



AGENDA FOR THE ORDINARY COUNCIL MEETING

18 MARCH 2020



Ordinary Council Meeting Notice Paper

18 March 2020

An Ordinary Meeting of Council is called for Wednesday, 18 March 2020, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm. Members of the public are most welcome to attend.

Nils Hay
Chief Executive Officer
11 March 2020

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenew expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<p>Petitions A formal process where members of the community present a written request to the Council.</p>	<p>Deputations A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p>Presentations An occasion where awards/gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government</p>
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PROCEDURE FOR DEPUTATIONS

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business. Any person or group wishing to be received as a deputation by the Council shall send to the CEO an application:

- I. Setting out the agenda item to which the deputation relates;
- II. Whether the deputation is supporting or opposing the officer's or Committee's recommendation; and
- III. Include sufficient detail to enable a general understanding of the purpose of the deputation.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281192 or email governance@mingenew.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- I. is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- II. is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- III. additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

PROCEDURE FOR PRESENTATION

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281102 or email governance@mingenew.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received / awarded by the Shire President or an appropriate Councillor.

PROCEDURE FOR PETITIONS

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision-making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

- **During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.**
- **Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.**
- **Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.**

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**AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
18 MARCH 2020 COMMENCING AT 4.30PM**

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**
- 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
Nil.
- 4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME**
- 5.0 APPLICATIONS FOR LEAVE OF ABSENCE**
- 6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**
- 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES**
- 7.1 ORDINARY COUNCIL MEETING HELD 19 FEBRUARY 2020**

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Ordinary Council Meeting of the Shire of Mingenew held in the Council Chambers on 19 February 2020 be confirmed as a true and accurate record of proceedings.

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

9.0 DECLARATIONS OF INTEREST

As the responsible officer for of the tasks which are to be audited and reported on the 2020 Compliance Audit Return, Erin Greaves, Governance Officer disclosed an Impartiality Interest.

Nils Hay, CEO also disclosed an Impartiality Interest relating to the Regulation 17 Audit (Item 5.2), as the reporting officer on matters that are audited on.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 3 MARCH 2020

OFFICER RECOMMENDATION – ITEM 10.1.1

That Council receives the Minutes of the Local Emergency Management Committee meeting held 3 March 2020.

COMMITTEE RECOMMENDATION – ITEM 10.1.2

That Council supports a funding application be prepared and submitted to the Department of Fire and Emergency Services (DFES) for a new Fire Shed to be designed (based on the DFES-endorsed design) and installed on suitable Council-owned land (further analysis be undertaken to determine most appropriate and feasible location).

COMMITTEE RECOMMENDATION – ITEM 10.1.3

That Council endorses the Response Vehicle Identifier (RVI) Stickers Procedure to assist in the management and control of personnel / vehicles accessing a fire ground or incident site.

10.2 AUDIT & RISK COMMITTEE MEETING HELD 11 MARCH 2020

OFFICER RECOMMENDATION – ITEM 10.2.1

That Council receives the Minutes of the Audit & Risk Committee meeting held 11 March 2020.

COMMITTEE RECOMMENDATION – ITEM 10.2.2

That Council:

1. Adopts the 2019 Compliance Audit Return (CAR) for the period 1 January to 31 December 2019 as presented in the Attachment Booklet subject to the response to Question 27 of the Tenders for Providing Goods and Services section be amended to state “One occasion where only 1 quote (of required 3) received...”; and
2. Authorises the Shire President and Chief Executive Officer to sign the certification of the CAR, and lodge it with the Department of Local Government, Sport and Cultural Industries as required.

COMMITTEE RECOMMENDATION – ITEM 10.2.3

That Council receives the CEO’s Regulation 17(1) Report, reviewed by the Audit & Risk Committee, as required under Regulation 17(3) of the Local Government (Audit) Regulation 1996.

COMMITTEE RECOMMENDATION – ITEM 10.2.4

That Council receives the updated Shire of Mingenew Risk Register and Internal Audit Plan.

COMMITTEE RECOMMENDATION – ITEM 10.2.5

That Council receives the Shire of Mingenew Business Continuity Plan 2020, as presented in the Attachment Booklet – February 2020 and recommends to Council that it be adopted subject to the following amendments:

- A response to the impact of a pandemic on personnel be to include flexible working arrangements (i.e. working remotely from home)
- That the Contact List in the Appendix be updated with the current LEMC contacts

And that the CEO is to develop and implement a Working From Home Policy and Procedure to manage risk associated with ensuring a safe working environment outside of the ordinary workplace.

