



**MINUTES FOR THE
ORDINARY COUNCIL MEETING
HELD ON**

Wednesday 19 July 2017

Table of Contents

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	3
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	3
4.0	PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	3
5.0	APPLICATIONS FOR LEAVE OF ABSENCE	3
6.0	DECLARATIONS OF INTEREST	3
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES	3
7.1.1	ORDINARY MEETING HELD 21 JUNE 2017	3
7.1.2	SPECIAL MEETING HELD 1 JUNE 2017	4
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION	4
9.0	OFFICERS REPORTS	4
9.1	CHIEF EXECUTIVE OFFICER	5
9.1.1	EXECUTIVE MANAGEMENT COMMITTEE	5
9.1.2	DELEGATIONS TO COMMITTEES & COMMUNITY ORGANISATIONS	7
9.1.3	HIRE OF COOL ROOM POLICY	12
9.1.4	MOTOR GRADER TENDER	14
9.2	FINANCE	18
9.2.1	FINANCIAL STATEMENTS FOR PERIOD ENDING 30 JUNE 2017	18
9.2.2	ACCOUNTS FOR PAYMENT – MONTH ENDING 30 JUNE 2017	21
9.3	ADMINISTRATION	23
9.3.1	LOCAL LAWS REVIEW	23
9.4	TOWN PLANNING	28
9.5	BUILDING	28
10.0	ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	28
11.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	28
11.1	ELECTED MEMBERS	28
11.2	STAFF	28
12.0	CONFIDENTIAL ITEMS	28
13.0	TIME AND DATE OF NEXT MEETING	28
14.0	CLOSURE	28

SHIRE OF MINGENEW

MINUTES FOR ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON 19 July 2017 COMMENCING AT 4.30pm

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President, Cr Bagley, declared the meeting open at 4.30pm and welcomed all in attendance.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

MA Bagley	President	Rural Ward
GJ Cosgrove	Councillor	Rural Ward
KL Criddle	Councillor	Rural Ward
LM Eardley	Councillor	Town Ward
CR Lucken	Councillor	Town Ward

STAFF

MG Whitely	Chief Executive Officer
D Ojha	Finance Manager
R Brennan	Works Supervisor
B Bow	Governance Officer
C Matthews	Locum Governance Officer

APOLOGIES

Nil

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.0 PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

There being no members of the public, the President proceeded with the meeting allowing a Period of 15 minutes for questions from the public up until 4:46pm

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DECLARATIONS OF INTEREST

Nil

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1.1 ORDINARY MEETING HELD 21 JUNE 2017

COUNCIL DECISION – ITEM 7.1.1

Moved Cr Lucken seconded Cr Cosgrove

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 21 June 2017 be confirmed.

CARRIED 5/0

7.1.2 SPECIAL MEETING HELD 1 JUNE 2017

COUNCIL DECISION – ITEM 7.1.2

Moved Cr Cosgrove seconded Cr Lucken

That the minutes of the RAV Network Review Committee of the Shire of Mingenew held in the Council Chambers on 1 June 2017 be received.

CARRIED 5/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

9.0 OFFICERS REPORTS

9.1 CHIEF EXECUTIVE OFFICER

9.1.1 EXECUTIVE MANAGEMENT COMMITTEE

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0303
Date: 27 June 2017
Author: Martin Whitely, Chief Executive Officer

Summary

Council is requested to review and appoint delegates to the Executive Management Committee.

Attachment

Nil

Background

The Executive Management Committee is a Committee of Council and as such must consist of 3 or more persons as per Section 5.8 of the Local Government Act 1995. Section 5.9 of the Local Government Act 1995 specifies the make up of a Committee with some examples below:

- Council members only
- Council members and employees
- Council members, employees and other persons
- Council members and other persons

Comment

As per the resolution made at the November 2016 the Executive Management Committee was made up of the following 3 elected members

- President (Cr Bagley)
- Deputy President (Cr Newton)
- Councillor (Cr Cosgrove)

Council is required to review delegations to committees every financial year as per section 5.18 of the Local Government Act 1995 and given that one of the elected members has resigned now is an opportune time to review the delegations to this Committee.

