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**1. DECLARATION OF OPENING/ ANNOUNCEMENT OF VISITORS:**

The President Cr. T.R.. Hutchinson declared the meeting open at 9.25am

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

**Members**

Councillor T.R. Hutchinson	(President)
Councillor B.A. O'Dwyer	(Deputy President)
Councillor A.E. Smith	
Councillor S.R.. Bajrai	
Councillor A.G. Burrows	
Councillor R. K. Howden	
Councillor N.L. Trenfield	
Councillor H.J. Nichols	

**Staff**

Mr L.P. Strugnell	(Chief Executive Officer)
Ms N. Hope	(Deputy Chief Executive Officer)

**Apologies**

Councillor M.D.E Bain

**Approved Leave of Absence**

Nil

**Observers**

Nil

**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE:**

Nil

**4. PUBLIC QUESTION TIME:**

Nil

**5. APPLICATIONS FOR LEAVE OF ABSENCE:**

Councillor M.D.E Bain requested approved leave of absence for the April 22, 2006 meeting.

**Council Resolution:**

**Moved: Cr B.A. O'Dwyer**

**Seconded: Cr A.G. Burrows**

**That leave of absence be approved as follows:**

**Councillor M.D.E. Bain – 22<sup>nd</sup> April 2006**

**Carried 8/0**

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS:**

6.1 Ordinary meeting held 18<sup>th</sup> February 2005.

**Council Resolution:**

**Moved: Cr. N.L. Trenfield**

**Seconded: Cr. B.A.O'Dwyer**

**That the minutes of the Ordinary Council meeting of the Shire of Meekatharra held in the council chambers on the 18<sup>th</sup> February 2006 be confirmed.**

**CARRIED 8/0**

**7. PETITION/ DEPUTATIONS/ PRESENTATIONS/ SUBMISSIONS:**

Nil

**8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION:**

- 8.1 The President Cr. T.R. Hutchison advised Council that the dozer tender would be re-advertised.  
The previous advert for the dozer had a closing date only 13 days from the initial advert instead of the required 14 days.

**9. REPORTS OF COUNCILLORS:**

- 9.1 Cr. R.K. Howden informed Council of a recent MRVC fence inspection which after recent weather had minimal water damage.
- 9.2 Cr. B.A. O'Dwyer advised that there was a Regional Road Group meeting coming up but at this stage was unsure whether he would be attending.

**9.1** WORKS COMMITTEE REPORT

**9.1.1** Minutes from Works Committee Meeting

**Location:** N/A

**Applicant:** N/A

**File Ref:** Committee Minutes

**Disclosure of Interest:** Nil.

**Date of Report:** 13<sup>th</sup> March 2006.

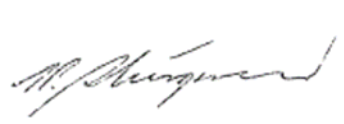
**Author:** Natalie Hope – Deputy CEO

**Signature of Author:**



**Senior Officer:** L.P. Strugnell – Chief Executive Officer

**Signature of Senior Officer:**



**Attachment:** Minutes from Works Committee meeting held on Monday 27<sup>th</sup> February 2006 at 10 am in the Shire Council Chamber.

**Summary:** Minutes from the Works Committee meeting.

**Background:** Minutes from the Works Committee meeting held on Monday 27<sup>th</sup> February 2006 at 10 am in the Shire Council Chambers.

**Comment:**

*Minutes of Council and Committee Meetings*

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meetings proceedings.*
- (2) *The minutes of a meeting of a council or a committee meeting are to submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

**Consultant:** L.P. Strugnell – Chief Executive Officer

**Statutory Environment:** *Local Government Act 1995 Section 5.22*

**Policy Implications:** Nil

**Financial Implications:** Nil

**Strategic Implications:** Nil

**Voting Requirements:** Simple majority

**Recommendation:**

That council receive and confirm the minutes from the works committee meeting held in the council chambers on Monday the 27<sup>th</sup> February 2006.

**Council Resolution:**

**Moved:** Cr. N.L. Trenfield

**Seconded:** Cr. A.G. Burrows

**That Council receive and confirm the minutes from the Works Committee meeting held in the Council Chambers on Monday the 27<sup>th</sup> February 2006.**

**Carried 8/0**

Cr. H.J. Nichols and Cr. A.E. Smith left the meeting at 9.50 am.

Cr. H.J. Nichols and Cr. A.E. Smith returned to the meeting at 9.55am.

**10.1 CHIEF EXECUTIVE OFFICER REPORTS**

**10.1.1 Review of Council Bill Payment Procedures**

**File Ref:** F/6

**Reporting Officer:** L. P. Strugnell - Chief Executive Officer

**Disclosure of Interest:** Nil.

**Date of Report:** 14<sup>th</sup> March 2006

**Summary:** Council has historically made all payments by cheque at Council meetings. This results in Council effectively having a thirty (30) day

trading period. The current system increase the work load of an officer, causes undue delays in making payments to creditors due to Council only meeting once a month.

**Background:**

Regulation 5 of the Financial Management Regulations states that the Financial Management duties of the Chief Executive Officer: -

**1. Efficient systems and procedures are to be established by the CEO of a local government –**

- (a) for the proper collection of all money owing to the local government;*
- (b) for the safe custody and security of all money collected or held by the local government;*
- (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);*
- (d) to ensure proper accounting for municipal or trust –*
  - (i) income received or receivable;*
  - (ii) expenses paid or payable; and*
  - (iii) assets and liabilities;*
- (e) to ensure proper authorization for the incurring of liabilities and the making of payments;*
- (f) for the maintenance of payroll, stock control and costing records; and*
- (g) to assist in the preparation of budgets, accounts and reports required by the Act or these regulations.*

**2. The CEO is to –**

- (a) ensure that the resources of the local government are effectively and efficiently managed;*
- (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
- (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews.*

The current system is not efficient or in keeping with modern day practises.

**Comment:**

In today's world, technology and market pressures have changed the way that suppliers do business, which is placing undue pressure on Council's current system.

Many suppliers now insist on 14 day or even less in their trading terms and many also wish to take advantage of electronic means of payment such as direct debits to their bank accounts. Although Council makes some payments such as payroll by direct debit, this is done manually and

incurs a cost to Council. Payments made by Council outside of its normal processing utilises an unacceptable amount of officers hours.

As a general principle all local authorities should endeavour to settle their debts as soon as practical to encourage smaller business that may have cash flow problems.

This agenda recommends that Council move to a fortnightly payment cycle (in line with payroll) and that direct electronic payments be made when required.

Should Council be agreeable to this the current accounting procedures will need to be revised. These revised procedures are shown on the attachment.

**Consultation:** K E Anderson  
Cr TR Hutchinson

**Statutory Environment:** Local Government Act 1995 Section 6.10, 6.12  
Local Government Financial Regulations 5, 11, 12, 13  
Shire of Meekatharra Delegation 02/2005

**Policy Implications:** Nil.

**Financial Implications:** Section 6.10 Local Government Act  
Regulation 5 Local Government (Financial Management) Regulations 1996

**Strategic Implications:** Nil.

**Voting Requirements:** Simple Majority.

**Recommendation:** That Council:-

- Move to a fortnightly payment cycle for creditors and utilise electronic means of payment when requested.
- Adopt the attached Revised Accounting Procedures for Cheques and Electronic Payments.

