

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

David Heyzel

Shire President

28/07/2020

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

MINUTES
ORDINARY COUNCIL
MEETING

09 July 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.**

C O N T E N T S

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	4
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	4
3. DECLARATION OF INTEREST	5
4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	6
5. PUBLIC QUESTION TIME	6
7. PETITIONS.....	6
8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION	6
9. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.....	6
10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	6
11. REPORTS	6
12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	6
13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	6
14. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION	6
15. MATTERS BEHIND CLOSED DOORS	7
16. CLOSURE	13

**SHIRE OF WYNDHAM EAST KIMBERLEY
SPECIAL COUNCIL MEETING MINUTES
KUNUNURRA COUNCIL CHAMBERS
TO BE HELD ON 09 JULY 2020 AT 5:00PM**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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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 patrons 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 Warden, CEO Recruitment Consultant at Beilby Downing Teal to the meeting via video link.

The Shire President declared the Meeting open at 5:00 pm.

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

ATTENDANCE

Cr D Menzel	Shire President	
Cr T Chafer	Deputy Shire President	
Cr N Brook	Councillor	(via Video Link)
Cr M Dear	Councillor	
Cr J Farquhar	Councillor	
Cr G Lodge	Councillor	
Cr D Pearce	Councillor	
V Lawrence	Acting Chief Executive Officer	
L Tunbridge	Manager Human Resources	(via Video Link)
K Williams	Senior Governance and Risk Officer	
S Tasi	Minute Taker	
Vanessa Warden	Beilby Downing Teale Consultant	(via Video Link)

APOLOGIES

Cr M McKittrick Councillor
Cr A Petherick Councillor

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

3. DECLARATION OF INTEREST

The Shire President noted that Council Members and staff were requested to disclose any conflict of interest prior to the eMeeting and welcomed any further conflicts of interest to be declared. The Shire President read aloud the following listed disclosures of interest received before the meeting.

- Financial Interest

Councillor/Staff	Item	Title	Description of interest
Vernon Lawrence, Acting CEO	15.1	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	15.1	CEO Recruitment	I work with the candidate in his current role
Cr T Chafer	15.1	CEO Recruitment	The candidate is known to me
Cr N Brook	15.1	CEO Recruitment	The candidate is known to me
Cr M Dear	15.1	CEO Recruitment	The candidate is known to me
Cr J Farquhar	15.1	CEO Recruitment	The candidate is known to me
Cr G Lodge	15.1	CEO Recruitment	The candidate is known to me
Cr M McKittrick	15.1	CEO Recruitment	The candidate is known to me
Cr D Pearce	15.1	CEO Recruitment	The candidate is known to me
L Tunbridge	15.1	CEO Recruitment	The candidate is known to me
K Williams	15.1	CEO Recruitment	The candidate is known to me

- 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

15.1 CEO Recruitment Process

11. REPORTS

NIL

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

Cr D Menzel moved that Council move-in camera to discuss the confidential attachments within Agenda item 15.1 – CEO Recruitment. Shire officers and the gallery were asked to depart Chambers. The Minute Taker, Senior Governance and Risk Officer, Manager Human Resources and Beilby Downing Teale Consultant

remained.

Council Decision

Minute Number: 09/07/2020 – 118269

Moved: Cr D Menzel

Seconded: Cr T Chafer

That Council move in-camera at 5:05 pm.

Decision: 7/0

15. MATTERS BEHIND CLOSED DOORS

15.1 CEO RECRUITMENT PROCESS

DATE:	09 July 2020
AUTHOR:	Senior Governance and Risk Officer & Manager Human Resources
RESPONSIBLE OFFICER:	Senior Governance and Risk Officer & Manager Human Resources
FILE NO:	PL.21.225
DISCLOSURE OF INTERESTS:	Vernon Lawrence A/Chief Executive Officer

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

5.23. Meetings generally open to public

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*

- (a) *a matter affecting an employee or employees; and*
- (b) *the personal affairs of any person; and*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*

- (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
 - (f) *a matter that if disclosed, could be reasonably expected to —*
 - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
 - (ii) *endanger the security of the local government’s property; or*
 - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and*
 - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
 - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

