

I hereby certify that the Minutes of the Ordinary Council Meeting held are a true and accurate record of the proceedings contained therein.

David Mezel

Shire President

23/06/2020

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES SPECIAL COUNCIL MEETING

18 June 2020

DISCLAIMER

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

Signed on behalf of Council

A handwritten signature in black ink, appearing to read 'V. E. Lawrence', written in a cursive style.

VERNON LAWRENCE

ACTING CHIEF EXECUTIVE OFFICER

NOTES

- 1. Councillors wishing to make alternate motions to officer recommendations are requested to provide notice of such motions electronically to the minute taker prior to the Council Meeting.**
- 2. Councillors needing clarification on reports to Council are requested to seek this from relevant Officers prior to the Council meetings.**

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SHIRE OF WYNDHAM EAST KIMBERLEY
SPECIAL COUNCIL e-MEETING AGENDA
KUNUNURRA COUNCIL CHAMBERS
HELD ON 18 JUNE 2020 AT 6:00PM

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Members of the Public are advised that recommendations to Council contained within this Agenda and decisions arising from the Council meeting can be subject to alteration.

Applicants and other interested parties should refrain from taking any action until such time as written advice is received confirming Council's decision with respect to any particular issue.

An audio and/or video record will be made of these proceedings to assist in the taking of minutes.

Prior to commencement of this electronic meeting Council Members and other attendee connections by electronic means were tested and confirmed.

All public Meetings of Council now allow for a maximum of 50 patrons to attend in person from the Gallery. The Shire will continue to expedite minutes of the meeting to be available to members of the public within five working days.

The Shire President welcomed Vanessa Gordon, CEO Recruitment Consultant at Beilby Downing Teal and Rhys Goodridge, Psychologist from OPRA Psychology Group to the meeting via video link.

The Shire President declared the Meeting open at 6:02pm.

**2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)**

The Shire President asked Council Members and staff to confirm that they are connected and in attendance, with the following attendees so confirmed:

ATTENDANCE

Cr D Menzel	Shire President	
Cr T Chafer	Deputy Shire President	(via Video Link)
Cr N Brook	Councillor	(via Video Link)
Cr M Dear	Councillor	
Cr J Farquhar	Councillor	
Cr G Lodge	Councillor	(via Video Link)
Cr M McKittrick	Councillor	
Cr D Pearce	Councillor	
Cr A Petherick	Councillor	
V Lawrence	Acting Chief Executive Officer	
K Williams	Senior Governance and Risk Officer	

L Tunbridge Manager Human Resources
C Cane Minute Taker

Vanessa Gordon Beilby Downing Teale Consultant *(via Video Link)*
Rhys Goodridge OPRA Psychology *(via Video Link)*

APOLOGIES

S Dyson Director Infrastructure
N Kearns Director Planning and Community Development
F Heading Acting Director Corporate Services

3. DECLARATION OF INTEREST

• Financial Interest

Councillor/Staff	Item	Title	Description of interest
Vernon Lawrence, Acting CEO	11.1	CEO Recruitment Process	I am an applicant for the position which directly impacts my remuneration.

• Impartiality Interest

Councillor/Staff	Item	Title	Description of Interest
Cr D Menzel	11.1	CEO Recruitment Process	Several candidates are known to me
Cr T Chafer	11.1	CEO Recruitment Process	Two applicants are known to me
Cr N Brook	11.1	CEO Recruitment Process	Two applicants are known to me
Cr M Dear	11.1	CEO Recruitment Process	Two applicants are known to me
Cr J Farquhar	11.1	CEO Recruitment Process	An applicant is known to me
Cr G Lodge	11.1	CEO Recruitment Process	An applicant is known to me
Cr M McKittrick	11.1	CEO Recruitment Process	An applicant is known to me
Cr D Pearce	11.1	CEO Recruitment Process	Two applicants are known to me
Cr A Petherick	11.1	CEO Recruitment Process	An applicant is known to me
K Williams, Senior Governance and Risk Officer	11.1	CEO Recruitment Process	I work for the incumbent CEO who is an applicant for the position

- Proximity Interest

NIL

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

NIL

5. PUBLIC QUESTION TIME

The Shire President noted that given the meeting is not open to the public, the community were advised by public notice that they can still submit questions via email prior to the meeting, which would be read aloud.

