this section of no further force or effect against that land and the Registrar of Titles or the Registrar of Deeds, as the case requires, is to give effect to this section.

(3) When exercising the power referred to in subsection (1) (b) the local government is required to pay the sum secured by, or payable under, a mortgage, lease, tenancy, encumbrance or charge in favour of the Crown in right of the State or a department, agency, or instrumentality of the Crown in right of the State.

(4) Schedule 6.3 has effect in relation to the exercise of the power referred to in subsection (1).

Title to land sold or transferred

6.10. Where a transfer or conveyance of an estate in fee simple in land is made in purported exercise of a power under section 6.64 (1) (b), (c) or (d) the title transferred or conveyed is not impeachable on the ground that —

- (a) no case had arisen to authorize the sale;
- (b) the proper procedures were not followed; or
- (c) the power was otherwise improperly or irregularly exercised,

and a person who claims there has been an unauthorized or improper or irregular exercise of the power has a remedy in damages against the relevant local government but not against the Crown or the assurance fund established under the *Transfer of Land Act 1893*.

Discharge of liability on sale of land

6.11. A sale of land by a local government or a transfer or conveyance of land to the Crown or a local government under this Subdivision discharges —

(a) the land; and

(b) the owners (present and past) of the land,

from any liability to the local government for rates, service charges or other money due to the local government which were, at the time of the sale, transfer or conveyance —

(c) secured by a charge over the land; or

(d) otherwise recoverable, whether under this Act or another written law, by the local government in respect of the land.

Power to have land revested in the Crown if rates in arrears 3 years

6.12. (1) If land is —

(a) rateable land;

(b) vacant land; and

(c) land in respect of which any rates or service charges have been unpaid for a period of at least 3 years,

the local government in whose district the land is situated may apply in the form and manner prescribed to the Minister to have the land revested in the Crown in right of the State.

(2) The Minister is to consider the application and the circumstances surrounding the application and may grant or refuse the application.

(3) If the application is granted the Minister is to execute a transfer or conveyance of the land to the Crown and is to deliver the transfer or conveyance to the Registrar of Titles or the Registrar of Deeds, as the case requires, for registration.

(4) Upon the delivery of the transfer or conveyance Schedule 6.3 applies, as if it were a transfer or conveyance, as the case may be, expressed to be in exercise of the power of sale.

Land to be vested in the local government

6.13. (1) Where, at the expiration of 12 years from the taking of possession of any rateable land by a local government under section 6.64 —

(a) all rates and service charges due and payable in respect of the land have not been paid; and

(b) the land has not, under the provisions of this Subdivision, been —

(i) sold by the local government;

(ii) transferred to the local government; or

(iii) transferred to the Crown,

by operation of this section the fee simple in the land is to be transferred to the local government subject to —

(c) easements in favour of the public which affect the land;

(d) the rights of the Crown in right of the State or Commonwealth or a department, agency, or instrumentality of the Crown in right of the State or Commonwealth; and

(e) rates and taxes (other than local government rates and service charges) due on the land,

but free from other encumbrances.

(2) Schedule 6.3 has effect in relation to a transfer under this section.

Sect. 6.26

Rateable land

6.14. (1) Except as provided in this section all land within a district is rateable land.

(2) The following land is not rateable land —

(a) land which is the property of the Crown and —

(i) is being used or held for a public purpose; or

(ii) is unoccupied, except —

(I) where any person is, under paragraph (e) of the definition of "owner" in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the *Mining Act 1978* in respect of land the area of which does not exceed 10 hectares or a miscellaneous licence held under that Act; or

(II) where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of "owner" in section 1.4 occupies or makes use of the land;

(b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government;

(c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government;

(d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;

(e) land used exclusively by a religious body as a school for the religious instruction of children;

(f) land used exclusively as a private school which is registered under section 32A (1) of the *Education Act 1928*;

- (g) land used exclusively for charitable purposes;
- (h) land vested in trustees for agricultural or horticultural show purposes;
- (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the *Financial Administration and Audit Act 1985*) by that company and used solely for the storage of grain where that company has agreed in writing to make a contribution to the local government;
- (j) land which is exempt from rates under any other written law; and
- (k) land which is declared by the Minister to be exempt from rates.

(3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2) (i) either that company or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.

(4) The Minister may from time to time, under subsection (2) (k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.

(5) Notice of any declaration made under subsection (4) is to be published in the *Gazette*.

