



MINUTES OF THE ORDINARY COUNCIL MEETING

17 FEBRUARY 2021

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON
17 FEBRUARY 2021 COMMENCING AT 4.30PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr GJ Cosgrove opened the meeting at 4:30pm.

**2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
COUNCILLORS**

GJ Cosgrove	Shire President	Town Ward
HR McTaggart	Councillor	Rural Ward
HM Newton	Councillor	Town Ward
RW Newton	Deputy President	Rural Ward
JD Bagley	Councillor	Rural Ward
AR Smyth	Councillor	Town Ward
CV Farr	Councillor	Town Ward

APOLOGIES

Nil

STAFF

N Hay	Chief Executive Officer
J Clapham	Finance and Administration Manager
P Wood	Works Manager
E Greaves	Governance Officer

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME

Nil.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING HELD 16 DECEMBER 2020

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 7.1 RESOLUTION# 01170221
MOVED: Cr JD Bagley SECONDED: Cr AR Smyth

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 16 December 2020 be confirmed as a true and accurate record of proceedings.

VOTING REQUIREMENT: CARRIED BY SIMPLE MAJORITY: 7/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

9.0 DECLARATIONS OF INTEREST

Ms Erin Greaves disclosed an impartiality interest in relation to Items 10.1.4 and 10.1.5, as the reporting officer and employee conducting the internal audits.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 SHIRE OF MINGENEW AUDIT & RISK COMMITTEE

10.1.1 MINUTES OF THE AUDIT & RISK COMMITTEE MEETING HELD 8 FEBRUARY 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.1 RESOLUTION# 02170221
MOVED: Cr RW Newton SECONDED: Cr AR Smyth

That the Minutes of the Shire of Mingenew Audit & Risk Committee Meeting held on 8 February 2021 be received.

VOTING REQUIREMENT: CARRIED BY SIMPLE MAJORITY: 7/0

10.1.2 AUDIT & RISK COMMITTEE TERMS OF REFERENCE REVIEW

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.2 RESOLUTION# 03170221
MOVED: Cr AR Smyth SECONDED: Cr CV Farr

That Council:

1. Endorses the reviewed Shire of Mingenew Audit & Risk Committee Terms of Reference; and
2. Appoints Cr H Newton to the Audit & Risk Committee until Council reviews its appointment of committee members following the next local government election.

VOTING REQUIREMENT: CARRIED BY SIMPLE MAJORITY: 7/0

10.1.3 AUDIT & RISK COMMITTEE – INDEPENDENT MEMBER

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.3 RESOLUTION# 04170221

MOVED: Cr RW Newton

SECONDED: Cr HR McTaggart

That Council, by Absolute Majority, appoints Mr Maurice Battilana as an Independent Member to the Shire of Mingenew Audit & Risk Committee for a further one (1) year term.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

10.1.4 SHIRE OF MINGENEW 2020 COMPLIANCE AUDIT REPORT

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.4 RESOLUTION# 05170221

MOVED: Cr HR McTaggart

SECONDED: Cr HM Newton

That Council:

1. Adopts the 2020 Compliance Audit Return (CAR) for the period 1 January to 31 December 2020 as presented in the Attachment Booklet; 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.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

10.1.5 SHIRE OF MINGENEW INTERNAL AUDIT PLAN – TENDERING AND PROCUREMENT REPORT

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.5 RESOLUTION# 06170221

MOVED: Cr RW Newton

SECONDED: Cr CV Farr

That Council:

1. Receives the Tendering and Procurement Internal Audit Report as per Item 1 audit risk theme '1. Tendering and Procurement and 2. Misconduct' of the Internal Audit Plan; and
2. Notes the recommendations from the Tendering and Procurement Internal Audit Report.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

10.1.6 INTERNAL AUDIT PLAN AND RISK REGISTER REVIEW AND UPDATE

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 10.1.6 RESOLUTION# 07170221
MOVED: Cr HM Newton SECONDED: Cr RW Newton

That Council:

1. Endorses the reviewed Internal Audit Plan as attached
2. Receives the updated Shire of Mingenew Risk Register as attached
3. Acknowledges that in receiving the Efficiency Audit report from Rafa Recruitment, it has achieved Item 6 risk theme 'HRM, ability to achieve SCP and CBP objectives' of the Internal Audit Plan, bringing forward any subsequent items in the timeline.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

11.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

11.1 ANNUAL GENERAL MEETING OF ELECTORS 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0118
Disclosure of Interest: Nil
Date: 8 February 2021
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To receive the Minutes of the Annual General Meeting of Electors and consider any motions of the meeting.

