



Town of Port Hedland

MINUTES

OF THE

SPECIAL MEETING

OF THE TOWN OF PORT HEDLAND COUNCIL

HELD ON

WEDNESDAY, 13 MAY 2009

COMMENCING AT 5.15 PM

IN COUNCIL CHAMBERS

McGREGOR STREET, PORT HEDLAND

Purpose of Meeting: To consider

- Request for Approval to Proceed with Civil Works without going through a Public Tender process.

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Chris Adams
Chief Executive Officer

OUR COMMITMENT

To enhance social, environmental and economic well-being through leadership and working in partnership with the Community.

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ITEM 1 OPENING OF MEETING**1.1 Opening**

The Mayor declared the meeting open at 5.17pm and acknowledged the traditional owners, the Kariyarra people.

ITEM 2 RECORDING OF ATTENDANCE AND APOLOGIES**2.1 Attendance**

Cr S R Martin	
Cr A A Carter	
Cr G D Bussell	(from 5.18pm)
Cr S J Coates	
Cr G J Daccache	
Cr J E Ford	
Cr A A Gear	
Cr J M Gillingham	(from 5.18pm)
Cr K A Howlett	(from 5.18pm)
Mr Chris Adams	Chief Executive Officer
Mr Matthew Scott	Directory Corporate Services
Mr Terry Sargent	Director Regulatory and Community Services
Ms Tricia Hebbard	Administration Officer, Governance
Members of Public	0
Members of the Media	0

2.2 Apologies

Nil.

2.3 Approved Leave of Absence

Nil.

ITEM 3 PUBLIC TIME**3.1 Public Questions**

5:17 pm Mayor opened Public Question Time.

Nil.

5:17 pm Mayor closed Public Question Time.

3.2 Public Statements

5:17 pm Mayor opened Public Statement Time.

Nil

5:17 pm Mayor closed Public Statement Time.

ITEM 4 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil.

ITEM 5 DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING

The following Members verbally declared to have given due consideration to all matters contained in the Business Paper presented before the meeting, excluding late items.

Cr S R Martin	Cr G J Daccache
Cr A A Carter	Cr J E Ford
Cr S J Coates	Cr A A Gear

5:18 pm Cr G D Bussell entered the room and assumed his chair.

5:18pm Cr J M Gillingham entered the room and assumed her chair.

5:18 pm Cr K A Howlett entered the room and assumed her chair.

Given the very short timeframe remaining, Council staff have advised that we do not have the resources to complete the works using the proposed methodology and are requested that dispensation be granted by Council to undertake the works without going to tender as is provided under Regulation 11(2)(f) of the Local Government (Functions and General) Regulations. While no tender process has been undertaken, schedule of rates for bulk earthworks have been received from three local companies.

2) Septage Ponds

Council has allocated \$695,000 for the development of septage ponds for liquid waste at the Town's Refuse Disposal Facility. The project is being developed in three parts:

- a) Design and construct of bulk earthworks
- b) Concrete works
- c) Liner purchase and installation

A large component of Part a) of the works has been undertaken by a local contractor (AC Civils). The contractor was engaged based on an hourly rates quotation that was provided to undertake the both design and construction of the bulk earthworks. As work proceeded it became evident that the quantum of works being undertaken was significant (> \$100,000) and as such the project should have gone out for public tender as is required under the Regulation 11 of the Local Government (Functions and General) Regulations. Given that this regulation had been breached the CEO requested that no further works be undertaken by the contractor on this particular job until such time that the procurement issues had been adequately addressed.

As the project ceased due to the procurement issues, the Town has currently left in a somewhat precarious situation as we have a half completed job and going through a full tender process has inherent risks to Council, including;

- The contractors undertaking the work were doing the project based on plans that they had 'in-house' and using experience that they had gained from doing similar projects. Undertaking a detailed design process on a half finished job and then subsequently undertaking a tender process would be costly and time consuming. In the professional opinion of the Engineering Department, going through this process is unlikely to deliver a better result than that that would have been achieved had AC Civils completed the works that they had commenced.
- Parts b) and c) of the project have been arranged with orders placed. These works can not be undertaken until such time that part a) is complete, which would be several months away if design work was to be completed and a tender process undertaken.

- In the event of rain, the works that have been undertaken to date are likely to be damaged causing additional costs to Council. These costs are unlikely to be incurred if the works proceed in a timely manner.

Given the above, Council staff are seeking Council dispensation to engage AC Civils to complete the design and construct of the bulk earthworks without going through a public tender process.

