

SHIRE OF EXMOUTH



SPECIAL COUNCIL MEETING MINUTES

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 20 October 2011 as a true and accurate record of the Special Council Meeting held on 28 September 2011.

.....
**C (Turk) Shales
President**

All attachment items referred to in these minutes are available for public perusal at the Shire office

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council.

No responsibility whatsoever is implied or accepted by the Shire of Exmouth for any act, omission, statement or intimation occurring during the Council/Committee meetings or during formal/informal conversations with staff. The Shire of Exmouth disclaims any liability for any loss whatsoever and however caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation. Any person or legal entity who acts or fails to act in reliance upon any statement does so at the person's or legal entity's own risk.

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

Signed at Exmouth
on 28 June, 2010.



(B Price), Chief Executive Officer Shire of Exmouth

INDEX OF MINUTES

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	4
2.	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	4
3.	PUBLIC QUESTIONS TIME	4
4.	APPLICATIONS FOR LEAVE OF ABSENCE	5
5.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	5
6.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	5
7.	REPORT OF OFFICERS	6
7.1	EXECUTIVE MANAGER ENGINEERING SERVICES.....	6
7.1.1	TENDER NO: 06/2011 – CONSTRUCTION OF THE TANTABIDDI BOAT RAMP, EXMOUTH	6
7.2	CHIEF EXECUTIVE OFFICER	10
7.2.1	STAFF MATTERS	10
8.	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	12
9.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING.....	12
10.	MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS	12
11.	CLOSURE OF MEETING	12

**SHIRE OF EXMOUTH
SPECIAL COUNCIL MEETING MINUTES
Held in the Council Chamber, Maidstone Crescent, Exmouth
On 28 September 2011**

Our Vision

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

Our Purpose

To responsibly provide governance for the whole community in the best interest of current and future generations

Our Strategic Objectives

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
 - To communicate effectively
 - To promote socioeconomic development
 - To value our environment and heritage

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Deputy President, acting as the Presiding Member in the absence of the Shire President declared the meeting open at 4.08pm.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillor R F Todd	Deputy Shire President
Councillor K Hansman	
Councillor S Fitzgerald	
Councillor R Winzer	
Mr B Price	Chief Executive Officer
Mr Keith Woodward	Executive Manager Engineering Services
Mrs J Rohan	Executive Secretary

VISITORS

Gallery:

APOLOGIES

Councillor V Fleay	Shire President
Councillor T Shales	

LEAVE OF ABSENCE: Nil

3. PUBLIC QUESTIONS TIME

In accordance with section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy and at the President discretion the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy and at the discretion of the President the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non attendance at a meeting is not an application for leave of absence.

Nil.

5. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

The Deputy President announced the sad passing of Stephanie Schnider who lost her battle with Breast Cancer. Stephanie was previously the Manager of the Visitor Centre.

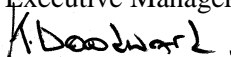
6. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

7. REPORT OF OFFICERS

7.1 Executive Manager Engineering Services

7.1.1 Tender No: 06/2011 – Construction of the Tantabiddi Boat Ramp, Exmouth

Location:	Exmouth
Applicant:	Keith Woodward
File Reference:	CM.TE.062011
Disclosure of Interest:	Nil
Date:	27 September, 2011
Author:	Executive Manager Engineering Services, Mr Keith Woodward
Signature of Author:	
Senior Officer:	Chief Executive Officer, Mr B Price

SUMMARY

It is recommended that the Chief Executive Officer be given delegated authority to award the Tender 06/2011 Tantabiddi Boat Ramp.

Should such negotiations prove unsatisfactory, the next highest ranked Tenderer may become the preferred Tenderer. The (CEO) is not bound to accept the lowest Tender or any Tender or any part of a Tender.

The CEO may, at his absolute discretion, give some consideration to what, in its opinion, are considered minor non-conformities under Value for Money principles.

BACKGROUND

- The Shire advertised Tender 06/2011 Tantabiddi Boat Ramp in the West Australian Newspaper on the 13th August, 2011. (Refer *Attachment 1*)
- Addendums were issued to all parties that had requested tender documents. (Refer *Attachment 2*)

COMMENT

The Shire received Tender submissions from:

1. Advanteering Civil Engineering
2. Australian Civils Pty Ltd
3. Engineered Water Systems
4. In-Situ Construction and Maintenance
5. Mandurah Jetty Construction
6. Marine Civil
7. Maritime Construction
8. Yarnell Civil and Mining

The tender submissions are being reviewed by the Department of Transport, URS Engineers and the Exmouth Shire. It is expected that the above organizations will have completed the tender evaluation report by the 30th September, 2011.

