



SHIRE OF BODDINGTON

'The Council and Staff of the Shire of Boddington, in partnership with the community, are committed to operating effectively and efficiently to provide quality lifestyle opportunities that encourage population growth and development'

MINUTES

For The Special Meeting of Council

To consider financial assistance to enable the Boddington Community Resource Centre to continue providing services to the community and purchase of BCRC equipment

Held At

6:00PM

TUESDAY 26 JUNE 2018

At The
Council Chambers
39 Bannister Road Boddington

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1. DECLARATION OF OPENING:

Shire President, Cr Glynn declared the meeting open at 6:01pm.

"I would like to acknowledge the traditional custodians of the land, the Nyoongar People, and pay my respects to Elders, past and present".

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

2.1.1 Attendance

Cr M. Glynn	Shire President
Cr D Smart	Deputy Shire President
Cr S Manez	
Cr W McGrath	
Cr R McSwain	
Mr C Littlemore	Chief Executive Officer
Mr G Stanley	Director of Corporate & Community Services

20 Visitors

2.1.2 Apologies

Cr J Hoffman
Cr G Ventris

2.1.3 Leave of Absence

Nil.

3. DISCLOSURE OF FINANCIAL INTEREST:

Nil.

COUNCIL RESOLUTION 59/18 Moved: Cr Smart

That:
Council suspend Standing Orders to allow freedom of discussion on this topic.

Seconded: Cr Manez Carried: 5/0

4. PUBLIC QUESTION TIME:

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil .

4.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil.

4.3 PUBLIC QUESTIONS FROM THE GALLERY:

Peter Allen: Was there impropriety with the allocation of funding?

Shire President: If any impropriety is discovered, it will be reported.

Peter Allen: If the BCRC started up again, would the Shire return the assets?

Shire President referred to CEO

CEO: The assets have a limited life; the BCRC would use the equipment; when it is broken, it is replaced, so they eventually own it.

Peter Allen: Were they audited and why did it take so long to discover the issue?

Shire President referred to CEO

CEO: The auditors did not verify if the grants were spent for the purposes for which they were acquitted. The audit statement is not generally asked for until the grant is acquitted.

Neville Crilly: Can Council be held liable?

Shire President: The Shire would not be held liable for further issues that may arise with the grants. The Shire is trying to preserve what exists. If it closes, all assets would be sold and it would be very costly to replace the assets.

Neville Crilly: Are there any other discrepancies in the grants that ratepayers may be expected to pick up?

Shire President referred to CEO

CEO: The Shire will need to investigate if there are any unacquitted grants and unpaid PAYG tax.

Greg Day: Can this item Lay on the Table – \$60,000 is being given to the CRC. The public has only been made aware of this in the last 24 hours.

Shire President: If the BCRC closes, a new entity could commence. It would take more than \$60,000 to buy assets etc. If we push this, it could re-open on Monday. If we walk away, the CRC may not commence again until next year.

Shire President: This offer is conditional and the BCRC committee has to vote on this. The role of the Shire is to support community groups.

John Allert: Can the lease be cancelled?

Shire President: It is unlikely the BCRC can cancel the agreement.

Cr Smart: Perhaps, put in another condition, this must be approved if funding continues by DPIRD, once the new committee is involved.

CEO: The Minister stated she will not shut down CRCs; however, there may not be another grant agreement allocated, if a new BCRC commences.

Paul Carrotts: Will the old committee have a say as of Monday?

Shire President referred to CEO

CEO: The letter the Board members received from DPIRD, gave a deadline of 21 June. The current Board needs to call a Board meeting, replace with 2 councillors, stand down and depart. The new committee elects new members.

Shire President: Everyone on the committee should stand down and resign and not go for re-election. The trainees and volunteers will remain the same.

Cr Smart: Any members on that committee from 1/1/2013 cannot be nominated again.

Greg Day: How has this \$60,000 been budgeted?

Shire President: Money had been budgeted for BCRC. CEO found the additional revenue from savings that were made within the budget from 2017/18.

Cr Smart: Baling out the BCRC is not an option, but purchasing the assets is a good decision.

Shire President: This is a fresh start for the BCRC as it will be a new entity.