COMMITTEE RECOMMENDATION – ITEM 10.2.6

That Council adopts the Regional Price Preference Policy, as presented in the Attachment Booklet – February 2020.

10.3 BUSHFIRE ADVISORY COMMITTEE MEETING HELD 11 MARCH 2020

OFFICER RECOMMENDATION – ITEM 10.3.1

That Council receives the Minutes of the Bushfire Advisory Committee meeting held 11 March 2020.

COMMITTEE RECOMMENDATION – ITEM 10.3.2

That the following persons be appointed to the position of Captain or Deputy Captain for the following Bush Fire Brigades:

Yandanooka

Captain: _ N Duane

Deputy Captain: __ J Bagley

Lockier

Captain: _ D Michael

Deputy Captain: _ P Flanders

Guranu

Captain: _ B Cobley (TBC)

Deputy Captain: __ G Elsegood (TBC)

Mingenew North

Captain: _ A Pearse

Deputy Captain: _ A Green

Mingenew Town

Captain: _ A Smyth

Deputy Captain: _ T Anderson (TBC)

COMMITTEE RECOMMENDATION TO COUNCIL – ITEM 10.3.3

1. That the following persons be appointed to the position of Bushfire Control Officer for the Shire of Mingeneu: Murray Thomas; and
2. That the following persons be appointed to the position of Deputy Bushfire Control Officer for the Shire of Mingeneu: Nick Duane

11.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER
11.1 GIFTED PROPERTY TRANSFER – WRITE OFF RATES

Location/Address: Shire of Mingenew
Name of Applicant: Mr T Finnigan
File Reference: A308, A349, A350, A351, A502 and A503
Disclosure of Interest: Nil
Date: 10 March 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To write-off the outstanding rates owed by Mr Finnigan following the gifting of the property, as endorsed by Council in October 2019. The CEO currently has delegated authority to write-off debts up to the value of \$1,000 therefore Council endorsement is sought for the rates write-off.

Key Points

- Council resolved to purchase property from Mr Finnigan at the 16 October 2020 Ordinary Council meeting.
- Mr Finnigan's outstanding rates debt is \$3,850.98.

OFFICER RECOMMENDATION – ITEM 11.1

That Council authorises the outstanding rates owed by Mr Finnigan totalling \$3,850.98 to be written off, in lieu of the property being gifted to the Shire of Mingenew, as per Council resolution 16011905 at the 16 October 2019 Ordinary Council meeting.

Background

At the 16 October Ordinary Council meeting it was resolved:

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 - Resolution 16101904

Moved: Cr Eardley Seconded: Cr Cosgrove

- That Council endorses the acquisition of the following lots as gifted assets from Mr. Terrence Finnigan: Lot 14 King Street and Lots 176, 177, 178 Oliver Street and Lots 163, 164 Broad Street Mingenew.
- That Council authorises the Chief Executive Officer to proceed with the transfer of this land to the Shire of Mingenew

VOTING DETAILS:

CARRIED BY SIMPLE MAJORITY: 7/0

- That Council makes available of a budget of \$5,000.00 from reserves for the purpose of land transfer costs.

VOTING DETAILS:

CARRIED BY ABSOLUTE MAJORITY: 7/0

The resolution has been enacted. The execution date for the Deed and Transfer was 20 January 2020.

As noted in the report from the 16 October 2019 Council Meeting, Mr Finnigan had been seeking to dispose of these lots since at least August 2019 and his motivation for disposal of the land was that he was increasingly unable to pay rates on these lots.

Comment

The CEO's delegated authority is conditional with regard to writing off debts, as per the extract from the Delegation - CD02 Debts, Waiver, Concessions, Write Off and Recovery:

Conditions.

