



MINUTES FOR THE ORDINARY COUNCIL MEETING

15 SEPTEMBER 2021

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**AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
15 SEPTEMBER 2021 COMMENCING AT 4.30PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed everyone to the meeting and declared it open at 4:30pm.

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

GJ Cosgrove	Shire President
RW Newton	Deputy President
CV Farr	Councillor
HR McTaggart	Councillor
HM Newton	Councillor
AR Smyth	Councillor

APOLOGIES

Cr JD Bagley

STAFF

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

GALLERY

Mr Peter Gledhill

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The Shire received a written question via email from Mr Geoff Thorncroft on 14 August 2021 which was taken on notice at the 18 August Ordinary Council Meeting:

"As a rate payer of Mingenew and a former shire employee, I would like a justification from the CEO and president as to the recent 3% rate increase. After witnessing wastage spending, damage to equipment by shire employees with no accountability being held or disciplinary action being taken by the CEO, non-shire employees utilising shire property and bad decision making, I personally find the rate increase non justifiable and would like some accountability put back into the current CEO."

Since the meeting Mr Thorncroft has been issued with a response from the CEO in consultation with the President (sent via email 19 August 2021) as follows:

*"Dear Geoff,
Thank you for your email."*

As with every organisation, Council faces inflationary pressures (rising costs of labour, contracts and materials). These challenges have been quite acute when considering the budget for FY2021/22 as the impact of TC Seroja, coupled with ongoing labour shortages and supply issues linked to COVID-

19 push the cost of many shire activities up. For example, Council itself is also facing a \$100,000 excess in relation to its insurance claim for damage sustained by the cyclone; this amount alone is greater than the rates increase.

When managing rising costs, Council has three main avenues: Reduce services, seek greater efficiencies, and increase rates. In order to support the stabilisation of our local population and foster conditions for population growth, Council has tried to retain its current service levels as best it can.

Like you, we would prefer to be able to compensate for increased costs through improved efficiency alone, and over the past few years significant effort has been put into improving Council's systems and processes to support this. There is still work to be done, but this remains a focus for Council and an area that, as CEO, I am held accountable for through both Council Meetings, which consider all Shire expenditure, and my annual performance reviews. In addition, our organisation undergoes independent interim and annual audit, and we have an active internal audit function.

In setting its budget, and determining the rates, Council considers a range of factors:

- The requirements of our Strategic Community Plan, Corporate Business Plan and 5-Year Roads Plan*
- Project stemming from the above, (roadworks make up the majority of Council's annual budget, but we also spend a significant amount on maintaining recreational facilities)*
- Plant replacement and turnover*
- Required legislative and compliance activities; a suite of tasks which only seems to grow more complex – and costly – year-on-year*

Like you, Councillors are very conscious of rates increases, and this is an item that receives significant attention when preparing the budget. Council also sense-checks its rating methodology by looking at what neighbouring Shires are proposing. For comparison, Carnamah and Three Springs both also saw a 3% rise, Morawa 4%, Chapman Valley and Irwin 5%.

In terms of providing value back to ratepayers, we have also been very active in seeking external funding to allow for infrastructure projects and improvements which do not impact on rates. This year's budget is one of Council's largest in recent years, with over 90% of our \$11.6m capital works budget funded by external sources.

In terms of trying to reduce cost to the ratepayer, we actively seek to work with our neighbouring Shires on shared services and joint procurement efforts. We are also continuing to lobby higher tiers of government to try to reduce the growing cost of compliance.

In terms of some of the other matters that you have raised, I am not able to address specific items without specific allegations of wrongdoing. I am also not able to comment on any instances of disciplinary action taken by the organisation against employees, as such things are confidential. I would note though that the organisation has changed significantly since you worked here and that a number of the issues you raised as an employee here have, in fact, been addressed in the 18 months since you left.

Whilst I obviously understand that nobody likes it when their rates increase, I want to assure that you significant effort does go into both keeping rate increases reasonable and improving the way that the Shire operates. If you have suggestions for further areas of improvement, I am more than happy to discuss them and take them on board.

4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME

Q1. Peter Gledhill referred to the letter he issued to all Councillors that outlined his concern over the declining state of the town over the last few years. Mr Gledhill requested that Council provide an explanation as to why this has occurred.

