

MINUTES OF AN ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBERS ON TUESDAY 20 DECEMBER 2005

1. COMMENCEMENT

The President declared the meeting open at 11.00am.

2. ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

Attendance

Cr J. M. Schilling	President	West Ward
Cr N. J. McLean	Deputy President	South Ward
Cr W. S. McDonald		South Ward
Cr B. M. Foster		West Ward
Cr A. D. Bailey		West Ward
Cr V. A. Szczecinski		North Ward
Cr J. D. Alexander		North Ward
Cr S Leonhardt		North Ward
Mr K. L. Byers	Chief Executive Officer	
Miss C. Emanuel		Secretary

Apologies

Nil

Leave of Absence

Cr M. G. Roberts	South Ward
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3. PUBLIC QUESTION TIME

3.1 AMPHITHEATRE AT RAILWAY STATION

Members of the Art Gallery Committee approached Council for further consideration of an amphitheatre at the Railway Station. It was suggested that Laura Gray of the Heritage Council see the plans of the proposal, as she had expressed concern at heritage issues. The Art Gallery Committee would like to see an artist-in-residence as the Caretaker, since 'ArtSource' runs an international artist-in-residence program.

3.2 BEVERLEY AIRFIELD

Mr and Mrs Ian Edwards updated Council on discussions, and presented an amended proposal for Council to purchase a portion of

the eastern leg of the Airstrip and a piece of land adjoining the existing Clubhouse/hangar area.

4. CONDOLENCES

HOLMES (nee Abbey)	June	11 November 2005
CARR	Lloyd	14 November 2005

5. APPLICATIONS FOR LEAVE OF ABSENCE

Cr W. S. McDonald requested a Leave of Absence for February 2006 Council Meeting.

Council adjourned for Lunch at 12.25pm.

Council reconvened from Lunch at 1.10pm.

6. CONFIRMATION OF MINUTES AND BUSINESS ARISING

6.1 MINUTES OF THE COUNCIL MEETING HELD ON 15 NOVEMBER 2005

M1/1205 Moved Cr Leonhardt Seconded Cr Bailey
That the Minutes of the Ordinary Meeting of Council held on 15 November 2005, be confirmed.

CARRIED 8-0

BUSINESS ARISING

6.1.1 FOOTBALL CLUB CROPPING ON RESERVE

M2/1205 Moved Cr McLean Seconded Cr Szczecinski
That Council allow the Beverley Football Club permission to crop Pt Reserve 5265 between the Great Southern Highway and Railway Reserve, Pt Reserve 5265 Lot D (off Bremner Road) for one year, commencing from 15 January 2006.

CARRIED 8-0

6.1.2 CROPPING COMMITTEE

M3/1205 Moved Cr Schilling Seconded Cr McLean
That the Cropping Committee be dissolved and Council elect a sub committee of three Councillors, these being Councillors McLean, Szczecinski and Leonhardt.

CARRIED 8-0

6.1.3 TOWNSCAPE COMMITTEE

M4/1205 Moved Cr Foster Seconded Cr Schilling
That the Townscape Committee be dissolved and Council elect a sub committee of three Councillors, these being Councillors Foster, Schilling and Szczecinski.

CARRIED 8-0

6.1.4 FEASIBILITY STUDY FOR BEVERLEY RECREATION GROUNDS

M5/1205 Moved Cr Szczecinski Seconded Cr McLean
That Council agree to allocate \$6,000.00 from the Beverley Cropping Committee to develop a feasibility study of the Beverley Recreation grounds.

CARRIED 8-0

6.2 MINUTES OF THE SPECIAL MEETING HELD ON 7 DECEMBER 2005.

Appendix 1

M6/1205 Moved Cr Leonhardt Seconded Cr Alexander
That the minutes of the Special Meeting held on the 7 December 2005, be received.

CARRIED 8-0

BUSINESS ARISING

6.2.1 STRUCTURAL REFORM

2.5 Should enhancing the economic, environment and sustainability of communities by the objectives? How might this be achieved?

- a) Yes.
- b) Adequately resourcing Local Government by ensuring a fixed portion of taxation. Reducing the amount of regulations imposed. e.g. the \$50,000.00 limit for tendering. Treating Local Government as a legitimate partner rather than a creature of State Governments.

M7/1205 Moved Cr Leonhardt Seconded Cr Alexander
That the wording "e.g. the \$50,000.00 limit for tendering", be removed from item 2.5.