Consultation

Nil

Statutory Environment

Local Government Act 1995 – Section 5.8 - 5.11
Local Government Act 1995 – Section 5.16, 5.17 & 5.18
Local Government Act 1995 – Section 5.22 & 5.23

Policy Implications

1003 ELECTION TO COMMITTEES

Nomination of Councillor/s to Positions in Council/Committees - Prior to any nomination being made the person being nominated be advised of the proposal, and appointment to the position will be subject to the approval of the nominee.

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

Outcome 4.5.1

Ensure compliance with local, town planning, building and health and all other relevant legislation.

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION – ITEM 9.1.1

That Council appoint the following persons to form the Executive Management Committee:

- **President**
- **Deputy President**
- **Councillor _____**

COUNCIL DECISION – ITEM 9.1.1

Moved Cr Criddle seconded Cr Eardley

That Council appoint the following persons to form the Executive Management Committee:

- **President (Cr Bagley)**
- **Deputy President (Cr Cosgrove)**
- **Councillor Lucken**

CARRIED 5/0

9.1.2 DELEGATIONS TO COMMITTEES & COMMUNITY ORGANISATIONS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0303
Date: 27 June 2017
Author: Martin Whitely, Chief Executive Officer

Summary

Council is requested to review and appoint delegates to the various committees and community organisations.

Attachment

Nil

Background

It is common practice for many local authorities to review appointments of Elected Members and Staff to serve on various Committee's and Community Organisations. It should be noted that this is a separate exercise to appointing members of a Council Committee.

Delegations to Committees & Community Organisations were last reviewed in November 2015 and below is a record of the appointments from the November 2015 Ordinary Council meeting:

Comment

Since the delegations were last reviewed in October 2016, Councillors Newton and Pearce have since resigned. As such it is appropriate to revisit any vacancies to the previous delegations to Community Organisations and Committees as a result of the two resignations.

Following is a list of the current delegates to the various Committees & Community Organisations;

WALGA Northern Country Zone

Delegates: President Bagley & Cr Newton
Proxy: Cr Pearce

Tourist & Promotion Committee

Delegates: Cr Pearce & Community Development Officer
Proxy: Cr Eardley

Main Roads Western Australia Regional Road Group

Delegates: Cr Cosgrove
Proxy: President Bagley

Silver Chain Branch Committee

Delegates: Cr Pearce
Proxy: Cr Newton

Community Resource Centre Management Committee

Delegates: Cr Criddle
Proxy: Cr Newton

Local Emergency Management Committee

Delegates: Cr Cosgrove

Proxy: CEO

Development Assessment Panels

Delegates: President Bagley & Cr Cosgrove

Proxy: -

Wildflower Country Inc

Delegates: Cr Pearce

Proxy: President Bagley

Proxy: CEO or other appointed staff member

Based on the limited discussion we have had at Council level on the replacement of the positions vacated by the two Councillors I have made some recommendations on the basis that the delegations will again be reviewed following the upcoming Council Elections in October 2017.

Consultation

Nil

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

Outcome 4.2.2 – To be strong advocates representing the Shire's interests

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.2

That Council appoint delegates to the various Committees and Community Organisation as follows:

WALGA Northern Country Zone

Delegates: President Bagley & Cr Cosgrove

Proxy: Cr Lucken

Tourist & Promotion Committee

Delegates: Cr Eardley & Community Development Officer

Proxy: Nil

Main Roads Western Australia Regional Road Group

Delegates: Cr Cosgrove

Proxy: President Bagley

Silver Chain Branch Committee

Delegates: Cr Eardley
Proxy: Nil

Community Resource Centre Management Committee

Delegates: Cr Criddle
Proxy: Nil

Local Emergency Management Committee

Delegates: Cr Cosgrove
Proxy: CEO

Development Assessment Panels

Delegates: President Bagley & Cr Cosgrove
Proxy: Nil

Wildflower Country Inc

Delegates: CEO Whitely
Proxy: President Bagley
Proxy: CDO or other appointed staff member