(6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

Sect. 6.12

Power to defer, grant discounts, waive or write off debts

6.15. (1) Subject to subsection (2) and any other written law, a local government may —

- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
- (b) waive* or grant concessions in relation to any amount of money; or
- (c) write off* any amount of money,

which is owed to the local government.

* *Absolute majority required.*

(2) Subsection (1) (a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

(3) The grant of a concession under subsection (1) (b) may be subject to any conditions determined by the local government.

(4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Sect. 6.13

Interest on money owing to local governments

6.16. (1) Subject to any other written law, a local government may resolve* to require a person to pay interest at the rate set in its annual budget on any amount of money (other than rates and service charges) which —

- (a) that person owes to the local government; and
- (b) has been owed for the period of time referred to in subsection (6).

* *Absolute majority required.*

(2) A resolution under subsection (1) is to be included in the annual budget.

(3) The rate of interest that may be set by the local government under this section is not to exceed the rate for the time being prescribed as the maximum rate of interest that may be set for the purposes of this section.

(4) Where a local government imposes interest under subsection (1) on any outstanding amount of money the local government is not to also impose an additional charge in relation to that amount.

(5) Accrued interest is, for the purpose of its recovery, taken to form part of the money owed to the local government on which it is charged.

(6) A local government is not to impose interest on any amount of money under subsection (1) until the money has been owed to the local government for the period of time set by the local government in its annual budget (not being less than 35 days) after the date which is stated on the relevant account for payment as being the date the account was issued.

(7) Regulations may provide for the method of calculation of interest.

Policy Implications:

Policy No. 13.4 States:

OBJECTIVE: TO DETERMINE A POLICY FOR TOURISM SUPPORT BY THE SHIRE OF YORK.

D. PROVIDE THE BASIC FACILITIES AND INFRASTRUCTURE SUFFICIENT TO ENCOURAGE DEVELOPMENT;

Financial Implications:

Council has a provision in the 2008/09 Budget under Rates – Operating Expenditure of \$55,000 as a provision for doubtful debts.

Strategic Implications:

Key Result Area 5:History and Heritage

Objectives:

1. To safeguard York's history and heritage.

Voting Requirements:

Absolute Majority Required: YES

Site Inspection:

Site Inspection Undertaken: Numerous over the past 5 years.

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

Having a viable race club in York has flow on economic benefits for local employment and visitor servicing and there is potential for increased land sales to horse owners and trainers.

Social Implications:

The York Racecourse has significant social impacts through its heritage (1843 to date) and as a social feature for race events and for other community events.

Environmental Implications:

Any work undertaken at the racecourse will comply with all requirements for the protection and enhancement of the natural and built environment.

Comment:

The Shire of York has developed an Equine Precinct plan based around a viable and sustainable racecourse development providing for racing and training activities.

If funding is not provided for track upgrading and the installation of relevant training facilities (racing & pacing) the track will remain in an unsafe condition and racing will not be permitted.

A meeting with Racing & Wagering WA on the 18th March, 2009 was advised that RWWA was prepared to offer 6 race meetings per year as community days with TAB coverage but no Sky Channel. Negotiations on the day indicated that two Sky Channel dates for the premier York events may be allocated to improve viability.

It would appear that non race day income would be required to supplement income to cater for building repairs and other costs including restoration of heritage buildings.

The federal and state governments are unlikely to offer grant funds to a club or organisation with outstanding debts as this indicates an inability to operate at a commercial or business level due to either operating cost levels or income restraints.

The transfer of land ownership to the Shire of York with appropriate conditions to protect race usage and future needs would place the facility in the hands of the community with high community benefit potential through ancillary or complimentary usage.

Appropriate protective conditions would need to be defined to allow the York Beverley Turf Club to operate as an entity and that any income derived from the land through sales on leases is utilised to for the upkeep of racing facilities and associated uses.

This can be achieved through Memorandum of Understanding, Leases and Legal Agreement mechanisms negotiated between the parties.

Without race dates of sufficient status to generate income and if the track cannot be made safe to RWWA standards and be maintained at this level it is unlikely that the Turf Club will be in existence in the near future and the land and facilities will revert to the Crown.

Based on the timing of any grant funding it is unlikely that there will be any race events in York in 2009.

The issue of a racing or pacing track has not been brought into the process at this stage as without the track repair funding these may not be necessary.

The York Turf Club has submitted an option to defer rate payments and the waiving of debt income to November 2010 to enable the Club to find a benefactor or a means of payment in full

however on past history and the governments position on grant funding this is not viewed as a realistic alternative at this time.