**Council Resolution:**

**Moved:** Cr. N.L. Trenfield

**Seconded:** Cr. A.G. Burrows

**That Council:-**

- **Move to a fortnightly payment cycle for creditors and utilise electronic means of payment when requested.**
- **Adopt the attached revised accounting procedures for cheques and electronic payments.**

**CARRIED 8/0**

## **Revised Accounting Procedures for Cheques and Electronic Payments**

Prior to making payment all existing controls and procedures remain in place.

In brief – Purchase order to be issued, goods to be certified as received, payment to be authorized, accounts to be coded and input to accounting system.

### **Cheque Payments**

Cheques are to be issued by the accounting system fortnightly.

Interim or emergency cheques must be kept to a minimum.

No Cheques are to be hand written or manually produced.

All cheques require two signatures, being any two of the authorized signatories. (It is envisaged that these signatories will generally be the Chief Executive Officer and the Deputy Chief Executive Officer).

Original cheque is to be mailed with sufficient information to identify payment.

Duplicate copy to be filed with invoice in cheque number order.

### **Electronic Payment (EFT)**

EFT advices are to be issued by the accounting system fortnightly.

Interim or emergency transfers must be kept to a minimum.

No EFT is to be transmitted without prior processing by the accounting process.

Prior to transmittal all EFTs require two signatures, being any two of the authorized signatories. (It is envisaged that these signatories will generally be the Chief Executive Officer and the Deputy Chief Executive Officer).

Transmittal will take place using electronic means by authorized Officers only, requiring the use of passwords to access the bank.

Remittance advices are to be posted/faxed to the supplier with sufficient information to identify payment.

Duplicate copy to be filed with invoice in EFT number order.

### **Council**

Council has previously delegated to the Chief Executive Officer approval to make payments from the Municipal fund. (Delegation 02/2005) The Financial regulations require a list of accounts paid by the CEO to be prepared each month, presented to the next Council meeting and recorded in the minutes. (This is current practice). Councillors will no longer be required to sign cheques at the meeting. Supporting details of the payments made will be available for perusal by any Councillor at the meeting by request.



**10.1.2** **Review of Works Committee**

**File Ref:**

**Reporting Officer:** L. P. Strugnell Chief Executive Officer.

**Disclosure of Interest:** Nil.

**Date of Report:** 14<sup>th</sup> March 2006

**Summary:** Review of the operation of the Works Committee and its delegated powers and duty.

**Background:** At the Ordinary Meeting of Council held on the 18<sup>th</sup> February 2006 the following resolution was carried:

***“1. THAT COUNCIL ESTABLISH A WORKS COMMITTEE.***

***2. THAT COUNCIL APPOINT CR. HUTCHINSON, CR. TRENFIELD AND CR. BURROWS AS MEMBERS OF THE WORKS COMMITTEE AND CR NICHOLS. AS A DEPUTY.***

***3. THAT COUNCIL DELEGATE THE POWER AND DUTY TO THE WORKS COMMITTEE TO LIAISE, ASSIST AND ADVISE THE WORKS SUPERVISOR ON MATTERS RELATING TO VARIOUS WORKS PROGRAMS AND SPECIAL PROJECTS.***

***CARRIED BY ABSOLUTE MAJORITY 5.0”***

The agenda item indicated that the committee was to be set up under the provisions of the following sections of the Local Government Act.

Section 5.8 Local Government Act – Establish Committee.

Section 5.9 (1) (a) Council members only.

Section 5.10 (1) (a) Appointment of members.

Section 5.11 – Tenure of Committee

Section 5.22 – Minutes of meetings.

Section 5.23 (1) (b) Delegated powers.

There are several issues of concern with this committee which need to be brought to Council’s attention.

**Comment:** The Act and Regulations clearly set out the way committees are established and operate. Some of the procedures are not being adhered to and must be addressed.

The first duty of a committee is to elect a presiding member from amongst themselves in accordance with Schedule 2.3 Division 1. (Section 5.12)

In essence this means that at the first meeting of the committee the CEO presides at the meeting and a presiding member is elected in the same manner as a President is elected after an election.

This has not occurred to date.

There is a requirement to advertise the meeting days of the meetings for the next (12) twelve months in accordance with Regulation 12 of the LG (Administration) Regulations.

Agendas have to be available to the public, the meetings are open to the public and public question time must be available. Section 5.23,5.24.

None of these requirements are being adhered to and should be.

As can be seen the committee has to meet in a more formal manner and abide by the Act or consideration given to doing away with the committee in its present form.

The wording of the resolution indicates that there is a power and duty delegated to the committee and the committee can liaise, assist and advise the Works Supervisor on matters relating to various works programs and special projects.

Section 5.41 of the Act defines the functions of the CEO. Section 5.41(g) states one of these functions “be responsible for the employment, management, supervision, direction and dismissal of other employees”.

Obviously the Works Supervisor is responsible to the Chief Executive Officer and the Works Committee has no power to liaise, assist or advise him.

In view of the requirements of the Act and Regulations governing committees and the perceived desire of the committee to have less formal operations, the best course of action appears to be to rescind the resolution of the 18<sup>th</sup> February 2006 and establish a working group to make recommendations to Council.

Regulation 10 of the Local Government (Administration) Regulations 1996 sets out the procedure for the revoking of a Council decision.

***“10. Revoking or changing decisions made at council or committee meetings-s.5.25(e)***

***(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported –***

*(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*

*(b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*

*(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made –*

*(a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*

*(b) in any other case, by an absolute majority.*

*(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.”*

**Consultation:** Cr. T.R. Hutchinson.

**Statutory Environment:** Local Government Act. Sections 5.8, 5.9(2)(a), 5.10(1)(a), 5.11, 5.22, 5.23(1)(b), 5.24, 5.25, 5.41(g).  
Local Government (Administration) Regulation 1996 –  
Regulations 10 and 12.

**Policy Implications:** Nil.

**Financial Implications:** Nil.

**Strategic Implications:** Will have positive implications.

**Voting Requirements:** Absolute and Simple Majority.

**Recommendation:**

That Council:-

1. In accordance with regulation 10 of the Administration Regulations support by at least 1/3 of the member of offices to change the following decision passed at the ordinary meeting of council on the 18<sup>th</sup> February 2006 is required.

*“1. That council establish a works committee.*

*2. That council appoint Cr. Hutchinson, Cr. Trenfield and Cr. Burrows as members of the works committee and Cr Nichols as a deputy.*

3. *That council delegate the power and duty to the works committee to liaise, assist and advise the works supervisor on matters relating to various works programs and special projects.”*

A show of hands required.

2. Revoke the above mentioned decision of the 18<sup>th</sup> February 2006.

- “1. *That council establish a works committee.*
2. *That council appoint Cr. Hutchinson, Cr. Trenfield and Cr. Burrows as members of the works committee and Cr Nichol as a deputy.*
3. *That council delegate the power and duty to the works committee to liaise, assist and advise the works supervisor on matters relating to various works programs and special projects.”*

Absolute majority required.

3. Establish a working group to make recommendations to council on various works programs and special projects.

Simply majority required.

**Council Resolution:**

**That Council:-**

1. **In accordance with regulation 10 of the Administration Regulations support by at least 1/3 of the member of offices to change the following decision passed at the ordinary meeting of council on the 18<sup>th</sup> February 2006 is required.**

- “1. *That council establish a works committee.*
2. *That council appoint Cr. Hutchinson, Cr. Trenfield and Cr. Burrows as members of the works committee and Cr Nichols as a deputy.*
3. *That council delegate the power and duty to the works committee to liaise, assist and advise the works supervisor on matters relating to various works programs and special projects.”*

A show of hands required.

