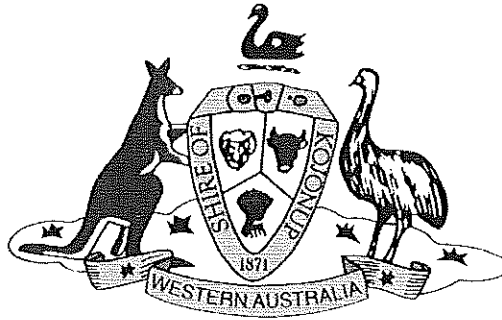


# SHIRE OF KOJONUP



## Council Agenda

**16<sup>th</sup> February 2010**

**SHIRE OF KOJONUP****AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 16<sup>th</sup> February 2010****TABLE OF CONTENTS**

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## SHIRE OF KOJONUP

MEETING NOTICE AND AGENDA – 16<sup>th</sup> February 2010**TO: THE SHIRE PRESIDENT AND COUNCILLORS**

NOTICE is given that a meeting of the Council will be held in Council Chambers, Administration Building Albany Highway, Kojonup on Tuesday 16<sup>th</sup> February 2010 commencing at 3:00pm.

Your attendance is respectfully requested.



**STEPHEN GASH**  
**CHIEF EXECUTIVE OFFICER**

12 February 2010

**AGENDA****1 DECLARATION OF OPENING AND ANNOUNCEMENT OF GUESTS**

The Shire President shall declare the meeting open and alert the meeting of the procedures for emergencies including evacuation, designated exits and muster points and draw the meetings attention to the disclaimer below:

*Disclaimer*

*No person should rely on or act on the basis of any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.*

*The Shire of Kojonup expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the meeting.*

*Where an application for an approval, a license or the like is discussed or determined during the meeting, the Shire warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the Shire.*

**2 ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE**

Cr Jill Mathwin  
Cr Jane Trethowan  
Cr John Benn  
Cr Ian Pedler  
Cr Michael Baulch  
Cr Rosemary Hewson  
Cr Frank Pritchard  
Cr Greg Marsh

Mr Stephen Gash  
Mr Kim Dolzadelli  
Mr Mort Wignal  
Mr Craig McVee  
Mrs Heather Marland

Chief Executive Officer  
Manager of Corporate Services  
Manager of Regulatory and Community Services  
Works Manager  
Senior Finance Officer

**APOLOGIES**

3 **PUBLIC QUESTION TIME**

4 **SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

5 **APPLICATIONS FOR LEAVE OF ABSENCE**

6 **CONFIRMATION OF MINUTES**

ORDINARY MEETING 15<sup>th</sup> December 2009

Corrections:

**COUNCIL DECISION**

/10 MOVED Cr seconded Cr that the Minutes of the Ordinary Meeting of Council held on 15<sup>th</sup> December 2009 be confirmed as a true record.

CARRIED/LOST /

7 **ANNOUNCEMENTS** by the Presiding Member without discussion

8 **PETITIONS, DEPUTATIONS & PRESENTATIONS**

9 **DECLARATIONS OF INTEREST**

**10 FINANCE REPORTS****10.1 FINANCIAL MANAGEMENT – MONTHLY STATEMENT OF FINANCIAL ACTIVITY**

AUTHOR: Kim Dolzadelli – Manager Corporate Services  
DATE: Monday, February 08, 2010  
FILE NO: FM.FNR.2  
ATTACHMENT: 10.1 Monthly Statement of Financial Activity 1<sup>st</sup> July to 31<sup>st</sup> December 2009  
& Monthly Statement of Financial Activity 1<sup>st</sup> July to 31<sup>st</sup> January 2010

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To accept the Monthly Statement's of Financial Activity for the period of 1<sup>st</sup> July to 31<sup>st</sup> December 2009 and 1<sup>st</sup> July to 31<sup>st</sup> January 2010.

**BACKGROUND**

Preparation and presentation to Council of monthly reports are a statutory requirement, with these to be presented to the next ordinary meeting following the close of a month, or it may be presented to the ordinary meeting in the following month after that.

The reporting requirements, as per Financial Management Regulation 34, for the Statement of Financial Activity came into force from 1<sup>st</sup> July 2005.

**COMMENTS**

The attached Statements of Financial Activity for the period 1<sup>st</sup> July to 31<sup>st</sup> December 2009 and 1<sup>st</sup> July to 31<sup>st</sup> January 2010 show a solid position with 90.16% of rates collected to 31<sup>st</sup> January 2010 and a total amount of cash holdings of \$4,184,391 of which \$2,016,949 is held in fully cash backed Reserves.