1. The power to waive or write off debt and grant a concession does not apply to debts which are prescribed as debts, that are taken to be a rate or service charge.
2. A debt may only be waived where:
 - a) in accordance with the Supporting the Community Policy a local club and/or not for profit organisation submit in writing, an application to conduct activities that support the Shire's Community Strategic Plan; and
 - b) Does not exceed the value of \$1,000 per application and is subject to the confinements of the budgetary allocation as set by Council.
3. A concession may only be granted where:
 - a) In accordance with the Supporting the Community Policy a local club and/or not for profit organisation submit in writing, an application to conduct activities that support the Shire's Community Strategic Plan; and
 - b) Does not exceed the value of \$1,000 per application and is subject to the confinements of the budgetary allocation as set by Council.
4. A debt may only be written off where all necessary measures have been taken to locate / contact the debtor and where costs associated with continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire of Mingenew.
5. Limited to individual debts valued below \$100 or cumulative debts of a debtor valued below \$100. Write off of debts greater than these values must be referred for Council decision.
6. Debt recovery is to be in accordance with the Shire's Internal Debt Recovery Policy and Procedures and subject to the provisions of the Local Government Act 1995.
7. Subject to the reporting of the exercise of this delegation to the Concept Forum each month.

Statutory Environment

The Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money, which is owed to the local government.

* Absolute majority required.

Rates and Charges (Rebates and Deferments) Act 1992

Policy Implications

1.3.9 Debt Collection Policy

Financial Implications

The valuation of the property, as presented to Council in October 2019, exceeds the outstanding value of rates owed by Mr Finnigan and the cost of the property transfer. It was also noted that the

Shire's ability to recoup these monies was increasingly unlikely in any event as a result of Mr Finnigan's stated financial situation.

Strategic Implications

Community Strategic Plan:

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

11.2 GIFTING OF COOLROOM BY MINGENEW TURF CLUB

Location/Address: Mingenew Turf Club / Recreation Centre
Name of Applicant: Mingenew Turf Club
File Reference: ADM0012
Disclosure of Interest: Nil
Date: 11 March 2020
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider the proposal from the Mingenew Turf Club to gift the Coolroom located at the rear of the Mingenew Turf Club bar, to the Shire of Mingenew.

Key Points

- The Mingenew Turf Club has approached the Shire with a proposal to gift the Coolroom, located at the Turf Club, to the Shire for appropriate management.
- The Turf Club request first rights to use and charges be waived for their use (in recognition of their contribution to providing the facility).
- It is proposed that, should Council resolve to accept the Club's proposal, that a Policy and Fee be determined and adopted by Council to clarify management arrangements of the Coolroom.

OFFICER RECOMMENDATION – ITEM 11.3

That Council:

- Accepts the gifted Coolroom, donated by the Mingenew Turf Club for the purpose of making it available for community use;**
- Gives the Mingenew Turf Club first rights use of the Coolroom facility for the Mingenew Races and other activities, as approved by Council Policy (to be prepared and presented to Council at a future meeting), at no cost for the life of the current coolroom; and**
- Considers setting a hire charge for the use of the Turf Club Coolroom for inclusion in Council's Fees and Charges 2020/21.**

Attachment

Attachment 11.4.1 Correspondence from Mingenew Turf Club

Background

The Mingenew Turf Club have indicated to the Shire that they would like to gift the Coolroom, located at the rear of the Turf Club, to the Shire. Reasoning being that it can then be available for broader community use and more easily managed through the Shire's current administrative procedures.

The Turf Club's Vice President has indicated that it is their expectation that the Turf Club would have first rights of use at no cost, for the life of the coolroom.

The Turf Club have offered to provide assistance to any hirers in operating and accessing the coolroom to ensure the correct operation and management by new users. They are also proposing to install a coded lock box.

Comments

The Coolroom is approximately 25 years old and has had the refrigeration unit replaced 5 years ago (with 7 year warranty) which was purchased for \$13,000 including GST by the Turf Club. Initial research suggests that replacement costs would be \$7,000 - \$10,000 second-hand or from \$12,000 new. Insurance costs would require a replacement valuation which would be sought before taking ownership.

In taking ownership of the coolroom, the Shire takes on the responsibility of maintenance and administration as well as insurance. Should there be any operating issues with the coolroom an appropriate tradesperson would need to be contracted to travel and repair which is an additional expense to the Shire. It is also worth considering that should the coolroom require replacing, the replacement costs (or whether or not the Shire would replace the unit at all) need to be determined. Therefore, it is recommended that staff research anticipated replacement and maintenance costs to then inform any cost recovery through the setting of hire charges.

To ensure the consistent and fair management of the facility it is also proposed that a Policy be developed to clarify any requirements around the Turf Club's ongoing use and broader management. It is suggested that the Turf Club would have first rights, as requested but usage would still need to be communicated through the Shire to ensure booking management, cleaning and maintenance is efficient and consistent.