CARRIED 8-0

6.3 SHIRE OF BEVERLEY ANNUAL REPORT – YEAR ENDED 30 JUNE 2005

The Shire of Beverley Annual Report – Year ended 30 June 2005 is presented under separate cover.

**M8/1205 Moved Cr Foster Seconded Cr McDonald
That the Shire of Beverley Annual Report – Year ended 30 June 2005, be received.**

CARRIED 8-0

BUSINESS ARISING

6.3.1 ANNUAL ELECTORS MEETING

**M9/1205 Moved Cr Alexander Seconded Cr Leonhardt
That the Annual Electors Meeting be held on Tuesday, 7 February 2006 in the Lesser Hall, to commence at 7.30pm.**

CARRIED 8-0

6.4 PRESIDENT’S REPORT

Appendix 2

**M10/1205 Moved Cr Szczecinski Seconded Cr McLean
That the President’s Report be received.**

CARRIED 8-0

Mr David Lodwick, Town Planner, entered Council Chambers at 2.00pm.

Mr Frank Buise, Environmental Health Officer/Building Surveyor, entered Council Chambers at 2.00pm.

7. REPORTS OF COMMITTEES AND OFFICERS

7.1 TOWN PLANNING

ITEM NUMBER:	7.1.1
DATE:	25 November 2005
SUBJECT:	PROPOSED REVIEW – PERMISSIBILITY OF HOUSING IN THE “WESTDALE ESTATE”
LOCATION:	Various
FILE REFERENCE:	PL 99945
AUTHOR:	Shire Planner – David Lodwick

Appendix 3

1. Copy of Planning Item 7.1.2, 21 June 2005.
2. WA Planning Commission letter dated 17 November 2005.

BACKGROUND

Council at its meeting of 21 June 2005 resolved as follows:

“That the Shire Planner write to the WA Planning Commission and seek advice as to possible ways in which to have the three dwelling limit for the “Westdale Estate” removed, including the option of green title subdivision.”

COMMENT

A copy of the previous agenda item presented to Council on this matter is attached to provide Council with the necessary background information.

Council will recall that all the landowners in the “Westdale Estate” had signed a letter submitted to Council which requested that the three dwelling limit restriction for the estate imposed by the then Minister of Planning in approving the subdivision on appeal be removed.

A detailed written response (letter dated 17 November 2005) has now been received from the WA Planning Commission in response to the 21 June resolution of Council.

The correspondence advises that under Section 30A of the Strata Titles Act 1985 it is possible to terminate a survey strata, however the Commission conclude that it is *“unlikely that the Commission would support a subdivision proposal which reflects the current survey strata scheme”*, as it would not accord with the parameters of lot sizes and land capability requirements set down in the Shire of Beverley Town Planning Scheme No.2 and Beverley-Brookton Rural Strategy.

This advice would effectively rule out the option of a new green title subdivision being proposed (as opposed to the current strata subdivision) with similar lot configurations as a means to facilitate the future ability for landowners in the “Westdale Estate” to build dwellings on all the subject lots.

M11/1205 Moved Cr Leonhardt Seconded Cr Szczecinski
That Council receive and note the Western Australian Planning Commission advice dated 17 November 2005 in respect of permissibility of housing in the “Westdale Estate”.

CARRIED 8-0

7.1 TOWN PLANNING

ITEM NUMBER:	7.1.2
DATE:	13 December 2005
SUBJECT:	ROAD DEDICATION – YORK-WILLIAMS ROAD, NEAR GREAT SOUTHERN HIGHWAY, BEVERLEY
LOCATION:	N & M Gooch; Department Planning and Infrastructure
FILE REFERENCE:	PL 127430
AUTHOR:	Shire Planner – David Lodwick

Appendix 4
Subdivision/Amalgamation Plan.

BACKGROUND

The previous construction of a rail crossing and intersection of York-Williams Road and Great Southern Highway has occurred.

As part of the road realignment, approximately 1,200 metres of the former realignment is now surplus to requirements. An agreement has been signed between the Shire and the owner of the land surrounding the former road reserve (N & M Gooch) for the former road to be amalgamated with Lot 201.

The closure of the said portion of the current road reserve, is to allow this land, which is tree covered, to be amalgamated with the adjoining property. A new 20m wide road reserve immediately adjacent to the current one will be created. The current road now constructed at this location has taken place on the site of the proposed new road reserve.

