



SHIRE OF ASHBURTON

SPECIAL MEETING OF COUNCIL

MINUTES

**Council Chambers, Community Recreation
Centre, Tom Price**

14 December 2011

SHIRE OF ASHBURTON
SPECIAL COUNCIL MEETING

Dear Councillor

Notice is hereby given that an Special Meeting of the Council of the Shire of Ashburton will be held on 14 December 2011 at Council Chambers, Community Recreation Centre, Tom Price commencing at 2:30.pm.

The business to be transacted is shown in the Agenda.

Jeff Breen
CHIEF EXECUTIVE OFFICER

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

Special Meeting of Council 14 December 2011

1.	DECLARATION OF OPENING	4
2.	ANNOUNCEMENT OF VISITORS	4
3.	ATTENDANCE.....	4
3.1	PRESENT.....	4
3.2	APOLOGIES.....	4
3.3	APPROVED LEAVE OF ABSENCE	4
4.	QUESTION TIME	5
4.1	PUBLIC QUESTION TIME (pertaining to the Agenda item)	5
5.	DECLARATION BY MEMBERS	6
5.1	DECLARATION OF INTEREST	6
6.	BUSINESS.....	8
6.1	CONFIDENTIAL ITEM - REVOCATION OF COUNCIL MOTION 11077 - TOM PRICE AIRPORT.....	8
8.	CLOSURE OF MEETING.....	13

1. DECLARATION OF OPENING

The Shire President declared the meeting open at 2.30 pm.

2. ANNOUNCEMENT OF VISITORS

The Shire President welcomed the members of the public.

3. ATTENDANCE

3.1 PRESENT

Cr K White	Shire President, Onslow Ward
Cr L Rumble	Deputy Shire President, Paraburdoo Ward
Cr I Dias	Paraburdoo Ward
Cr L Thomas	Tableland Ward
Cr L Shields	Tom Price Ward
Cr P Foster	Tom Price Ward
Cr A Eyre	Ashburton Ward
Cr D Wright	Pannawonica Ward
Mr J Breen	Chief Executive Officer
Mr F Ludovico	Executive Manager, Corporate Services
Ms A O'Halloran	Executive Manager, Strategic & Economic Development
Ms D Wilkes	Executive Manager, Community Development
Mr R Paull	Principal Town Planner
Miss C Shaw	Administration Assistant, Corporate Services

3.2 APOLOGIES

Mr G Brayford	Executive Manager, Technical Services
Ms F Keneally	A/Executive Manager, Operations
Ms J Smith	Executive Assistant CEO

3.3 APPROVED LEAVE OF ABSENCE

Cr C Fernandez	Tom Price Ward
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4. QUESTION TIME

4.1 PUBLIC QUESTION TIME (pertaining to the Agenda item)

Lisa Shields tabled the following letter from Tom Price and Paraburdoo Business Association which was taken on notice.

ARGUMENTS AGAINST COUNCILS REASONS FOR NOT PROCEEDING WITH FEASIBILITY

1. The Shire has too many projects on at present time and do not have the time and resources to investigate the possibility of building another airport.

Reply

Please tell us what these other projects are and give reasons why they should take priority over this investigation which is so crucial to the future of air transport in the Shire. Appropriate funding can be obtained for resourcing the feasibility.

2. Rio pulled out of building a new airport in Tom Price because due (sic) to the GFC (market uncertainty) it was not a financially viable option.

Reply

There was never any financial viability concern with regard their decision. The move of the airport was all to do with convenience and proximity to future development.

Major capital expenditure was cut back due to uncertainty caused by the GFC and the airport was one of several projects cut or delayed for this reason. As history tells us the uncertainty was short lived and Rio have since shown their preference for control of air transport by pursuing private facilities.

3. Building, owning and managing an airport is a huge financial risk for the shire.

Reply

This is a baseless statement when Council has not even conducted any financial analysis of the project. This is what we are asking for. There are two excellent models for the Shire to assess, Newman and Karratha airports. I'm sure East Pilbara and Roebourne Councils would be only too pleased to assist.

Partnership funding together with Royalties for Regions is an obvious and abundant source of capital.

There are also options for management contracts with experienced airport operators to take away any ongoing operation concerns.

5. The present arrangement of Rio owning and managing the Paraburdoo airport has served the communities of Tom Price and Paraburdoo well for over 30 years and this could continue.

Reply

Paraburdoo airport has been a disgrace for the last 20 or more years. Despite several forays into improvement options, in the end Rio Tinto has done nothing apart from recently paying lip service to a burgeoning parking problem. A private facility would reduce this problem to almost nothing by introducing parking fees.

Paraburdoo has become a FIFO service airport and has none of the facilities of a regular airport. Things such as decent and adequate toilets, public indoor seating suited to size of aircraft used and heaven forbid, catering facilities for use while waiting for regularly delayed flights.

A major benefit to change would be the ability to attract other carriers creating much needed competition as is experienced at all other Pilbara airports.

There is no basis for this nefarious statement. Just ask anyone (other than ill informed councillors that is) if they are happy with the prospect of more of the same at Paraburdoo airport. We are sure the answer will be a resounding NO.