Cathy Schreiber: Will there be a manager again and will the Manager be responsible to the Shire?

Shire President: The committee will need to decide on a manager. The manager would be responsible to the new committee.

Cr McGrath: If the old committee members do not stand aside, what happens?

Shire President: The old committee members can decide to close and there will be no need for any of these provisions.

Peter Allen: How much negotiation has been done with DPIRD?

Shire President: The Leeuwin grant is a time-framed grant and was extended to BCRC. During the interactions with DPIRD, it is clear that all they want is for this account to be acquitted.

Lisa Carrotts: Why didn't the committee members attend this meeting?

Shire President: Facebook comments have been very damaging. Many of the members of the current committee did not attend this, as they are embarrassed and upset.

COUNCIL RESOLUTION 60/18 Moved: Cr Smart

That:

Council resume Standing Orders

Seconded: Cr Manez Carried: 5/0

5. PETITIONS/DEPUTATIONS/PRESENTATIONS/ SUBMISSIONS:

Nil.

6. CONFIRMATION OF MINUTES:

Nil.

7. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION:

Nil.

8. REPORTS OF OFFICERS AND COMMITTEES:

8.1 CHIEF EXECUTIVE OFFICER:

8.1.1	Boddington Community Resource Centre Financial Assistance
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File Ref. No:	ADM0342
Disclosure of Interest:	Nil
Date:	25 June 2018
Author:	Chris Littlemore Chief Executive Officer
Attachments:	Nil

Summary

For Council to consider financial assistance to enable the Boddington Community Resource Centre to continue providing services to the community and purchase of BCRC equipment

Background

The BCRC received a grant of \$250,000 from the Department of Primary Industries and Regional Development (DPIRD) in 2012 for the purpose of funding trips on the tall ship Leeuwin for CRC trainees across the State, the Leeuwin Voyage Grant. The funds were to be held in a separate bank account and only applied for the purposes nominated in the grant agreement.

The DPIRD conducted an audit of the grant through Andrew Burchfield Consulting FCPA (Fellow of Certified Practising Accountants Australia). From their report of 13 May 2018, it concluded that \$175,489.90 was due to be returned to DPIRD. This figure assumes interest earned on the Leeuwin Grant funds should have been returned to that bank account. The auditors found \$81,789.02 on hand in Leeuwin bank accounts but that the balance \$93,700.90 was not supported as only 28,449.60 in cash was available in the operating accounts at the time of the report.

It is believed that only \$17,000 remains in operating accounts at present.

To satisfy the demands from DPIRD that the \$175K be returned, approximately \$77,000 needs to be found by the BCRC.

If the DPIRD is prepared to accept that the interest earned on the Leeuwin Grant funds can be retained by the BCRC \$60,000 needs to be found by the BCRC committee.

Comment

In early negotiations between the council and the CRC, it was hoped that the CRC Board Members would find as much as 50% of the \$60,000 to put towards repayment of the DPIRD grant. However, the BCRC committee has resolved to follow the path of insolvency and is seeking independent advice about this option.

In basic terms, insolvency would involve the appointment of administrator. Their task is to realise the assets of the organisation and satisfy the creditors in order of priority. As it would be highly likely that there would be a shortfall, at the conclusion of the process, the legal entity no longer exists.

In realising the assets, i.e. selling up the plant and equipment furniture and fittings which are the property of the BCRC, is highly unlikely that their true value would be realised. For example, the BCRC owns an \$80,000 printer which at auction would be unlikely to fetch 10% of its value. The other assets are probably likely to fetch an even lower percentage given what normally happens at clearing auctions.

Once the legal entity is dissolved, there is a possibility in the current political climate that the DPIRD may not offer another organisation a funding agreement to reopen a CRC in Boddington. The probability is unknown and the staff at the DPIRD are not prepared to make any commitment as this would be a decision the Minister would make.

This may leave any new organisation with a building, but no furnishings and no grant funding with which to rebuild the service. At best, any new CRC would offer minimal services, in all probability run by volunteers.

An offer that Council could consider would be to purchase the assets of the BCRC and for the BCRC to use those funds to repay the DPIRD. This option has multiple benefits.

