



MINUTES OF THE ORDINARY COUNCIL MEETING

13 OCTOBER 2021

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**MINUTES THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
13 OCTOBER 2021 COMMENCING AT 4.30PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President, Cr GJ Cosgrove opened the meeting at 4:30pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillors

Cr GJ Cosgrove	Shire President
Cr JD Bagley	Councillor
Cr CV Farr	Councillor
Cr HR McTaggart	Councillor
Cr AR Smyth	Councillor

Staff

Mr Nils Hay	Chief Executive Officer
Ms Erin Greaves	Manager Governance and Community
Mr Peter Wood	Manager Works

Guests

Mr Gavin Pearse	Councillor-Elect
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Apologies

Cr HM Newton	Councillor
Cr RW Newton	Councillor
Mr Jeremy Clapham	Manager Finance and Administration

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 15 SEPTEMBER 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.1 – RESOLUTION# 01131021
MOVED: Cr AR Smyth SECONDED: Cr CV Farr

That the Minutes of the Ordinary Council Meeting held in the Council Chambers on 15 September 2021 be confirmed as a true and accurate record of proceedings.

VOTING REQUIREMENTS: CARRIED BY SIMPLE MAJORITY 5/0

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 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.

**AUDIT & RISK COMMITTEE RECOMMENDATION AND COUNCIL DECISION - ITEM 10.1.1-10.1.5
ENBLOC – RESOLUTION# 02150921**

MOVED: Cr HR McTaggart SECONDED: Cr AR Smyth

That Council:

1. receives the Minutes of the Shire of Mingenew Audit & Risk Committee meeting held 15 September 2021;
2. 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;
3. a) 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
b) notes the recommendations from the Fleet Management Internal Audit Report.
4. 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.
5. requests the Chief Executive Officer undertake a public Expressions of Interest process to seek an independent member for the Audit and Risk Committee.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

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.

BUSHFIRE ADVISORY COMMITTEE RECOMMENDATION AND COUNCIL DECISION - ITEM 10.2.1-10.1.2 ENBLOC – RESOLUTION# 03150921

MOVED: Cr JD Bagley SECONDED: Cr AR Smyth

That Council:

1. receives the Minutes of the Shire of Mingenew Bushfire Advisory Committee meeting held 23 September 2021.
2. 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.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

11.0 CHIEF EXECUTIVE OFFICER

11.1 ELECTED MEMBER SUPERANNUATION POLICY POSITION

Location/Address:	Shire of Mingenew
Name of Applicant:	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 AND LOST MOTION - ITEM 11.1 RESOLUTION# 04150921

MOVED: Cr HR McTaggart SECONDED: Cr JD Bagley

That Council:

- 1. 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.**

VOTING REQUIREMENTS:

LOST 1/4

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

MOVED: Cr JD Bagley **SECONDED:** Cr AR Smyth

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.

AMENDMENT TO THE MOTION - ITEM 11.2 – RESOLUTION# 05150921

MOVED: Cr HR McTaggart **SECONDED:** Cr JD Bagley

That Council amends the motion to schedule the meeting start time to 5:30pm.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

AMENDED MOTION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 06150921

MOVED: Cr AR Smyth SECONDED: Cr JD Bagley

That Council holds and gives notice of a Special Meeting of Council on Wednesday, 20 October 2021 in the Council Chambers at 5:30pm 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.**

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

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 —*

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 13 October 2021

- (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 AND COUNCIL DECISION - ITEM 12.1 – RESOLUTION# 08150921
MOVED: Cr HR McTaggart SECONDED: Cr AR Smyth**

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

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 AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 08150921
MOVED: Cr JD Bagley SECONDED: Cr CV Farr

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

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

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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
Nil.

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 at 4:40pm.

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

Signed _____
Presiding Officer

Date: _____