The Presiding Member outlined that there were organisational changes made a few years ago to reduce the number of employees in the Parks & Gardens crew, that was tried but did not work. Since that time there has been a change in leadership (CEO and Works Supervisor then Manager) who have been focused on system improvements to create efficiencies and reducing labour intensive work practices. However, due to a high staff turnover and the effects of Cyclone Seroja, there has not been an opportunity to put the systems into practice and see the benefits.

The Shire has recently been working with Mr Ian Pullbrook, using his expertise to get advice on suitable plants and care programs that will ensure gardens require minimal watering, such as at the Museum, Mingenew Spring and at Littlewell.

Councillors have passed on your concerns and those raised by others in the community to the Works Manager and CEO, and Council will be reviewing progress in March 2022 to determine if any additional resources are required.

Q2. Mr Gledhill asked if the dead trees along the Rec Centre road can be replaced to fill the gaps?

The President advised this would be addressed.

Mr Gledhill left the meeting at 4:38pm.

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 18 AUGUST 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 10.1 – RESOLUTION# 01150921

MOVED: Cr HR McTaggart SECONDED: Cr AR Smyth

That the Minutes of the Ordinary Council Meeting held in the Council Chambers on 18 August 2021 be confirmed as a true and accurate record of proceedings.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

9.0 DECLARATIONS OF INTEREST

Nil.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 SHIRE OF MINGENEW EXECUTIVE MANAGEMENT COMMITTEE – 26 AUGUST 2021

EXECUTIVE MANAGEMENT COMMITTEE DECISION – ITEM 10.1.1 – RESOLUTION# 02150921

MOVED: Cr HR McTaggart SECONDED: Cr RW Newton

That Council receives the Minutes of the Executive Management Committee Meeting held in the Council Chambers on 26 August 2021.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 10.1 – RESOLUTION# 03150921

MOVED: Cr HM Newton SECONDED: Cr AR Smyth

That Council closes the meeting to the public at 4:40pm in order to discuss confidential matters affecting an employee, as per s.5.23(2)(b) of the Local Government Act 1995.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

All staff left the meeting at 4:40pm.

EXECUTIVE MANAGEMENT COMMITTEE RECOMMENDATION TO COUNCIL – ITEM 10.1.2 – RESOLUTION# 04150921

MOVED: Cr HR McTaggart SECONDED: Cr AR Smyth

That Council:

1. Endorses the overall performance rating for Mr Hay as the Shire of Mingenew' s CEO for the review period June 2020 to July 2021 as 'Satisfactory'.
2. Endorses the Focus Areas and Actions for July 2021 to June 2022.
3. Schedules the 2021/2022 annual appraisal to be commenced by the July 2022 Ordinary Meeting of Council and completed by the August 2022 Ordinary Meeting of Council.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 3/3
CASTING VOTE 1

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 10.1 – RESOLUTION# 05150921

MOVED: Cr HR McTaggart SECONDED: Cr RW Newton

That Council reopens the meeting to the public at 4:48pm in order to discuss a matter affecting an employee, as per s.5.23(2)(b) of the Local Government Act 1995.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Staff returned to the meeting at 4:48pm.

11.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

11.1 WALGA STATE COUNCIL AGM AGENDA 20 SEPTEMBER 2021

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	GR.LRL.4
Disclosure of Interest:	Nil
Date:	23 August 2021
Author:	Erin Greaves, Governance & Community Manager
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 Annual General Meeting is scheduled to be held on Friday, 20 September 2021 commencing at 9:00am and will be held at Crown Perth (Grand Ballroom) to coincide with the 2021 Local Government Convention.
- The State Council requires two voting delegates to be nominated and endorsed by local governments and the Shire's voting delegates were appointed at the 18 August 2021 Ordinary Council meeting (Cr Cosgrove and the Chief Executive Officer were appointed)

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 06150921

MOVED: Cr RW Newton

SECONDED: Cr AR Smyth

That Council endorses the WALGA State Council motions for the Annual General Meeting scheduled for 20 September, as follows:

