



Shire of Cunderdin

Minutes of a Special Council Meeting

Dear Council Member,

A Special Meeting of the Cunderdin Shire Council was held on **Tuesday 2nd February 2016** in the Council Chambers, Lundy Avenue Cunderdin commencing **at 2:38pm**, for the purpose of:

1. Shire of Cunderdin Audit Report 2014/15 Financial Year;
2. Shire of Cunderdin Annual Report for 2014/15 Financial Year; and
3. Shared Chief Executive Officer Employment Contract.

Peter Naylor
Chief Executive Officer

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AGENDA

1. Declaration of opening

The President declared the meeting open at 2.38pm

The Shire of Cunderdin disclaimer was read aloud.

The Local Government Act 1995 Part 5 Division 2 Section 5.25 and Local Government (Administration) Regulations 1996 Regulation 13

“No responsibility whatsoever is implied or accepted by the Shire of Cunderdin for any act, omission or statement or intimation occurring during this meeting. It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of Council’s decisions, which will be provided within ten working days of this meeting”.

2. Public Question Time

Response to previous public questions taken on notice

Declaration of public question time opened at

Declaration of public question time closed at

3. Record of Attendance, Apologies and Approved Leave of Absence

Record of attendances

Councillors

Cr RC (Clive) Gibsone	Shire President
Cr DA (Dennis) Whisson	Deputy President
Cr B (Bernie) Daly	
Cr AE (Alison) Harris	
Cr TE (Todd) Harris	
Cr NW (Norm) Jenzen	
Cr DB (Doug) Kelly	
Cr DG (Dianne) Kelly	

Apologies

On Leave of Absence

Staff

Peter Naylor	Chief Executive Officer
Paul Godfrey	Deputy Chief Executive Officer

Guests of Council

Members of the Public

Applications for leave of absence

Declaration of Members and Officers Financial Interests

Item 5.1	Chief Executive Officer
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4. Finance & Administration

4.1 Shire of Cunderdin Audit Report 2014/15 Financial Year

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	27 th January 2016
Author:	Peter Naylor / Paul Godfrey
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	
Attachment/s:	21 Pages (2 documents)

Please Note:

1. This item was deferred from the Ordinary Meeting of Council held on Thursday 17th December 2015.
2. The Shire of Cunderdin Audit Committee met prior to this meeting to review the Audit Report and meet with the Auditors via teleconference.

Proposal/Summary

For Council to consider the Independent Audit Report for 2014/2015 Financial Year.

Background

Macri Partners completed their on-site audit of Council's operations and functions for the 2014/2015 Financial Year on 10th November 2015.

Whilst on-site the Auditors met with the Shire President but not the Audit Committee due to time constraints and harvesting commitments, however they the Auditors have met with the Audit Committee via teleconference prior to this meeting.

Comment

The Audit has been conducted in accordance with the Australian Audit Standards to ensure that during the reporting period the Shire of Cunderdin complied with all statutory requirements, including the *Local Government Act 1995* and associated Regulations.

The Audit Reports for the 2014/15 Financial Year have been circulated to all Council members.

Consultation

Nil

Statutory

Local Government Act 1995

7.12A. Duties of local government with respect to audits

- (1) *A local government is to do everything in its power to —*
 - (a) *assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and*

- (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister, by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

Local Government (Audit) Regulations 1996

Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Resolution 4.1

That council receive the Audit Report for the 2014/2015 Financial Year.

Moved: Cr Dennis Whisson

Seconded: Cr Bernie Daly

Vote – Simple majority

Carried: 8/0

Note: Copy of the Audit Report to be forwarded to the Department of Local Government.

4.2 Shire of Cunderdin Annual Report 2014/2015 Financial Year

Location:	Cunderdin
Applicant:	Chief Executive Officer
Date:	27 th January 2016
Author:	Peter Naylor / Paul Godfrey
Item Approved By:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	80 Pages

Please note that this item was deferred from the Ordinary Meeting of Council held on Thursday 17th December 2015.

Proposal/Summary

For Council to accept the Annual Report for the 2014/2015 Financial Year.

Background

The *Local Government Act 1995*, sections 5.53 & 5.54 provides for a local government to prepare an Annual Report in each financial year.