COMMENT

To allow the old road reserve to be amalgamated with the adjoining properties, Council has previously requested the Hon Minister for lands permanently close the road in accordance with the requirements of Section 58 of the Land Administration Act 1997. Prior to making the request to the Minister, Council advertised the proposal for public comment over a 35-day submission period.

The Western Australian Planning Commission recently approved the subdivision and amalgamation of the land.

The last stage in the process to resolve outstanding land tenure arrangements affecting the subject land is for Council to resolve to dedicate the new portion of road and indemnify the Minister for Planning against any claim of costs resulting from the request.

**M12/1205 Moved Cr Leonhardt
That Council**

Seconded Cr Bailey

- a. Excise the new alignment of York-Williams Road from Lot 201 and dedicate as a road reserve as shown on Deposited Plan 31475 (copy attached) under Section 56 of the Land Administration Act.**

 - b. Agrees to indemnify the Minister for Planning and Infrastructure against any claim for compensation in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request, as required under Section 56 of the Land Administration Act 1997 referring to road dedication.**
- CARRIED 8-0**

7.1 TOWN PLANNING

ITEM NUMBER:	7.1.3
DATE:	2 December 2005
SUBJECT:	PROPOSED SHED/WORKSHOP – LOT 152 VINCENT STREET, BEVERLEY
LOCATION:	P & V Jenkin
FILE REFERENCE:	VIN-172
AUTHOR:	Shire Planner – David Lodwick

Appendix 5
Locality and Shed plans.

BACKGROUND

The subject land is zoned “Town Centre.”

Approval of sheds in this zone is at the discretionary determination of Council.

The following criteria under the Shire of Beverley Town Planning Scheme No.2 is applicable for development in the “Town Centre” zone.

4.8 TOWN CENTRE DESIGN CONTROL AREA

4.8.2 Development within the Town Centre Design Control Area shall be subject to the civic and design guidelines contained in this Clause and which area for the purpose of ensuring that such development will not affect the local amenity and will enhance the character of the land in the Town Centre Zone.

4.8.3 Site requirements shall be as set out in Table 2 of the Scheme.

4.8.4 Development shall not exceed 2 storeys in height except where Council considers that particular circumstances may warrant an exception being made and provided the intentions of this Clause are not compromised.

4.8.5 In considering an application for planning consent for a proposed development (including additions and alterations to existing development) in the Town Centre Design Control Area Council shall have regard to the following:

- a) the colour and texture of external building materials;*
- b) for all buildings fronting Vincent Street Council may require the building façade and side walls to a building depth of 3m to be constructed in masonry;*
- c) building size, height, bulk, roof pitch;*
- d) setback and location of the building on its lot;*
- e) architectural style and design details of the building;*

- f) *function of the building;*
- g) *relationship to surrounding development;*
- h) *other characteristics considered by the Council to be relevant.”*

COMMENT

The proponent has submitted a letter accompanying his planning application, which states:

“The new building will be:

Fully enclosed gable roof shed with open lean-to.

Constructed with RHS and colorbond roof & walls (Blue Ridge).

Concrete floor.

Erected by Avalon Sheds.

Septic connection for one toilet and basin.

Built at rear of existing building.

Purpose of new building

Repair workshop for garden equipment.

Outlet for domestic hire equipment.

Front yard area to be used for display and sale of new water tanks and fencing materials etc.

Block Fencing

Zinc panels to side and rear

Linkmesh security fence to Bartram street side.

Brick pillar and steel infill to front (Vincent Street).

Entrance off Vincent Street only.

Old Building

To be demolished on completion of new building.”

DESIGN ASPECTS

The property is 911m² in area. The submitted site plan identifies the proposed shed as being setback 3m from the eastern boundary, 3m from the Bartram Street road reserve and directly behind the existing old shed.

Dimensions of the proposed shed area: 15.3m x 9.2m (fully enclosed) with personal access door and double sliding doors and new shed lean to: 15.3m x 6.0m open front. The total area equates to 232m². The applicant advises that the height of the shed will be 3.6m.

The applicant further advises that it is anticipated that the main shed would be constructed first and then the ‘Old building’ demolished and removed from the property, thus allowing for the lean to addition to be erected which falls within the current location of the ‘Old building.’

The application complies with building setbacks specified in Town Planning Scheme No.2. for proposed development in the Town Centre Zone, being 0m to Street and at Council's discretion to rear and side boundaries.

In respect of landscaping and car parking within the zone, the Scheme states:

"4.8.6 Landscaping shall complement the appearance of the proposed development and the town centre.