8/0

**1. Revoke the above mentioned decision of the 18<sup>th</sup> February 2006.**

- “1. That council establish a works committee.*
- 2. That council appoint Cr. THutchinson, Cr. Trenfield and Cr. Burrows as members of the works committee and Cr Nichols as a deputy.*
- 3. That council delegate the power and duty to the works committee to liaise, assist and advise the works supervisor on matters relating to various works programs and special projects.”*

**Absolute majority required.**

**Moved: Cr. N.L. Trenfield**  
**Seconded: Cr. R. Howden**

**Carried by absolute majority 8/0**

- 3. Establish a working group to make recommendations to council on various works programs and special projects.**  
**Members to be included in the working group:**  
**Cr. N.L. Trenfield, Cr. T.R. Hutchinson, Cr. H.J. Nichols and Cr. S.R. Bajrai as a deputy**

**Simply majority required.**

**Moved: Cr. A.E. Smith**  
**Seconded: Cr. R.K. Howden**

**CARRIED 8/0**

<p>Cr. R. Howden and Cr. A.E. Smith left the meeting at 11.35 pm. Cr. R. Howden returned to the meeting at 11.36 pm. Cr. A. E. Smith returned to the meeting at 11.37pm.</p>
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**10.1.3 Draft Wiluna to Great Northern Highway Network and Corridor Review Report**

**File Ref:**

**Reporting Officer:** L.P. Strugnell. Chief Executive Officer

**Disclosure of Interest:** Nil.

**Date of Report:** 14<sup>th</sup> March 2006

**Summary:** A draft review report on the Wiluna to Great Northern Highway Network and Corridor has been received from the Main Roads of Western Australia.

**Background:** The following letter and a full report has been received for the information of Council and comment.

***“DRAFT WILUNA TO GREAT NORTHERN HIGHWAY NETWORK AND CORRIDOR REVIEW REPORT***

*The need to improve the connectivity between the Goldfields and Pilbara Regions has been the focus of discussion between transport industry and Government in recent years. In addition the Department for Planning and Infrastructure (DPI) is currently examining the suitability of the existing intermodal freight facilities servicing Kalgoorlie-Boulder and the Goldfields Region, and assessing the need for new ‘common user’ facilities. This examination has raised the need for better connectivity to the Pilbara.*

*To assist DPI with strategic road network planning within the Goldfields Region, Main Roads has undertaken a strategic review of the network and corridor linking the Goldfields and Pilbara Regions. The outcome of this review has been documented in the Draft Wiluna to Great Northern Highway and Corridor Review Report.*

*A copy of the draft report is enclosed for your information and comment.*

*The intent of this report is to provide guidance on the strategic need for a more direct route between the Goldfields and Pilbara Regions, and the preferred route should the justification be established for improved connectivity between these regions.*

*In undertaking this review difficulty was experienced in ascertaining the future transport task between the Goldfields and Pilbara Regions and no reliable information on future transport demands has been obtained. Any information you can provide to identify the likely future transport demand between Goldfields and Pilbara Regions would therefore be appreciated.*

*The major findings of the review were as follows:*

- Development of a new route as a more direct link between the Goldfields and Pilbara Regions cannot be supported based on current traffic volumes.*
- With the proposal to upgrade Goldfields Highway, between Wiluna and Meekatharra, it is envisaged that this will become the preferred route by those travelling between the Goldfields and Pilbara Regions instead of the Mt Magnet –*

---

*Leinster Link. This will provide a more direct link (142km less travel distance) between the Goldfields and Pilbara Regions without adding new links to the road network.*

- *Should the need arise to further improve the connectivity between the Goldfields and Pilbara Regions, Route C (refer to Figure 2 in draft report) currently appears in balance to be the preferred option. However, this route passes through the Mooloogool pastoral lease and further consultation with CALM and other stakeholders will be required to see if possible impacts can be managed in an acceptable manner.*

*It would be appreciated if any comments you may have regarding the draft report be forwarded to Rob Holmes, of Main Roads, by 24 March 2006 at:*

*PO Box 6202*

*EAST PERTH WA 6892*

*[Robert.holmes@mainroads.wa.gov.au](mailto:Robert.holmes@mainroads.wa.gov.au)*

*Phone: 9323 4536*

*Fax: 9323 4547*

*Once comments have been received the report will be reviewed and the recommendations provided to Government for endorsement.*

*If you require any further information please contact Rob Holmes on (08) 9323 4536. In reply please quote file reference 05/10646 and 05/8305.”*

The report has been produced in full in the Information Brochure and will form part of the Minutes.

The Conclusions and Recommendation in the report read:

*“The intent of this report is to provide guidance on the strategic need for a more direct route between the Goldfields and Pilbara Regions, and the preferred route should the justification be established for improved connectivity between these regions.*

*It is concluded that the development of a new direct link between the Goldfields and Pilbara Regions cannot be supported based on current traffic volumes.*

*With the proposal to upgrade Goldfields Highway, between Wiluna and Meekatharra, it is envisaged that this will become the preferred route by those travelling between the Goldfields and Pilbara Regions instead of the Mt Magnet – Leinster Link. On completion of the proposed upgrading works this route will offer the same road standard but a shorter travel distance,*

*which is 142km less than the Mt Magnet – Leinster Link. This will provide a more direct link between the Goldfields and Pilbara Regions without adding new links to the road network.*

*Nevertheless, should the need arise to further improve the connectivity between the Goldfields and Pilbara Regions, Route C currently appears on balance to be the preferred option. However, this route passes through the Mooloogool pastoral lease and further consultation with CALM and other stakeholders will be required to see if possible impacts can be managed in an acceptable manner.”*

**Comment:**

The Conclusions and Recommendation in the Report should be a favourable result for Meekatharra.

The issue that may concern Council is the level of maintenance funding that will be provided between now and the year 2014/15.

The maintenance issue was not addressed in the Report.

An email dated the 2<sup>nd</sup> March 2006 gives indicative funding for construction and some maintenance.

*“The current approved funding profile for the Meekatharra to Wiluna Road is:*

- 1. Magellan Section - \$5.3M in 2005/06*
- 2. Goldfields Highway (Wiluna to Meekatharra)  
\$0.5M in 2007/08  
\$4.380M in 2008/09*

*Outyear indicative funding is as follows (note approved):*

*2009/10 - \$5M  
2010/11 - \$10.441M  
2011/12 - \$10M  
2012/13 - \$10M  
2013/14 - \$10M  
2014/15 - \$17.679M*

*With respect to maintenance, the budget for 2005/06 is \$550,000 for reconditioning various sections of the Goldfields Highway between 608.32 and 788.12 SLK, which coincides approximately with the Wiluna to Meekatharra section. Also, \$550,000 has been programmed in 2006/07 for reconditioning works over the same section.*

*Please note that outyear funding is not approved and is indicative only at this time.*

*I trust this is of some assistance to you. The Government is currently in its 2006/07 and forward estimate budget process and I will keep you informed of any developments.”*



It would be in Council's interest to consider the level of maintenance and seek an assurance from the Minister for Planning and Infrastructure that adequate funding will be provided until 2014/2015.

