

AGENDA FOR THE ORDINARY COUNCIL MEETING

13 OCTOBER 2021



Ordinary Council Meeting Notice Paper

13 October 2021

An Ordinary Meeting of Council is called for Wednesday, 13 October 2021, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm. Members of the public are most welcome to attend.

Jeremy Clapham
Acting Chief Executive Officer
8 October 2021

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.

Petitions

A formal process where members of the community present a written request to the Council.

Deputations

A formal process where members of the community request permission to address Council or Committee on an issue.

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

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 15 SEPTEMBER 2021 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 18 AUGUST 2021

OFFICER RECOMMENDATION - ITEM 10.1

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

- 8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION
- 9.0 DECLARATIONS OF INTEREST
- 10.0 RECOMMENDATIONS OF COMMITTEES
- 10.1 SHIRE OF MINGENEW AUDIT & RISK COMMITTEE 15 SEPTEMBER 2021
 - 10.1.1 MINUTES OF THE AUDIT & RISK COMMITTEE 15 SEPTEMBER 2021

OFFICER RECOMMENDATION - ITEM 10.1.1

That Council receives the Minutes of the Shire of Mingenew Audit & Risk Committee meeting held 15 September 2021.

AUDIT & RISK COMMITTEE RECOMMENDATION TO COUNCIL - ITEM 10.1.2

That Council receives the correspondence prepared by the Office of the Auditor General (OAG) and Nexia Australia in relation to the Interim Audit for the financial year ended 30 June 2021.

AUDIT & RISK COMMITTEE RECOMMENDATION TO COUNCIL - ITEM 10.1.3

That Council:

- 1. Receives the Fleet Management Internal Audit Report as per Item 3 audit risk theme '1. Asset Management and 2. Misconduct' of the Internal Audit Plan; and
- 2. Notes the recommendations from the Fleet Management Internal Audit Report.

AUDIT & RISK COMMITTEE RECOMMENDATION TO COUNCIL - ITEM 10.1.4

The Council notes the implementation of the Internal Audit Plan recommendations on Tendering and Procurement and Misconduct and Employment Practices, Fraud Management and Misconduct, as noted within this report.

AUDIT & RISK COMMITTEE RECOMMENDATION TO COUNCIL - ITEM 10.1.5

That Council requests the Chief Executive Officer undertake a public Expressions of Interest process to seek an independent member for the Audit and Risk Committee.

10.2 SHIRE OF MINGENEW BUSHFIRE ADVISORY COMMITTEE - 23 SEPTEMBER 2021

10.2.1 MINUTES OF THE BUSHFIRE ADVISORY COMMITTEE - 23 SEPTEMBER 2021

OFFICER RECOMMENDATION - ITEM 10.2.1

That Council receives the Minutes of the Shire of Mingenew Bushfire Advisory Committee meeting held 23 September 2021.

10.2.2 COMMITTEE RECOMMENDATION - BUSHFIRE CONTROL OFFICER APPOINTMENT

BUSHFIRE ADVISORY COMMITTEE RECOMMENDATION – ITEM 10.2.2

That Council, by Absolute Majority, appoints Sarah Conlin as a Bush Fire Control Officer for the purposes of completing the Shire of Mingenew's Bushfire Risk Management Planning process.

11.0 CHIEF EXECUTIVE OFFICER

11.1 ELECTED MEMBER SUPERANNUATION POLICY POSITION

Location/Address: Shire of Mingenew Shire of Mingenew Shire of Mingenew

File Reference: CM.POL.1

Disclosure of Interest: Nil

Date: 4 October 2021

Author: Erin Greaves, Governance & Community Manager Authorising Officer: Jeremy Clapham, Acting Chief Executive Officer

Voting Requirements: Simple Minority

Summary

WALGA have released a draft policy paper on Superannuation for Elected Members, and Council's position is sought to provide feedback to WALGA by 22 October 2021.