All tenders are evaluated on selection criteria by which each tender is assigned a score based on the tenderers capacity to meet tender objectives. The Contract will be awarded to the Tenderer who best demonstrates the ability to carry out the required service at a competitive price.

Tenders will be evaluated on the following Tender prerequisite:

Phase 1 – Contractual terms and conditions and other requirements of the tender document

Compliance with the contractual terms and conditions and other tender requirements is essential and as such these requirements are not weighted. “The Shire” may, at its absolute discretion, give some consideration to what, in its opinion, are considered minor non-conformities under Value for Money principles.

Compliant tenders accepted for further consideration proceed to Phase 2.

Compliance with the technical requirements/specifications.

Phase 2 – Weighted Criteria

Evaluation and ranking against weighted evaluation criteria.

“The Shire” will assess and score each tender against the weighted criteria. “The Shire” will then reach a group score for each tender which will lead to a ranking of tenders in order of merit.

Phase 3 – Assessment of Non-Weighted Criteria

Tenders will be assessed against the non-weighted criteria, including cost, to further determine the order of merit based on capability to provide the services and overall value for money.

At any phase of the evaluation process:

- Tenders may be short-listed based on the assessment against the Evaluation Criteria and/or value for money considerations.
- The Tenderer may be required to:
 - Clarify any matters referred to it by “The Shire” and the Department for Planning and Infrastructure;
 - Attend an interview with or make a presentation to, the Evaluation Shire of Exmouth and the Department for Planning and Infrastructure expanding on its Tender; and/or
 - attend a site visit, with the Evaluation Panel, to demonstrate its nominated reference sites.
- Following any clarification, interview, presentation or site visit, “The Shire” may re-assess its scores which may lead to a change in the order of merit.

A preferred Tenderer may be required to enter into negotiation to finalise contractual details. Should such negotiations prove unsatisfactory, the next highest ranked Tenderer may become the preferred Tenderer. The Principal is not bound to accept the lowest Tender or any Tender or any part of a Tender.

STATUTORY ENVIRONMENT

Statutory Development Approvals

1. Environmental Protection Authority
2. Department of Environment and Conservation
3. Marine Parks Reserves Authority
4. The Department of Transport

Local Government Act 1995

Section 3.57 of the Local Government Act (LGA) 1995 and the LGA Functions and General Regulations, 11 to 24G.

Regulation 18 (4) of the Local Government (Functions and General) Regulations states:

“Tenders that have not been rejected under sub regulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for

deciding which tender to accept and it is to decide which of them it thinks it would be most advantageous to the local government to accept.”

General Condition of Contract

POLICY IMPLICATIONS

Policy 1.25 – Communication and Consultation.

Policy 3.25 – Local Purchasing

FINANCIAL IMPLICATIONS

1. The funding entity for this contract will be the Royalties for the Regions program via the Shire of Exmouth.
2. The pre-tender estimated value of the contract is \$2.2 m (excluding GST). The project budget has been attached. (Refer **Attachment 3**)

Attached is the construction cost estimate for Tantabiddi with associated confidence limit distribution. To give an explanation of what is shown, the tables indicate our best estimate of the quantities, rates and total construction costs based on previous works in the area, current steel and concrete construction costs. This is typical of what you will get for most estimates. It has been found that tables such as these tend to underestimate real received tenders by about 10% on average and as such we now apply statistical models and distributions. This gives the client a better understanding of the possible spread in construction costs.

In the background of the spreadsheet we apply levels of confidence to individual quantities and rates which are run through a statistical model. This model runs random trials based on our inputs and supplies an output of estimated total construction cost with confidence limits.

We normally suggest budgeting for the 80% limit (about \$2,050,000 in this case) and hoping for lower. If tendered prices are above this then you may not be getting a good deal. We will look at this when the tenders come in.

Note that the cost at 50% on the distribution graph is not the same as the value given in the table. This is because the rates and quantities are modelled using a logarithmic distribution, which can have very high values for individual items. We find this to be the most accurate distribution to use when estimating, as most tenders will typically have some outlier prices for a few items. In my experience, this tends to be the reason why "best" estimates of construction costs tend to be lower than those actually received.