MOTION

Moved Cr Eardley seconded Cr Lucken that:

WALGA Northern Country Zone

Delegates: President Bagley & Cr Cosgrove
Proxy: Cr Lucken

Tourist & Promotion Committee

Delegates: Cr Eardley & Community Development Officer
Proxy: Nil

Main Roads Western Australia Regional Road Group

Delegates: Cr Cosgrove
Proxy: President Bagley

Silver Chain Branch Committee

Delegates: Cr Eardley
Proxy: Nil

Community Resource Centre Management Committee

Delegates: Cr Criddle
Proxy: Nil

Local Emergency Management Committee

Delegates: Cr Cosgrove
Proxy: CEO

Development Assessment Panels

Delegates: President Bagley & Cr Cosgrove
Proxy: Nil

Wildflower Country Inc

Delegates: CEO
Proxy: President Bagley
Proxy: CDO or other appointed staff member

AMENDMENT

Moved Cr Eardley seconded Cr Lucken

That Cr Eardley remains proxy for the Tourist & Promotion Committee instead of a delegate.

CARRIED 5/0

COUNCIL DECISION – ITEM 9.1.2

The Presiding Person put the amended motion;

That Council appoint delegates to the various Committees and Community Organisation as follows:

WALGA Northern Country Zone

Delegates: President Bagley & Cr Cosgrove
Proxy: Cr Lucken

Tourist & Promotion Committee

Delegates: Community Development Officer
Proxy: Cr Eardley

Main Roads Western Australia Regional Road Group

Delegates: Cr Cosgrove
Proxy: President Bagley

Silver Chain Branch Committee

Delegates: Cr Eardley
Proxy: Nil

Community Resource Centre Management Committee

Delegates: Cr Criddle
Proxy: Nil

Local Emergency Management Committee

Delegates: Cr Cosgrove
Proxy: CEO

Development Assessment Panels

Delegates: President Bagley & Cr Cosgrove
Proxy: Nil

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

Wildflower Country Inc

Delegates: CEO

Proxy: President Bagley

Proxy: CDO or other appointed staff member

CARRIED 5/0

The Presiding Person advised the meeting that the reason for the change would need to be recorded in the minutes.

Moved Cr Eardley

Seconded Cr Lucken

That the reason the officer recommendation was changed was to leave the delegate for the Tourist & Promotion Committee vacant until after the October 2017 elections.

CARRIED 5/0

9.1.3 HIRE OF COOL ROOM POLICY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0423
Date: 14 June 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council adopt the Mobile Cool Room Policy as tabled.

Attachment

Draft Mobile Cool Room Policy
Draft Mobile Cool Room Procedure

Background

At the May 2017 Concept Forum there was discussion with regards to the history of the mobile cool room and hiring out of the cool room and the consensus was that the cool room was originally purchased by the Lions and then given to the Shire on the basis that the cool room be made available to all community groups and residents within the Shire of Mingenew free of charge (bond still applicable) and that a fee be charged for hiring to any interested persons outside of the Shire of Mingenew..

Comment

As discussed at the May 2017 Concept Forum a draft policy for the hire of mobile cool room was presented to Council to allow the Mingenew community to hire the mobile cool room free of charge. A final draft is tabled for endorsement by Council. As per the adopted 2016/17 Fees & Charges a bond of \$145 is still applicable even though there will be no hire charge. The mobile cool room is still available for hire for members outside of Mingenew with a hire fee of \$130. The hire and bond fee will be revisited when Council endorse the 2017/18 Fees & Charges when adopting the 2017/18 Budget.