1. That the AGM Association Standing Orders be adopted.
2. That the Minutes of the 2020 WALGA Annual General Meeting be confirmed as a true and correct record of proceedings.
3. That the 2021 Annual Report, including the 2020/21 Audited Financial Statements, be received.
4. That the WALGA Constitution be amended as follows:
 1. INSERT Definition – "*Present*" means attendance in person or by electronic means deemed suitable by the Chief Executive Officer.
 2. Clause 5 (10) – DELETE "and Associate Members".
 3. Clause 5 (11) – DELETE "Ordinary Member or", REPLACE "State Council" with "Chief Executive Officer" in the first sentence, INSERT "or its delegate" after State Council in the second sentence.
 4. Clause 6 (3) – REPLACE "31 May" with "30 June".
 5. Clause 7 (2) – REPLACE "30 June" with "31 July".
 6. Clause 11 (1) – after Chief Executive Officer, INSERT "in accordance with the Corporate Governance Charter".
 7. Clause 11 (2) – after Chief Executive Officer INSERT "by providing notice to State Councillors of the date, time, place and purpose of the meeting"
 8. DELETE Clause 11 (3)
 9. Clause 12 (1) – DELETE "as, being entitled to do so, vote in person"

10. DELETE Clause 12 (2)
 11. Clause 12 (3) – DELETE “as, being entitled to do so, vote in person”
 12. Clause 12 (4) – DELETE “as, being entitled to do so, vote in person”
 13. Clause 16 (1) & (2) – After Any election INSERT “other than to elect the President or Deputy President”, REPLACE “generally in accordance with the provisions of the Local Government Act 1995 as amended (2) For the purposes of the election referred to in subsection (1)” with “as follows”.
 14. Clause 16 (2) (f) – REPLACE two instances of “2” with “1”.
 15. INSERT Clause 16A – Election Procedure – President and Deputy President
 - (1) An election to elect the President or Deputy President shall be conducted as follows:
 - (a) the Chief Executive Officer or his/her delegate shall act as returning officer;
 - (b) representatives are to vote on the matter by secret ballot;
 - (c) votes are to be counted on the basis of “first-past-the-post”;
 - (d) the candidate who receives the greatest number of votes is elected;
 - (e) if there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued, and the meeting adjourned for not more than 30 minutes;
 - (f) any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes;
 - (g) when the meeting resumes, an election will be held in accordance with sub-sections 1(a), 1(b), 1(c) and 1 (d);
 - (h) if two or more candidates receive the same number of votes so that subsection 1(d) cannot be applied, the Chief Executive Officer is to draw lots in the presence of any scrutineers who may be present to determine which candidate is elected.
 16. Clause 21 (4) – REPLACE “Chairman” with “Chair”.
 17. Clause 22 (1) – REPLACE “in August or September of” with “prior to 31 October”.
 18. Clause 22 (3) – DELETE “in person”
 19. DELETE Clause 22 (4) (b).
 20. Clause 23 (3) – DELETE “in person”
 21. Clause 24 (2) – DELETE “and of which vote is to be exercised in person”
 22. Clause 24 (4) – DELETE “as, being entitled to do so, vote in person”
 23. Clause 28 (1) – DELETE “The common seal shall be held in the custody of the Chief Executive Officer at all times.”
 24. Clause 29 (1) – DELETE “as, being entitled to do so, vote in person”
 25. Clause 29 (2) – DELETE “as, being entitled to do so, vote in person”
 26. Clause 31 (4) (c) – DELETE “and Regional Development”.
5. That WALGA makes urgent representation to the State Government to address the high cost of development in regional areas for both residential and industrial land, including the prohibitive cost of utilities headworks, which has led to market failure in many towns in the Wheatbelt and Great Southern regions.
 6. That WALGA lobby the State Government to increase the CSRFF funding pool to \$25 million per annum and revert the contribution ratio to 50% split to enable more community programs and infrastructure to be delivered.
 7. That WALGA strongly advocates to the State Government to increase funding for the Regional Telecommunications Project to leverage the Federal Mobile Black Spot Program and provide adequate mobile phone coverage to regional areas that currently have limited or no access to the service.
 8. Regarding a review of the *Mining Act 1978*.