4.8.7 Layout of carparking shall have regard for traffic circulation in existing carparking areas and shall be integrated with any existing and adjoining car park."

No details in respect of landscaping and carparking have been submitted by the applicant. In this regard, it is considered that there is already sufficient carparking along Vincent Street to accommodate the proposed development/landuse, with the new shed being complementary to the main 'Avon Trading' business which will continue to operate on the opposite side of Vincent Street in it's current form.

Regarding landscaping, a landscape plan should be submitted by the applicant, (providing for proposed onsite landscape improvements) within 30 days of issue of a building licence.

The proposed shed with location at the rear of the property should have no adverse amenity impact on existing neighbouring landuses/development. Notwithstanding, the 'open air display' component of the application within the front setback area should be excluded from the approval, as it would have likely prospect to be visually unappealing along this prominent section of Vincent Street which retains some significant heritage values.

A further comprehensive development application of the proposed 'open air display' component should be lodged including detailed plans of this aspect of envisaged development on the subject land, if the landowner(s) wish to pursue such proposal in the future, and which would need to be appropriately planned and controlled so as to ensure that existing streetscape values along this main thoroughfare through Town are not unduly compromised.

M13/1205

Moved Cr Foster

Seconded Cr Leonhardt

That Council grant planning approval to Mr P Jenkin for shed/workshop at Lot 152 Vincent Street Beverley in accordance with application dated 30 November 2005 and letter dated 1 December 2005 subject to the following conditions:

- 1. If the development, the subject of this approval is not substantially commenced within a period of 2 years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has lapsed, no**

- development shall be carried out without the further approval of the responsible authority having first been sought and obtained;
2. A building license being obtained prior to commencement of any building works;
 3. Submission of elevations to satisfaction of the Shire Planner prior to issue of a building license;
 4. Nothing in this approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
 5. An application containing a plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted and approved by the Shire Planner prior to erection or painting;
 6. This approval is for the shed/workshop only including the incidental hire of domestic equipment (i.e lawnmowers, wheelbarrows, garden implements etc) directly adjacent to the shed/workshop to satisfaction of Council but excludes the proposed open air display component (i.e. fencing materials and new water tanks proposed within the front setback area of the property) which is subject to a separate application for Council consideration;
 7. Type and range of hire products/equipment to be to the satisfaction of Council;
 8. Old building to be demolished within 90 days of the practical completion of the development;
 9. A demolition license to be obtained prior to removal of Old building;
 10. Construction of crossover(s) to service the development to specification and satisfaction of Council's Works Supervisor;
 11. On completion of construction, all excess articles, equipment, rubbish and materials being removed from the site and the site left in an orderly and tidy condition;
 12. Submission for approval by the Shire Planner of plans for all walls or fencing proposed on street boundaries or fronting a public street. Such plans are to be incorporated in the set of plans and specifications submitted for a building licence approval. Where no wall/fence is proposed then a statement to this effect is required on the building licence application;
 13. Drainage management for the development to the satisfaction and specification of Council's Works Supervisor and Principal Building/Health Surveyor;
 14. The existing landscaping being upgraded and proposals for landscaping being submitted and approved to the satisfaction of the Shire Planner within 30 days of issuance of a building license;
 15. Shed/Workshop to be connected to reticulated sewerage with existing septic tank/leach drains to be decommissioned

and removed to the satisfaction of Council's Principal Building/Health Surveyor;

- 16. Shed/Workshop shall not be used as a habitable dwelling;**
- 17. The noise generated by construction or operational activities is not to exceed the levels prescribed under the Environmental Protection (Noise) Regulations 1997.**

CARRIED 8-0

7.2 HEALTH AND BUILDING

ITEM NUMBER:	7.2.1
DATE:	20 December 2005
SUBJECT:	PUBLIC TOILET BLOCK
LOCATION:	Reserve 16969, Vincent Street
FILE REFERENCE:	VIN 16969
AUTHOR:	Environmental Health Officer/Building Surveyor – Frank Buise

BACKGROUND

Council at its meeting on 16 May 2005 resolved to construct a new brick public toilet facility on Reserve 16969, Vincent Street.

Tenders were advertised on Saturday 12 November 2005 in accordance with the requirements of the Local Government Act 1960. Tenders closed Monday 12 December 2005. No tenders were received.

COMMENT

No tender have been received for the construction of the new facility. The Shire may undertake the construction using sub contract labour. A building licence usually is not issued for a shire project subject to cost of the project being minimal. This is different for a builder doing the work, and using sub contract labour (ie fire station).