It is acknowledged that the Turf Club will not want to devolve land ownership to the Shire of York or any other body however this may well be the end result anyway.

To full comply with the content of the York Racing (Inc.) minutes (Appendix A) Council should specifically address the counter submission by the club prior to considering the officer recommendation for this item.

York Racing (Inc.) Counter Submission.

- Present the Racing Club with a nett payout figure for outstanding rates exclusive of the interest levied on outstanding rates.
- Waive all rates on the racecourse until 30th November, 2010.
- Consider the outstanding rates as an interest free loan to be repaid in full on or before the 30th November, 2010.

Failure to pay that interest free loan in full by the due date will result in York Racing (Inc.) agreeing to transfer the titles with appropriate wording to protect the interests of York Racing (Inc.) as agreed to by the parties.

Comment

The advice received on grant funding clearly shows that any debt owed by York Racing (Inc.) will jeopardise any allocation as it affects future viability if the club and the government will not want to provide monies to an organisation incapable of meeting its financial commitments.

The debt owed by the Club includes rates, waste collection, Emergency Service Levy and the attendant interest charges and while the components can be differentiated and calculated the race club has not raised the charges other than rates and outstanding rate interest.

OFFICER RECOMMENDATION

**RESOLUTION
210309**

MOVED: Cr Boyle SECONDED: Cr Lawrance

“That Council:

Not accede to the request for the write-off of outstanding rate interest nor agree to the requests for the land not to be rated prior to the 30th November, 2010 and to treat the outstanding rate debt as an interest free loan.”

CARRIED (6/0)

OFFICER RECOMMENDATION

**RESOLUTION
220309**

MOVED: Cr Hooper SECONDED: Cr Boyle

“That Council:

Agree to the write-off of rates, service charges and interest fees for the land and buildings owned by the York Beverley Turf Club (currently \$53,731.10) when a grant to restore the racetrack to an approved race surface, as defined by Racing & Wagering WA, is received subject to the following matters being agreed and entered into:

- a. The land titles being transferred to the Shire of York with the current land conditions remaining in place; and***
- b. The York Turf Club and the Shire of York entering into an agreement for the management and operations of all activities and facilities used for racing.”***

CARRIED (5/1)

Cr Walters was recorded as voting against the motion.

**Item 9.2.1
Appendix A**

YORK RACING (Inc)
ESTABLISHED 1843

Minutes of Committee Meeting held on Wednesday the 18th March 2009
At the York Race Course
MEETING OPENED : 7.30 pm

| | |
|---------------------|----------|
| SHIRE OF YORK | |
| CCP. 10 | |
| DATE | INITIALS |
| Rny | |
| 19 MAR 2009 | |
| 110723 | |
| REFERRED TO COUNCIL | |
| DATE | INITIALS |
| 23-3-09 | |
| BH-JT | |

EXERPT FROM MINUTES :

Committee acknowledged proposal put forward by Cr Tony Boyle re way for York Racing (Inc) to meet the criteria to obtain funding from the WDC.

Proposal put forward by Cr A Boyle.

York Racing (Inc) to agree to have ownership of land transferred to Shire.

Shire to waive outstanding debt.

Shire not to charge Rates in future. Safety guards/wordings to be put in place to ensure any future development etc. can not proceed without York Racing (Inc) approval.

Any proceeds from such development to go to York Racing (Inc) for the benefit of York Racing(Inc).

The Committee express the view that it would consider the proposal but ultimately felt that a Special General Meeting of the members would need to be held to vote on the proposal. This could take up to 4-6 weeks

MOVED : Kim O'Brien.

SECONDED : Pat Flynn

THAT :

1.

The Committee would like to be presented with the exact wording that would appear on the the Title or Bond that would be in place on the transfer of land.

The Committee acknowledged that time is of the essence as submissions close Wednesday 25th of March 2009.

The Committee would like the Shire of York to consider this proposal.

Present the club with a nett pay out figure (with interest removed.)

That the Shire waive all interest charges on the outstanding rates and no further rates be charged to the club until 30/11/10.

That the Shire consider the outstanding Rates as an interest free loan to York Racing (Inc) and to be repaid by the 30/11/10 in full.

That failure of York Racing (Inc) to pay this loan by due date York Racing (Inc) will agree to said transfer of Title with appropriate wording to protect the interest of York Racing (Inc) agreed to by both parties.

If the Shire agree to York Racing (Inc) counter proposal then this would still the allow the club's submission to be considered in this round of funding from WDC.