Consultation

Mr David Bagley, Vice President - Mingenew Turf Club
Leadership Team

Statutory Environment

Local Government Act 1995

6.16. Imposition of fees and charges

(1) A local government may impose and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.*

* Absolute majority required.

(2) A fee or charge may be imposed for the following —

- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;*
- (b) supplying a service or carrying out work at the request of a person;*
- (c) subject to section 5.94, providing information from local government records;*
- (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;*
- (e) supplying goods;*
- (f) such other service as may be prescribed.*

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

- (a) imposed* during a financial year; and*
- (b) amended* from time to time during a financial year.*

* Absolute majority required.

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.*

Policy Implications

Council will need to clarify any usage expectations for the Mingenew Turf Club and it is suggested that a policy be developed that sets out the usage arrangements (similar to the Community Bus policy). It will be appropriate to clarify first rights and fee waivers to apply to the Mingenew Turf Club's use of the Coolroom, as well as any usage arrangements for the broader community. To ensure good booking management practices, it is recommended that all access to the Coolroom be managed exclusively through the Shire's booking and key system, rather than the maintenance of a lockbox.

Financial Implications

In conjunction with the obvious social benefits this proposal may provide, it is important that Council considers the ongoing financial (lifetime) costs and implications, as well as the associated income from any hire fee charged.

Should Council wish to set a fee for community or commercial use of the coolroom, a Council resolution is required. However, so the Shire can appropriately off-set any anticipated expense and calculate a reasonable fee it is proposed that a hire fee be set as part of the 2020/21 Budget process.

Strategic Implications

Community Strategic Plan:

Strategy 1.1.2 Provide buildings, facilities and services to meet community needs

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

12.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 29 FEBRUARY 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 11 March 2020
Author: Jeremy Clapham – Finance & Administration Manager

Summary

This report recommends that the Monthly Financial Report for the period ending 29 February 2020 as presented to the Council be received.

OFFICER RECOMMENDATION – ITEM 12.1

That the Monthly Financial Report for the period 1 July 2019 to 29 February 2020 be received.

Attachment

12.1.1 Monthly Financial Report for period ending 29 February 2020

Background

The Monthly Financial Report to 29 February 2020 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Cash Reserves
- Other Current Liabilities
- Grants and Contributions
- Trust Fund
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 29 February 2020	
Municipal Funds	\$1,793,006
Cash on Hand	\$100
Restricted Funds – 3 Month Term Deposit @ 2.50%	\$147,814
Trust Fund	\$1
Reserve fund (3 Month Term Deposit) @ 2.50%	\$310,035

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2019/20 financial year.

Consultation

Nil

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 —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (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; and
 - (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; or
 - (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 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

No financial implications are indicated in this report.

Strategic Implications

Nil

12.2 LIST OF PAYMENTS FOR THE PERIOD 1 FEBRUARY 2020 TO 29 FEBRUARY 2020

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Attachment/s: List of Payments – February 2020
Disclosure of Interest: Nil
Date: 12 January 2020
Authorising Officer: Jeremy Clapham, Finance & Administration Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 February 2020 to 29 February 2020 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION

That Council receive the attached list of payments for the period of 1 February 2020 to 29 February 2020 as follows:

\$14,683.66	Municipal Cheques;
\$174,122.61	Municipal EFT's;
\$56,991.30	Municipal Direct Debit Department of Transport (Licencing) Payments;
\$20,458.14	Municipal Direct Debit Other;
\$1,385.33	Municipal Other Charges.

Totalling \$267,641.04 as per attached list of payments.

Net Salaries not included in the attached list of payments - \$68,396.62

Total of all payments - \$336,037.66.

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

12.3 BUDGET REVIEW – 2019/20

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	ADM0130
Attachment/s:	Budget Review for the period ended 29 February 2020
Date:	11 March 2020
Author:	Jeremy Clapham, Finance & Administration Manager
Voting Requirement:	Absolute majority

Summary

Council is requested to review and adopt the documentation tabled for the 2019/2020 Budget Review.

OFFICER RECOMMENDATION – ITEM 12.3

That Council

- 1. Adopts the 2019/2020 Budget Review as tabled; and**
- 2. That administration staff make the required budget amendments within the chart of accounts to reflect those changes adopted and proposed in “Note 4” within the 2019/20 Budget Review document.**

Background

Regulation 33A of the Local Government (Financial Management) Regulation 1996 requires Council to conduct a review of its budget between 1 January and 31 March in each financial year. The Regulation requires that the results be submitted to Council to determine whether to adopt the review and recommendations made. Within 30 days of the review a copy of the review and determination is to be provided to the Department of Local Government, Sport and Cultural Industries.