STATUTORY ENVIRONMENT

Local Government Act 1960
Building Code of Australia

M14/1205 Moved Cr Foster **Seconded Cr Szczecinski**
That Council resolve to authorise the Environmental Health Officer/Building Surveyor, to proceed to undertake the construction of the new toilet facility, using sub contract labour in accordance with the Building Code of Australia, and within budget.

CARRIED 8-0

7.2 HEALTH AND BUILDING

ITEM NUMBER:	7.2.2
DATE:	13 December 2005
SUBJECT:	COMPLAINT – TRACTOR PULL
LOCATION:	Reserve 3378 Hamersley Street, Beverley
FILE REFERENCE:	HAM 1621
AUTHOR:	Environmental Health Officer/Building Surveyor – Frank Buise

BACKGROUND

Following a complaint from a resident in Hamersley Street on Saturday 26 November 2005, I inspected the facility on the reserve (old racetrack), as well as talking to the complainant at his home.

The complaint referred to smoke (tyre burnouts) covering their house.

The tractor pull was in operation and between events, motorcyclists were using the track. There was also a motorcyclist using the firebreaks along Hamersley Street for recreational purposes.

The public address system was in use.

The noise from the tractor pull vehicles was excessive.

The food area as well as the licensed area being both together were inspected and found to be substandard.

COMMENT

Upon arrival in Hamersley Street, there was a pall of smoke drifting slowly and covering the complainant's property. I first went to the tractor pull area and inspected the food/beverage stall, which was undercover. One female person was serving food and preparing food and smoking. Further the liquor sales were being conducted by the club secretary, and a male person who's clothing was covered in grease and dirt was assisting. His hands were also very dirty. The standard of hygiene was unacceptable. This fact was conveyed to the club secretary, and will be followed up with a letter.

Whilst at the complainant's property (house) the noise from the PA system was excessive and the noise from the tractor vehicles was deafening.

The complaint by the property owner was justified as the smoke was lingering around the house and also inside. Weather conditions highlighted the problem as there was very little breeze causing the smoke to hang about. There was also a brief shower.

7.2 HEALTH AND BUILDING

ITEM NUMBER:	7.2.3
DATE:	14 December 2005
SUBJECT:	FINISHED FLOOR LEVELS
LOCATION:	Lot 101 Bartram Street, Beverley
FILE REFERENCE:	BAR 470
AUTHOR:	Environmental Health Officer/Building Surveyor – Frank Buise

BACKGROUND

Council at its meeting on 17 August 2004 resolved;

“That the owner of 43 Bartram Street, indemnify the Shire in writing against any flood damage to his residence when constructed”.

A building licence (18 05/ 06) was issued on 21 November 2005, with a condition that the finished floor level be 195.03 AHD.

The owner has been aggrieved by the conditions of the building licence, and has verbally stated that he intends to appeal the condition.

COMMENT

Council may recall the original intent of the motion was for the owner to indemnify the Shire for any loss to his property due to flooding prior to the construction of the dwelling. The property is located within the 100-year flood fringe. The Department of Environment sets the finished floor level and in this case has set the floor level to be 195.03 AHD. The department’s response is only a recommendation. The final arbitrator is myself.

This level is then related as a condition of building, which is attached to the building licence.

The owner has advised me that he intends to appeal the building condition. He also will not indemnify the Shire until such time as the dwelling has been completed.

This is contrary to the original intent.

STATUTORY ENVIRONMENT

Building Code of Australia

**M17/1205 Moved Cr Alexander
That Council**

Seconded Cr Foster

- a. **Resolve to alter the motion M10/0804 to read - That the owner of Lot 101 (43) Bartram Street, Beverley, indemnify the Shire of Beverley for any future losses to his property and dwelling due to flooding and further that the indemnity be in the form of a legal document and this document shall be submitted to the Shire prior to any construction work commencing.**
- b. **Endorse the setting of the finished floor level as 195.03 as being appropriate as recommended by the Department of Environment.**

CARRIED 8-0

7.2 HEALTH AND BUILDING

ITEM NUMBER:	7.2.4
DATE:	20 December 2005
SUBJECT:	PROPOSED PROSECUTION – AVON VALLEY LOW COST FOOD CENTRE
LOCATION:	Vincent Street, Beverley
FILE REFERENCE:	
AUTHOR:	Environmental Health Officer/Building Surveyor – Frank Buise

BACKGROUND

As part of the routine Health inspections of food premises, a food vehicle was inspected at 5.25pm Wednesday, 30 November 2005, outside the front of Lot 123 Vincent Street (Avon Valley Low Cost Food Centre), Beverley. The driver of the vehicle was unloading food from the vehicle and delivering that food to the Lo cost food shop.