- 1) To call on Minister Bill Johnston, Minister for Minister for Mines and Petroleum; Energy; Corrective Services to instigate a review of the 43-year-old *Mining Act* to require mining companies to abide by environmental regulations, and to support research and development into sustainable mining practices that would allow mining without detriment to diversification and community sustainability through other industries and development.
- 2) That abandoned mines in regional Western Australia receive a priority action plan with programmes developed to work with remote resource communities to assist in the rehabilitation of these mines as a job creation programme, with funding allocated for diversification projects for support beyond mine life across Western Australia.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.1.1 WALGA State Council AGM Agenda – 20 September 2021

Background and Comment

A summary of the WALGA reports and background to the motions are provided below:

1.1 Amendments to WALGA's Constitution

The proposed amendments to WALGA's Constitution were endorsed by a special majority of State Council at the meeting on 7 July 2021 and as Constitutional Amendments must be endorsed at an AGM, they are put forward for a decision by Special Majority.

The amendments propose to:

- remove requirements for delegates to attend annual and special general meetings in person; and,
- change the financial year end to 30 June, from the previous 31 May year end to align with WALGA's.
- Allow a second vote to be conducted if two candidates tie in an election for President or Deputy President;
- Clarify the application process for Ordinary and Associate Members;
- Simplify the process for providing notice of State Council meetings;
- Allow motions at Special State Council meetings to be passed with a simple, as opposed to absolute, majority, except as required elsewhere in the Constitution, such as the absolute majority requirement to adopt the budget; and,
- Tidy up outdated wording.

1.2 Cost of Regional Development

A number of local governments have raised the urgent issue of a shortage of long-term and short-term accommodation for workers and the high cost of developing land. Market failure in the provision of residential and industrial land occurs across most of regional Western Australia. State Government intervention was previously provided through the Regional Headworks Program, funded by Royalties for Regions, and through commitments from the utility providers to spread the costs of upgrading and extending infrastructure to service additional land across their customer base, rather than pass these costs to the developer. These arrangements no longer exist. It is proposed that WALGA advocate for government intervention to ensure that housing for workers for vacancies in industry in rural areas is delivered at a reasonable cost.

As the Shire of Mingenew is considering a housing strategy and have earmarked areas for residential land development to promote local investment and given the impacts of Cyclone Seroja on accommodation availability in the Shire and region, a reduction in development costs would be welcome.

1.3 CSRFF Funding Pool and Contribution Ratios

There is currently \$12.5 million available in the 2021 Community Sporting and Recreation Facilities Fund (CSRFF). The total amount of funding available under the CSRFF program is \$15 million per annum for the next 4 years. Over the last four CSRFF funding rounds, the WA State Government has contributed an average grant amount of \$424,270 to 91 projects. It is suggested that Clubs are not able to contribute their one third required contribution towards facilities and major projects as required under the current CSRFF framework.

Therefore, it is recommended that WALGA lobby the State Government to increase the funding available to \$25 million per annum and to increase the ratio to 50%. In this way, the total number of projects could still be maintained and the impost on local clubs and Local Government ratepayers could be reduced. It is noted that WALGA have been advocating for an increase for a number of years.

1.4 Regional Telecommunications Project

State funding for regional telecommunications has been declining over time and there does not appear to be any increases planned and service providers, such as Telstra are reluctant to invest in infrastructure upgrades without third party funding. Therefore, it is recommended that WALGA advocate for increased State-government support to improve regional telecommunications through co-contributions by the State Government to leverage federal programs to regional areas that limited or no access.

1.5 Review of the Environmental Regulations for Mining

The motion, submitted by the Shire of Dundas, proposes a review of the Mining Act, requiring mining companies to abide by environmental regulations, and to support research and development into sustainable mining practices, and that abandoned mines be prioritised for rehabilitation programs in partnership with local governments.

Whilst the Shire of Mingenew has minimal

Statutory Environment

Local Government Act 1995

WALGA AGM Association Standing Orders

Policy Implications

As highlighted within the Agenda.

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.

11.2 EXTRAORDINARY ELECTION – POLLING DAY TO BE SET

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: GV.ELE.7
Disclosure of Interest: Nil
Date: 10 September 2021
Author: Erin Greaves, Governance & Community Manager
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

At the close of nominations for the three vacant positions (four-year terms to 2025) at 4pm on Thursday 9 September, two nominations were received. As there are less candidates than vacancies, an extraordinary election is required to fill the remaining vacancy.