Comment

The attached budget review is to comply with the Shire’s statutory obligations.

The budget review has been prepared to include information required by the Local Government Act 1995, Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards.

This report provides information by program and nature or type and is based on the eight month period from 1 July 2019 to 29 February 2020.

The budget review reflects a view of the position of the Shire of Mingenew, projected full year revenue and expenditure against full year original budget.

The projected actuals are based on the information provided for each program, with an estimated zero increase/decrease in the closing funding surplus/(deficit) compared to original budget.

In the attachment is an explanation of identified major expenditure and revenue expectations of specific projects not proceeding, reduction in revenue or timing issues.

Consultation

Nils Hay; Chief Executive Officer
Helen Sternick; Senior Finance Officer

Concept Forum; February 2020

Statutory Environment

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Australian Accounting Standards

Policy Implications

Nil

Financial Implications

While the proposed amended budget does re-allocate funds across several areas, the final result provides a balanced budget.

Strategic Implications

The Budget Review process is an integral part of the integrated planning frameworks and risk management processes carried out by Council.

12.4 LOCAL GOVERNMENT HOUSE TRUST – DEED OF VARIATION - 29 FEBRUARY 2020

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	ADM0059
Date:	11 March 2020
Author:	Jeremy Clapham – Finance & Administration Manager
Voting Requirements:	Simple Majority

Summary

To consider variations to the Trust Deed for the Local Government House Trust.

Key Points

- Council's consent is sought, to a variation to the Trust Deed for the Local Government House Trust (The Trust) as the Shire of Mingenew is a unit holder and beneficiary to the Local Government House Trust, holding 3 units as advised in WALGA's recent Quarterly Report Q4 2019.
- The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.
- As a beneficiary, the Shire of Mingenew is requested to consent to the enclosed Deed of Variation supported by a resolution of Council; and to communicate this consent in writing, to consent for the Trustee to formally execute the Deed of Variation (Attachment 2).

OFFICER RECOMMENDATION – ITEM 12.4

That, with respect to the Local Government House Trust – Deed of Variation, Council:

1. **Consent to a variation to the Trust Deed for the Local Government House Trust (The Trust) as detailed in Attachment 12.4.1; and**
2. **Communicate this consent in writing to the Local Government House Trust's Board of Management.**

Attachment/s

- 12.4.1. Email from WALGA CEO Nick Sloan
- 12.4.2. Deed of Variation (Draft)
- 12.4.3. Clause 12 of Trust Deed 1994

Background

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to *Division 1AB of the Income Tax Assessment Act 1936*.

Trust Deed Variation

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB).

Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:

22.1 Any Trustee of the Trust may retire as Trustee of the Trust: ~~The Subject to clause 22.3, the~~ right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.

2. Variation 2.2 inserts two new clauses:

22.3 ~~The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.~~

22.4 ~~The Beneficiaries may at any time by Special Resolution:~~

- ~~(a) remove a Trustee from the office as Trustee of the Trust; and~~
- ~~(b) appoint such new or additional Trustee.~~

3. Variation 2.3 insert a new clause 13A

~~13A Delegation to the Board of Management~~

~~Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.~~

Comment

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual

operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

Consultation

Nil

Statutory Environment

There are no relevant statutory provisions.

Policy Implications

Nil

Financial Implications

There are no relevant financial implications upon the Council's Budget or Long Term Financial Plan.

One Seventy (170) Railway Parade, (local government house), where WALGA is located, is owned by the Association. The Shire of Mingenew owns six (3) units in the Trust that owns the 'local government house', which were valued at \$17,517.11 each (as at 30/6/18 as advised by WALGA).

Supporting the Deed of Variation will only strengthen WALGA's financial position, of which the Shire of Mingenew is a financial member.

Strategic Implications

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN/FOR CONSIDERATION AT FOLLOWING MEETING

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

15.0 CONFIDENTIAL ITEMS

16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 15 April 2020 commencing at 4.30pm.

17.0 CLOSURE

These minutes were confirmed at an Ordinary Council meeting on 15 April 2020.

Signed _____
Presiding Officer

Date: _____