For Councils information the final repayment on the General Purpose Loan originally taken out in 2004/05 for a principal amount of \$1,150,000 was made in the month of December 2009; over the term of the Loan payment of interest came to some \$175,000 meaning a total of \$1,325,000 has been repaid.

**CONSULTATION**

None necessary.

**STATUTORY ENVIRONMENT**

Financial Management Regulation 34 sets out the basic information which must now be included in the monthly reports to Council.

**POLICY IMPLICATIONS**

None applicable.

**FINANCIAL IMPLICATIONS**

Occasionally Council may be asked to authorise certain budget amendments/variations by way of separate Senior Officer Reports, but those proposed variations will be taken into account in the monthly Statements of Financial Activity when a full budget review is put before Council. Amendments are not being sought from Council in the attached reports.

**STRATEGIC IMPLICATIONS**

This will only occur where it involves variations to the multiple year proposals previously put forward. Impacts to the "Closing Balance" position will also occur or where a Budget Review highlights the requirement for amendments to occur.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER RECOMMENDATION**  
**That the Monthly Statement of Financial Activity, as attached, be accepted.**

**COUNCIL DECISION**

/10      MOVED Cr                      seconded Cr

CARRIED/LOST                      /

**10.2 MONTHLY PAYMENTS LISTING**

**AUTHOR:**                      Kim Dolzadelli – Manager Corporate Services  
**DATE:**                              Wednesday, February 10, 2010  
**FILE NO:**  
**ATTACHMENT:**              10.2 Monthly Payment Listing

**DECLARATION OF INTEREST**  
 Nil

**SUMMARY**  
 To receive a list of payments made since the last similar list was received.

**BACKGROUND**  
 Not applicable.

**COMMENT**  
 The attached list of payments is submitted for receipt by the Council.

**CONSULTATION**  
 No consultation was required.

**STATUTORY ENVIRONMENT**  
 Regulations 13 (2) of the Local Government (Financial Management Regulations) 1996 requires such a list to be "presented" whenever payments have been made under a delegated authority. (Reference Delegation #18).

**POLICY IMPLICATIONS**  
 Council's Policy F3 provides authorities and restrictions relative to purchasing commitments.

**FINANCIAL IMPLICATIONS**  
 All payments made are for items where Council has provided a budget authority.

**STRATEGIC IMPLICATIONS**  
 There are no strategic implications involved with presentation of the list of payments.

**VOTING REQUIREMENTS**  
 Simple Majority

**OFFICER RECOMMENDATION**  
**That the Payment Listing from 01/12/2009 to 31/01/2010 comprising of Municipal Cheques 10791 to 10908, EFT's 5071 to 5276 and Internal Payment Vouchers 2075 to 2140 totaling \$1,357,270.72 and as attached to this agenda, be received.**

**COUNCIL DECISION**

/10      MOVED Cr                                      seconded Cr

CARRIED/LOST                                      /

**11 ENGINEERING & WORKS REPORTS****11.1 TIP TRUCK TENDER – RTF 01 OF 2009-2010 AND PRIMEMOVER TENDER – RTF 02 OF 2009-2010**

AUTHOR: Kim Dolzadelli – Manager Corporate Services  
 DATE: Tuesday, 9 February 2010  
 FILE NO: **PS.ACQ.3**  
 ATTACHMENT: 11.1.1 Tip Truck Specification  
 11.1.2 Prime mover Specification

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

Council is being requested to accept tenders for the supply and delivery of one new Tip Truck with trade of Council's existing Mitsubishi FV517 Truck and for the supply of one new Prime Mover.

**BACKGROUND**

Council provided funds in the 2009/10 Budget for the purchase of a new Tip Truck with trade or outright sale and purchase of a new Prime Mover. These items had previously been identified in Council's long term plant replacement program.

**COMMENT**

Requests for tenders were advertised in the Western Australian Newspaper on 20<sup>th</sup> January 2010 with a closing date of Wednesday 3<sup>rd</sup> February 2010.