Consultation

All councillors

Statutory Environment

Local Government Act 1995

In accordance with section 2.7 of the Local Government Act 1995 as follows:

2.7. Role of council

- (1) The council —
 - (a) governs the local government's affairs; and
 - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to —
 - (a) oversee the allocation of the local government's finances and resources; and
 - (b) determine the local government's policies.

Policy Implications

If Council agree to the officer recommendation a new Mobile Cool Room Policy would be adopted.

Financial Implications

Hire cost of the mobile cool room facility as prescribed by Councils annual fees & charges.

Strategic Implications

Community Strategic Plan

Outcome 3.6.1 - Continue to provide quality facilities for events

Outcome 4.5.2 – Maintain, review and ensure relevance of Council policies and local laws

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.3

That Council adopt the Mobile Cool Room Policy as presented.

COUNCIL DECISION– ITEM 9.1.3

Moved Cr Cosgrove seconded Cr Eardley

That Council adopt the Mobile Cool Room Policy as presented.

CARRIED 5/0

9.1.4 MOTOR GRADER TENDER

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0113
Date: 5 July 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council consider the purchase of a new motor grader and that consideration is made in the 2017/18 Budget.

Attachment

Hitachi Tender Submission
 Cat Tender Submission
 Tender Evaluation Matrix

Background

Council currently have 2 motor graders. The first of the graders was a Cat 120H Grader purchased in September 2006 which has now done 15,747 hours and the second of the graders was a Cat 12M grader purchased in January 2010 which has done 7,007 hours. Both graders are now within the schedule period for changeover as per the Shire’s Plant Replacement Program, as such tenders were called on 14 June 2017 for the provision of a new motor grader on the basis that the Cat 120H would be used as the trade. Tenders closed on 30 June 2017 and the information is tabled for Council consideration.

Comment

In total there were only two submissions received and these were from Hitachi and Westrac. A summary of the tender submissions are included in the Tender Evaluation Matrix attachment with pricing as below. All pricing is GST Exclusive;

Tenderer	Model	Purchase Price	Trade In	Options	Changeover	Comments
Hitachi	670B	\$321,000	\$48,000	\$22,000	\$295,000	Grade Pro cross slope comes as an additional item
Westrac	12M	\$344,800	\$57,000	\$0	\$287,800	Cross slope comes standard with the machine

As you will see from the attached documents the specifications and pricing for both graders are very similar in nature.

Consultation

Dale Smulders, Hitachi
 Greg Pike, Westrac

Statutory Environment

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 & General) Regulations 1996

11. When tenders have to be publicly invited

- (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 \$150 000 unless subregulation (2) states otherwise.

14. Publicly inviting tenders, requirements for

- (1) When regulation 11(1), 12(2) or 13 requires tenders to be publicly invited, Statewide 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 Statewide 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; and
 - (b) particulars identifying a person from whom more detailed information as to tendering may be obtained; and
 - (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; and
 - (b) detailed specifications of the goods or services required; and
 - (c) the criteria for deciding which tender should be accepted; and
 - (d) whether the local government has decided to submit a tender.
 - [(e) *deleted*]
- (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.

[Regulation 14 amended in Gazette 29 Jun 2001 p. 3130; 18 Sep 2015 p. 3806.]

15. Minimum time to be allowed for submitting tenders

- (1) If a notice under regulation 14(1) is given, the date and time referred to in regulation 14(3)(d) has to be at least 14 days after the notice is first published in the newspaper circulating generally throughout the State.

- (2) If a notice under regulation 14(2) is given to a person listed as an acceptable tenderer, the date and time referred to in regulation 14(3)(d) has to be at least 14 days after the notice is given.

[Regulation 15 inserted in Gazette 18 Sep 2015 p. 3806-7.]

Policy Implications

Purchasing Policy

Financial Implications

There will be a considerable financial commitment in purchasing a new motor grader with an amount of approximately \$300,000 having to be allocated in the 2017/18 Budget.