It would then allow York racing (Inc) in conjunction with the Shire and Minister's Office to agree on the wording of the Title/Bond documentation.

It would allow York Racing (Inc) to find a Sponsor/Benefactor to repay loan/debt immediately.

It would allow the Members the opportunity to vote and ratify either of the two proposals or raise the necessary funds to clear the debt.

VOTING : PASSED

MINUTES CONFIRMED BY CHAIR.....*BWMLood*.....

**Item 9.2.1
Appendix B**

*9.2.1 York Beverley Turf Club – File 7CS57 – ACT MFA

| | | |
|---|--|--------------------------|
| TITLE | YORK BEVERLEY TURF CLUB | |
| <u>ACTION OFFICER</u> | ACT MFA | <u>FILE</u> 7CS57 |
| <u>VOTING REQUIREMENTS</u> | <u>ABSOLUTE MAJORITY</u> | |
| <u>DISCLOSURE OF INTEREST</u> | NIL | |
| <u>COUNCIL RESOLUTION</u> | | |
| MOVED Cr Baker seconded Cr Genoni | | |
| 1. | <i>THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT THE RATES AND SERVICE CHARGES REMAIN OUTSTANDING AND HAVE NOT BEEN WRITTEN OFF.</i> | |
| 2. | <i>THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT ARRANGMENTS TO PAY THE AMOUNTS OUTSTANDING AS CASH FLOW PERMITS, MAY BE AGREED WITH THE CEO, SUBJECT TO PAYMENT IN FULL BEING MADE BY 30 JUNE 2006.</i> | |
| 3. | <i>THAT THE PENALTY INTEREST ACCRUING ON THE AMOUNT OUTSTANDING BE FROZEN AS OF 15 SEPTEMBER 2003 UNTIL 30 JUNE 2006.</i> | |
| 4. | <i>THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT COUNCIL WILL SUPPORT ANY APPLICATION MADE TO THE MINISTER REQUESTING THAT THE RACECOURSE BE DECLARED TO BE LAND WHICH IS DECLARED EXEMPT FROM RATES.</i> | |
| CARRIED (9-0) | | |
| <u>OFFICER'S RECOMMENDATIONS</u> | | |
| 1. | <i>THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT THE RATES AND SERVICE CHARGES REMAIN OUTSTANDING AND HAVE NOT BEEN WRITTEN OFF.</i> | |
| 2. | <i>THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT ARRANGMENTS TO PAY THE AMOUNTS OUTSTANDING AS CASH FLOW</i> | |

PERMITS, MAY BE AGREED WITH THE CEO, SUBJECT TO PAYMENT IN FULL BEING MADE BY 30 JUNE 2006.

- 3. THAT THE PENALTY INTEREST ACCRUING ON THE AMOUNT OUTSTANDING BE FROZEN AS OF 15 SEPTEMBER 2003 UNTIL 30 JUNE 2006.**
- 4. THAT THE YORK BEVERLEY TURF CLUB BE ADVISED THAT COUNCIL WILL SUPPORT ANY APPLICATION MADE TO THE MINISTER REQUESTING THAT THE RACECOURSE BE DECLARED TO BE LAND WHICH IS DECLARED EXEMPT FROM RATES.**

BACKGROUND

The York Beverley Turf Club have been experiencing financial difficulties for quite some time as the result of enforced changes within the industry –

Extracts –

Firstly, it was told to race on Tuesdays as opposed to the normal Wednesday or Thursday. The Club was told that this was only a trial ... It proved to be a disastrous fact that there was little industry support for Tuesday racing ... On average Northam lost \$100K per race meeting and YBTC \$60 per race meeting in turnover on and off the course.

Secondly, added to this the YBTC was graded the same as Narrogin and Mt Barker in being able to access funds from the Race Course Development Trust ... The access to these funds was tempered by the fact that both Narrogin and Mount Barker receive assistance from their local shires in regard to the maintenance of their grounds and race tracks.

As a result of the financial burdens, and little assistance from the WA Turf Club, racing was eventually suspended, compounding the problem further – without racing, there was no opportunity to recover.

The YBTC later contracted a financial advisor to prepare a business plan, which has resulted in obtaining the necessary financial support to revitalise facilities and enable racing to re-commence.

The Business Plan for the next two years, requires that as much resources as possible, be directed to generating greater participation from owners, attendance of spectators, and involvement of the industry generally. This has a cumulative

effect with on-course tote, sales of refreshments, off-course TAB sales.