Key Points

- Elected Members are currently not entitled to the superannuation guarantee unless a Council resolution determines the local government to be an eligible body for tax purposes which then comes with implications for Pay As You Go (PAYG) tax and Fringe Benefit Tax (FBT). This has been a deterrent for many local governments to implement.
- WALGA are proposing an amendment to the Local Government Act 1995 to require local governments to pay Elected Members the superannuation guarantee (currently set at 10%) based on sitting fees and allowances
- Feedback on Council's position is required by 22 October 2021

OFFICER RECOMMENDATION - ITEM 11.1

That Council:

- advises WALGA of its support for local governments being required to make superannuation guarantee payments on fees and allowances; and
- 2. promotes advocacy for a change to the Local Government Act 1995 to support this position through the Northern Country Zone of WALGA.

Attachment

11.1.1 WALGA Policy Paper – Elected Member Superannuation

Background

An Elected Member is not considered an employee of the local government and therefore the local government is not required to make superannuation guarantee payments under current legislation. Elected Members can make personal contributions or make salary sacrifice payments from current sitting fees and allowances paid through the local government, but this is not a legislative requirement.

As the WALGA policy paper outlines, it is uncommon for local governments to pay elected member the superannuation guarantee on member fees and allowances due to the current tax implications. As it stands, a local government, by resolution of Council, can become an 'eligible local government body' under the *Taxation Administration Act 1953(Cth)* which entitles a local government to make superannuation contributions. However this decision also means that PAYG tax is to be withheld and Fringe Benefit Tax (FBT) applies.

WALGA's proposal is to include the provision for paying superannuation on Elected Member fees and allowances in the *Local Government Act 1995* which would avoid the requirements for PAYG and FBT under the current provisions under the *Taxation Administration Act 1953(Cth)*.

Comment

The main questions raised by WALGA are whether the entitlement should be made available to elected members (optional for each local government to consider) or should it be a required payment (mandatory on top of current fees and allowances paid).

Generally, the payment of fees and allowances has been discretionary for local governments and, as has been discovered in comparing sitting fees between Councils as an internal exercise shared with Councillors previously, many have different arrangements (within the band ranges set by the relevant *Salaries and Allowances Tribunal* determination).

A number of Councillors have spoken in favour of promoting the role of Councillor within the community and a need for recognition of the significant commitment/professionalism required of the role, and this is an opportunity to demonstrate this position. As spoken about, the role of Councillor often takes the place of paid employment and it is therefore considered appropriate that superannuation guarantee contributions are paid.

Usually such a concept will be presented through the Concept Forum, however due to the consultation period closing 22 October 2021, the proposal is presented here for initial feedback. Adopting support for the draft policy paper does not bind Council on any outcome but allows WALGA to formulate a more informed policy paper based on broader industry experience and impacts.

Consistency in application of the superannuation guarantee for Elected Members is recommended therefore support for adopting this requirement for all local governments is suggested.

Consultation

WALGA

Feedback from the consultation period will inform a final policy position that will be presented through November Zone meetings and the December State Council meeting. Zone representatives will have an opportunity to discuss this at a regional level.

Statutory Environment

Local Government Act 1995 Superannuation Guarantee (Administration) Act 1992 Taxation Administration Act 1953(Cth)

Policy Implications

May have implications for Council's 'Elected Member Entitlements Policy' which will need to be reviewed should this change be made.

Financial Implications

In 2021/22, Council has \$38,700 budgeted for Councillor fees and allowances. If the superannuation guarantee was to apply and Council would need to contribute an additional \$3,870 (10%) for superannuation payments.

Strategic Implications

Community Strategic Plan

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment

11.2 SPECIAL MEETING OF COUNCIL PROPOSED - 20 OCTOBER 2021

Location/Address: Shire of Mingenew Name of Applicant: Shire of Mingenew

File Reference: GV.CMT Disclosure of Interest: Nil

Date: 6 October 2021

Author: Erin Greaves, Governance & Community Manager **Authorising Officer:** Jeremy Clapham, Acting Chief Executive Officer

Voting Requirements: Simple Minority

Summary

It is proposed that Council hold a Special Meeting to swear in new Councillors, elect a President and Deputy President and to fill Councillor delegates for Committees and community/working groups.

