



SHIRE
of
DANDARAGAN

MINUTES

of the

SPECIAL COUNCIL MEETING

held at the

COUNCIL CHAMBERS, JURIEN BAY

on

MONDAY 17 JULY 2023

COMMENCING AT 9AM

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

MINUTES FOR SPECIAL COUNCIL MEETING HELD MONDAY 17 JULY 2023

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The presiding member declared the meeting open at 9.00am and welcomed those present.

1.2 DISCLAIMER READING

The disclaimer was read aloud as there were 9 members of the public present.

“No responsibility whatsoever is implied or accepted by the Shire of Dandaragan for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council’s decision, which will be provided within fourteen (14) days of this meeting.”

2 RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

Members

Councillor L Holmes	(President)
Councillor P Scharf	(Deputy President)
Councillor A Eyre	
Councillor W Gibson	
Councillor R Glasfurd	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

Staff

Mr B Bailey	(Chief Executive Officer)
Mr B Pepper	(Executive Manager Infrastructure)
Mr L Fouché	(Executive Manager Development Services)
Mrs N Winsloe	(Executive Secretary)
Ms R Sutton	(Manager Corporate & Community Services)

Apologies

Councillor J Clarke

Approved Leave of Absence

Nil

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3 PUBLIC QUESTION TIME

Mark Knowles

1. Given that there are so many successful models of community club management in our region and even in our own Shire why is Council considering leasing a community club to a private business without having first investigated the successful models and compared these with how the Cervantes Club has historically been operated?

Response provided by Chief Executive Officer

Council is familiar with the community club management models within the Shire. It is noted that in each of comparable local examples there is an active and effective volunteer management model in place. In the case of the Cervantes Country Club, the management committee and membership have formed the opinion that they are no longer the best placed group to operate the club premises and associated business model and have requested Council to undertake this lease process. The EOI process has not yielded any submissions from community-based entities to operate the facility leaving Council to consider the one submission received in today's meeting.

2. In the past the Cervantes Club has made several attempts to operate as a fully functioning facility i.e., extended opening hours, paid manager, chef and bar staff. On each occasion this has occurred it has not been financially sustainable, yet it is now proposed to operate the same model under private management with significantly greater overheads (\$50,000 rent). What evidence has Council been shown to demonstrate the proposed model is financially sustainable (other than the proponent saying it is)?

Response provided by Chief Executive Officer

The EOI submission that Council is considering today includes a range of information, including financial sustainability, which respondents were asked to provide as part of participating in the process. Detailed aspects of the submission won't be discussed in the open Council meeting as they are commercial in confidence.

3. Does Council fully understand and recognize the impact on other businesses in the Cervantes community of allowing a commercial tavern to be developed in a community building operating 7 days a week?

Response provided by Chief Executive Officer

Council takes into a range of considerations when making decisions on behalf of the community and the Shire is required to undertake structured public consultation when considering the disposal of assets. The officer's recommendation today outlines that if Council is supportive of considering the lease proposal further then public advertising would be undertaken. Businesses who consider themselves as being affected by the proposal will

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have the opportunity to inform Council about the expected impacts which will be taken into consideration when determining whether or not to continue to the lease negotiation process further.

4 PURPOSE OF THE MEETING

The purpose of the meeting is to consider an Expression of Interest submission for the lease of the Cervantes Country Club Facility.

COUNCIL DECISION

Moved Cr Scharf, seconded Cr Shanhun

That Council Suspend Clauses 8.8 and 10.5 of the Shire of Dandaragan Local Government (Council Meetings) Local Law 2019 to facilitate open discussion on item 5.1.1

CARRIED 8 / 0

5 ORDER OF BUSINESS

5.1 GOVERNANCE & ADMINISTRATION

5.1.1 CERVANTES COUNTRY CLUB FACILITY EXPRESSION OF INTEREST

Location:	Shire of Dandaragan
Applicant:	Not Applicable
Folder Path:	SODR-129784381-306
Disclosure of Interest:	Nil
Date:	7 July 2023
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not Applicable

PROPOSAL

The purpose of this report is for Council to consider a response for the lease of the Cervantes Country Club Facility following an Expression of Interest (EOI) process.

BACKGROUND

The Shire of Dandaragan is responding to a request from the Cervantes Country Club Inc. to appoint a new lessee / facility manager for the Cervantes Country Club premises. The Club Management Committee has determined that they are no longer the best entity to be running the business which has achieved marginal viability over recent years. They propose to surrender their lease if an appropriate entity is forthcoming.

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The Cervantes Country Club was constructed by the community of Cervantes and opened in November 1974. The building has been renovated over the ensuing years to its current state which accommodates a range of amenities tailored to servicing the sporting and leisure customers of the surrounding facilities. The facility has been operating with a Tavern License since 2017 and is an integral part of the social fabric of the community of Cervantes.

COMMENT

The EOI is the preliminary step in this disposal of land process. Subject to final lease negotiations and clarifications, the successful respondent and the finalised lease will be endorsed by Council for public advertising in accordance with Section 3.58(3) of the Local Government Act 1995. Once a finalised lease document is negotiated with a preferred respondent, details of the successful proposal including key lease terms will be made public via the proceeding Council meeting agenda and advertising requirements outlined in the Local Government Act 1995.