**Consultation:**

**Statutory Environment:**

**Policy Implications:** Nil.

**Financial Implications:**

**Strategic Implications:** Nil

**Voting Requirements:**

**Recommendation:**

That Council:-

- Advise the Main Roads Western Australia that the conclusion that the development of a new direct link between the Goldfields and Pilbara Regions cannot be supported based on current traffic volumes is welcome news as Council has always believed that the sealing of the Wiluna – Meekatharra Road will provide adequate access to and from the two regions.
- Seek assurance from the Minister for Planning and Infrastructure that adequate funding levels will be provided for all sections of the road until the year 2014/2015.

**Council Resolution:**

**Moved: Cr. A.G. Burrows**

**Seconded: Cr. H.J. Nichols**

**That Council:-**

- Advise the Main Roads Western Australia that the conclusion that the development of a new direct link between the Goldfields and Pilbara regions cannot be supported based on current traffic volumes is welcome news as council has always believed that the sealing of the Wiluna – Meekatharra road will provide adequate access to and from the two regions.
- Seek assurance from the Minister for Planning and Infrastructure that adequate funding levels for maintenance will be provided for all sections of the road until the year 2014/2015.

**Reason for the change from the original recommendation, the words “for maintenance” were left off the original recommendation.**

**CARRIED 8/0**

**Council Resolution:**

Moved: Cr. B.A. O'Dwyer

Seconded: Cr. A.E. Smith

That the meeting be closed to members of the public under the provision of section 5.23(2)(a) of the Local Government Act.

**CARRIED 8/0**

The President Cr. T.R. Hutchinson announced at 11.45am the meeting was closed to the public.

## CONFIDENTIAL ITEM

**10.3.1 Fringe Benefit Tax Liability**

**Location:** Tax

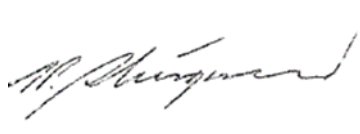
**Applicant:** N/A

**File Ref:** T15/1

**Disclosure of Interest:** Nil.

**Author:** L.P.Strugnell – Chief Executive Officer

**Signature of Author:**



**Date of Report:** 14 March 2006

**Summary:** Council's liability for payment of fringe benefit tax

**Recommendation:**

That the Council acknowledge its liability to pay Fringe Benefit Tax of approximately \$ 20,000 per annum and be aware that retrospective payment and penalties may apply.

**Council Resolution:**

Moved: Cr. B.A. O'Dwyer

Seconded: Cr. N.L. Trenfield

That the Council acknowledge its liability to pay Fringe Benefit Tax of approximately \$ 20,000 per annum and be aware that retrospective payment and penalties may apply.

**CARRIED 8/0**

**Note:**

**A full copy of the Confidential Item is in a sealed envelope in the Office Safe**

**Council Resolution:**

**Moved: Cr. A.E. Smith**

**Seconded: Cr. S.R. Bajrai**

**That the meeting be opened to the public.**

**CARRIED 8/0**

**The President Cr. T.R. Hutchinson announced at 11.55am the meeting was reopened to the public.**

**10.2 ENVIRONMENTAL HEALTH OFFICER REPORT**

**10.2.1 A NEW BUILDING ACT FOR WESTERN AUSTRALIA**

**File:** 13.3.2

**Reporting Officer:** Bill Atyeo

**Applicant:** Department of Housing and Works

**Disclosure of Interest:** Nil

**Date of Report:** 8<sup>th</sup> February 2006

**Summary:** Correspondence has been received from the Department of Housing and Works seeking comment on the development of a new Building Act for Western Australia.

**Background:** The “discussion draft” has just been released for public consultation. It proposed significant and wide ranging changes to the building regulatory environment and proposes to bring the State into line with national reforms.

**Comment:** The following comments are provided against proposed changes as listed in the Discussion Draft. Closing date for comments is 28<sup>th</sup> April 2006.

Is there a need for a comprehensive industry licencing or registration system that will identify a wider range of both suitably qualified and competent building practitioners than is currently the case.

Is there a need to enhance current practitioner licencing or registration process by providing for grades or levels of licencing or registration, possibly by considering class of building, technical provisions or practitioner location.

Is there a need to restrict practice to some or all licenced or registered building industry practitioners.

C) No, the abovementioned licencing and registration processes will come at a cost. Such processes are usually enacted on a user pays principal where consumers pay the cost of administering the process. Consumers also contribute when practitioners and registration through the fees or prices charged for service. This principal can be applied across the board from professionals to tradesmen. The existing building control legislation and processes is working well with little evidence of market or service delivery failures or a high level of disputes requiring resolution.

### **Page 20 – Licencing and Registration Strategies**

Where existing licencing/registration processes warrant continuation or enhancement or where additional groups of practitioners warrant licencing or registration processes, registration should be simple, cost effective and consistent.

There are two logical approaches to consistent licencing or registration of building industry practitioners:

**1) A single licencing or registration system.**

**This system would require the establishment of a single licencing or registration framework to cover all building related occupations.**

**2) Or separate licencing or registration system.**

**This system would build on existing legislation and processes. It would likely establish new Acts of Parliament to cover the range of building industry practitioners considered necessary to license or register.**

C) **The disadvantages of a single licencing/registration system include the substantial legislative effort required to bring about such a model and the substantial cost and effort required to combine the**

**administrative and data management functions of the current licensing/registration systems. (New Government Department)**

**The advantages of the separate licensing/registration model are the lesser degree of new legislative work required, a lesser disruption of industry and lesser implementation costs.**

**However before any change is implemented with licensing/registration the issue of Building Surveyor qualifications must be resolved. (Recognition of Prior Learning/Experience must be recognised at Level 1 or Level 2). That is, all existing Building Surveyors must be recognised at both levels irrespective of qualification level due to the fact that the majority of these officers don't hold an Advanced Diploma in Building Surveying but have been carrying out these duties for between three to forty years.**

**The other question which needs to be asked is why fix a building regulatory system that is not broken or not demonstrating a need for change. The draft has conveniently forgotten 90% of Western Australian Local Government Authorities who do not have a population of 15000, but under this proposal will have to employ or contract a Building Surveyor with Degree or Advanced Diploma qualifications.**

Page 37 & 38 - The Building Licence

**A building licence is to be issued by a Licence Issuing Authority to a building owner. A licence issuing authority may be:**

- The State Government, for state owned building and of state significance.**
- A Local Authority, for most buildings in the local authority area except state government buildings.**
- A special authority, for specialist building types or buildings in regions broader than a single local authority.**

**The discussion draft expects that building approval, the issue of licenses and certificates and enforcement will be carried out by the local authority in which the building is located.**

**The licence issuing authority must obtain advice from an appropriately qualified building surveyor that a proposed building has met all the certification and approval requirements that apply to the building.**

**C) A major change that is proposed within the draft discussion paper from existing controls is that the building owner only will be able to be issued with a building licence. This means that the building owner will prima facie be the single person or entity taking responsibility for the complete building approval, building work and building use process.**

**This is a huge responsibility to be placing on an owner who in 98% of cases would have no building experience whatsoever. This proposed change along with others proposed spreads liability away from the builder to everyone involved in the building process from licence issue to completion.**

**The regime of “proportionate liability” that these proposed changes are designed to create will ultimately lessen the liability of “builders” and “design engineers” and spread that liability to owners and other building certifiers involved in the building process which is wrong.**

**Liability should remain ultimately with builders who have control of the building site and design engineers if building failure is found to be a design fault.**