Consultation

The Director of Engineering has discussed this matter with the Chief Executive Officer. Schedule of rates quotations have been received from three companies to undertake this type of work.

Statutory Implications

Officers are seeking Council's permission to complete the above listed projects without inviting public tenders for the work on the basis that the "local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier". (LG (F&G) Reg 11(2)(f))

In the Septage Pond project, the provisions of the Local Government (Functions & General) Regulations in relation to calling tenders have been breached. The CEO has reviewed this matter and is confident that there was no deliberate intent, maliciousness or personal benefit in relation to breach. In the CEO's opinion, it was case of staff trying to get works done efficiently and effectively but inadvertently 'breaking the rules.' As a result of this breach, training for staff has been arranged, a review of the procurement policy is being undertaken for consideration by Council and a Council report is being prepared that highlights how rapid growth has led to poor procurement process in some instances.

Policy Implications

The Council's procurement policy states:

"Where possible, unless by Council resolution, or by requirement of legislation, Officers will follow the following guidelines for inviting quotes prior to purchasing any good or service.

<i>Purchase Value</i>	<i>Quotes Required (Minimum)</i>
<i>Less than \$1000</i>	<i>1 verbal quote</i>
<i>\$1000 - \$4,999</i>	<i>2 written quotes</i>
<i>\$5000 - \$49,999</i>	<i>3 written quotes</i>
<i>\$50,000- \$99,999</i>	<i>3 written quotes, authorized by Mayor and CEO</i>
<i>\$100,000 and over</i>	<i>Tender</i>

It is the Officer's responsibility to provide evidence that a reasonable attempt has been made to meet the above guidelines."

Strategic Planning Implications

Both projects (RESA) and Septage Ponds are linked to goals and/or strategies listed within the Town's Plan for the Future.

Budget Implications

As indicated in the Background section of this report, Council has allocated funds for these projects in the 2008/09 budget. Council staff are confident that the projects can be delivered for the budget allocations that have been provided.

If the projects do not proceed in a timely manner there are financial risks to Council including:

- RADS: Loss of \$450,000 in grant funding through the DPI's RAD's Funding Scheme.
- Septage Ponds: Additional costs for design and tendering of the septage pond works
- Septage Ponds: Potential repair works to the earthworks and/or additional costs associated with delaying parts b) and c) of works program.

Officer's Comment

Council effectively has two alternative ways that it could handle these issues. It could provide the dispensations as requested by the staff (and allowed under the LG Act and associated regulations) or it could Council's procurement policy to be strictly adhered to.

While the Functions and General regulation do allow Council to undertake some significant works without the requirement to go to tender, in the interest of good governance and transparency, this provision should be used sparingly. Having said that, in the officers opinion, the two situations described in this report warrant use of this provision.

Attachments

Nil

200809/321 Council Decision/Officer's Recommendation

Moved: Cr A A Carter

Seconded: Cr J E Ford

That Council:

- i) Authorise the engagement of AC Civils to undertake the Runway End Safety Area (RESA) extensions at the Port Hedland International Airport without going through a public tender process on the basis that the local government has good reason to believe that, because of the unique nature of the goods or services required it is unlikely that there is more than one potential supplier who can deliver the project in the required timeframe. (LG (F&G) Reg 11(2)(f));
- ii) Authorise the engagement of AC Civils to undertake works to complete the bulk earthworks associated with the design and construction of the refuse Disposal Facility Septage Pond without going through a public tender process on the basis that local government has good reason to believe that, because of the unique nature of the goods or services required it is unlikely that there is more than one potential supplier who can deliver the project. (LG (F&G) Reg 11(2)(f)); and
- iii) Note that the both the RESA and Septage Pond works will be undertaken based on the schedule of rates quotation provided by AC Civils to undertake bulk earthworks and associated activities.

CARRIED 9/0

ITEM 7 APPLICATIONS FOR LEAVE OF ABSENCE

200809/322 Council Decision

Moved: Cr A A Gear

Seconded: Cr A A Carter

That the following Applications for Leave of Absence:

- . Councillor G J Daccache from 15 May to 8 June 2009 inclusive;

be approved.

CARRIED 9/0

ITEM 8 CLOSURE

8.1 Closure

There being no further business, the Chairman declared the meeting closed at 5.20pm.

Declaration of Confirmation of Minutes

I certify that these Minutes were confirmed by the Council at its Ordinary Meeting of 27 May 2009.

CONFIRMATION:

MAYOR

DATE