Strategic Implications

Community Strategic Plan

Outcome 2.5.1 – Maintain and improve road assets

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.4

That Council endorse consider the purchase of a new motor grader from the submissions received and provide for the purchase in the 2017/18 Budget.

MOTION

Moved Cr Lucken seconded Cr Cosgrove

That Council endorse considering the purchase of a new motor grader from the submissions received and provide for the purchase in the 2017/18 Budget.

AMMENDMENT

Moved Cr Lucken seconded Cr Cosgrove

That Council endorse considering the purchase of a new motor grader from the submissions received subject to a satisfactory demonstration and provide for the purchase in the 2017/18 Budget.

CARRIED 5/0

COUNCIL DECISION – ITEM 9.1.4

The Presiding Person put the amended motion;

That Council endorse considering the purchase of a new motor grader from the submissions received subject to a satisfactory demonstration and provide for the purchase in the 2017/18 Budget.

CARRIED 5/0

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

The Presiding Person advised the meeting that the reason for the change would need to be recorded in the minutes.

Moved Cr Lucken

Seconded Cr Cosgrove

That the reason the officer recommendation was changed was to allow for a demonstration of the two motor graders to assist Council in making their final decision.

CARRIED 5/0

9.2 FINANCE

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 30 JUNE 2017

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	ADM0304
Date:	12 July 2017
Author:	Durga Ojha, Manager of Finance
Senior Officer:	Martin Whitely, Chief Executive Officer

Summary

This report recommends that the Monthly Statement of Financial Activity report for the period ending 30 June 2017 is presented to Council for adoption.

MFA Attachment-1

Finance Report for period ending 30 June 2017

Background

The Monthly Financial Report to 30 June 2017 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity by Program
- Statement of Capital Acquisitions and Capital Funding
- Explanation of Material Variances
- Net Current Funding Position
- Cash and Investments
- Budget Amendments
- Receivables
- Cash Backed Reserves
- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants & Contributions
- Trust

Comment

SUMMARY OF FUNDS – SHIRE OF MINGENEW	
Municipal Fund	\$573,661
3 Month Term Deposit @ 2.45%	\$750,000
Restricted Funds	\$520,786
Trust Fund	\$37,356
Reserve fund (6 Month Term Deposit) @2.55%	\$396,475

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered. The following remains outstanding as at 30 June 2017:

	Current	30+ Days	60+ Days	90+ Days	TOTAL
Amount	18,087	1,785	40	59,961	79873

Rates Outstanding at 30 June 2017 were:

	Current	TOTAL
Rates	73,016	73,016
Rubbish	6,933	6,933
ESL	498	498
TOTAL	80,447	80,447

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2016/17 financial year. Please note that the financials presented as at 30 June 2017 are in draft form and will be revised throughout the final audit process.

Consultation

Chief Executive Officer

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

34. Financial activity statement required each month (Act s. 6.4)

(1A) In this regulation —

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

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
- annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - budget estimates to the end of the month to which the statement relates; and
 - actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - 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 —
- an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

- (b) an explanation of each of the material variances referred to in subregulation (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; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; 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 the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

Financial implications are outlined in comments.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.1
--

That the Monthly Statement of Financial Activity for the period 1 July 2016 to 30 June 2017 be received.

COUNCIL DECISION – ITEM 9.2.1

Moved Cr Eardley seconded Cr Criddle

That the Monthly Statement of Financial Activity for the period 1 July 2016 to 30 June 2017 be received.

CARRIED 5/0

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 30 JUNE 2017

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 13 July 2017
Author: Durga Ojha, Manager of Finance
Senior Officer: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council confirm the payment of creditors for the month of June 2017 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

MFA Attachment-2 &3

Copy of list of accounts due (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13(1).

Background

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

Comment

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costings, and that the amounts shown were due for payment.