Key Points

- On 9 September 2021 at 4pm nominations were declared closed for the 2021 Local Government Elections and two nominations were received
- Gavin Pearse and Anthony Smyth were elected unopposed
- Section.4.57 of the Local Government Act states that an extraordinary election must be held for the remaining vacant position
- The Act requires that the Shire President or Council may set the date of the Polling Day for an Extraordinary Election whilst having regard to the procedural requirements and timelines
- The statutory election timeframe requires that the polling day is held at least 92 days from when the vacancy occurs but within 4 months – it is proposed that the Election Day be scheduled for December before the Christmas break
- If no nominations are received at close of nominations in the extraordinary election, Council may appoint an eligible person by absolute majority decision

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 07150921

MOVED: Cr RW Newton

SECONDED: Cr HR McTaggart

That Council:

1. in response to receiving less candidates than vacancies in the 2021 Ordinary Local Government Election at the close of nominations 4pm, 9 September 2021, sets the Polling Day for the 2021 Extraordinary Election for one vacancy (term to 18 October 2025), to be Monday, 13 December 2021 in accordance with s4.9 of the Local Government Act 1995;
2. holds the Extraordinary Election as an in-person Election to be run by the Shire of Mingenew.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.2.1 Proposed Election Timeframe

Background

For the 2021 Local Government Election there were three vacancies, with the following Councillors' terms expiring on 16 October 2021 (Election Day);

Cr Helen Newton
Cr Robert Newton

Cr Anthony Smyth

Each vacancy is a four-year term and each Council position is to represent the whole of the Mingenew district following the decision to abolish the ward system in 2020 (effective for this election).

At 4pm on Thursday, 9 September 2021, nominations closed for candidates in the Ordinary Local Government Elections for the Mingenew District, at which time two nominations had been received and one Council position, therefore remains vacant. Section 4.57 of the Local Government Act states that *"If, at the close of nominations, there are no candidates for the office or offices to be filled at the election, an extraordinary election is to be held to fill the office or offices as if it or they had become vacant on the day after the close of nominations"*. Whilst Ordinary Elections must be held on the third Saturday in October, an Extraordinary Election date can be held on any day the President or Council decide [s.4.9 of the Local Government Act 1995].

Nominations were received from Mr Gavin Pearse (new) and Mr Anthony Smyth (renominate) and they were declared elected unopposed (swearing will occur prior to the November Council Meeting). No election will be required on 16 October 2021 but, because a seat remains vacant, an Extraordinary Election will be held once a date can be set.

If, after close of nominations in the Extraordinary Elections, no nominations have been received, Council may appoint an eligible person who is willing to accept the appointment, in accordance with s.4.57(3) and (4).

Section 4.37(3) provides that a new Residential and Owners and Occupiers Roll does not need to be prepared if it is required for an extraordinary election and the extraordinary election day is less than 100 days after the election day for another election. In this instance, the Ordinary election day in 2021 is 16 October 2021 and 100 days after this date is 25 January 2022 (calculated in accordance with s.61(1)(g) of the Interpretation Act). The CEO will need to provide a written request to the Commissioner to approve the use of the most recently prepared rolls following the setting of a date for the new Election Day.

Comment

The proposed date of Monday, 13 December 2021 for the Election Day has been chosen as:

- it falls within the 92 days to four months' timeframe
- it minimises the period for which Council operates without one Councillor
- the nomination period is at the beginning of November, allowing for any decision making related to the Extraordinary Election to be dealt with at the November Ordinary Council meeting
- Whilst the time of year for nominations in early November and Election Day potentially in December is not ideal, as many electors may be busy with harvest, holiday preparation and end of year events, it is considered a more viable option than January, with many people out of town.
- Election duties can occur on a Monday without additional resourcing required
- The Council meeting agenda and associated preparations will have occurred mostly the week prior therefore, minimising the impact on staff workload

To understand the proposed timing for preparing electoral rolls, statutory notices and nominations, a draft timeline has been prepared based on the recommended Polling Day (Attachment 11.2.1).