The following tenders were received at the close of the tender period:

**TIP TRUCK TENDER – RTF 01 OF 2009-2010**

<b>Tenderer</b>	<b>Make/Model</b>	<b>Comments</b>	<b>Purchase</b>	<b>Trade</b>	<b>Net Changeover</b>
WA Hino	Hino FS2845 Air	Body and accessories by Bengineering	\$ 214,211	\$ 53,636	\$ 160,575
WA Hino	Hino FS2845 Air	Body and accessories by Howard Porter	\$ 222,111	\$ 53,636	\$ 168,475
WA Hino	Hino FS2845 Air	Body and accessories by Evertrans	\$ 214,531	\$ 53,636	\$ 160,895
Jem Truck Sales	Isuzu Giga CXZ	Body and accessories by Howard Porter	\$ 194,320	\$ 53,411	\$ 140,909
<b>Jem Truck Sales</b>	<b>Isuzu Giga CXZ</b>	<b>Body and accessories by Evertrans</b>	<b>\$ 186,740</b>	<b>\$ 53,411</b>	<b>\$ 133,329</b>
Kenworth DAF W.A.	DAF FAT CF85-460	nil	\$ 231,000	\$ 45,454	\$ 185,546
Truck Centre WA PTY LTD	UD GW470	nil	\$ 217,840	\$ 55,000	\$ 162,840

**PRIMEMOVER TENDER – RTF 02 OF 2009-2010**

<b>Tenderer</b>	<b>Make/Model</b>	<b>Comments</b>	<b>Purchase</b>
WA Hino	Hino SS2845 Air	Turntable and accessories by P & G	\$187,644
WA Hino	Hino SS2845 Air	Turntable and accessories by Howard Porter	\$192,084
<b>Jem Truck Sales</b>	<b>Isuzu Giga CXZ</b>	<b>Turntable and accessories by Howard Porter</b>	<b>\$161,345</b>
Kenworth DAF W.A.	DAF FAT CF85-460	12 Speed 2F Semi Automated Transmission	\$202,500
Truck Centre WA PTY LTD	UD GW470	GCM overspec. at 90,000kg	\$173,250

A detailed analysis of the tenders was undertaken by the Manager of Works and Manager of Corporate Services along with some discussion and additional correspondence to confirm further details of specified items. The specification for the Tip Truck and Prime Mover that was included in the tender document is attached.

No offers were received for the outright purchase of the existing Truck.

The Adopted 2009/2010 Budget provides for a net changeover price on the new Tip Truck of \$122,000 and a outright purchase of new Prime Mover of \$170,000 – a total net cost of \$292,000.

The officer is recommending that the tenders offered by Jem Truck Sales being Tip Truck Isuzu Giga CXZ with Evertrans body at a net changeover of \$133,329 and Prime Mover Isuzu Giga CXZ at a purchase price of \$161,345 be accepted. The total net cost of these two offers by Jem Truck Sales is \$294,674 – being \$2,674 over budget for these two (2) items of plant, however other savings have already been recognised in the area of plant purchases so this can be accommodated in the overall plant purchases budget.

**CONSULTATION**

No consultation was required.

**STATUTORY ENVIRONMENT**

Section 3.57 Local Government Act 1995 and Division 2 of the Local Government (Functions & General) Regulations 1996

**POLICY IMPLICATIONS**

Council Policy sets the criteria for assessment of tenders.

**FINANCIAL IMPLICATIONS**

The 2009/10 Budget Provides for a net changeover of \$292,000. The officer recommendation if adopted, will result in additional expenditure on these items of \$2,674, however other savings have already been recognised in the area of plant purchases so this can be accommodated in the overall plant purchases budget.

**STRATEGIC IMPLICATIONS**

Nil

**VOTING REQUIREMENTS – Simple Majority****OFFICER RECOMMENDATION**

That Council accept the tenders provided by Jem Truck Sales for the supply of:

- a) one (1) new Isuzu Giga CXZ Tip Truck with Evertrans body including trade of Council's existing Mitsubishi FV517 Truck at a net price of \$133,329, and
- b) one (1) new Isuzu Giga CXZ Prime Mover at a cost of \$161,345.



## COUNCIL DECISION

/10 MOVED Cr seconded Cr

CARRIED/LOST /

**12 ECONOMIC & ENVIRONMENTAL DEVELOPMENT REPORTS****12.1 APPLICATION FOR TRADERS & STALLHOLDERS LICENSE; TEMBY & VICKI WHITE**

AUTHOR: Mort Wignall – Manager of Regulatory and Community Services  
 DATE: 8 February 2010  
 FILE: LE.REG.11  
 ATTACHMENTS: 12.1.1 Letter of application from Temby & Vicki White  
 12.1.2 Standard Letter to Local Businesses  
 12.1.3 Letters from 4 Local Businesses  
 12.1.4 Competition Principles Agreement

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To consider an application from Temby and Vicki White to operate a “Mr Whippy” van for vending soft serve ice cream, drinks and confectionary around the streets of Kojonup as well as setting down and trading as a stallholder on the southern aspect of Spencer Street near the RSL Hall, and/or the southern end of Honner Street, in the Apex Park precinct.