The very least our Shire deserves is an informed decision after assessment of all relative facts, financial and otherwise. How can we have this without undertaking the appropriate feasibility process?

5. DECLARATION BY MEMBERS

Cr's White, Rumble, Dias, Wright, Thomas, Eyre, Shields and Foster have given due consideration to all matters contained in the Agenda presently before the meeting.

5.1 DECLARATION OF INTEREST

Councillors to Note

A member who has a Financial Interest in any matter to be discussed at a Council or Committee Meeting; that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting
or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a Financial Interest in a matter.

I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

6. BUSINESS

Declaration of Financial Interest

In accordance with Section 5.69 (3) (a) of the Local Government Act Cr Rumble, Cr Dias, Cr Wright and Cr Foster declared an indirect financial interest in Agenda Item 6.1, the nature of the interest being Cr Rumble is a shareholder of Rio Tinto Pty Ltd, Cr Dias is an employee and holds shares in Rio Tinto Pty Ltd, Cr Wright is an employee of Rio Tinto Pty Ltd and Cr Foster's partner is an employee of Rio Tinto Pty Ltd.

As there would not be a quorum to vote, approval was sought from the Minister of Local Government to allow disclosing members to debate and vote on Agenda Item 6.1.

The Minister advised that Councillors Wright and Foster were allowed to fully participate in the discussion and decision making in relation to this item (a copy of this determination is attached).

Councillors Rumble and Dias left the room at 2.32pm.

6.1 CONFIDENTIAL ITEM - REVOCATION OF COUNCIL MOTION 11077 - TOM PRICE AIRPORT

COUNCILLOR'S NAME: Cr Lisa Shields

DATE REPORT WRITTEN: 25 November 2011

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in this matter.

Issue

We, the under-signed, request a special meeting of Council, as soon as possible, as soon as the Chief Executive Officer can reasonably convene, to move a revocation motion to Shire of Ashburton Council.

Reason

We, the under-signed, feel that a decision by Council was not made fairly. Not all the information that the Councillors present required to make a well informed decision was readily available, and the issue of conflict of interest was not fairly addressed. We further believe that allegations made by Councillor Wright were unfounded, and seek an official apology to same effect. We believe that fair process and natural justice was not applied.

Further more to this, we, the under-signed, feel clarification should be sought from the Department of Local Government, pertaining to conflict of interest, so that future discussions around similar subject matter do not cause dissension and bring the Council of the Shire of Ashburton into disrepute.

Special Meeting of Council 14 December 2011

We, the under-signed, request that the following Tom Price Airport motion, discussed and moved at the Shire of Ashburton Local Council meeting held on Wednesday, 16 November 2011 be revoked.

Agenda Item (Confidential Reports)

Item 17.1 Confidential Item – Proposed Tom Price Airport

Motion proposed by Counsellor Dias:

1. Is for Council to endorse Paraburdoo as the primary airport.
2. Is to write to State Government and Rio Tinto confirming that support for Paraburdoo as our main airport.
3. For the Chief Executive Office to advise Council regarding the response to this.
4. Advise the media and local community of the Council's decision.

Motion was adopted by Council 6 votes for, 3 against.

We, the under-signed, propose the following motion replace the motion above.

That Council:

1. Defer decision making relating to the proposed new Tom Price Airport (RPT) for a further three months to allow further investigation to occur.
2. Directs the Chief Executive Officer to enter into discussions with Rio Tinto and others, in order to establish the possibility of company support for, or participation in the development and / or operation of a Tom Price regular passenger transport (RPT) airport, and report back to Council.
3. Direct the Chief Executive Officer to further enter into discussions with Rio Tinto and others, in order to establish the possibility of an RFDS (Royal Flying Doctor Service) runway for the town of Tom Price.
4. Direct the Chief Executive Officer to remove all Press Release documents relating to Shire of Ashburton supporting Paraburdoo Airport at this time pending further investigation of this initiative.
5. Direct the Chief Executive Office to contact the Department of Local Government to seek clarification of process surrounding conflict of interest and the resolve of such situations as discussed in the Local Government Act and similar pieces of State legislation.

Special Meeting of Council 14 December 2011

Signed



Lisa Shields
Councillor—Shire of Ashburton



Ann Eyre
Councillor—Shire of Ashburton



Peter Foster
Councillor—Shire of Ashburton

Dated: 25/11/2011

RESPONDING OFFICER

FILE REFERENCE:	OR.MT.2
AUTHOR'S NAME AND POSITION:	Frank Ludovico Executive Manager, Corporate Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	4 December 2011
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial interest in this matter.
PREVIOUS MEETING REFERENCE:	Minute No 11077, 16 November 2011

Background

Special Meeting of Council 14 December 2011

Councillors Shields, Eyre and Foster have requested a Special Council Meeting to seek the revocation of the motion concerning the Tom Price Airport determined at Council's November 2011 meeting.

Comment

As the Acting Chief Executive Officer at the time of the request, the only time most Councillors were available to attend a Special Meeting is the date of the next Council meeting, ie. 14 December 2011.