An alternative date would be to hold the Election Day on or around 7 January 2022 (must be no later than 8 January), with nominations closing at the end of November 2021. This may make it challenging for a new Councillor to prepare for their nomination and campaign over the Christmas period. Holding the election between 10 December and 8 January does provide a reasonable period to complete Councillor inductions etc before the next Ordinary Council meeting which will not be until February 2022.

Council does have the ability to seek approval from the Electoral Commissioner to hold the election later than 4 months under section 4.9(2), but this would require the Shire to give public notice of the close of rolls and prepare new electoral rolls for the election.

Statutory Environment

Local Government Act 1995

Local Government (Elections) Regulations 1996

4.57. Less candidates than vacancies

- (1) *If, at the close of nominations, there are no candidates for the office or offices to be filled at the election, an extraordinary election is to be held to fill the office or offices as if it or they had become vacant on the day after the close of nominations.*
- (2) *If, at the close of nominations, the number of candidates is less than the number of offices to be filled at the election —*
 - (a) *the candidate or candidates is or are elected; and*
 - (b) *an extraordinary election is to be held to fill the remaining office or offices as if it or they had become vacant on the day after the close of nominations.*
- (3) *If, at the close of nominations for an extraordinary election required under subsection (1) or (2) there are no candidates or the number of candidates is less than the number of offices to be filled at the election, the council may appoint* to any unfilled office a person who would be eligible to be a candidate for election to the office and who is willing to accept the appointment.*

** Absolute majority required.*

- (4) *A person appointed under subsection (3) is to be regarded as having been elected.*

4.9. Election day for extraordinary election

- (1) *Any poll needed for an extraordinary election is to be held on a day decided on and fixed —*
 - (a) *by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or*
 - (b) *by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
- (2) *The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*
- (3) *If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —*
 - (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and*
 - (b) *advise the CEO of the day fixed.*

Policy Implications

Nil.

Financial Implications

There may be additional advertising costs due to requirements of holding an extraordinary election however this is not expected to be significant.

The Election process can take up a significant amount of resources in preparing notices, rolls, nomination packs, information sessions, managing records, ballot papers, reports and templates however, the cost to the local government if the Electoral Commission were to run the election as a postal election is significantly more. If Council did wish to consider this as an option, based on the recommended Polling Day, the Shire would need to notify the Electoral Commissioner by 24 September 2021 of its intent.

Strategic Implications

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 September 2021

Community Strategic Plan

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

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 August 2021	
Municipal Funds – Corporate cheque account	\$323,465
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$983,109
Term Deposit – Reserves	\$472,169

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 2021/22 financial year.

The 2020/21 Annual Financial Report has not been audited and is subject to change, this may alter the opening surplus for the 2021/22 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

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

12.2 LIST OF PAYMENTS FOR THE PERIOD 1 AUGUST TO 31 AUGUST 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – August 2021
Disclosure of Interest: Nil
Date: 8 September 2021
Author: Helen Sternick, Senior Finance Officer
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 August to 31 August 2021 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 09150921
MOVED: Cr RW Newton **SECONDED: Cr CV Farr**

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

\$296,507.52 Municipal EFTs;
\$15,470.05 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$28,971.70 Municipal Direct Debit Other;
\$1,295.57 Municipal Other Charges;
\$70,900.95 Net Salaries
\$413,145.79 Total Payments

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

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.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 September 2021

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

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

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 13.0 – RESOLUTION# 10150921

MOVED: Cr RW Newton

SECONDED: Cr AR Smyth

That Council:

- 1. returns the Item: Temporary Employment or Appointment of CEO Policy to the table for discussion, as presented at the 18 August 2021 Ordinary Council Meeting (Resolution#08180821); and**
- 2. notes the additional CEO comments provided on the Policy based on feedback provided by WALGA.**

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

13.1 TEMPORARY EMPLOYMENT OR APPOINTMENT OF CEO POLICY

Item laid on the table from 18 August 2021 Ordinary Council Meeting

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	CM.POL.1
Disclosure of Interest:	Nil
Date:	23 July 2021
Author:	Nils Hay, Chief Executive Officer
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Absolute Majority

Summary

Since review of the Temporary Employment or Appointment of CEO policy was reviewed in May 2021, WALGA have released a more comprehensive model policy template that incorporates a number of the new legislative references.