Key Points

- The Annual General Meeting of Electors for 2020/21 was held on Monday, 8 February 2021
- The Annual Report 2019/20 was received with no questions raised
- No motions were presented or resolved at this meeting
- One member of the public was in attendance and a number of questions were raised; these were addressed at the meeting

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.1 RESOLUTION# 08170221

MOVED: Cr JD Bagley

SECONDED: Cr AR Smyth

That Council receives the Minutes of the Annual General Meeting of Electors held 8 February 2021 and notes that the Annual Report 2019/20 was received. No further decisions were resolved at the meeting in accordance with s5.33 of the Local Government Act 1995.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

Attachment 11.1.1 Minutes of the Annual General Meeting of Electors 8 February 2021

Background

The Local Government Act 1995 (the Act) requires a local government to accept an annual report by 31 December after the relevant financial year and no later than two months after the auditor's report becomes available. The Council accepted the Annual Report 2019/20 on 16 December 2020.

A local government is required to hold a general meeting of electors of the district once every financial year. This meeting is to be held no more than 56 days after the local government accepts the annual report for the previous financial year.

The Annual Meeting of Electors was held on Monday, 8 February 2021.

Section 5.33 of the Local Government Act 1995 requires all decisions made at an elector's meeting to be considered at the next Ordinary Council meeting or if that is not practicable at the first Ordinary Council meeting after that meeting.

Comment

Nil.

Statutory Environment

The Local Government Act 1995 Section 5.27 and 5.29 provides:

5.27 Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.*
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*

5.29. Convening electors' meetings

- (1) The CEO is to convene an electors' meeting by giving —
 - (a) at least 14 days' local public notice; and*
 - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.**
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan:

Strategy 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

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

11.2 SHIRE OF MINGENEW WORKFORCE PLAN 2021-2025

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0466
Disclosure of Interest: Nil
Date: 8 February 2021
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

Following the review of a Draft Workforce Plan by the Audit & Risk Committee and consideration of results from an internal Efficiency Audit, the final Shire of Mingenew Workforce Plan 2021-2025 is presented for Council consideration.

Key Points

- A draft Workforce Plan was presented to the December 2020 Audit & Risk Committee for review
- Chris Rafanelli, Rafa Workforce Development and Recruitment was engaged to conduct a Workforce Efficiency Audit in September 2020 and recommendations from that report have been adopted into the Plan
- The Workforce Plan is intended to be a rolling document that is formally reviewed every 4 years but may be updated to align with changes to its Strategic Community Plan or Corporate Business Plan as required

OFFICER RECOMMENDATION – ITEM 11.2

That Council adopts the Shire of Mingenew Workforce Plan 2021-2025 as presented.

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.2 RESOLUTION# 09170221

MOVED: Cr McTaggart **SECONDED:** Cr HM Newton

That Council adopts the Shire of Mingenew Workforce Plan 2021-2025 as presented, subject to an amendment being made to the Organisation Chart on page 5 to show the 'Roadworks Supervisor' position being changed to Leading Hand Roadworks).

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

11.2.1 Workforce Plan 2021-2025

Background

In 2010, the Integrated Planning and Reporting (IPR) Framework and Guidelines were introduced in Western Australia as part of the State Government's Local Government Reform Program. Under the *Local Government Act 1995*, all local governments are required to plan for the future of their district. In late 2016, the IPR Framework and Guidelines underwent a revision in anticipation of local governments reviewing their current strategic community plans as required by statute by 30 June 2017. Whilst the minimum requirement under legislation and regulation is the development of a Strategic Community Plan and a Corporate Business Plan, the Shire has established a suite of documents, as recommended as part of the IPR Framework, to inform and guide decision making in order to achieve community and business objectives.

It is essential to plan for a workforce that can deliver the initiatives of the Corporate Business Plan and to consider the workforce implications of the Strategic Community Plan. The Workforce Plan addresses the skills, expertise and

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knowledge requirements; the desired organisational culture; what organisational structure will work best; recruitment and retention in the context of labour market challenges and opportunities; and the facilities and equipment needed to support a productive and inclusive workforce.