The inspection revealed milk, milk products and frozen vegetables having been transported from Perth in an unrefrigerated vehicle. Mince meat and sausages were pre packaged and placed in a foam cooler box. The interior of the rear of the vehicle was dirty. There was evidence in the drivers cabin, that the driver had been smoking, with a cigarette butt on the floor, and two packets of unsealed cigarettes in the cabin. The driver's compartment was not sealed from the remainder of the vehicle.

An inspection of the shop on Thursday 1 December 2005 revealed pre-packaged mince and sausages for sale in a refrigerator display cabinet. The pre-packaged mince and sausages had no labelling, or use by dates marked on them.

A legal sample was taken of the mincemeat and sausages for analysis to ensure compliance to the Food Standards Code.

Health (Food Hygiene) Regulations 1993 Section 7 (1) states-

- Section 7 (1) Subject to subregulation (2) a proprietor of food premises or a food vehicle must maintain-
- (a) the food premises or food vehicle in which or from which the business is conducted-
 - (i) in a clean and sanitary condition;
 - (j) free from objectionable odour
 - (k) in a state of good repair; and
 - (l) free from vermin and other animals
 - (3) A proprietor who contravenes subregulation (1) commits an offence.

- Section 10. (1) A person must not use food premises, food vehicles or appliances that are, or have been, used for any other purpose that may contaminate or adversely affect the quality or purity of food.
- (2) A person who contravenes subregulation (1) commits an offence.
- Section 11 (1) A proprietor of food premises or food vehicle must ensure that –
- (a) all food is adequately protected at all times from contamination by persons, dust, vermin, animals, offensive fumes foul odours or any other thing
- (2) A person who contravenes subregulation (1) commits an offence
- Section 25 (1) A person, in a food premises or a food vehicle must not-
- (a) expectorate
- (b) smoke or use tobacco or other similar preparation;
- (3) A person who contravenes subregulation (1) commits an offence
- Section 30 (1) A proprietor of a food vehicle must not convey, or allow to be conveyed, any food on or in a vehicle, a compartment, van type body, case, cabinet or other receptacle-
- (a) that is not clean and free from offensive odour, vermin or other source of contamination.
- (3) A proprietor who contravenes this regulation commits an offence
- Section 32 (1) Subject to subregulation (2), a proprietor of food premises or a food vehicle who sells, prepares, packs, stores, handles, serves, supplies or conveys food must ensure that-
- (a) perishable food is kept at a temperature which will, as far as practicable , preserve it from deterioration;
- (b) potentially hazardous food is stored or displayed at a safe temperature that-
- (i) does not exceed 5 degrees C; or
- (ii) is not less than 60 degrees C

- (4) A proprietor who fails to comply with subregulation (1) commits an offence

- Section 246U(1) Subject to subregulations (3) and (4), every package of food intended for sale shall bear on its label setting out in the manner prescribed –
- (a) if there is a standard prescribed for that food and a name has been prescribed to be used in relation to that food, the name so prescribed or, in any other case, an appropriate designation for that food;
 - (b) the name and business address of the manufacturer or vendor of that food or the packer of the contents of that package or, in the case of imported food, the name and address in Australia of the importer of that food; and
 - (c) such other particulars as are prescribed.

A notice under Section 246U of the Health Act 1911 will be issued to the proprietor of the shop in due course.

Section 358 (2) of the Health Act 1911 allows an EHO by virtue of his office to take legal proceedings without the express permission of the Local government.

COMMENT

During the inspection of the vehicle, the owner admitted bringing the food items from Perth. He also admitted to using the vehicle on the weekends for other uses. He also admitted to smoking in the vehicle. Further, the signage on the vehicle (Food Transport Vehicle) was not displayed, and the driver stated that he had lost the sign. I have been taking note of other occasions that he has delivered food to the shop, and the required sign has not been displayed.

The pre packaged mince and sausages are required to be labelled and display a "Use by date". This requirement should be done at point of purchase (butcher/wholesaler). Low Cost foods are selling unlabelled food.

The Health (Food Hygiene) Regulations are very specific in terms of food handling and hygiene. There is no compromise as to food hygiene.