There has been significant community support to enable them to get back on their feet, from individuals, businesses, and within the industry, both in cash and in kind.

Accordingly, they request that –

To assist the Club in part to retain sufficient funds to operate as a viable entity we would ask the Shire to waive the outstanding rates and place a moratorium on our rates for the next two years.

COMMENT

Currently the rates, charges and interest outstanding amount to \$10,745.68 as at 28 August 2003, and is made up as follows

| | | |
|---------------------------|-------------|----------------------|
| Rates arrears | \$ 8,575.20 | |
| Penalty interest arrears | 1,267.29 | |
| Penalty interest current | 99.19 | as at 28 August 2003 |
| Initial 240 litre bin | 220.00 | |
| Additional 240 litre bins | 484.00 | |
| Waste Management Levy | 100.00 | |

These amounts are for the past two years. Penalty interest arrears applies to prior years, while penalty interest current is that which has accrued since 1 July 2003, and is continuing to accrue at \$3.20 per day.

Most sporting and recreation clubs use public facilities, and while they generally do pay a hire or maintenance charge (except for the Town Hall), the cost of maintaining those facilities far outweighs the revenue that Council obtains from them. In effect, this means that the community organisations using the facilities are the beneficiaries of substantial subsidies from Council funded by the ratepayer. For some of these groups, the subsidy is a direct cost (e.g. festivals, sponsorship etc), for others the subsidy is part of providing a community facility such as the oval (e.g. cricket, football etc), and for some, the subsidy takes the form of income being forgone, by permitting free use of facilities.

In the case of the YBTC, no subsidy is received from Council, but income through rates is generated. It is possible that they are the only sporting group in the Shire that does actually have to pay rates.

All of these groups are capable of bringing visitors to York, and the potential spin-offs for local businesses are many.

In common with other sporting groups, the YBTC does not distribute any financial surpluses to its members – any profits

remain with them for stake money, development and improvement of facilities, and general operational costs.

Council is able to assist the YBTC in many ways, although they have asked for consideration of just two –

1. Write off of arrears – Rates and penalty interest currently total \$9,941.68 and service charges amount to \$804.00. In keeping with the principle that other sporting and recreation clubs do make some contribution, it is suggested that the service charges not be written off, and the YBTC be requested to pay the arrears and the charges as they are levied year to year.
2. Moratorium on rates for the next two years – Under the Local Government Act 1995, the land is rateable, and it does not fit any of the exempt criteria specified in section 6.26 (a) to (j). Accordingly, rates will have to continue to be raised, and Council then makes a specific decision to write them off each year. However, section 6.26 (2) (k) permits the Minister to declare land to be exempt from rates. The Minister does have the authority to later vary this declaration under section 6.26 (4).

STATUTORY IMPLICATIONS

THE FOLLOWING SECTIONS OF THE LEGISLATION APPLY TO THIS REPORT.

Local Government Act 1995 –

Section 6.12 (1) (c) – Power to write off, waive or grant concessions on any amount of money, which is owed to the local government.

Section 6.12 (3) – Waiver or concession may be subject to conditions.

Section 6.26 (2) (k) – land may be declared by the Minister to be exempt from rates

Section 6.26 (4) – Minister may vary declaration of exemption from rates.

POLICY IMPLICATIONS

THE FOLLOWING POLICY APPLIES TO THIS REPORT.

No specific policy implications arise from this report, although a precedent is being established for other organisations that may be in similar circumstances.

FINANCIAL IMPLICATIONS

ADOPTION OF THIS RECOMMENDATION WILL HAVE THE FOLLOWING FINANCIAL IMPLICATIONS.

The cost of writing off the rates debt of \$9,941.68 would reduce Council's rate revenue account by this amount and subsequently the closing surplus/deficit position.

If the Minister declares the land to be exempt from rates, income will be forgone each year that the declaration remains in force.

STRATEGIC IMPLICATIONS

THE FOLLOWING SECTIONS OF THE STRATEGIC PLAN APPLY TO THIS REPORT.

Assistance given to a local organisation that has regional significance.

9.3 Finance Reports - NIL

9.4 Confidential Reports - NIL

9.5 Late Reports - NIL

10. NEXT MEETING

Cr Hooper reminded those present that the next Ordinary Meeting of Council will be held on April 20, 2009 at the Talbot Hall, Talbot.

11. CLOSURE

There being no further business Cr Hooper thanked everyone for their attendance and declared the meeting closed at 8.08pm.