Note that it is not a requirement for Councils to adopt a Workforce Plan, although some do by agreement with their Chief Executive Officer. The Council has a legislative role in some aspects of the workforce, notably the appointment and performance management of the Chief Executive Officer, responsibility for ensuring that there is an appropriate structure for administering the local government, and some specific provisions regarding designated senior employees. Other than those exceptions, the Workforce Plan is in the domain of the Chief Executive Officer's authority. Therefore, while the resourcing of the Workforce Plan is essentially an outcome of the Council's IPR process, it is for the Chief Executive Officer to ensure that the Workforce Plan enables the organisation's objectives to be achieved in the most efficient and effective manner. Council's role is to set any applicable strategies that will assist the Shire in achieving its vision.

The last Workforce Plan to be adopted by the Shire of Mingenew was the 2013-2017 Integrated Workforce Plan, which is now significantly outdated, and does not align with the current Strategic Community Plan or Corporate Business Plan. Staff turnover and reduced capacity over that time has delayed the development of an updated Plan, until recently. A draft Workforce Plan was initially reviewed by the Audit & Risk Committee in early 2020, with further enhancements made based on feedback, and Council then budgeted to undertake the Efficiency Audit in 2020/21 which was anticipated to impact the Plan, therefore they are presented together.

The Workforce Plan has been developed to determine workforce strategies that will allow the Shire to achieve its Strategic Community Plan and Corporate Business Plan objectives through consideration of:

- how the workforce will need to change over the long term
- how the workforce will need to change over the short term to achieve immediate strategic priorities of Council
- who is responsible for managing key Shire projects and expected service levels;
- external factors that may influence the workforce;
- data about the current workforce and trends.

Comment

Having a Workforce Plan allows the organisation to maximise the capacity of the workforce and better respond to challenges, as well as ensuring that a consistent and integrated approach is taken into account when making decisions that relate to the workforce or will have an impact on workforce capacity.

In order to address some of the feedback provided by the Audit & Risk Committee in March 2020, the updated Plan has a more strategic focus and has included operational data and actions as appendices to reduce the content within the report itself. The updated Plan also includes a comprehensive SWOT analysis (page 4) that has been used to establish the recommended strategies and actions (pages 10 – 16, or as summarised on page 2).

The DLGSC recommend that the Workforce Plan cover a four-year period and is closely aligned with the Shire's Corporate Business Plan, as such this format has been used. It should be noted that, like the Shire's other integrated planning documents, it is intended to be a guiding document that has the flexibility to meet the changing needs of the community and business requirements. The document will be reviewed and updated (as required) on an annual basis to ensure it remains relevant and appropriate.

Consultation

- Leadership Team
- Chris Rafanelli, Rafa Workforce Development and Recruitment
- Other local governments

Statutory Environment

Local Government Act 1995

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government (Administration) Regulations 1996

19DA. Corporate business plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.

Policy Implications

The Workforce Plan may impact policies may impact strategic decision making and Council Policy development, and this document will be considered during future policy reviews.

The Workforce Plan will also inform internal policy positions and procedures that relate to Human Resource Management (HRM) to ensure the organisation's resourcing needs are met and can be sustained as required.

Financial Implications

Preparing the Workforce Plan internally, utilising existing capacity and expertise, is estimated to have saved Council significant dollars in consultancy fees and it is fortunate that the scope for the Efficiency Audit could include some independent insight into its content.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

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

11.3 WALGA STATE COUNCIL AGENDA – 3 MARCH 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0118
Disclosure of Interest: Nil
Date: 12 August 2021
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider and vote on the WALGA State Council Matters for Decision and submit those to the Council.

Key Points

- The WALGA State council Meeting is scheduled to be held on 3 March 2021 commencing at 4pm.
- The Shire of Mingenew is represented at State Council by Cr Karen Chappel, Deputy President of WALGA and Chair of the Northern Country Zone of WALGA.
- The next meeting is proposed to be held on 5 May 2021.