No Public Questions were received.

7. PETITIONS

NIL

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

NIL

9. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

NIL

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Confidential attachment(s) within Agenda item *11.1 CEO Recruitment Process*

11. REPORTS

Council Decision

Minute Number: 18/06/2020 - 118237

Moved: Cr D Menzel

Seconded: Cr M Dear

That Council move in-camera at 6:09pm.

Carried: 9/0

11.1. CEO RECRUITMENT PROCESS

Vernon Lawrence, Acting CEO, declared a financial interest as he is an applicant for the position which directly impacts his remuneration.

The Shire President requested all Officers to depart Chambers for this item, with the exception of the Minute Taker, Senior Governance and Risk Officer, Manager Human Resources and Beilby Downing Teale Consultant remained. Officers left Chambers at 6.09pm.

Cr N Brook, Cr G Lodge and Cr D Pearce departed Chambers at 7.32pm for a short break. Cr N Brook, Cr G Lodge and Cr D Pearce returned to Chambers at 7.36pm.

DATE:	18 June 2020
AUTHOR:	Senior Governance and Risk Officer
RESPONSIBLE OFFICER:	Senior Governance and Risk Officer
FILE NO:	PL.21.225
DISCLOSURE OF INTERESTS:	Various, as listed in 3. <i>Declaration of Interest</i>

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

- 1. Approve the shortlisting of candidates as attached in confidential attachment 1;**
- 2. Authorise the Consultant Beilby Downing Teal to facilitate with Council the interviews of shortlisted candidates in the week 22 June 2020 to 26 June 2020 and in line with the adopted CEO Recruitment Process and Strategy.**

Council Decision

Minute Number: 18/06/2020 - 118238

Moved: Cr D Pearce

Seconded: Cr M McKittrick

That Council:

- 1. Approve the shortlisting of candidates as amended in confidential attachment 1;**
- 2. Authorise the Consultant Beilby Downing Teal to facilitate with Council the interviews of shortlisted candidates in the week 22 June 2020 to 26 June 2020 and in line with the adopted CEO Recruitment Process and Strategy.**

Carried: 9/0

PURPOSE

For Council to consider the applications for the CEO recruitment process and select a short list of candidates to progress to the next stage of recruitment.

NATURE OF COUNCIL'S ROLE IN THE MATTER

Leader - plan and provide direction through policy and practices

BACKGROUND/ PREVIOUS CONSIDERATIONS BY COUNCIL/ COMMITTEE

At the 02 June 2020 Special Council Meeting, Council resolved;

Council Decision

Minute Number: 02/06/2020 - 118234

Moved: Cr M McKittrick

Seconded: Cr T Chafer

For Council to:

- 1. Select and approve a long list of candidates for the CEO recruitment process as amended in Confidential Attachment 1; and***
- 2. Approve the Consultant Beilby Downing Teal to commence the shortlisting process in line with the adopted recruitment strategy.***

Carried: 9/0

In accordance with the resolution, the Consultant conducted preliminary interviews and testing of the selected candidates in line with the CEO Recruitment Strategy.

At the 07 May 2020 Special Council Meeting, Council resolved;

Council Decision

Minute Number: 07/05/2020 - 118216

Moved: Cr T Chafer

Seconded: Cr A Petherick

That Council:

- 1. Note the proposed timeline for the process as contained in confidential attachment 1; Endorse the CEO Position Description and Selection Criteria as contained in confidential attachment 2, as amended;***
- 2. Endorse in principle, the general terms of the draft CEO Employment Contract as contained in confidential attachment 3;***
- 3. Endorse the advertisement and advertising strategy and salary range as contained in confidential attachment 4, as amended;***
- 4. Endorse the CEO Recruitment Proposal and application process from Beilby Downing Teal as contained in confidential attachment 5;***
- 5. Endorse the additional information for candidates as contained in confidential attachment 6; and***

6. Remove the delegation to the CEO Review and Selection Panel to conduct the CEO Recruitment Process and instead take a whole of Council approach in accordance with the adopted process.

Carried: 9/0

In accordance with the advertising strategy, the vacant position was advertised for a period of two and a half weeks commencing on Friday, 8 May 2020 with applications for the position closing on Monday, 25 May 2020. In accordance with the process, the consultant has prepared a comprehensive report of the long list of candidates for selection by Council.