1. The BCRC can immediately reopen its doors as it is no longer at risk of trading while insolvent.
2. It means that the funding agreement between the BCRC and the DPIRD is no longer in jeopardy.
3. It results in the assets of the BCRC being held in trust for the community by the Council.
4. It means that ratepayers funds are being expended on tangible assets for the benefit of the community.

In addition, Council would need to make provision for some further assistance to the BCRC in the 2018/19 budget, as all of the current operating funds held by the BCRC would be needed to finalise the debt with the DPIRD. Given that the BCRC will receive its first quarterly payment in July, Council's commitment is in reality, only a safety net.

Despite the best efforts of DPIRD staff over a period of four years, current and past BCRC committee members have not accepted their governance responsibilities, the prime reason for the current predicament.

For Council to invest such a significant sum in the BCRC, it would need assurances that its investment would be secure and would therefore need to make the offer conditional upon improved governance at the BCRC.

To this end, a new BCRC committee would need to be elected. It would be prudent that former BCRC committee members not seek election. Council should authorise one or two of the Councillors to stand for election to the new BCRC committee.

It would also be prudent that the BCRC appoint the Boddington Shire Council to provide accounting and human resources services, including payroll, creditors, debtors, grant acquittals, bank reconciliation, financial reporting and recruitment for a period of two years. Council could offer these services to the BCRC in the form of in-kind support, rather than on a fee for service basis. The appointment could be reviewed after 21 months to ensure it is meeting the needs of both parties.

The BCRC committee members work closely with Council staff to ensure a smooth and timely transition, in order that services can be restored to the community as soon as possible and trading recommence immediately once a settlement has been agreed with DPIRD.

A potential risk with the recommendation is that the Leeuwin Grant is only one Grant that is managed by the BCRC. There is a risk that further investigation will identify other grants where the monies have been used for purposes other than the grant agreement. This could mean further debt owing to other third parties, or the Shire having to assist in the delivery of the grant outcomes, with no financial allocation of funds to do so. There are also other statutory obligations that the BCRC has that have not been investigated to ensure that these have been met. For example, allocation of the correct monies to superannuation funds for all employees, or BAS payments to ATO.

This risk is mitigated by the BCRC not having the expense of the regulatory burden of finance and admin that the Shire is offering. This frees up some of the future DPIRD contract funds to cover such eventualities.

Strategic Implications

The BCRC provides many services to the community that would not otherwise be available. Without those services, Boddington residents would find access to government services quite difficult and, as a consequence, find Boddington a less desirable place to live.

Statutory Environment Nil

Policy Implications Nil

Financial Implications

Council would need to make provision in the forthcoming budget of approximately \$70,000.

Economic Implications Nil

Social Implications

As discussed in the report.

Environmental Considerations Nil

Consultation

Department of Regional Development, Chairman of the BCRC, WA Insolvency.

Options

Council can:

1. adopt the Officer's Recommendation
2. not adopt the Officer's Recommendation (giving reasons)

Voting Requirements – simple majority.

OFFICER'S RECOMMENDATION – ITEM 8.1.1

That Council:

1. Offer to purchase the assets of the BCRC for the sum of \$60,000 plus GST.
2. That such an offer be conditional upon:
 - i. BCRC committee convening a meeting to consider admission of new members prior to the calling of a special general meeting.
 - ii. The BCRC committee calling a special general meeting where a new BCRC committee is elected.
 - iii. The new BCRC committee not comprising any past BCRC committee members during the period 1 January 2013 until now.
 - iv. The election of two Councillors to the board of the BCRC.
 - v. The agreement of DPIRD to accept that the interest earned on the Leeuwin Grant funds does not form part of the funds required to be returned to the DPIRD.
 - vi. The BCRC committee authorising Council to negotiate with DPIRD on its behalf with regard to point iv.
 - vii. The BCRC agreeing to appoint Council to provide accounting and human resources services, including payroll, creditors, debtors, grant acquittals, bank reconciliation, financial reporting and recruitment for a period of two years.
 - viii. The BCRC Committee not rejecting any membership applications from residents and ratepayers of Boddington who complete an application form and pay the membership fee.
 - ix. The BCRC committee notifying the DPIRD and Council in writing that they accept Council's offer to purchase the CRC's assets and will recommend the terms and conditions to the members by 28 June 2018
 - x. The BCRC committee allowing Council staff immediate access to all records to expedite the change over
3. Authorise two Councillors to stand for election for the board of the BCRC to represent the community's interest on that board.