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.3 RESOLUTION# 10170221

MOVED: Cr JD Bagley

SECONDED: Cr CV Farr

PART A MATTERS FOR DECISION

That Council supports WALGA's recommendations submitted in the 3 March 2021 WALGA State Council Meeting Agenda, as follows:

Item 5.1 External Oversight and Intervention – Authorised Inquiries and Show Cause Notices

That WALGA:

1. Continues to advocate for the State Government to ensure that there is proper resourcing of the Department of Local Government, Sport and Cultural Industries to conduct timely inquiries and interventions when instigated under the provisions of the Local Government Act 1995; and
2. Requests the Minister for Local Government to:
 - a) Engage with affected Local Governments in order to attempt to resolve identified issues, improve performance and achieve good governance before considering an intervention under Part 8 of the Local Government Act 1995;
 - b) Provide written reasons prior to issuing any Show Cause Notices;
 - c) Require regular progress reports to be provided to any Local Government that is the subject of any Authorised Inquiry; and
 - d) Require that any Authorised Inquiry be conducted within a specified timeframe that may be extended with the approval of the Minister.

Item 5.2 Cost of Revaluations

That WALGA advocate to the State Government for the equal distribution of valuation costs for properties where the Water Corporation, the Department of Fire and Emergency Services and the Local Government require the valuation.

Item 5.3 Eligibility of Slip On Fire Fighting Units for Local Government Grants Scheme Funding

That WALGA:

1. Supports the inclusion of capital costs of Slip On Fire Fighting Units including for Farmer Response Brigades (for use on private motor vehicles) on the Eligible List of the Local Governments Grants Scheme (LGGGS).
2. Requests the Local Government Grants Scheme Working Group to include this matter on the Agenda of their next Meeting (expected March 2021).
3. Requests WALGA to work with the Local Government Grants Scheme Working Group to develop appropriate operational guidelines and procedures for the safe use of Slip On Fire Fighting Units funded in accordance with the LGGGS.
4. Supports the update of the WALGA membership of the Local Government Grants Scheme Working Group to include one Local Government Elected Member and one Local Government Officer, with these appointments determined through the WALGA Selection Committee process.

PART B MATTERS FOR NOTING / INFORMATION

That Council notes the Information Reports provided within the 3 March 2021 WALGA State Council Meeting Agenda, as follows:

Item 6.1 Local Government Car Parking Guideline – Western Australia

Item 6.2 Submission – Draft Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020

Item 6.3 Submission – Proposed Reportable Conduct Scheme for Western Australia

Item 6.4 Submission – Draft State Planning Policy 4.2: Activity Centre

Item 6.5 Submission – Registration of Builders (and Related Occupations) Reforms

Item 6.6 Report Municipal Waste Advisory Council (MWAC)

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachment

11.3.1 WALGA State Council Agenda – 3 March 2021

Background

The WALGA State Council Agenda provides significant background around each matter presented for decision however a summary and comment for each Item is provided below:

Item 5.1 External Oversight and Intervention – Authorised Inquiries and Show Cause Notices (05-034-01-0001 FM) (Page 5)

Feedback from the sector has expressed concerns regarding the manner in which powers under Part 8 of the Local Government Act 1995 are exercised. The proposed response to the raised concerns refer to improved engagement with Local Governments when issues arise and on an ongoing basis (to avoid Show Cause notices and Authorised Inquiries) and ensuring any enquiries are carried out in a timely fashion (requiring adequate resourcing of the DLGSC). WALGA's comment is that early engagement and communication is more likely to assist a local government to an improved position without formal intervention so that negative impacts on morale and resourcing are reduced but good governance is achieved.

Item 5.2 Cost of Revaluations (05-034-01-0001 TB) (Page 8)

WALGA propose to advocate for an equal apportionment (one-third split) of triennial Gross Rental Valuation (GRV) costs for properties where the Water Corporation, the Department of Fire and Emergency Services

(DFES) and the local government require valuation. The costs are currently apportioned (not legislated but set by precedent):

- Local Government 39%
- Water Corporation 39%
- DFES 22%

Item 5.3 Eligibility of Slip On Fire Fighting Units for Local Government Grants Scheme Funding (05-024-02-0001 SM) (Page 9)

WALGA recommend the reinstatement of Slip on Fire Fighting Units (tank, motor/pump, hose and reel on rigid frame) for use on private motor vehicles, as an eligible item under the Local Government Grants Scheme (LGGS). In recent history, the Units have been ineligible items through LGGS as they were considered to be eligible for funding through alternative grant programs however, that is no longer the case. These units are highly utilised in the farming community and considered integral to bushfire response in Mingenew and the broader region.

Comment

The Council Agenda also provides a number of reports for information purposes. Comment is provided below on any matters considered of interest or applicable to the Shire:

Item 6.1 Local Government Car Parking Guideline – Western Australia (05-036-03-0063 AR) (Page 11)

WALGA have prepared a set of Guidelines for local governments setting policies, strategies and management practices in relation to parking in cities and town centres.