Key Points

- Council usually conducts the Election for President and Deputy President at its November meeting, following Local Government Elections however, the legislation requires that this election must occur within three weeks of the ordinary election date (16 October 2021)
- Given two nominees were elected unopposed following the close of nominations for two of the three vacancies it is advisable that the Election and Committee appointments are moved forward
- This meeting provides an opportunity for newly elected members (including those re-elected) to make the declaration (swearing in) in accordance with the Act

OFFICER RECOMMENDATION - ITEM 11.2

That Council holds and gives notice of a Special Meeting of Council on Wednesday, 20 October 2021 in the Council Chambers at 4:30pm for the purpose of:

- 1. Swearing in of new Elected Members in accordance with s.2.29 of the Local Government Act 1995;
- 2. Holding an Election for the positions of President and Deputy President in accordance with s.5.12 and Schedule 2.3 of the Local Government Act 1995; and
- 3. Appointing Council delegates to Committees and representatives for external Committees and groups.

Background

In accordance with s.2.29 of the *Local Government Act 1995*, a Councillor/President/Deputy President must make a declaration before acting in the office. The declaration states that the person elected will undertake their duties honestly, faithfully and with integrity, and will act in accordance with s5.104 which refers to the Shire's Code of Conduct.

The election of President and Deputy President must occur within three weeks or at the next Ordinary Council meeting following the ordinary local government election whichever is the earliest.

Nominations for President, Deputy President and Committee vacancies may be made to the CEO in writing prior to or during the meeting prior to nominations closing (to be declared by the CEO). A nomination form will be provided to Elected Members following this meeting.

Comment

To ensure continuity and efficiency of Council business, and to comply with legislative requirements, holding a Special Meeting to deal with these matters is recommended.

It is noted that there the one vacancy following the ordinary election creates the situation where the existing 6 Councillors will fill all positions at this meeting, but this can be addressed following the results of the Extraordinary Election.

Statutory Environment

Local Government Act 1995

2.29. Declaration

- (1) A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.
- (2) A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.
- (3) A declaration required by this section is to be taken or made before a prescribed person.
- (4) A person who acts in an office contrary to this section commits an offence. Penalty: \$5 000 or imprisonment for one year.

Schedule 2.3

- 2. When council elects mayor or president
- (1) The office is to be filled as the first matter dealt with
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment

12.0 FINANCE

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2021

Location/Address: Shire of Mingenew Name of Applicant: Shire of Mingenew

File Reference: FM.FRP

Attachment/s: Monthly Financial Report – September 2021

Disclosure of Interest: Nil

Date: 5 October 2021

Author: Jeremy Clapham, Finance & Administration Manager

Voting Requirement: Simple Majority

Summary

This report recommends that the Monthly Financial Report for the period ending 30 September 2021 as presented to the Council be received.

OFFICER RECOMMENDATION - ITEM 12.1

That the Monthly Financial Report for the period 1 July 2021 to 30 September 2021 be received.

Attachment

12.1.1 Monthly Financial Report for period ending 30 September 2021

Background

The Monthly Financial Report to 31 August 2021 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
- Lease Liabilities
- Cash Reserves
- Other Current Liabilities
- Operating Grants and Contributions
- Non-operating Grants and Contributions
- Bonds and Deposits
- Budget Amendments
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 September 2021	
Municipal Funds – Corporate cheque account	\$61,665
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$2,383,676
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 SEPTEMBER TO 30 SEPTEMBER 2021

Location/Address: Shire of Mingenew Name of Applicant: Shire of Mingenew

File Reference: FM.CRD

Attachment/s: List of Payments – September 2021

Disclosure of Interest: Nil

Date: 4 October 2021

Author: Andrew Arthy, 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 September to 30 September 2021 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 September to 30 September 2021 as follows:

\$209,246.33 Municipal EFTs;

\$35,670.10 Municipal Direct Debit Department of Transport (Licencing) Payments;

\$71,638.82 Municipal Direct Debit Other;

\$2,534.69 Municipal Other Charges;

\$114,072.15 Net Salaries

\$433,162.09 Total Payments

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

- 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	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	
14.0	CONFIDENTIAL ITEMS Nil.	
15.0	TIME AND DATE OF NEXT MEETING Next Ordinary Council Meeting to be held on Wednesday 17 November 2021 commencing at 4.30pm.	
17.0	CLOSURE The meeting was closed atpm.	
These minutes were confirmed at an Ordinary Council meeting on 17 November 2021.		
Signed Presiding Officer		

Date: _____