Within the EOI process respondents were asked to address a number of key criteria including:

- 1) Provision of a detailed outline of the business model that would deliver environmental outcomes, social benefits and economic benefits.
- 2) Provision of information covering the respondent's relevant experience.
- 3) Provision of an outline of local content and local benefit expected from their business model.

A pricing component was also included providing opportunity for respondents to state their annual lease fee offer. EOI documents outlined Council's preference was for a full market-based rental across an initial five-year lease with further options of five years available subject to justification by the respondent. The EOI document also stated that all outgoings (electricity, water, rates etc.) would be the responsibility of the lessee.

At the close of the submission period, one response was received from "The Club Cervantes Pty Ltd" which is summarised as follows:

- Private entity nominating Mrs Leah Stupar as the business representative.
- Proposes a 5-year lease with 3x further options of 5 years.
- A range of building improvements are proposed including internal fit out, ceiling replacement, decking and renewal of kitchen components and other internal building components.
- Proposed operating model similar to current arrangements (excluding volunteer component) with 7-day trading.

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- Proposed commencement annual lease value of \$50,000p.a. plus outgoings and rates.

A full assessment of the response was undertaken by the CEO and the Executive Manager Development Services and has been provided to Council as a confidential attachment. The document is marked as confidential due to the commercial in confidence nature of the submission. Should Council seek to debate the content or details of the evaluation document the meeting should be closed to the public.

Council also has the discretion to not progress with the lease process if it forms the opinion that the submission is not an acceptable outcome for the community. There are a range of considerations in this regard including:

- The commercialisation of the facility is a departure from the original community-based intent of the Country Club.
- There may be undesirable impacts on other existing businesses within the township.
- Implementing a lease under the Commercial Tenancies Act 1985 restricts a lessor's capacity to enforce a lease provision requiring the tenant to open during specified times.
- Council may identify other purposes for the building with greater community benefit.

CONSULTATION

The proposal to lease the Cervantes Country Club will be advertised for public submissions in accordance with Section 3.58 of the Local Government Act 1995.

STATUTORY ENVIRONMENT

Local Government Act 1995 S3.58 – Disposing of Property

3.58. *Disposing of property*

(1) In this section —

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

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- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

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FINANCIAL IMPLICATIONS

The annual lease value nominated in the Expression of Interest is \$50,000 ex GST. A market valuation for the lease was obtained from an independent valuer which returned a range of \$30,000 - \$50,000 based on the current business fundamentals, property condition, economic conditions and market comparables. The mid-point of the valuation range is to be used for the assessed market valuation for advertising purposes.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029

01 - Infrastructure	The Shire will work cooperatively with private enterprise and government agencies to develop and maintain a dynamic infrastructure network responsive to usage demand that attracts and retains residents and businesses.
Priority Outcomes	Our Roles
Our agricultural industry is supported with an effective road infrastructure network that facilitates an efficient and safe supply chain.	Continued improvements to the rural road network by maximising external funding sources and delivering infrastructure projects to a high standard. Implementing an effective, proactive road maintenance program that is sensitive to industry seasonality.
Our communities contain vibrant, activated public open spaces and buildings with high levels of utilization and functionality.	To manage and facilitate community assets that are flexible, vibrant, adaptable and enjoyable places to occupy employing the principles of place-making and design-thinking

ATTACHMENTS

Circulated with the agenda is the following item relevant to this report:

- Expression Of Interest Evaluation – (confidential) (Doc id: SODR-129784381-768)
- RFP Submission – (confidential) (Doc Id: SODR-129784381-893)
(Marked 5.1.1)

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Moved Cr Scharf, seconded Cr Gibson

That Council reinstate clauses 8.8 and 10.5 of the Shire of Dandaragan Local Government (Council Meetings) Local Law 2019.

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CARRIED 8 / 0

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr Scharf, seconded Cr Eyre

That Council:

- 1) Endorse the ranking of preferred respondents for the Cervantes Country Club Facility lease as follows;

Respondent	Ranking
The Club Cervantes Pty Ltd.	1

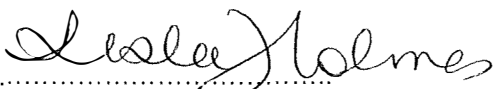
- 2) Authorise the CEO to negotiate a draft lease document with the preferred respondent for Council consideration; and
- 3) Authorise the CEO to advertise the proposal in accordance with Section 3.58(3) of the Local Government Act 1995 inclusive of the following material terms:
- a. Authorised Use: Community and Sporting Club and uses reasonably ancillary thereto.
 - b. Term: 5 Years, with three further options of 5 years.
 - c. Additional term: Nil
 - d. Market Valuation: \$40,000; and
 - e. Rent: \$50,000 p.a. indexed to CPI annually with a market rental review every 3rd year.

CARRIED 7 / 1

6 CLOSURE OF MEETING

The presiding member declared the meeting closed at 9.26pm.

These minutes were confirmed at a meeting on Thursday 27 July 2023

Signed 

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Presiding person at the meeting at which the minutes were confirmed

Date 27 July 2023