Item 6.2 Submission – Draft Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020 (05-034-01-0104 TB) (Page 13)

Endorsed through Flying Minute on 6 January 2021, the WALGA State Council submitted feedback to the DLGSC relating to the proposed Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020, and it is presented for noting.

Item 6.3 Submission – Proposed Reportable Conduct Scheme for Western Australia (05-034-01-0104 TB) (Page 14)

A submission to the Ombudsman, WA on the Draft Reportable Conduct Scheme for WA has been made in response to the Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2020, which is presented for noting (endorsed by Flying Minute on 9 January 2021). The proposed Reportable Conduct Scheme facilitates the reporting of employee misconduct involving children and imposes responsibilities on local government CEOs. The State Council's concern is with regard to capacity and expertise to comply with requirements under the Bill and the submission therefore requests support and funding.

Item 6.4 Submission – Draft State Planning Policy 4.2: Activity Centre (05-036-03-0020 CH) (Page 16)

A submission on the Draft State Planning Policy 4.2: Activity Centres, endorsed by Flying Minute on 28 January 2021, is presented for noting. The intent SPP4.2 is to ensure planning and development adequately considers the distribution, function and broad land use considerations for activity centres. It will apply to the Perth, Peel and Greater Bunbury regions but can be used by local governments more broadly.

Item 6.5 Submission – Registration of Builders (and Related Occupations) Reforms (05-015-02-0010 CL) (Page 18)

WALGA State Council responded to the Department of Mines Industry Regulation and Safety (DMIRS) consultation paper proposing changes to the *Building Services (Registration) Act 2011* and *Building Services (Registration) Regulations 2011*.

The consultation paper seeks comment on:

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- a proposed shift from a single class (tier) of builder registration in WA to three tiers and how these reforms could best be implemented in WA;
- registration of project managers responsible for coordinating and planning commercial buildings in WA, and owners' representatives of commercial buildings;
- mandatory continuing professional development requirements for registered builders and building surveyors;
- proposals to strengthen disciplinary and enforcement powers under the BSR Act; and
- the extension of mandatory builder registration to currently exempt areas of remote and regional WA.

The recommendation endorsed by WALGA State Council via Flying Minute stated:

That WALGA:

1. Advise the Department of Mines Industry Regulation and Safety (DMIRS) that the Consultation Regulatory Impact Statement, registration of builders (and related occupations) reforms is supported in principle, subject to the following matters being addressed in consultation with the Local Government sector:
 - a) Prior to any regulatory changes, undertake a review of the minimum estimated value of building work required to engage a registered builder of \$20,000 to ensure it better aligns with current building costs in regional areas.
 - b) Other regulatory and policy changes that are the subject of current proposals for change, such as mandatory inspections, registration of engineers, and the impact of State and Commonwealth building stimulus programs on construction be considered in conjunction with this proposal to ensure Local Government and industry are adequately resourced in remote and regional areas.
2. Provide this report to DMIRS as feedback on the Consultation Regulatory Impact Statement.

Item 6.6 Report Municipal Waste Advisory Council (MWAC) (01-006-03-0008 RNB) (Page 20)

This item consolidates outcomes from the Municipal Waste Advisory Council meetings in August, October and December 2020. A summary is provided within the Agenda.

Other matters of note:

- The 2021 WA Local Government Convention is confirmed for 20-21 September (Monday and Tuesday) and will be held at Crown Perth.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan

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

11.4 TRANSITIONAL MODEL CODE OF CONDUCT REGULATION REQUIREMENTS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0532
Disclosure of Interest: Nil
Date: 8 February 2021
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

On 3 February 2021, the *Local Government (Model Code of Conduct) Regulations 2021* was gazetted, introducing a mandatory Code of Conduct for Council Members, Committee Members and Candidates, as required under s.5.104 of the *Local Government Legislation Amendment Act 2019*. Transitional provisions are being made to implement any required actions from the legislative change however, the Shire is required to immediately establish authorised persons for receiving complaints under the Code.

