



Shire of Cunderdin

CONFIRMED Minutes of a Special Council Meeting

Dear Council Member,

A Special Meeting of the Cunderdin Shire Council was held on **Thursday 4 July 2013** in the Council Chambers, Lundy Avenue Cunderdin commencing at **6:30pm**, to consider Tenders for the Cunderdin Sports Ground Project.

Peter Naylor
Chief Executive Officer

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MINUTES

1. Declaration of opening

The President declared the meeting open at 6:30pm.

The Shire of Cunderdin disclaimer was read aloud.

The Local Government Act 1995 Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

“No responsibility whatsoever is implied or accepted by the Shire of Cunderdin 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 decisions, which will be provided within ten working days of this meeting”.

2. Suspension of Clause 3.2 - Standing Orders

| | |
|--------------------------|---------------------------|
| Location: | Cunderdin |
| Applicant: | Not applicable |
| Date: | 3 rd July 2013 |
| Author: | Peter Naylor |
| Item Approved by: | Chief Executive Officer |

Resolution 2.0:

Council suspends clause 3.2 – Order of Business – of the Shire of Cunderdin Standing Orders Local Law 2001

Moved: Cr Clive Gibsone

Seconded: Cr Graham Cooper

Vote – Simple majority

Carried: 6/0

3. Public Question Time

Response to previous public questions taken on notice

Declaration of public question time opened at

Declaration of public question time closed at

4. Record of Attendance, Apologies and Approved Leave of Absence

Record of attendances

Councillors

| | |
|-----------------------|------------------------|
| Cr RL (Rod) Carter | Shire President |
| Cr RC (Clive) Gibsone | Deputy Shire President |
| Cr GJ (Graham) Cooper | |
| Cr TE (Todd) Harris | |
| Cr DB (Doug) Kelly | |
| Cr DG (Di) Kelly | |

Apologies

Cr DA (Dennis) Whisson

On Leave of Absence

Staff

| | |
|--------------|--------------------------------|
| Peter Naylor | Chief Executive Officer |
| Paul Godfrey | Deputy Chief Executive Officer |

Guests of Council

Members of the Public

Applications for leave of absence

Declaration of Members and Officers Financial Interests

5. Petitions, Deputations, Presentations

Deputations

Presentations

6. Announcements by President without discussion

Nil

7. Confirmation of the Minutes of Previous Meetings

Nil

8. Finance & Administration

Nil

9 Environmental Health & Building Services

Nil

10 Works & Services

Nil

11 Planning & Development

Nil

12 Urgent Items

Nil

13 Matters for which the meeting may be closed

13.1 Tenders – Cunderdin Sports Ground Project - CONFIDENTIAL

| | |
|--------------------------|---------------------------|
| Location: | Cunderdin |
| Applicant: | Chief Executive Officer |
| Date: | 3 rd July 2013 |
| Author: | Peter Naylor |
| Item Approved by: | Chief Executive Officer |
| Disclosures of Interest: | Nil |
| File Reference: | |
| Attachment/s: | |

Proposal/Summary

For Council to formally consider appointment of successful for Tenderer for the Cunderdin Sports Ground Project.

Background

Council and the community has been planning this project for number of years.

Peter Hunt Architects were appointed by Council on 18 October 2011 to provide the full architectural consultancy for the Sports Ground project.

Final planning and design was completed in early 2013 and Council resolved to proceed with the project and call for tenders.

Grant funding has been successfully obtained from Department of Sport & Recreation, LotteryWest, Country Local Government Fund Regional and Country Local Government Fund Individual Programs, to assist with project costs.

The tender was advertised in the West Australian newspaper on Saturday 18 May 2013, with tenders closing on Monday 24 June 2013, at 2:00pm. This was extended from original advertised date of Wednesday 19 June due to some technical difficulties in dispersal of tender addendum documents to all interested parties.

The tenders were officially opened by the Chief Executive Officer (CEO) and Deputy CEO on Monday 24 June at 2:07pm.

Comment

At the close of tenders, six tenders were received as per the attached document prepared by Peter Hunt Architects.

The tender prices varied significantly in pricing.

Reference checks on the tendering companies have carried out by Peter Hunt Architects and the CEO.

There may be an opportunity to reduce development costs further with Council and the architects negotiating with the successful tenderer for Council and the community undertake certain works in an in-kind capacity. This is deemed as an acceptable practice.

The attached report prepared by Peter Hunt Architects provides details of the tenders received and reference check of the preferred tendering company.

Consultation

In accordance with Functions and General Regulations 14 and 15, Council placed a state-wide advertisement in the West Australian on 18 May 2013, with the closing date being 19 June 2013, providing a period of greater than 14 days for tender submissions to be made.

Peter Hunt Architects (Brian LaFontaine and James Cameron).