Key Points

- Section 5.39C of the Local Government Act 1995 sets out the requirement to adopt a policy for the temporary employment or appointment of a CEO
- WALGA have recently updated their model template and the Shire's existing policy has been updated to reflect it

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 13.1 – RESOLUTION# 10150921

MOVED: Cr CV Farr SECONDED: Cr RW Newton

That Council, by Absolute Majority, adopts the reviewed Policy 1.2.4 Temporary Employment or Appointment of CEO as attached.

VOTING REQUIREMENTS:

CARRIED BY ABSOLUTE MAJORITY 5/1

Attachment

11.6.1 Amended Policy 1.2.4 Temporary Employment or Appointment of CEO

11.6.2 Existing Policy 1.2.4 Temporary Employment or Appointment of CEO

Background

This template policy addresses the requirements of section 5.39C of the Local Government Act 1995 that require a Local Government to adopt, by absolute majority, a policy that sets out the process to be followed in relation to:

- Employment of a person in the position of CEO for a term not exceeding 1 year; and
- Appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

WALGA provides this template policy as a guide for Local Governments to consider when developing or amending a Policy. This template policy provides suggested wording only and Local Governments should consider, develop and implement policy suitable to their operational requirements.

Additional CEO Comment

Following Council's decision to place this item on the table, advice was sought from WALGA on the setting of the remuneration for staff acting in the CEO role. The original policy proposed 100% of the cash component of the existing CEO salary be an appropriate level of remuneration for a short-term appointment or acting role (up to 6 weeks). WALGA's advice indicated:

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 September 2021

- It is standard practice in the local government industry to offer up to 100% of the cash component.
- 100% is considered appropriate given the expectations that the employee is to carry all of the risks associated with the role and therefore the reward needs to be commensurate
- An Acting or Temporary appointment provides a career development experience that Council should promote
- Important to note that Council are only paying the difference in wage between the employees' usual cash salary and the CEO's for no more than 6 weeks
- The risk Council run in setting a lower rate or scaled rate based on skills/experience is threefold:
 - o The employees may choose not to accept the appointment, and then Council is beholden to market conditions and rates for attracting an external professional (which are expected to be above the equivalent rate based on 100% of the existing cash salary);
 - o Determining a policy around what skill level/experience deserves what rate would be challenging, of which the CEO would still have discretion in determining
 - o The time associated with trying to attract and on onboard an external professional to take on a short period would be cost prohibitive to Council

The Shire's Workforce Plan has a goal to *"Develop our people capabilities to be passionate and innovative contributors to the success of our organisation."* Two of the strategies proposed for achieving this goal is to *"Identify employees interested in internal advancement and promote opportunities for leave coverage or increased workload etc."* and *"Encourage staff to be involved in projects / duties outside of current role to support career development and provide adequate coverage during periods of leave or increased workloads."* This risk in adopting a lower than 100% cash component remuneration for short term appointments is that existing staff will not take on additional responsibilities, particularly given that this has been the practice for previous appointments.

Comment

The policy outlines that an Acting CEO is to be appointed for any leave periods greater than 48 hours and less than 6 weeks (noting this applies to periods of leave only and not for absences when the CEO may be attending to matters outside the Shire for periods greater than 2 consecutive working days). By decision of Council an Acting CEO appointment may be extended beyond 6 weeks (but for less than 12 months) if the CEO remains available in accordance with the policy

Remuneration of the Acting or Temporary CEO is to be in accordance with the policy; providing for 100% of the cash component (only) of the substantive CEO's reward package, and all other benefits to be determined by Council resolution. The remuneration is based on standard industry practice, which reflects the level of responsibility and risk associated with the role.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

As outlined.

Financial Implications

The Shire's Budget provides for leave provisions for the CEO and associated acting appointments.

Strategic Implications

Community Strategic Plan

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

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14.0 **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
Nil.

15.0 **CONFIDENTIAL ITEMS**
Nil.

16.0 **TIME AND DATE OF NEXT MEETING**
Next Ordinary Council Meeting to be held on Wednesday 13 October 2021 commencing at 4.30pm.

17.0 **CLOSURE**
The meeting was closed at 5:04pm.

These minutes were confirmed at an Ordinary Council meeting on 13 October 2021.

Signed _____
Presiding Officer

Date: _____