As a result of the request for a Special Meeting only a media statement regarding the Tom Price Airport has been prepared and distributed. Letters to the State Government and Rio Tinto Pty Ltd have not been prepared.

Statutory Environment

Section 5.4 Local Government Act 1995 (LGA) indicates that at least 1/3 of Council can call for a Special meeting. In the case of the Shire of Ashburton 1/3 of the Council is 3 Councillors.

Section 5.25 (LGA) indicates that regulations concerning the revocations of motion can be made by the governor.

Regulation 10 Local Government (Administration) Regulations 1996 indicates any motion to revoke a motion must be supported by at least 1/3 of the number of offices (whether vacant or not) of members of the council, inclusive of the mover. Any decision to revoke a decision must be made by absolute majority

Section 5.45 (LGA) indicates that "any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority".

Council Decision

The revocation motion was supported by Crs Shields, Eyre and Foster

MOVED: Cr Shields

SECONDED: Cr Eyre

That the following Tom Price Airport motion, discussed and moved at the Shire of Ashburton Local Council meeting held on Wednesday, 16 November 2011 be revoked.

- 1. Is for Council to endorse Paraburdoo as the primary airport.**
- 2. Is to write to State Government and Rio Tinto confirming support for Paraburdoo as our main airport.**
- 3. For the Chief Executive Office to advise Council regarding the response to this.**
- 4. Advise the media and local community of the Council's decision.**

Vote 3/3

The President exercised her casting vote.

MOTION LOST Vote 4/3

**CRS WHITE, WRIGHT THOMAS VOTED AGAINST THE MOTION
CRS SHIELDS, EYRE & FOSTER VOTED FOR THE MOTION**

Council Decision

MOVED: Cr Foster

SECONDED: Cr Shields

That Council moves a motion of No Confidence in the Shire President.

Council Decision

MOVED: Cr Wright

SECONDED: Cr Thomas

That a Special Council Meeting be adjourned to seek advice from the Department of Local Government at 2.50pm.

CARRIED 6/0

Cr's, White, Shields, Foster, Eyre, Thomas, Wright and Jeff Breen, Amanda O'Halloran, Deb Wilkes, Rob Paul, Frank Ludovico and Chloe Shaw left the room at 2.50pm.

Cr's, White, Shields, Foster, Eyre, Thomas, Wright and Jeff Breen, Amanda O'Halloran, Deb Wilkes, Rob Paul, Frank Ludovico and Chloe Shaw entered the room at 2.50pm.

Council Decision

MOVED: Cr Wright

SECONDED: Cr Thomas

That the Special Council meeting reconvene at 3.00pm.

CARRIED 6/0

It was reported that the Department of Local Government advised that Crs Rumble and Dias were able to be present to discuss the proposed motion.

Cr Rumble and Dias re-entered the meeting at 3.01pm.

Council Decision

MOVED: Cr Foster

SECONDED: Cr Shields

That Council moves a motion of No Confidence in the Shire President.

LOST 5/3

Cr Wright indicated he wished to make an apology to Cr Shields for his comments during the debate on the matter at the November 2011 Council meeting.

Cr Shields did not accept the apology because of the tone of the apology.

8. CLOSURE OF MEETING

The President closed the meeting at 3:15pm



Government of **Western Australia**
Department of **Local Government**

Your Ref: OR.CR.4
Our Ref: AB1-7#04; E1142019

Mr Jeff Breen
Chief Executive Officer
Shire of Ashburton
PO Box 567
TOM PRICE WA 6751

SHIRE OF	Doc No. 113688
ASHBURTON	File: OR.CR.4
	Officer: CEO
Council:	16 DEC 2011 Action D. te
Y/N	
Council Date:	
Action:	

COPY

Attention: Frank Ludovico

Dear Mr Breen

I refer to the Shire's email of 9 December 2011 and advise that, under section 5.69(3)(a) of the *Local Government Act 1995* and in accordance with the authority delegated by the Minister, the Director General has approved the Shire's request to allow disclosing members, Councillors Dennis Wright and Peter Foster to fully participate in the discussion and decision making in relation to the below mentioned item at the Special meeting of Council to be held on 14 December 2011;

6.1 – CONFIDENTIAL ITEM – REVOCATION OF COUNCIL MOTION 11077 – TOM PRICE AIRPORT

Subject to the following conditions:

1. the approval is only valid for the Special meeting of Council to be held on 14 December 2011;
2. Both Councillor Dennis Wright and Councillor Peter Foster declare the nature and extent of their interest at the Council meeting when the item is considered together with the approval provided;
3. the CEO is to provide a copy of the Department's letter advising of the approval to both Councillor Dennis Wright and Councillor Peter Foster; and
4. the CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the meeting when the item is discussed.

The above approval allows the Shire to achieve a quorum to consider the item and, in view of this, the Director General did not consider it necessary to allow Councillors Rumble and Dias to participate in the discussion and decision making in this instance and has declined to approve the request for them to participate.

Yours sincerely



Brendan Peyton
MANAGER GOVERNANCE

14 December 2011