The proponent does not have a right of appeal in this matter, and should be prosecuted for his failure to comply, at which point he can state his case to the magistrate.

Legal food sampling was carried out to ensure that the unlabelled meats comply with the provisions of the Food Standards Code.

Further surveillance of the food premises will occur.

STATUTORY ENVIRONMENT

Health (Food Hygiene) Regulations 1993
Food Standards Code

M18/1205 Moved Cr Leonhardt Seconded Cr Foster
That Council resolve to prosecute the proprietor of Avon Valley
Low Cost Food Centre and the driver of the food van for breaches
of the Health Act 1911 and The Food Standards Code, and further,
Council authorise the Principal Environmental Health
Officer/Building Surveyor to instigate legal action.

CARRIED 8-0

7.4 FINANCE

ITEM NUMBER: 7.4.1
DATE: 15 December 2005
SUBJECT: SCHEDULE OF ACCOUNTS
AUTHOR: Deputy Chief Executive Officer – Stephen Gollan

Appendix 6

COMMENT

The Schedule of Accounts for the month of November 2005.

M23/1205 **Moved Cr Foster** **Seconded Cr McLean**
That the Schedule of Accounts for the month of November 2005 be received.

CARRIED 8-0

ITEM NUMBER: 7.4.2
DATE: 15 December 2005
SUBJECT: FINANCIAL REPORT FOR THE PERIOD ENDING
NOVEMBER 2005
AUTHOR: Deputy Chief Executive Officer – Stephen Gollan

COMMENT

That the Financial Report for the period ending November 2005 is under separate cover.

M24/1205 **Moved Cr Leonhardt** **Seconded Cr Foster**
That the Financial Report for the month ending November 2005, as presented, be received.

CARRIED 8-0

7.5 ADMINISTRATION

ITEM NUMBER:	7.5.1
DATE:	9 December 2005
SUBJECT:	DELEGATIONS
FILE REFERENCE:	GOV003
AUTHOR:	Chief Executive Officer – Keith Byers

BACKGROUND

Section 5.42 of the Local Government Act gives Council the power to delegate to the CEO the exercise of its powers or the discharge of any of the duties except those referred to in section 5.43.

Section 5.46 of the Local Government Act requires delegations made to the CEO be reviewed by the delegate at least once every financial year.

COMMENT

The current delegations were reviewed/approved by Council at the December 2004 Ordinary Meeting. As delegations have been put to Council over the past few years, I put them to Council at this meeting for re-approval.

M26/1205 Moved Cr Szczecinski Seconded Cr McDonald
That Council approve of the following list of delegations to the Chief Executive Officer:-

- **Use of Common Seal on appropriate documents.**
- **Invite tenders in accordance with budget.**
- **Approve/refuse building applications. (Includes relocated/secondhand houses in accordance with Council Policy).**
- **Authority to appoint and dismiss staff in accordance with the Act and appropriate Awards.**
- **Review salaries of all employees other than the Deputy Chief Executive Officer, Works Supervisor, Environmental Health Officer and regional Town Planner.**
- **Approve attendance at conferences, seminars and staff training.**
- **Authorise annual leave and unpaid study leave.**
- **Discretion to pay for un-accumulated sick leave and attendance at funerals, each case being judged upon its merits.**
- **Imposition of Harvest Bans.**
- **Alteration of Restricted and Prohibited Burning periods, after consultation with Chief Fire Control Officer.**
- **Approve roadside clearing and/or burning.**
- **Recommend extra mass permits for vehicles in line with Council Policy.**

- **Approve staff use of plant.**
- **Approve private works.**
- **Approve applications for payment of rates by arrangement.**
- **Issuing of Council purchase orders.**
- **Destroy old accounting books and records in accordance with legislative requirements.**
- **Issue permits for the sale and consumption of liquor on Council property.**
- **Act and serve orders relating to hygiene, noise abatement, repair of dwellings and the declaration of buildings being deemed unfit for human habitation in accordance with the Health Act.**
- **Issue planning consent, vary setbacks and make minor adjustments to building setbacks in accordance with Council Policies, Town Planning Schemes or Planning Codes.**
- **Undertake legal action necessary to recover unpaid infringement notices, rates and debtors accounts.**
- **Install firebreaks on private property where the owner has failed to comply with requirements under the Bush Fire Act.**
- **Permit variations to firebreak order upon request from landowners.**
- **Sign strata titles in accordance with the Strata Titles Act.**
- **Issue infringement notices relating to Bush Fire Act, Litter Act and Dog Act.**
- **Issue permits for street stalls.**
- **Speak on behalf of and represent the views of the Council of the Shire of Beverley to the media and other third parties as appropriate.**
- **Attend to all matters which relate to the Town Planning Function of the Shire of Beverley and to sign all correspondence, planning consents and clearances which relate to the same.**
- **For the Deputy Chief Executive Officer to inform the bank each day authorising the direct debit for police licensing.**
- **To make payments for the Municipal Fund and the Trust Fund with the requirement either of the Deputy Chief Executive Officer or a Councillor counter signing the cheques.**
- **Issue notices under Section 3.25 of the Local Government Act 1995 with all notices issued being referred to Council at the ensuing meeting for endorsement.**
- **Approve the write off of any balances under \$20.00, either debit or credit.**