Page 42 – Administration of Building Control

**A “licence issuing authority” may employ a suitably registered building surveyor to carry out the licence issuing role only, or to carry out both the licence issuing and compliance certification roles. However, local governments will have a “Duty” to engage a suitably registered building surveyor to provide a risk management function to enable the issue of building approval, building licences and occupancy approvals and to enforce building standards.**

**Local authorities will not have to provide a building surveyor registered to certify compliance with the Building Code of Australia. Consumers can go the private sector for this function. In practice, most building surveyors registered to provide the risk management function will also be registered to certify compliance with low risk simple buildings. A local authority may elect to provide a certification service, but this will be a commercial venture separate from the legislated requirement to act as a Licence Issuing Authority.**

**C) Existing Building Surveyors working in local authorities across the State must be recognised as either level 1 or level 2 officers dependent on experience not qualification levels. There are very few existing building surveyors working in Western Australia (1 – 3)**

**with Degree qualifications and probably less than twenty (20) officers with Advanced Diploma qualifications. It is known that this limited number of “qualified” persons, are readying themselves to cater for these changes which will result in significant increases in fees along with a huge disruption in local government building departments with staff shortages if existing building surveyors throughout Western Australia are not recognised as being qualified within level 1 or 2.**

**Of further concern is the fact that existing building surveyors processing and issuing building licences across Western Australia will require registration to enable them to continue doing the same job, “if they are recognised at the new qualification level 1 or 2”. Doing the same job of issuing building licences and ensuring construction compliance will now attract liability for building failure through the new regime of “proportionate liability” which local authorities will have to insure their building surveyors against. Or, accept that Private Certifying Building Surveyors can carry out this function at greatly increased costs to the building owner and local authority.**

**Disagree strongly with the proposed new qualification levels unless all building surveyors working in local government are recognised at the new levels 1 and 2 while maintaining portability to enable movement between local authorities at their respective levels.**

**Disagree strongly with the new regime of “proportionate liability” which will only increase costs across the building industry. Existing provisions of building control legislation in Western Australia should be strengthened to better place liability responsibility rather than spreading liability across the board.**

Page 48 – The State of Western Australia as a Licence Issuing Authority

**Binding the Crown to technical provisions of the Building Code does not mean binding the Crown to control by local authorities. The State Government as a Licence Issuing Authority with jurisdiction over the whole state can control its own building approvals.**

**C) Disagree strongly with this provision. The Crown should be bound by the Act and be controlled by local authorities.**

Page 50 – Works Requiring Building Approval

**Substandard buildings are a threat to the health and safety of the people using or occupying them. They can also undermine the safety of adjoining property. To protect the public and provide a minimum standard of amenity, all “substantial” buildings and structures will continue to be regulated under appropriate legislation.**

**Exempt Works: A building approval and a building licence will not be needed for:**

- **any minor changes to building plans agreed to by the approving Licence Issuing Authority within the currency of the building licence.**
- **prescribed minor works or structures that are not a threat to public safety (masts, aerials, fences, sheds, etc).**
- **works exempted by the Governor in the State and public interest.**
- **any other works prescribed by the regulations.**

**Exempt Works Still to Comply: Works that are exempt from the requirement to obtain building approval and a building licence must still comply with all relevant building standards in the interests of public safety and health. However, exempt works do not have to go through the regulatory approval process under this Building Act. Prescribed minor works or structures that are not a threat to public safety eg (masts, aerials, fences, sheds, etc) will have a separate simple notification process. Such notification is proposed to inform a Licence Issuing Authority of what is happening in its location as a matter of public record. The notification process will include the lodgement of the plans and a certificate of liability from the person accepting legal responsibility for the quality of the structure.**

**C) The ability to approve minor building changes (non-structural) within the currency of the building licence without the need to submit amended plans for approval is a common sense improvement on current legislative requirements. However, the exemption of prescribed minor works or structures eg (masts, aerials, fences, sheds, etc) is likely to result in poorly constructed minor structures that would pose as great a risk to health and safety as a poorly constructed dwelling. There is a much greater propensity for builders to get it wrong if there is no requirement to apply for a building licence or inspection protocol in place.**

**Also of major concern is the proposal to replace the current regulated (lodgement fee) fee system. Reducing the existing licence fee in any form will result in significantly reducing revenue capacity of local government which is unacceptable.**



**A developer or building owner will be able to independently commission appropriately qualified practitioners to examine and certify some aspects including BCA. For some other aspects, specialist agencies such as FESA may also be required to examine proposals and give approval. The onus will be on the developer or owner to present the Licence Issuing Authority with a full set of certificates to minimise delays in obtaining building approval and the issuing of a building licence.**

**The proposed legislation will automatically allocate legal responsibility for the soundness of the design of a building to the building owner. The building owner may provide the Licence Issuing Authority with a certificate signed by a professional design team or builder accepting legal responsibility for the soundness of design. This certificate clarifies responsibility in a regime of proportionate liability.**

**Certificates of design liability will be required prior to a building approval being issued for certain classes of building. Certification of design compliance is required for all buildings to ensure the building has been designed in accordance with the BCA in the interests of public safety. A suitably registered person(s) must certify that the design complies with the relevant building standards and issue a certificate of design compliance.**

**The Licence Issuing Authority must only issue a building approval to the building owner. The building approval will signify that all statutory approvals required for the proposed building are in place and that the detailed documents provided conform to those approvals.**

**Ultimately the Licence Issuing Authority must be satisfied with the certificates of compliance provided and may determine that specialist clarification is required from particular professionals (ie structural engineer) for particular aspects of design before a building approval will be issued. It is up to the authority's discretion to determine the level of certification of compliance required for particular buildings and this will be done either prior to or at the time of issuing the building approval, with the building licence specifying the required certification during the construction phase.**

**The Licence Issuing Authority building surveyor will also check the registration and any conflict of interest issues, of the person or persons providing certification of compliance service.**

**Once a builder is identified and prior to issuing of a building licence, the builder will provide a signed statement that it takes full legal responsibility for the quality of construction. This certificate of construction liability clarifies responsibility in a regime of proportionate liability.**

**The Licence Issuing Authority can only issue a building licence after an appropriately registered builder has been identified and has submitted a signed certificate of construction liability. The building licence will set out any inspections required during the construction phase to confirm compliance with the building approval.**

**C) The building approval and licence process has been extended to include:**

- 1) Certificate of design liability.**
- 2) Certificate of design compliance.**
- 3) Certificate of construction compliance.**
- 4) Certificates of construction inspections.**
- 5) Preliminary approvals to occupy – extend to dwelling.**
- 6) Certificate of occupancy.**
- 7) Maintenance after occupation – relating to commercial buildings.**

**All of the above changes will result in significantly increased administration duties for local government building officers that will take up more time from other duties. Building officers will be required to take on an auditing role to juggle the many new certificates required of building owners to produce before building approval can be issued. Increased compliance inspections will now require the issue of Certificates of Inspection which again will create a new administrative process expected of the local authority. All of the above will create increased work loads for building staff with corresponding cost increases irrespective whether contracted or permanent building staff, are used.**

**These proposed changes clearly will result in increased costs to local authorities, building owners and builders which really is not warranted as existing building control legislation is working well in Western Australia.**

**Some small changes could be implemented by amending existing legislation and processes which would have a much less disruptive and cost prohibitive outcome on the local building industry.**

**Will not support these changes in current format as they clearly will result in increased costs to local authorities, building owners/builders, and are very likely to unduly delay the approval and licence issue process.**