**BACKGROUND**

Nil

**COMMENTS**

This proposed activity is controlled under the Shire of Kojonup’s “Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law”. As it is the intention of the applicant to conduct street to street sales with the “Mr Whippy” van as well as set down in the Apex Park precinct, two permits are required:

- 1) Traders Permit: for selling goods, street to street, throughout the Kojonup townsite.
- 2) Stallholders Permit: for setting down in a nominated place (Apex Park precinct) for a designated period of time, to sell goods.

Council’s Schedule of Fees and Charges provides for an annual fee of \$250.00 for a permit to trade in public places.

In determining the application, especially the stallholders permit which may impact on nearby established commercial businesses, Council need to have regard for:

- (a) any relevant policies of the Shire of Kojonup;
- (b) the desirability of the proposed activity;
- (c) the location of the proposed activity;
- (d) the principles set out in the Competition Principles Agreement; and
- (e) such other matters as the local government may consider to be relevant in the circumstances of the case.

With regard to item (d) above, a letter has been sent to the operators of three commercial businesses who sell similar food items to the proponent of the “Mr Whippy” operation, and whose premises are located in close proximity to the Apex Park precinct where a stall (Mr Whippy Van) is proposed to be operated. The three businesses are:

Black Cockatoo Café  
Highway Sales & Services  
VMAX Café & Deli

The purpose of the letter was to advise those premises of the proposal for the establishment of the Mr Whippy business and to provide an opportunity for them to comment on the proposal, having regard for the proximity of the operation to their commercial business.

Comments received from the relevant premises are included in the attachments to this report.

Although three letters were forwarded for comment, four responses were received, due to one of the business contacting another food premises operator (Gull Roadhouse), who has forwarded a letter of concern regarding the proposal.

#### **CONSULTATION**

A letter, outlining the applicants proposal to establish a “Mr Whippy” van business in the Shire of Kojonup including operation of the van from the Apex Park precinct, has been forwarded to the nearby premises who sell similar food items, inviting their comments on the proposal, that will be considered by Council in their determination of the matter.

The application has been discussed with Councils consultant Planner who has no objection to the proposal to conduct a stall from the Apex Park precinct, subject to conditions.

#### **STATUTORY ENVIRONMENT**

Shire of Kojonup – Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

An annual fee of \$250.00 per annum applies for the issue of a Traders Permit to the applicant.

#### **STRATEGIC IMPLICATIONS**

There are no known strategic implications

#### **VOTING REQUIREMENTS**

Simple Majority

#### **OFFICER RECOMMENDATION**

**That Council approve the issue of a Traders Permit to Vicki & Temby White for the vending of soft serve ice-cream, drinks and confectionary, around the residential streets of Kojonup.**

**That Council consider the application for the issue of a Stallholders Permit to set down and operate their “Mr Whippy” van in the Apex Park precinct, having regard for the responses received from commercial businesses, expressing concern at the proposed location(s) of the vending stall.**

#### **COUNCIL DECISION**

/10      MOVED Cr                      seconded Cr

CARRIED/LOST      /

**13 CORPORATE & COMMUNITY SERVICES REPORTS****13.1 DISPOSAL OF LAND BY LEASE – LOT 9999 THORNBURY CLOSE**

AUTHOR: Kim Dolzadelli – Manager Corporate Services  
 DATE: Tuesday, February 09, 2010  
 FILE NO: CP.LEA.1  
 ATTACHMENT: Expression of Interest Information Pack and Map of subject area

**DECLARATION OF INTEREST**

Nil

**SUMMARY**

To dispose of land, Lot 9999 Thornbury Close, by lease for a period commencing 1<sup>st</sup> March 2010 for a period of two (2) years with a further 1 year option to be by mutual agreement of both parties.

**BACKGROUND**

The lease of Lot 9999 Thornbury Close was granted to Audrey Cavanagh in 2005/06, the lease is now expired.

**COMMENT**

Expressions of Interest were advertised 4<sup>th</sup> December 2009 in the Kojonup News for the grazing/cropping lease of Lot 9999 Thornbury Close, Kojonup. The advertised lease period to commence 1<sup>st</sup> March 2010 for a period of 2 years with a further one year option by mutual agreement. The land is approximately 12 hectares in area. A copy of the information pack provided to interested parties is attached to the agenda.