3. The Tendered Rates as follows:

1	\$1,454,622
2	\$1,742,715
3	\$2,294,659
4	\$2,302,158
5	\$2,390,570
6	\$2,425,937
7	\$2,449,690
8	\$2,612,066

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION – 7.1.1

1. *That the Council of the Shire of Exmouth delegate authority to the Chief Executive Officer to award the Tender 06/2011 Tantabiddi Boat Ramp.*
2. *Should such negotiations prove unsatisfactory, the next highest ranked Tenderer may become the preferred Tenderer. The (CEO) is not bound to accept the lowest Tender or any Tender or any part of a Tender.*

The CEO may, at his absolute discretion, give some consideration to what, in its opinion, are considered minor non-conformities under Value for Money principles.

COUNCIL DECISION – 33-0911 - 7.1.1

Moved Councillor Fitzgerald, seconded Councillor Hansman;

1. *That the Council of the Shire of Exmouth delegate authority to the Chief Executive Officer to award the Tender 06/2011 Tantabiddi Boat Ramp.*
2. *Should such negotiations prove unsatisfactory, the next highest ranked Tenderer may become the preferred Tenderer. The (CEO) is not bound to accept the lowest Tender or any Tender or any part of a Tender.*


The CEO may, at his absolute discretion, give some consideration to what, in its opinion, are considered minor non-conformities under Value for Money principles.

CARRIED BY ABSOLUTE MAJORITY 4/0

7. REPORTS OF OFFICER

7.2 Chief Executive Officer

7.2.1 Staff Matters

Location:	Exmouth
Applicant:	Chief Executive Officer
File Reference:	PE.AR.0
Disclosure of Interest:	Nil
Date:	23 September, 2011
Author:	Chief Executive Officer, Mr B Price
Signature of Author:	

SUMMARY

This report recommends Council endorsement of the following matters in relation to Council employees.

- Appointment of Andrew Forte as Executive Manager of Aviation Services.
- Extension of contract of employment Keith Woodward Executive Manager Engineering Services.
- Review of Remuneration Package CEO.

BACKGROUND

As reported at the August Council meeting I recommended that Council create a new position of Executive Manager of Aviation Services to manage the significantly increasing responsibilities of the Learmonth Airport and Light Aircraft Strip. This position was advertised and at the close of period, one application was received. An application was received from Mr. Andrew Forte who has consulted extensively with the Council over the years in relation to Aviation issues. Andrew has extensive Aviation experience and after a subsequent interview, I have offered the position to Andrew for a two year period.

Attached is a copy of Andrew's application and resume for Councillor information. (Refer *Attachment 1*)

Following on from the performance reviews of the existing Executive Managers positions undertaken last month, I have held negotiations with Keith Woodward on a proposed contract extension of his existing contract which expires on 14th October 2012.

Clause 2.2 of the existing contract requires the Council to undertake these negotiations not later than 12 months prior to the original expiration term. Keith has indicated that he would like a 5 year extension to his contract. Taking into consideration his loyal and long service and high standard performance reviews, I have supported this request and have offered a 5 year extension with similar conditions to the existing contract.

In accordance with Clause 12.2.1 of the CEO's contract, requires the Council to review the remuneration package annually. A Performance Review was conducted at the September Council meeting and I have now completed 15 months in the position.

I would like the opportunity to discuss with Council a suitable salary increment.

COMMENT

Nil

CONSULTATION

Inform - in accordance with Council Policy 1.25.

STATUTORY ENVIRONMENT

Employment contracts

POLICY IMPLICATIONS

Policy 1.25 – Communication and Consultation.

FINANCIAL IMPLICATIONS

All of the considerations mentioned above have been factored into the financial budget for 2011/12

STRATEGIC IMPLICATIONS

The appointment of an Executive Manager of Aviation Services will assist the Council to ensure that structures and resources are developed to grow the business generated at Learmonth for community benefit.

The retention of the Executive Manager of Engineering Services and CEO to provide continuity of service within the organisation.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION – 7.2.1

That the Shire of Exmouth endorse the appointment of Andrew Forte as the Executive Manager of Aviation Services.

That the Shire of Exmouth endorse the contract extension for the Executive Manager of Engineering Services.

That the Shire of Exmouth agree to the proposed remuneration review for the Chief Executive Officer as presented.

COUNCIL DECISION – 34-0911 - 7.2.1

Moved Councillor Fitzgerald, seconded Councillor Winzer;

That the Shire of Exmouth endorse the appointment of Andrew Forte as the Executive Manager of Aviation Services.

That the Shire of Exmouth endorse the contract extension for the Executive Manager of Engineering Services.

That the Shire of Exmouth agree to the proposed remuneration review for the Chief Executive Officer as presented.

CARRIED 4/0

8. **ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
Nil.
9. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
Nil.
10. **MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS**
Nil.
11. **CLOSURE OF MEETING**
The Deputy President declared the meeting closed at 4.30pm.