Page 58 – Building Fees

**The Licence Issuing Authority may charge a fee for issuing a building approval and a building licence. The maximum fee will be set in the regulations. Fees are expected to be lower than at present because the licence issuing process carried out by a Licence Issuing Authority no longer includes the process of certifying compliance with the BCA or inspecting construction. These separate aspects of building control will be provided on a fee-for-service basis by either private sector registered certifiers or by local authorities as a separate and contestable service from their Licence Issuing Authority role.**

**C) Will not support the reduction in licence fees due to the fact that the proposed changes will significantly increase local authority costs to administer same.**

**It is unacceptable that existing local authority building surveyors will not be able to continue to certify compliance with the BCA or carry out construction inspections when they have been doing so for years. The draft has conveniently forgotten 90% of Western Australian local government authorities who do not have more than a 15000 population but under this proposal will have to employ or contract a “Qualified Building Surveyor”.**

Page 58 – Approval of Unauthorised Building Work

**The draft proposed to include provisions to allow local authorities to retrospectively approve unauthorised building work at the discretion of the Licence Issuing Authority.**

**C) Agree with this provision. This is a great improvement which will allow local authorities to deal with unapproved buildings in a consistent manner.**

Page 60 – Inspections During Construction

**The building owner must ensure that any required inspection regime is carried out. At the building licence stage the Licence Issuing Authority will have a duty to assess the potential for compliance**

**failures to occur during construction and the likely outcomes of such failures. The building licence must indicate:**

- a) **The aspects of construction that are to be inspected.**
- b) **Who is permitted or required to carry out those inspections.**

**The builder must not carry on work so as to frustrate the execution of required inspections.**

**A suitably registered person must confirm a required inspection has been carried out and issue a Certificate of Inspection to confirm compliance with the building approval.**

**Inspections of building work are intended to confirm that certain aspects of construction comply with the building approval and relevant minimum building standards.**

**C) The requirement for a building owner or builder to coordinate registered certifiers to carry out inspections will most likely cause delays to the building project and increase costs significantly in rural areas due to distances required to be travelled. Licence Issuing Authorities may elect to provide a certification service using its “registered” building surveyor, however would need to fully insure that officer, as this service would be deemed a commercial venture separate from the legislative requirement to act as a Licence Issuing Authority.**

**Put simply these proposed changes requiring Certificates of Inspection to be issued by registered certifiers discriminates against rural areas as the cost of complying will be significantly higher in rural areas as opposed to the metropolitan area. Currently most rural local authority building surveyors carry out construction inspections in one form or another. These changes will restrict that inspection service from occurring in the future or make it much more expensive for Council to maintain this service in an attempt to keep inspection costs low for its new ratepayers (home builders). It is unacceptable that local authorities should be put in this situation at all.**

Page 65 – Licence Issuing Authority to Issue Certificate of Occupancy.

**The certificate of occupancy must be issued by the Licence Issuing Authority that granted the building approval and building licence.**

**The application for a certificate of occupancy must:**

- a) be in a standard form, and
- b) demonstrate to the Licence Issuing Authority that the construction complies with the building approval and all required certifications have been obtained in accordance with the building licence.

The certificate of occupancy will be required before any building is occupied.

The Licence Issuing Authority will only issue a certificate of occupancy to the building owner.

Certificates of Occupancy required for all building work issued with a building licence.

C) The requirement to issue Certificates of Occupancy will add a huge workload onto building surveyors already very busy controlling existing legislative requirements. The building surveyor will be required to coordinate and audit all Certificates of Inspection against building licence approval conditions and then issue Certificates of Occupation. All of which adds to busy workloads which ultimately will increase costs for local authorities through staffing issues created by these proposed changes.

Rural local authorities can least afford cost increases associated with enforcement of building control legislation as can the building industry operating in the rural areas of Western Australia.

Page 69 – Maintenance of Regulated Usage and Services.

Essential services and inspections will be prescribed on the certificate of occupancy. Only services and inspection regimes that are considered necessary for the safe and healthy occupation of a building will be prescribed.

A Licence Issuing Authority must periodically review or audit compliance with the building usage and, where mandated, the essential maintenance set out in the certificate of occupancy.

If satisfied all requirements are being met the Licence Issuing Authority will reissue the certificate of occupancy for a further period. A Licence Issuing Authority must only reissue a certificate of occupancy on the advice of a suitably registered building surveyor.

**Each building owner will report at the times set out in the certificate of occupancy, to the Licence Issuing Authority.**

**Records of maintenance and checks must be kept on site and may be inspected by the Licence Issuing Authority.**

**Substantial penalties will apply where a building owner:**

- **does not carry out maintenance and checks.**
- **falsely reports having carried out maintenance and checks.**
- **does not keep proper maintenance records.**

**The Licence Issuing Authority may revoke the certificate of occupancy.**

**C) The requirement to enforce maintenance of essential services in buildings will again result in an increased workload placed on building surveyors and the local authority. New administrative processes will need to be produced to enable local authorities to enforce these proposed changes. All of the above will impact financially on local authorities, which really is not necessary as there are statutory avenues in place already for enforcement of maintenance requirements. The enforcement responsibility should not be on the approving authority.**

Page 71 – Enforcement

**A person authorised or appointed by a Licence Issuing Authority to conduct inspections must report failure to comply with approved plans, etc to the Licence Issuing Authority.**

**A Licence Issuing Authority will be responsible for initiating enforcement action:**

- **during building work either on its own initiative or on the report of a registered certifier undertaking inspections on its behalf.**
- **after building work is completed.**
- **after building work has expired, or**
- **where building work has been, or is being, carried out without building approval.**

**A building notice may be served on both the builder and owner giving notice of the compliance failure and calling on the persons to show why they should not be ordered to bring the building or works into compliance.**

**Where the Licence Issuing Authority is not satisfied with a response to building notice or does not receive a response the Licence Issuing Authority may serve a building order on the recipients of the building notice ordering that the building be brought into compliance.**

**Before a building order can be issued, a building notice must be served on the building owner to show cause why the order should not be issued.**

**A Licence Issuing Authority may serve a building order on both the builder and owner without a prior building notice where, in the Licence Issuing Authority view, the compliance failure represents an immediate or imminent threat to the safety of people or property.**

**A stop work order may be served on both the builder and owner with effect for up to 48 hours where the Licence Issuing Authority has reason to believe a serious compliance failure has occurred or is about to occur.**

**Building orders and stop work orders will be enforced by the Licence Issuing Authority.**

**Substantial penalties will apply.**

**All fines imposed by a court will be payable to the Licence Issuing Authority taking the action.**

**In certain circumstances, enforcement and prosecution costs will become a charge on the land and may be recovered in the same manner as outstanding rates.**

**Licence Issuing Authorities will have appropriate powers of entry consistent with their needs and the rights of building owners and occupiers.**

**C) The requirement to issue a building notice before a building order may be issued will be time consuming and a waste of resources. The Licence Issuing Authority should only be required to advise the owner or builder of a problem in person or by phone after which a building order should be enforceable. The issuing of a building notice is a waste of time and resources and should be scrapped.**

**Enforcement provisions otherwise appear to be quite workable from a local authority point of view.**

**Powers of entry provisions should not be watered down to require prior notice to owners. Most building surveyors do try to provide prior notice but often find it difficult to contact owners or builders which would make this power unworkable if it were watered down.**