STATUTORY IMPLICATIONS

Local Government Act 1995:

5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.
- (3) A person is not to be employed by a local government in any other position unless the CEO —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.

(5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

[Section 5.36 amended: No. 49 of 2004 s. 44; No. 17 of 2009 s. 21.]

Local Government Administration Regulations:

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State unless it is proposed that the position be filled by —
 - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
 - (b) a person who will be acting in the position for a term not exceeding one year.

- (2) An advertisement referred to in subregulation (1) is to contain —
- (a) the details of the remuneration and benefits offered; and
 - (b) details of the place where applications for the position are to be submitted; and
 - (c) the date and time for the closing of applications for the position; and
 - (d) the duration of the proposed contract; and
 - (e) contact details for a person who can provide further information about the position; and
 - (f) any other information that the local government considers is relevant.

[Regulation 18A inserted: Gazette 31 Mar 2005 p. 1037-8; amended: Gazette 19 Aug 2005 p. 3872; 3 May 2011 p. 1594.]

18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) the value of one year's remuneration under the contract; or
- (b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

[Regulation 18B inserted: Gazette 13 May 2005 p. 2086.]

18C. Selection and appointment process for CEOs

The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.

[Regulation 18C inserted: Gazette 31 Mar 2005 p. 1038.]

18D. Performance review of CEO, local government's duties as to

A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

[Regulation 18D inserted: Gazette 31 Mar 2005 p. 1038.]

18E. False information in application for CEO position, offence

A person must not, in connection with an application for the position of CEO of a local government —

- (a) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant that the person knows is false in a material particular; or
- (b) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant which is false or misleading in a material particular, with reckless disregard as to whether or not the statement or information is false or misleading in a material particular.

Penalty: a fine of \$5 000.

[Regulation 18E inserted: Gazette 31 Mar 2005 p. 1038-9; amended: Gazette 19 Aug 2005 p. 3872; 4 Mar 2016 p. 650.]

18F. Remuneration and benefits of CEO to be as advertised

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

[Regulation 18F inserted: Gazette 31 Mar 2005 p. 1039.]

18G. *Delegations to CEOs, limits on (Act s. 5.43)*

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and*
- (b) regulations 18C and 18D.*

[Regulation 18G inserted: Gazette 31 Mar 2005 p. 1039.]

POLICY IMPLICATIONS

Code of Conduct Council Members, Committee Members and Employees

FINANCIAL IMPLICATIONS

The Shire Budget has been amended to include the cost of the CEO recruitment process. The amount estimated is \$32,000.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal: 4.1: Effective representation through advocacy at a regional, state and national level

Goal 4.2: Good decision making through engagement with the community

Goal: 4.3: Ensure a strong and progressive organisation delivering customer focused services

Strategy 4.3.3: Build internal capacity by attracting, developing and retaining the best people

Goal 4.4: Sustainably maintain the Shire's financial viability

RISK IMPLICATIONS

Risk: Failure to attract and retain suitably qualified and experienced technical staff to meet organisational requirements.

Control: Employment of recruitment consultant to ensure the most effective recruitment outcome.

COMMUNITY ENGAGEMENT

No community engagement is required.

COMMENTS

The consultant, in line with the recruitment strategy and process has commenced an initial screening and testing process of the approved candidates selected for longlisting at the 02

June 2020 Special Council Meeting. The findings from this screening and testing process are reported by the consultant in Confidential Attachment 1. Council are required at this meeting to shortlist candidates with information collected from the assessment report provided, with selected candidates progressing to the next stage of the recruitment process.

ATTACHMENTS

(Confidential Attachments provided under separate cover.)

This item is to be considered behind closed doors as per the Local Government Act 1995 Section 5.23 (2)(c):

Confidential Attachment 1 - Assessment Report

Council Decision

Minute Number: 18/06/2020 - 118239

Moved: Cr M McKittrick

Seconded: Cr M Dear

That Council move out of camera at 8:04pm.

Carried: 9/0

Members of the Gallery and Officers were invited back in to Chambers. The Shire President read the Council Resolutions aloud.

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

NIL

13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

NIL

**14. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY
DECISION**

NIL

15. MATTERS BEHIND CLOSED DOORS

NIL

16. CLOSURE

The Shire President declared the meeting closed at 8:07pm.