The Report is to be received by the local government no later than 31 December after that financial year, however if the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

The Report is to be prepared in accordance with the provisions of the *Act* and the Local Government (Financial Management) Regulations 1996.

Comment

The *Local Government Act 1995*, section 5.26 provides that Council holds a General Meeting of Electors within 56 days of receiving the Annual Report.

In previous years Council has held an informal meeting in Meckering prior to the general meeting in Cunderdin.

It is proposed that this continue, however the dates / times for both meetings need to be determined.

A copy of the Annual Report has been circulated to all Council members.

Consultation

Nil

Statutory

Local Government Act 1995

5.27. Electors' general meetings

(1) A general meeting of the electors of a district is to be held once every financial year.

- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain —*
 - (a) *a report from the mayor or president; and*
 - (b) *a report from the CEO; and*
 - [(c), (d) deleted]*
 - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
 - (f) *the financial report for the financial year; and*
 - (g) *such information as may be prescribed in relation to the payments made to employees; and*
 - (h) *the auditor's report for the financial year; and*
 - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
 - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
 - (i) *the number of complaints recorded in the register of complaints; and*
 - (ii) *how the recorded complaints were dealt with; and*
 - (iii) *any other details that the regulations may require; and*
 - (i) *such other information as may be prescribed.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*
** Absolute majority required.*
- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Resolution 4.2

That Council:

- 1. Pursuant to section 5.54 of the Local Government Act 1995, accepts the Annual Report for the 2014/2015 Financial Year.**
- 2. Schedules a general public meeting at the Meckering Sporting Club on Thursday 10th March 2016 commencing at 4.00pm.**
- 3. Pursuant to section 5.27 of the Local Government Act 1995, schedules the Annual General Meeting of Electors at the Cunderdin Community Resource Centre on Thursday 10th March 2016 commencing at 6.30pm.**

Moved: Cr Dianne Kelly

Seconded: Cr Norm Jenzen

Vote – Absolute majority

Carried: 8/0

Note: Copy of the Annual Report to be forwarded to the Department of Local Government.

5 Matters for which the meeting may be closed

5.1 Shared Chief Executive Officer Employment Contract

Location:	Shires of Cunderdin & Tammin
Applicant:	Resource Sharing Committee
Date:	27 th January 2016
Author:	Peter Naylor
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Yes
File Reference:	
Attachment/s:	38 Pages (2 documents)

The Chief Executive Officer, Mr Peter Naylor, declares a Financial Interest in this matter.

Proposal/Summary

For Council to consider the recommendation from the CEO Resource Sharing Committee for adoption of the Draft CEO Contract of Employment, subject to inclusion of an additional clause in the Resource Sharing Agreement.

Background

The Resource Sharing Committee met in Cunderdin at 5:30pm on Wednesday 13th January 2016.

The Committee worked through the draft contract and discussed and sought clarification on the document content.

- The Committee have endorsed the draft document and resolved:

Moved Cr Uppill, seconded Cr Crane that the Resource Sharing Committee recommends to the Shire of Cunderdin and Shire of Tammin that the draft Chief Executive Officer Contract be adopted subject to the inclusion of the following clause in the Resource Sharing Agreement:

That should the Resource Sharing Arrangement be terminated by either party for any reason prior to the expiration of the four year period, the Shire of Tammin agrees to financially contribute to the Shire of Cunderdin amount equal to 50% of the difference in the remuneration package that is actually payable to the CEO under the employment contract (which is payable regardless of whether or not the RSA continues to be in place) and what the CEO remuneration package would have been had the RSA never been in place.

This can be determined initially by considering the pre RSA CEO remuneration package as identified in the Shire of Tammin and Shire of Cunderdin Shared CEO Business Plan, Tables 7 & 8 on page 35, and the remuneration package included in Schedule 2 of the CEO Employment Contract, and then compounding both of the remuneration package totals by any subsequent percentage increase that may have been approved for the CEO during the period that the RSA was in place.