Key Points

- the *Local Government (Model Code of Conduct) Regulations 2021* were gazetted on 3 February 2021
- the Department of Local Government, Sport and Cultural Industries has recognised that there may need to be a staged approach to implementing the changes
- A Model Code of Conduct has been established which local governments must adopt within 3 months of gazettal;
- Local governments are required to authorise appropriate persons to receive complaints under the Code, and adopt a form on which complaints can be made

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.5 RESOLUTION# 11170221

MOVED: Cr JD Bagley SECONDED: Cr HR McTaggart

That Council:

1. Notes the Model Code of Conduct as per Schedule 1 of the *Local Government (Model Code of Conduct) Regulations* is to be observed by Council members (including the Chief Executive Officer), Committee Members and Candidates, until the Shire of Mingenew adopts a reviewed Code of Conduct (by the 21 April 2021 Ordinary Council Meeting) that incorporates the model code [as per s5.104(5) of the *Local Government Legislation Amendment Act 2019*],
2. Requests the Chief Executive Officer to undertake a review of:
 - a) the Model code of conduct to determine if amendments are proposed to the model, in accordance with s5.104 of the *Local Government Legislation Amendment Act 2019*,
 - b) the Shire's Complaints management policy and procedures to ensure alignment with current legislative requirements;
3. Authorises the Chief Executive Officer to receive complaints and withdrawals of complaints in accordance with Regulation 11 of the *Local Government (Model Code of Conduct) Regulations 2021* except where the complaint relates to conduct of the Chief Executive Officer, in which case the Shire President is authorised to receive complaints and withdrawals of complaints.

4. Endorses the 'Code of Conduct Complaint About Alleged Breach Form' as the complaint form required under Regulation 11; and
5. Resolves that if a complaint under Regulation 11 is received prior to Council's adoption of a new procedure, these complaints will be dealt with once a new procedure is adopted, in accordance with that procedure.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 6/1

Attachment

11.4.1 Model Code of Conduct

11.4.2 Code of Conduct Complaint About Alleged Breach Form

Background

On 2 February 2021, local governments were notified by the Department of Local Government, Sport and Cultural Industries (the Department) that His Excellency the Governor had approved regulations that bring into effect the remaining parts of the *Local Government Legislation Amendment Act 2019 (Amendment Act)* including the *Local Government (Model Code of Conduct) Regulations 2021*.

The Department has advised local governments that there will be an implementation phase of up to three months where local governments must undertake a series of actions to implement the legislative requirements.

However, there a number of actions local governments are required to take within three weeks of the Regulations taking effect (by 24 February 2021). These are:

- the appointment of one or more persons to receive complaints and withdrawals of complaints of the code under Regulation 11; and
- approval of the form for making a complaint of an alleged breach under Regulation 11.

It is further expected that local governments adopt the new regulations and any other procedures and processes required for implementation within three months from the regulations taking effect (by 3 May 2021). Complaints made before the commencement of the new regulations are not impacted by the changes to the regulations and will be managed in accordance with the Shire's procedure.

Comment

The commencement of new regulations requires Council to adopt new processes, procedures and conduct new appointments. These will be presented to Council for consideration at future meetings in a systematic manner based on the feedback provided by the Department and the Western Australian Local Government Association (WALGA).

The Department have developed 'Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates' which will be considered when reviewing the Shire's current Code of Conduct to ensure compliance with legislative requirements and behavioural standards the Shire deems appropriate. It is proposed that a new Code of Conduct (incorporating the Model Code) will be presented to Council no later than 21 April 2021. In the meantime, the Model Code of Conduct is to apply immediately.

Appointment of persons to receive complaints and withdrawal of complaints of the code in accordance with Regulation 11 requires the local government to appoint a person or persons to be the complaints officer for the purpose of receiving complaints and withdrawal of complaints under the code of conduct. This position is distinctly separate from the 'Complaints Officers' responsible for receiving complaints of a serious or minor breach of the *Local Government Act 1995* under section 5.120 of the Act. It is proposed that the Chief Executive Officer be

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appointed the authorised complaints officer for the purposes of Regulation 11, except in the case where the complaint refers to the Chief Executive Officer and it will be referred to the Shire President.

Beyond receiving and complaints and withdrawal of complaints under the code of conduct, the person or persons appointed under Regulation 11 has no legislative responsibilities. The new legislation provides for Council (through the adoption of appropriate procedures) to adjudicate on alleged breaches of the code of conduct. It is proposed this will be considered as part of the Chief Executive Officer's review of current complaints management policy and procedures, and will be presented for consideration by Council at a future meeting

Regulation 11 also requires the local government approves the form for making a complaint of an alleged breach. The Department has prepared a template of this form for local governments and it has been adapted to include the Shire's branding for consideration and adoption.