Page 76 – Construction on Boundaries

**New provisions to protect adjoining property are proposed which will require the building owner and adjoining owner to reach agreement on protection works. Where there is no agreement, the Licence Issuing Authority may determine the matter and must then advise both parties of the determination. There is a right of appeal by either party against the Licence Issuing Authority's determination.**

**The Licence Issuing Authority must confirm that notice has been given to adjoining property owners and their consent obtained before issuing building approval and a building licence.**

**If the adjoining owner does not respond within the prescribed time frame, he or she will be deemed to have agreed to the proposed protection work.**

**Any fences constructed pursuant to a building licence, for example, (substantial masonry fences adjoining buildings or containing retaining walls) will be treated in the same way as party walls and will be subject to the notice and appeal provisions proposed in this Act.**

**C) Local authorities should not be forced to make judgements on disagreements between property owners. Currently these issues resolved in the lower court system (Court of Petty Sessions) under civil law which is where this responsibility should remain.**

**The Licence Issuing Authority should only be required to issue building approval and building licence after the building applicant has written agreement from the adjoining owner agreeing to the protection work.**

**The proposal to treat masonry fences and retaining walls the same as party walls to be subject to the notice and appeal provisions as mentioned is also unacceptable to local government.**



Page 81 – Appeals and Audits

**There will be a right of appeal for aggrieved parties directly affected by any decision of a Licence Issuing Authority.**

**All appeals against administrative decisions of Licence Issuing Authorities will be referred to the State Administrative Tribunal for a review of the decision.**

**Audits will be carried out to confirm the certification of compliance process is working satisfactorily. Although not set out in detail at this stage, it is envisaged that LIA will be required to audit (independently check) a proportion of certificates issued by practitioners registered to certify compliance with the Building Code of Australia.**

**Audits will be carried out to confirm the licensing issuing processes are working satisfactorily. The State Government will be required to audit a proportion of building approvals, building licences and certificates of occupancy issued by Licence Issuing Authorities.**

**C) The ability to appeal various local authority decisions will most likely bog down the process more so than occurs now under existing provisions and is not supported.**

**On one hand the draft proposed that local authorities will be responsible for auditing registered certifiers to check on conflict of interest issues or doubt on registration status.**

**Then on the other hand states that a Licence Issuing Authority must have a good reason for refusing a certificate from registered certifier. How can a local authority really check on conflict of interest issues with a certifier besides checking his registration details? Registration authorities have been known to get it wrong more often than not (for example Doctor Death, Queensland Government), so what point is there in checking anyway. This requirement just adds another layer to the building approval system that is irrelevant time consuming and costly.**

**The existing building control system in Western Australia is working well, why change it.**

**The draft proposes that the State Government will be bound by the Act however they will only be required to comply with the Administrative provisions of the Act and will not be required to**

**apply to the Licence Issuing Authority for a building licence. Why should Licence Issuing Authorities agree to the requirement to have its building licence processes audited by the State Government? The requirement to be audited by State Government is unacceptable.**

Page 86 – Certification of Design Compliance

**A suitably registered person(s) must certify the design complies with the Building Code of Australia and issue a certificate of design compliance for the relevant aspects of the building. The Licence Issuing Authority undertakes a risk management function prior to issuing a building licence to determine the level of independent checking required (ie will self certification or independent checking be required?). Regulations and best practice guidelines will set out the requirements for most common classes of building. This will involve some extra cost to unregistered people (owners), but will ensure that the certification cost is borne by the consumer and not the local authority that provides this service at present by issuing a building licence. The fee paid to a Licence Issuing Authority for confirming all certification and approvals are in place and issuing a building licence will be reduced proportionately.**

**A building surveyor registered for the particular class of building must certify that the building as a whole complies with the BCA. Notwithstanding that specialist certifiers have confirmed that each aspect of a building complies with the relevant section of the BCA, an appropriately registered person must certify that the building as a whole complies with the BCA.**

**C) The requirement for a Certificate of Design Compliance will result in a significant cost increase to the consumer.**

**The licence fee which a Licence Issuing Authority collects when issuing a licence should not be reduced. The increased administrative processes created by the draft Building Act will actually increase Councils costs which should be recoverable through licence fee charges.**

Page 102 – Registration of Building Surveyors

**Nationally the role of building surveyors has developed from simply checking that a building proposal complies with prescriptive standards to that of an expert in building standards and regulatory processes.**

**There are two separate and independent functions of building surveyors under the proposed Building Act.**

- 1) To confirm that the building as a whole meets the requirements of the Building Code of Australia, and where appropriately skilled, certify compliance with specific aspects of the Code, and**
- 2) To confirm all approvals are in place, to issue building approval, building licences and certificates of occupancy, and to enforce compliance with building regulations.**

**A National Accreditation Framework for building surveyors, provides for registration in two classes:**

- Level 1, being an unrestricted building surveyor able to certify compliance with the Building Code of Australia for any class of building.**
- Level 2, being a restricted building surveyor able to certify compliance with the Building Code of Australia for buildings of less than 3 stories or less than 2000 metres square.**

**The proposed Building Act will set out what functions are appropriate to each level of registered building surveyor.**

**Building surveyors will be registered against the national competence framework providing for two (or possibly three) levels of building surveyor.**

**The Building Act will create a registration board to register building certifiers. The board will be constituted along the same lines as the Architects Board or the proposed Engineers Board. It will register people able to certify compliance with specific aspects of the Building Code of Australia, as well as building surveyors able to certify compliance with the Code as a whole.**

**C) The proposal to register building surveyors against the national competency framework is recognised as an issue that Western Australia is slowly being forced to resolve. The pressure to change the existing building control legislation is based solely on catching up to Eastern States, Australian Building Codes Board National Competency Framework requirements. There are no major problems with Western Australia's building control legislation. There are no major building failures occurring other than one death of a young child in 2002 associated with a building collapse which was a tragic accident. If the current system is functioning**

**satisfactorily, why is the Government trying to significantly change the system?**

**Whilst the Department of Housing and Works has indicated its commitment to maintain local government within the licence approval process as proposed in the Draft Building Act. It does not specify existing agreements between the Department of Local Government and local government which were negotiated when the qualification issue was first discussed across the State five years ago. The agreement that was reached at the time was that Health/Building Surveyors and Building Surveyors with no formal qualifications but with more than two years experience were to be recognised at level 1 or 2. That recognition also allowed portability between local authorities.**

**Previously the Regulations required that a Qualified" Building Surveyor (Degree) be appointed where the population base is greater than 15000 persons. The previous agreement with local government addressed these concerns for smaller local authorities by permitting the continued use of building surveyors that had substantial experience.**

**The current agreement, as submitted to local government previously, states that Environmental Health Officers and Building Surveyors with two years experience will be recognised as a Level 1 or 2 building surveyor dependent on existing position held with the ability to move between local authorities at this level. This agreement requires confirmation in the Building Act Draft and reiterated to local government as fact.**

**Many Environmental Health Officers/Building Surveyors and Building Surveyors working in regional Western Australia have substantial experience and are aware of more stringent regional requirements than most metropolitan based building surveyors. The burden proposed by the Building Act Draft and Amendment Bill 2005 will place smaller regional local governments in a situation where additional staff will be required to undertake duties currently carried out by experienced but unqualified (formal qualifications) building officers when no problems have been noted with the provision of those building control functions to date.**

**The move to upgrade building surveyor qualifications is accepted, but not at the expense of existing building surveyors currently working in local government.**