OFFICER’S RECOMMENDATION

That Council:

- 1. Believes that the preferred candidate is suitably qualified for the position of Chief Executive Officer at the Shire of Wyndham East Kimberley;**
- 2. Authorises the Shire President to execute the CEO employment contract as attached to this report – confidential attachment 1;**
- 3. Agrees to confirm the CEO Key Performance Indicators through a formal Council Decision within 3 months from the commencement date of the executed CEO employment contract, with the agreed CEO employment contract to be formally amended to include the express Key Performance Indicators as agreed.**

Cr T Chafer moved an amended motion and Cr D Pearce seconded. The amended motion was made to the CEO employment contract as attached to this report – confidential attached 1.

Council Decision:

Minute Number: 09/07/2020 – 118270

Moved: Cr T Chafer

Seconded: Cr D Pearce

- 1. Believes that the preferred candidate is suitably qualified for the position of Chief Executive Officer at the Shire of Wyndham East Kimberley;**
- 2. Authorises the Shire President to execute the CEO employment contract as attached to this report – confidential attachment 1 as amended;**
- 3. Agrees to confirm the CEO Key Performance Indicators through a formal Council Decision within 3 months from the commencement date of the executed CEO employment contract, with the agreed CEO employment contract to be formally amended to include the express Key Performance Indicators as agreed.**

Decision: 7/0

VOTING REQUIREMENT

Absolute Majority

PURPOSE

To execute the contract for the position of Chief Executive Officer at the Shire of Wyndham East Kimberley.

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 July 2020 Special Council Meeting, Council resolved;

Council Decision:

Minute Number: 02/07/2020 – 118267

Moved: Cr T Chafer

Seconded: Cr J Farquhar

That Council:

- 1. Endorse the preferred candidate as recommended in the Candidate Selection Report provided by Beilby Downing and Teale, confidential attachment 1;***

- 2. Progress to contract negotiation, including the CEO employment contract, key performance indicators, performance appraisal process, probation period and start date with the preferred candidate; and**
- 3. Authorise the Shire President to facilitate the contract negotiation in conjunction with Beilby Downing and Teale and the Shire's Legal Advisor HopgoodGanim Lawyers.**

Carried 8/0

At the 18 June 2020 Special Council Meeting, Council resolved;

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

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

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

Carried: 9/0

POLICY IMPLICATIONS

Code of Conduct Council Members, Committee Members and Employees

FINANCIAL IMPLICATIONS

The adopted 2020/21 Shire Budget considers the expenses related to the employment of a Chief Executive Officer.

The total cost of the CEO recruitment process (estimated to reflect \$32,000) has also been considered as part of the 2019/20 and 2020/21 budgets with expenses to be allocated accordingly to the billing period of which the expenses relate.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2017-2027

Focus Area 4: Civic Leadership

Goal 3.3: Develop and retain skilled people that business need to succeed

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

Council met at a Special Council Meeting held 02 July 2020 to endorse the preferred candidate and authorise the Shire President to facilitate contract negotiations in conjunction with Beilby Downing Teale and the Shire's Legal Advisor HopgoodGanim Lawyers.

Consultant Beilby Downing Teale has subsequently provided a CEO employment contract document as an attachment to this report based on their engagement with the Shire President since the previous Special Council Meeting and taking into consideration legal advice provided on 08 July 2020 by HopgoodGanim Lawyers.

Consultant Beilby Downing Teale reported as at 08 July 2020, completed and approved due diligence checks included the Australian Police Clearance, bankruptcy, ID verification and references, however due to a delay in the release of some information from the preferred candidate the qualification checks and confirmation of previously employment history were still pending. The Consultant has outlined they will provide an update in this respect, including their opinion of the level of risk that this presents to Council during the Special Council Meeting.

ATTACHMENTS

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

Confidential Attachment 1: CEO Employment Contract

The Shire President moved that Council moved out of camera at 5.57pm.

Council Decision

Minute Number: 09/07/2020 – 118271

Moved: D Menzel

Seconded: T Chafer

That Council move out of camera at 5:57 pm.

Decision: 7/0

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

16. CLOSURE

The Shire President declared the meeting closed at 6:00pm.