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4

Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 15

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.2

That Council confirm the accounts as presented for June 2017 from the Municipal & Trust Fund totalling \$246,916.85 represented by Electronic Funds Transfers of EFT 10847 to10852 and 10856 to 10915 Direct Deduction DD8123.1.1, 2, 3, 4&5, DD8139.1, 2, 3, 4&5, Municipal Cheque numbers 8511 to 8513 and Trust Cheque 503.

COUNCIL DECISION – ITEM 9.2.2

Moved Cr Eardley seconded Cr Cosgrove

That Council confirm the accounts as presented for June 2017 from the Municipal & Trust Fund totalling \$246,916.85 represented by Electronic Funds Transfers of EFT 10847 to10852 and 10856 to 10915 Direct Deduction DD8123.1.1, 2, 3, 4&5, DD8139.1, 2, 3, 4&5, Municipal Cheque numbers 8511 to 8513 and Trust Cheque 503.

CARRIED 5/0

9.3 ADMINISTRATION

9.3.1 LOCAL LAWS REVIEW

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	AD0384
Date:	3 July 2017
Author:	Kelvin Matthews, Locum Governance Officer

Summary

This report recommends that Council consider for approval the proposed local laws detailed as attached to this report for public advertising in accordance with section 3.12 of the Local Government Act 1995.

Attachment

1. Shire of Mingenew Draft Local Laws
2. Local Laws Rubric Matrix

Background

Council considered the making of the following (draft) local laws at its Ordinary Council Meetings (OCM) dated 20 April 2016 and 21 September 2016:

- Meetings Procedure Local Law 2016
- Health Local Law 2016,
- Animal, Environment and Nuisance Local Law 2016
- Waste Local Law 2013

The above Local Laws did not progress to advertising as required in accordance with section 3.12 of the Local Government Act 1995 and therefore have remained as draft Local Laws only. The following Fencing Local Law was gazetted on 17 February 1999 and has been updated and included in this report for recommendation:

- Fencing Local Law 2017

This report also recommends that Council consider and advertise the making of the following new Local Laws as prescribed by section 3.12 of the Local Government Act 1995:

- Repeal Local Laws 2017
- Standing Orders Local Law 2017
- Cemeteries Local Law 2017, and
- Extractive Industries Local Law 2017

In the OCM reports from its April and September 2016 meetings it was noted that Council must also comply with section 3.16 of the Local Government Act 1995 whereby a review of its local laws should be undertaken within an eight year period to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

All of the above local laws will ensure that Council is legislatively compliant in the manner in which it governs its district that simultaneously meets its local needs and circumstances.

Comment

Appendix 2 of this report provides a brief descriptive Rubric Matrix regarding the current status of Councils local laws. In particular Councils attention is drawn to the following in regard to each local law:

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

- Repeal Local Law 2017 - required to repeal and amend existing local laws noting that research reveals approximately 45 obsolete Shire of Mingenew Local Laws (some formerly known as By-laws) still exist where the Local Laws Register does not record any repeal.
- Standing Orders Local Law – required in accordance with Part 5, Division 2 of the Local Government Act 1995 and Part 2 of the Local Government (Administration) Regulations 1996 for the proper legislative conduct and procedure of Council (and Committee) Meetings. Council had previously considered a draft Meetings Procedure Local Law in 2016 and has a current Meetings Procedure Policy, however the draft Local Law was not formally adopted by Council and the Policy does not provide legislative compliance in the conduct of Council Meeting (and Committees) procedures.
- Cemeteries Local Law - the purpose of this local law is to provide for the control and regulation of Councils cemetery site for the benefit of the community within its district.
- Extractive Industries Local Law – the purpose of this local law is to provide for the control and regulation of the extraction of materials within the district, where and when applicable.
- Fencing Local Law - the purpose of this local law is to provide for the control and regulation of fencing in accordance with the Dividing fences Act 1961 within its district and has been updated from the gazetted local law of 1999. A building licence is not required for a fence on a rural lot in accordance with Part 3, clause 7 of the local law.
- Health Local Law – required to provide a legislative means of effectively controlling the possibility of health related issues that may adversely impact on the health and well being of the community of the district.
- Animal, Environment and Nuisance Local Law - required to provide a legislative means of effectively controlling the possibility of animal and nuisance related matters that may adversely impact on the health and well being of the community of the district.
- Waste Local Law - the purpose of this local law is to provide for the control and regulation of Councils waste landfill site and the collection of domestic and commercial waste (putrescible and inert) within its district.