ALTERNATIVE MOTION – ITEM 8.1.1

The CEO tabled an Alternative Officer Recommendation for Council's consideration.

Moved: Cr Manez

That Council:

1. Offer to purchase the assets of the BCRC for the sum of \$60,000 plus GST.
2. That such an offer be conditional upon:
 - i. BCRC committee convening a meeting by 4pm on 29 June 2018 to, in the following order;
 - a. fill two casual board vacancies with the two Councillors nominated by Council,
 - b. consider admission of new members,
 - c. accept the resignation of the BCRC committee members in existence as at 26 June 2018,
 - d. fill the newly created casual vacancies
 - e. appoint Council to provide accounting and human resources services, including payroll, creditors, debtors, grant acquittals, bank reconciliation, financial reporting and recruitment for a period of two years and
 - f. authorising Council to negotiate with DPIRD on its behalf with regard to point ii,
 - g. resolve to notify the DPIRD and Council in writing that they accept Council's offer to purchase the CRC's assets
 - h. resolve to allow Council staff immediate access to all records to expedite the change over
 - ii. The agreement of DPIRD to accept that the interest earned on the Leeuwin Grant funds does not form part of the funds required to be returned to the DPIRD.
 - iii. The BCRC Committee not rejecting any membership applications from residents and ratepayers of Boddington who complete an application form and pay the membership fee.
3. Authorise Councillors David Smart and Rod McSwain to be appointed to or stand for election for the board of the BCRC to represent the community's interest on that board.

Seconded: Cr McSwain

During Debate, with the agreement of the Mover and Seconder, the following additional part 4 was included in the Alternative Motion:

4. The new BCRC committee would not comprise any past BCRC committee members during the period 1/1/2013 until now.

AMENDED ALTERNATIVE MOTION - ITEM 8.1.1

COUNCIL RESOLUTION

61/18

Previously Moved: Cr Manez

That Council:

1. Offer to purchase the assets of the BCRC for the sum of \$60,000 plus GST.
2. That such an offer be conditional upon:
 - iv. BCRC committee convening a meeting by 4pm on 29 June 2018 to, in the following order;
 - a. fill two casual board vacancies with the two Councillors nominated by Council,
 - b. consider admission of new members,
 - c. accept the resignation of the BCRC committee members in existence as at 26 June 2018,
 - d. fill the newly created casual vacancies
 - e. appoint Council to provide accounting and human resources services, including payroll, creditors, debtors, grant acquittals, bank reconciliation, financial reporting and recruitment for a period of two years and
 - f. authorising Council to negotiate with DPIRD on its behalf with regard to point ii,
 - g. resolve to notify the DPIRD and Council in writing that they accept Council's offer to purchase the CRC's assets
 - h. resolve to allow Council staff immediate access to all records to expedite the change over
 - v. The agreement of DPIRD to accept that the interest earned on the Leeuwin Grant funds does not form part of the funds required to be returned to the DPIRD.
 - vi. The BCRC Committee not rejecting any membership applications from residents and ratepayers of Boddington who complete an application form and pay the membership fee.
3. Authorise Councillors David Smart and Rod McSwain to be appointed to or stand for election for the board of the BCRC to represent the community's interest on that board.
4. The new BCRC committee would not comprise any past BCRC committee members during the period 1/1/2013 until now.

Previously Seconded: Cr McSwain

Carried: 5/0

REASON

The reason why the Council made a decision which is substantially different from the officer recommendation is that: further information has come to light since the report was prepared.

9. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:

Nil.

10. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

Nil.

11. CONFIDENTIAL ITEM:

Nil.

12. CLOSURE OF MEETING:

With no further business to discuss the Shire President, Cr Glynn, closed the meeting at 7:22pm.

These minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on Tuesday 17 July, 2018

.....
M Glynn
(President)