Statutory Implications

Local Government Act 1995

3.57 Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Local Government (Functions and General) Regulations 1996

11. Tenders to be invited for certain contracts

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.
- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
 - (a) The supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act;
 - (b) The supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;
 - (ba) The local government intends to enter into a contract arrangement for the supply of goods or services where —
 - (i) The supplier is either —
 - (I) an individual whose last employer was the local government; or
 - (II) a group, partnership or company comprising at least 75% of persons whose last employer was that local government;
 - (ii) The contract —
 - (I) is the first contract of that nature with that individual or group; and
 - (II) is not to operate for more than 3 years; and
 - (iii) The goods or services are —
 - (I) goods or services of a type; or
 - (II) (in the opinion of the local government) substantially similar to, or closely related to, goods or services of a type, that were provided by the individual (or persons) whilst employed by the local government;
 - (c) Within the last 6 months —
 - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met

- the tender specifications; or
- (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;
- (d) The contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government;
- (e) The goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government;
- (ea) the goods or services are to be supplied —
 - (i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and
 - (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;
- (f) The local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or
- (g) The goods to be supplied under the contract are —
 - (i) petrol or oil; or
 - (ii) any other liquid, or any gas, used for internal combustion engines.

14. Requirements for publicly inviting tenders

- (1) When regulation 11(1), 12 or 13 requires tenders to be publicly invited, State-wide public notice of the invitation is to be given.
- (2) If the CEO has, under regulation 23(4), prepared a list of acceptable tenderers, instead of giving State-wide public notice the CEO is required to give notice of the invitation to each acceptable tenderer listed.
- (2a) If a local government —
 - (a) is required to invite a tender; or
 - (b) not being required to invite a tender, decides to invite a tender,
 The local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.
- (3) The notice, whether under subregulation (1) or (2), is required to include —
 - (a) A brief description of the goods or services required;
 - (b) Particulars identifying a person from whom more detailed information as to tendering may be obtained;
 - (c) Information as to where and how tenders may be submitted; and
 - (d) The date and time after which tenders cannot be submitted.
- (4) In subregulation (3)(b) a reference to detailed information includes a reference to —
 - (a) Such information as the local government decides should be disclosed to those interested in submitting a tender;
 - (b) Detailed specifications of the goods or services required;
 - (c) The criteria for deciding which tender should be accepted;
 - (d) Whether or not the local government has decided to submit a tender; and
 - (e) Whether or not the CEO has decided to allow tenders to be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.
- (5) After a notice has been given under subregulation (1) or (2), a local government may vary the information referred to in subregulation (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

15. Minimum time to be allowed for submitting tenders

- (1) If the notice is published in the newspaper as part of giving State-wide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving State-wide public notice.
- (2) If the notice is given to a person listed as an acceptable tenderer, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is given.

16. Receiving and opening tenders

- (1) The CEO is responsible for keeping any tender submitted including a tender submitted by facsimile or other electronic means in safe custody, and for ensuring that it remains confidential.
- (2) Tenders are not to be opened, examined, or assessed until the time after which further tenders cannot be submitted.
- (3) When tenders are opened —
 - (a) At least one and, if practicable, more than one employee of the local government or one person authorised by the CEO to open tenders and, if practicable, one or more other persons, is required to be present;
 - (b) Members of the public are entitled to be present; and
 - (c) Details of the tenders (other than the consideration sought in the tender) are to be immediately recorded in a register to be known as the tenders register.

18. Choice of tender

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.
- (7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

Policy Implications

Nil

Financial Implications

Financial provisions for both expenditure and income will be included on the 2013/14 Financial Year Budget.

Strategic Implications

Shire of Cunderdin Strategic Community Plan 2011 – Social: Building a Sense of Community

Maintain and Build Service Capacity:

Improve meeting places for all ages, including aged and youth by providing a multi-purpose facility (Cunderdin Sports and Community Amenity Project).

Resolution 13.1

That Council: -

- 1. Selects RBT Robinson Buildtech as the preferred tenderer for Tender RFT 02-12/13 – Shire of Cunderdin Sporting Facilities Project.**
- 2. Delegate authority to the Chief Executive Officer to prepare the final contract between the Shire of Cunderdin and RBT Robinson Buildtech.**
- 3. Delegates authority to the Chief Executive Officer, in conjunction with Peter Hunt Architects, to consult with RBT Robinson Buildtech to determine in-kind works that may be carried out by Council and/or the local community to reduce costs to the project.**
- 4. Keeps the decision of the preferred tenderer in Camera until such time as contract is signed.**

Moved: Cr Todd Harris

Seconded: Cr Clive Gibsone

Vote – Simple majority

Carried: 4/2

The two Councillors whom voted against the motion whilst stating their general support for the project expressed concern at the final tender cost compared to expectations when the project was first initiated, and the siting of the new facilities on the western side of the oval.

14 Closure of meeting

There being no further business the Shire President declared the meeting closed at 7:15pm.