Consultation

In respect to transitional arrangements related to complaints, WALGA has prepared guidance that advises that local governments should develop new complaints management procedures and that *"If Local Governments receive complaints immediately, WALGA recommends that Local Governments acknowledge and accept the lodgement but advise that the complaint cannot be progressed until a policy and procedure are adopted."*

Statutory Environment

Local Government Legislation Amendment Act 2019

Local Government (Model Code of Conduct) Regulations 2021

(The Local Government (Rules of Conduct) Regulations 2007 have been repealed)

Policy Implications

As part of the implementation of the new legislation, the Shire will review its current complaints management policy / procedure to ensure it reflects practical implementation of the Regulations.

Financial Implications

There are no foreseeable financial implications of these legislative changes.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

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

Summary of Funds as per bank statements – Shire of Mingenew as at 31 January 2021	
Municipal Funds – Corporate cheque account	\$139,233
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,849,122

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 2020/21 financial year.

The Opening Funding Surplus on 1 July 2020 is different to the Closing Funding Surplus at 30 June 2020. The reason for this is that the Closing Funding Surplus at 30 June 2020 was estimated in order to prepare the budget, due to the June 2020 accounts not yet being finalised. There were a number of adjustments made after year end, mainly to do with legislation changes (the treatment of income, the treatment of leases and the treatment of loss allowances). The largest of these adjustments was to do with the Bridge Funds received in 2016/17 but not yet spent, amounting to \$146,667. An adjustment was required as the funds received needed to be shown as a liability rather than as income. When the funds get paid to MRWA for the work done, they will be transferred back to income and increase the Funding Surplus once more.

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 —

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- (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 DECEMBER 2020 TO 31 JANUARY 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 9 February 2021
Author: Jeremy Clapham, Finance & Administration Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 December 2020 to 31 January 2021 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 12.2 RESOLUTION# 13170221
MOVED: Cr CV Farr SECONDED: Cr JD Bagley

That Council receive the attached list of payments for the period of 1 December 2020 to 31 January 2021 as follows:

\$531,954.47 Municipal EFT's;
\$93,650.65 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$100,148.41 Municipal Direct Debit Other;
\$3,119.13 Municipal Other Charges;
\$146,307.42 Net Salaries

Total \$875,180.08 as per attached list of payments.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

Attachments

12.2.1 List of Payments – December 2020 and January 2021

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.

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.

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

Nil.

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

15.0 CONFIDENTIAL ITEMS

15.1 CONFIDENTIAL [5.23(2)(a) and (c)] - CEO EMPLOYMENT CONTRACT RENEWAL
[provided under separate, confidential cover to Elected Members]

In order to finalise the CEO Contract extension, in accordance with the decision of Council at the 16 December 2020 Ordinary Council Meeting (Resolution# 04161220), the proposed CEO contract is presented under separate, confidential cover for Council consideration.

COUNCIL DECISION – ITEM 15.0 RESOLUTION# 14170221

MOVED: Cr HM Newton SECONDED: Cr HR McTaggart

That Council closed the meeting to members of the public at 4:50pm in accordance with s5.23(2)(a) and (c) of the *Local Government Act 1995*, as the matter to be discussed pertains to a matter affecting an employee and a contract to be entered into by the local government.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

All staff left the meeting at 4:52pm.

SHIRE PRESIDENT RECOMMENDATION AND COUNCIL DECISION – ITEM 15.1 RESOLUTION# 15170221

MOVED: Cr JD Bagley SECONDED: Cr AR Smyth

That Council endorses the CEO Employment Contract (Renewal) for the period 16 July 2021 to 15 July 2024.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 5/2

Cr RW Newton requested his name be recorded as voting against the item.

COUNCIL DECISION – ITEM 15.1 RESOLUTION# 16170221

MOVED: Cr HR McTaggart SECONDED: Cr JD Bagley

That Council reopens the meeting to members of the public at 4:53pm.

VOTING REQUIREMENT:

CARRIED BY SIMPLE MAJORITY: 7/0

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16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 17 March 2020 commencing at 4.30pm.

17.0 CLOSURE

The meeting was closed at 4:54 pm.

These minutes were confirmed at an Ordinary Council meeting on 17 March 2021.

Signed _____
Presiding Officer

Date: _____