**The only difference between the proposals to upgrade Building Surveyor qualifications from previous discussions to today's, is the use of the coroner's report into the death of a young girl in 2002 due to a building collapse. Although terrible that a child's life was lost through a mistake, is it reason to significantly change qualification and building control legislation due to one death. Will the proposed changes resolve any further similar mistakes occurring in the future? The existing building control legislation and building surveyors working in local government have done a good job with very limited number of building failures reported.**

**Regulate to ensure that mistakes as evidenced in the coroner's report are not allowed to happen in the future, but not at the expense of the 80% to 90% of "unqualified" experienced building surveyors currently working in local government. Existing building surveyors should not be required to apply for recognition to a qualification committee. The recognition should be automatic after confirmation of experience and qualification levels are confirmed by the Department of Housing and Works. Recognition, when issued, should be portable to allow movement between local authorities at recognised levels (level 1 or 2). It is imperative that existing building surveyors with experience be provided with the Level one or two recognition. Anything less is unacceptable.**

**All building surveyors, existing and future, should be assessed by the Department of Housing and Works and recognised at level 2 irrespective of qualifications, experience or being a holder of a Municipal Building Surveyors Certificate. A number of unqualified building surveyors in the past have been issued with the Municipal Building Surveyors Certificate through recognition of experience prior to commencement of the previous discussion period five to six years ago.**

- Consultation:** The discussion draft is open to members of the building and construction industry and the general community to provide input into the development of a new Building Act for Western Australia.
- Financial Implications:** The proposed changes if implemented will have a financial impact through administrative changes and liability issues associated with a new regime of "proportionate liability".
- Statutory Environment:** Once gazetted, Council will be required to have due regard to the provisions of the Building Act.
- Policy Implications:** Nil.

**RECOMMENDATION:**

That Council:

- Endorse staff comments.
- Advise the Department of Housing and Works, Councils comments regarding the Building Act Discussion Draft.
- Advise the Minister for Local Government and Regional Development, Councils comments regarding the Building Act Discussion Draft, and
- Request WALGA to lobby the Minister for Local Government and Regional Development and State Government Council's concerns regarding the Building Act Discussion Draft.

**Council Resolution:**

**Moved: Cr. B.A. O'Dwyer**  
**Seconded Cr. A.E. Smith**

**That Council:**

- **Endorse staff comments.**
- **Advise the Department of Housing and Works, Councils comments regarding the building act discussion draft.**
- **Advise the minister for local government and regional development, councils comments regarding the building act discussion draft, and**
- **Request WALGA to lobby the minister for local government and regional development and state government council's concerns regarding the building act discussion draft.**

**CARRIED 8/0**


**10.3** DEPUTY CHIEF EXECUTIVE OFFICER REPORT

**10.3.1** **List of Accounts**

**Location:** Finance

**Applicant:** N/A

**File Ref:** F/6  
**Disclosure of Interest:** Nil.  
**Date of Report:** 10<sup>th</sup> June 2005  
**Author:** Natalie Hope - Deputy CEO.

**Signature of Author:** 

**Senior Officer:** L.P.Strugnell - Acting CEO

**Signature of Senior Officer:** 

**Summary:** Accounts are to be presented to Council for payments.

**Background:** List of Accounts

(1) *If the local government has delegated to the CEO the exercise of its power to make payments from the Municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –*

- (a) *the payee's name;*
- (b) *the amount of the payment;*
- (c) *the date of the payment; and*
- (d) *sufficient information to identify the transaction.*

(2) *A list of accounts for approval to be paid is to be prepared each month showing –*

- (a) *for each account which requires council authorisation in that month –*
  - (i) *the payees' name;*
  - (ii) *the amount of the payment; and*
  - (iii) *sufficient information to identify the transaction; and*
- (b) *the date of the meeting of the council to which the list is to be presented.*

(3) *A list prepared under sub-regulation (1) or (2) is to be –*

- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and recorded in the minutes of that meeting.*

**Comment:** Each month the accounts are present to Council for payment;

Municipal Voucher No's EFT84-EFT90 Amount: \$ 352,938.97  
Voucher No's 21771 - 21878

Trust Account Voucher No's Nil Amount: \$ 0.00

Air BP Voucher No's VARIOUS Amount: \$ 1765.24

**Consultation:** Nil

**Statutory Environment:** *Local Government (Financial Management) Regulations 1996 S.613 List of Accounts.*

**Policy Implications:** Nil.

**Financial Implications:** Accounts to be paid.

**Strategic Implications:** Nil.

**Voting Requirements:** Simple Majority.

**Recommendation:** That the accounts as detailed be paid.

**Council Resolution:**

Moved: Cr. B.A. O'Dwyer

Seconded: Cr. A.E. Smith

That the accounts as detailed be paid.

**CARRIED 8/0**

**10.3.2 Monthly Financial Report - Period Ended 28<sup>th</sup> February 2006**

**Location:** Finance

**Applicant:** N/A

**File Ref:** F/6

**Disclosure of Interest:** Nil.

**Date of Report:** 13<sup>th</sup> March 2006.

**Author:** Natalie Hope – Deputy CEO

**Signature of Author:**





**Senior Officer:** Peter Strugnell – Acting CEO



**Signature of Senior Officer:**

**Summary:** Monthly Financial Report

**Background:** Financial Activity Statement report – s.6.4

*(1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*

*(a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*

*(b) budget estimates to the end of the month to which the statement relates;*

*(c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*

*(d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and*

*(e) the net current assets at the end of the month to which the statement relates.*

*(2) Each statement of financial activity is to be accompanied by documents containing —*

*(a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*

*(b) an explanation of each of the material variances referred to in sub-regulation (1)(d); and*

*(c) such other supporting information as is considered relevant by the local government.*

*(3) The information in a statement of financial activity may be shown —*

*(a) according to nature and type classification;*

*(b) by program; or*

*(c) by business unit.*

*(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be —*

*(a) presented to the council —*

*(i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or*

(ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting;

and

(b) recorded in the minutes of the meeting at which it is presented.

(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

(6) In this regulation —

}committed assets~ means revenue unspent but set aside under the annual budget for a specific purpose;

}restricted assets~ has the same meaning as in AAS 27.

[Regulation 34 inserted in Gazette 31 Mar 2005 p. 1049-50.]

[35. Repealed in Gazette 31 Mar 2005 p. 1050.

**Comment:** A monthly financial report is to be presented to Council at the next ordinary meeting following the end of the reporting period.

**Consultant:** Nil

**Statutory Environment:** *Local Government Act 1995 Section 6.4 Financial Report  
Financial Management Regulations 34 & 35*

**Policy Implications:** Nil

**Financial Implications:** Nil

**Strategic Implications:** Nil

**Voting Requirements:** Simple majority

**Recommendation:**

That the financial report for the period ending 28<sup>th</sup> February 2006 be received.

**Council Resolution:**

Moved: Cr. B.A. O'Dwyer

Seconded: Cr. N.L. Trenfield

That the financial report for the period ending 28<sup>th</sup> February 2006 be received.

**CARRIED 8/0**

**11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:**

Nil.

**12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING:**

That a Health and Building Committee be formed and that an agenda item containing information on the formalisation of a committee be brought to the April meeting.

**Moved Cr. B.A. O'Dwyer**

**Seconded: Cr. N.L. Trenfield**

**CARRIED 8/0**

**13. CLOSURE OF MEETING:**

The President Cr. T.R. Hutchison officially closed the meeting at 12.20 pm.