CARRIED 8-0

9. TABLED CORRESPONDENCE

- Western Australian Community Foundation – ‘Annual Report 2004-2005’.
- CBH Group – ‘Pick of the Crop’ – November 05 issue.
- Environmental Protection Authority – ‘Worsley Alumina – Efficiency and Growth Increase of Existing Operations to 4.4Mtpa Alumina Production’ – Worsley Alumina Pty Ltd – Report and Recommendations of the Environmental Protection Authority’.
- Australian Communications and Media Authority – ‘Australian Communications Authority Annual Report 2004-2005’.
- WALGA – ‘Submission in Advance of the 2006-2007 State Budget’.
- LGIS (Local Government Insurance Services) – ‘Risk Matters’ magazine.
- BEC/Southern Avon enterprise Agency (Inc) – Agenda for Meeting held in the Beverley Shire Chambers on Thursday 24 November 2005.
- Dept. of the Premier and Cabinet – ‘Preventing Violence: The State Community Violence Prevention Strategy 2005 – A Green Paper Policy Framework for Development’.
- Healthway – ‘Healthway News’ – Newsletter of the West Australian Health Promotion Foundation Issue No. 40 November 2005.
- Dept. of the Premier and Cabinet – ‘2005 Premier’s Awards for Excellence in Public Sector Management – Finalist Profiles’.
- Australian Labor Party – ‘Australia’s Future Cities – Labor’s Discussion Paper on Urban Development, Housing and Local Government’.
- Dept. of Transport and Regional Services – ‘National Awards for Local Government 2005 – Leading Practice’ and ‘Winners Supplement Booklet’.
- WALGA – ‘Whole of Local Government Telecommunications Information Package – January 2006’.

Cr B. M. Foster left Council Chambers at 5.25pm.

Cr B. M. Foster entered Council Chambers at 5.28pm.

Cr J. D. Alexander left Council Chambers at 5.32pm.

Cr J. D. Alexander entered Council Chambers at 5.35pm.

10. OTHER BUSINESS

10.1 BEVERLEY AIRFIELD

Letters received from the Beverley Soaring Society Solicitors (Freehills) regarding impending litigation and the suggestion of a mutual assessment of the area.

Correspondence from Mr Ian Edwards was presented to Council during public question time.

M31/1205 Moved Cr Alexander Seconded Cr Szczecinski
That Council is prepared to purchase that portion of lot 1 described in Mr. Ian Edwards letter of 16 December 2005 (approximately 5.7 hectares) and the one hectare of lot 13, for a combined price \$120,000.00. Council is also prepared to expend up to \$10,000.00 on the proposed sheep lane but not contribute towards relocating fences.

All the above is dependant upon the following:

- 1. Subdivision/amalgamation of both parcels being approved by the Department of Planning and Infrastructure,**
- 2. An easement being obtained along the western boundary of Avon Location 10300 from Bremner Road to lot 1,**
- 3. Obtaining a loan for \$120,000.00, repayable over fifteen years,**
- 4. Agreement from the Beverley Soaring Society to lease the land where the Clubhouse, ablution blocks, hangars and caravans are located for an amount of \$10,000.00 per annum over a fifteen year term.**

CARRIED 6-2

M32/1205 Moved Cr Alexander Seconded Cr Leonhardt
That Council rescind motions of the November Council meeting regarding the Beverley Airfield.

CARRIED 8-0

11. CLOSURE

There being no further business the meeting closed at 6.00pm.

I hereby certify these Minutes as being confirmed in accordance with Section 5.22 of the Local Government Act 1995.

Presiding Member

Date