Consultation

All councillors

Public in accordance with section 3.12(2) of the Local Government Act 1995 whereby Statewide Public Notice is required.

Statutory Environment

In accordance with section 3.12 of the Local Government Act 1995 as follows:

Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

(iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

and

(b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*

(c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

(3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*

(4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

(5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*

(6) *After the local law has been published in the Gazette the local government is to give local public notice —*

(a) *stating the title of the local law; and*

(b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*

(c) *advising that copies of the local law may be inspected or obtained from the local government's office.*

(7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

(8) *In this section —*

making *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

In accordance with **section 3.15 of the Local Government Act 1995** as follows:

Local laws to be publicised

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

In accordance with **section 3.16 of the Local Government Act 1995** as follows:

Periodic review of local laws

(1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*

(2) *The local government is to give Statewide public notice stating that —*

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES– 19 July 2017

- (a) *the local government proposes to review the local law; and*
 - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (2a) *A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.*

Policy Implications

The proposed Standing Orders Local Law 2017 is intended to replace the current Meetings Procedures Policy that will be simultaneously revoked during the review of Council Policy process.

Financial Implications

Nil

Strategic Implications

Community Strategic Plan Outcome 4.5.1

– Ensure compliance with local, town planning, building, health and all other relevant legislation.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.3.1
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That Council confirm the following Shire of Mingenew Local Laws for Statewide advertising in accordance with section 3.12 of the Local Government Act 1995:

- Repeal Local Law 2017
- Standing Orders Local Law 2017
- Cemeteries Local Law 2017
- Extractive Industries Local Law 2017
- Health Local Law 2017
- Animal, Environment and Nuisance Local Law 2017, and
- Waste Local Law 2017

MOTION

Moved Eardley seconded Cr Cosgrove

That Council confirm the following Shire of Mingenew Local Laws for Statewide advertising in accordance with section 3.12 of the Local Government Act 1995:

- Repeal Local Law 2017
- Standing Orders Local Law 2017
- Cemeteries Local Law 2017
- Extractive Industries Local Law 2017
- Health Local Law 2017
- Animal, Environment and Nuisance Local Law 2017, and
- Waste Local Law 2017

AMMENDMENT

Moved Cr Eardley seconded Cr Cosgrove

Fencing Laws 2017 to be included in the council decision

Carried 5/0

COUNCIL DECISION – ITEM 9.3.1

The Presiding Person put the amended motion;

That Council confirm the following Shire of Mingenew Local Laws for Statewide advertising in accordance with section 3.12 of the Local Government Act 1995:

- Repeal Local Law 2017
- Standing Orders Local Law 2017
- Cemeteries Local Law 2017
- Extractive Industries Local Law 2017
- Health Local Law 2017
- Animal, Environment and Nuisance Local Law 2017, and
- Waste Local Law 2017
- Fencing Laws 2017

CARRIED 5/0

The Presiding Person advised the meeting that the reason for the change would need to be recorded in the minutes.

Moved Cr Eardley

Seconded Cr Cosgrove

That the reason the officer recommendation was changed was because the Fencing Local Law 2017 had been inadvertently been omitted from the original recommendation.

CARRIED 5/0

9.4 TOWN PLANNING

Nil

9.5 BUILDING

Nil

10.0 ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

11.1 ELECTED MEMBERS

11.2 STAFF

12.0 CONFIDENTIAL ITEMS

Nil

13.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Monday 14 August 2017 commencing at 4.30pm.

14.0 CLOSURE