Expressions of interest closed 4.00pm, Friday 18<sup>th</sup> December 2009 with the following Expressions received:

<u>Name</u>	<u>Comments</u>	<u>Effective Financial Offer PA</u> <u>Ex GST</u>
Kojonup District High School.	Exempt Disposition	\$750.00
Kojonup Cricket Club	Exempt Disposition	\$1200.00
Gary & Audrey Cavanagh	Non-Exempt Disposition	\$1500.00

It is important to note that where property is not being disposed of by way of Public Auction or Public Tender, as defined by section 3.58(2), then Section 3.58(3) & (4) of the Local Government Act 1995 apply.

Section 3.58(3) of the Local Government Act 1995 states the following:

*(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

*(a) it gives local public notice of the proposed disposition —*

- (i) describing the property concerned;*
- (ii) giving details of the proposed disposition; and*
- (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*

*(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

Section 3.58(4) specifies the details of the proposed disposition that are required by Section 3.58(3)(ii) above.

*It should be noted that Regulation 30(2)(b) contained within the Local Government (Functions and General) Regulations 1996 provides:*

(2) A disposition of land is an exempt disposition if —

- (b) the land is disposed of to a body, whether incorporated or not —
  - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
  - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.

The significance of this exemption is that, where the exemption applies the burden of additional administration and advertising costs associated with compliance with section 3.58 of the Local Government Act 1995 are no longer required. It is estimated that administrative & advertising costs associated with this compliance would be approximately \$200.00.

The officers' recommendation is that the lease be awarded to Gary & Audrey Cavanagh and this recommendation is made purely on a financial basis.

The submission Gary & Audrey Cavanagh of \$1,500.00 is \$300.00 more than the nearest offer however this disposal is not an exempt disposal hence there are estimated costs of \$200.00 associated with the additional compliance. Effectively the offer from Gary & Audrey Cavanagh will net an extra \$100.00 pa then the next highest offer.

Council may see greater community benefit in supporting either the local sporting club – Kojonup Cricket Club or the local Kojonup District High School rather than awarding the lease solely on a financial basis.

#### **CONSULTATION**

None required

#### **STATUTORY ENVIRONMENT**

Section 3.58 of the Local Government Act 1995 and Regulation 30 & 31 Local Government (Functions and General) Regulations 1996.

#### **POLICY IMPLICATIONS**

There are no known Policy Implications.

#### **FINANCIAL IMPLICATIONS**

The lease will generate nominal income for the Shire.

#### **STRATEGIC IMPLICATIONS**

The lease will manage the fire risk on the Shire property and for the adjacent industrial estate.

#### **VOTING REQUIREMENTS – Simple Majority**

#### **OFFICER RECOMMENDATION**

1. That the offer from Gary & Audrey Cavanagh to lease the land at Lot 9999 Thornbury Close, Kojonup be accepted for the submitted financial consideration of \$1,500.00 pa excluding GST.
2. That the Chief Executive Officer be authorised to execute the lease agreement with the following conditions:
  - a) That the lessee accepts the property on 'as is' basis;
  - b) Lessee is to maintain fences at the current standards

- c) Council will not be liable for any issues arising from fencing and containment of stock;
- d) That the lessee is responsible for managing and minimising any fire hazard and complying with any relevant conditions of the fire break;
- e) That stocking rates will be agreed by both parties on an 'as needs' basis to respond to any animal welfare, fire hazard reduction, and land quality preservation issues that may arise;
- f) Term of lease to be for a period of 2 years with a further 1 year option to be by the mutual agreement of both parties

## COUNCIL DECISION

/10	MOVED Cr	seconded Cr	
		CARRIED/LOST	/

14 **COMMITTEES OF COUNCIL**15 **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**16 **NEW BUSINESS**

of an urgent nature, introduced by a decision of the meeting

17 **CONFIDENTIAL REPORTS**18 **NEXT MEETING**

Tuesday, 16<sup>th</sup> March 2010 commencing at 3:00pm.

19 **CLOSURE**

There being no further business to discuss, the President thanked the members for their attendance and declared the meeting closed at ..... pm.

20 **APPENDICES AND TABLED DOCUMENTS**21 **ATTACHMENTS**

- Item 10.1 Monthly Statement of Financial Activity 01 July 2009 to 31<sup>st</sup> December 2009 and 01 July 2009 to 31<sup>st</sup> January 2010
- Item 10.2 Monthly Payment Listing 1 December 2009 to 31 January 2010
- Item 11.1.1 Tip Truck Specification
- Item 11.1.2 Prime mover Specification
- Item 12.1.1 Letter of application from Temby & Vicki White
- Item 12.1.2 Standard Letter to Local Businesses
- Item 12.1.3 Letters from 4 Local Businesses
- Item 12.1.4 Competition Principles Agreement
- Item 13.1 Expression of Interest Information Pack and Map of subject area