- The draft contract was presented to a Special Meeting of the Shire of Tammin on Thursday 21st January 2016, at which the Council resolved as follows:

That Council:

1. *Receives the Minutes from the Resource Sharing Committee Meeting held in Cunderdin on Wednesday 13th January 2016.*

2. Endorses the recommendation from the Resource Sharing Committee Minutes of 13th January 2016 in relation to the Shared Chief Executive Officer Employment Contract, by:

a) Adopting the Employment Contract between the Shire of Cunderdin and Shire of Tammin and Peter Thomas Naylor, as presented; and

b) By amending the Resource Sharing Agreement of the Shared CEO to include the following clause:

“That should the Resource Sharing Arrangement be terminated by either party for any reason prior to the expiration of the four year period, the Shire of Tammin agrees to financially contribute to the Shire of Cunderdin amount equal to 50% of the difference in the remuneration package that is actually payable to the CEO under the employment contract (which is payable regardless of whether or not the RSA continues to be in place) and what the CEO remuneration package would have been had the RSA never been in place.

This can be determined initially by considering the pre RSA CEO remuneration package as identified in the Shire of Tammin and Shire of Cunderdin Shared CEO Business Plan, Tables 7 & 8 on page 35, and the remuneration package included in Schedule 2 of the CEO Employment Contract, and then compounding both of the remuneration package totals by any subsequent percentage increase that may have been approved for the CEO during the period that the RSA was in place.”

Comment

Copies of the Minutes from the meeting of the Resource Sharing Committee and Draft CEO Employment Contract and been provided to all Councillors.

In addition to the Employment Contract, the Chief Executive Officer, in consultation with the Shire Presidents, has been preparing a draft Position Description incorporating Key Result Areas and Key Performance Indicators that will soon be presented to the Resource Sharing Committee and the Councils for consideration.

Consultation

Neil Douglas, McLeods Barristers & Solicitors
Resource Sharing Committee
Chief Executive Officer

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.*

Policy Implications

Nil

Financial Implications

The financial provisions are within the scope of the Shared CEO Proposal Business Plan.

Strategic Implications

Cunderdin Community Strategic Plan

The Cunderdin Community Strategic Plan aims to manage growth sustainably through governance, leadership, and targeted service and economic growth. The goals to achieve the aim are:

Social

- Grow and build the population base.
- Improve community spirit, collectively caring for each other.
- Build an active community, increasing participation and ownership.

Environmental

- Maintain and enhance the natural environment and resources.
- Maintain and enhance the area's infrastructure.

Economic

- Strengthen local business and employment capacity.
- Support and encourage sustainable business growth.
- Position the area as a regional strategic location and transport hub.

2:53pm The Chief Executive Officer and Deputy Chief Executive Officer departed the meeting.

3:33pm Cr Todd Harris departed the meeting.
The Chief Executive Officer returned to the meeting.

Resolution 5.1

That Council:

- 1. Receives the Minutes from the Resource Sharing Committee Meeting held in Cunderdin on Wednesday 13th January 2016.**
- 2. Endorses the recommendation from the Resource Sharing Committee Minutes of 13th January 2016 in relation to the Shared Chief Executive Officer Employment Contract, by:**
 - a) Adopting the Employment Contract between the Shire of Cunderdin and Shire of Tammin and Peter Thomas Naylor, as presented; and**
 - b) By amending the Resource Sharing Agreement of the Shared CEO to include the following clause:**

“That should the Resource Sharing Arrangement be terminated by either party for any reason prior to the expiration of the four year period, the Shire of Tammin agrees to financially contribute to the Shire of Cunderdin amount equal to 50% of the difference in the remuneration package that is actually payable to the CEO under the employment contract (which is payable regardless of whether or not the RSA continues to be in place) and what the CEO remuneration package would have been had the RSA never been in place.

This can be determined initially by considering the pre RSA CEO remuneration package as identified in the Shire of Tammin and Shire of Cunderdin Shared CEO Business Plan, Tables 7 & 8 on page 35, and the remuneration package included in Schedule 2 of the CEO Employment Contract, and then compounding both of the remuneration package totals by any subsequent percentage increase that may have been approved for the CEO during the period that the RSA was in place.”

- 3. The Chief Executive Officer Employment Contract between the Shire of Cunderdin and Peter Thomas Naylor for the Five (5) Year Period 2nd January 2012 to 1st January 2017 be terminated effective from Thursday 31st December 2015.**

Moved: Cr Dennis Whisson

Seconded: Cr Dianne Kelly

Vote: Absolute Majority

Carried: 5/3

Cr Alison Harris and Cr Todd Harris requested their names be recorded as voting against the motion.

6. Closure of meeting

There being no further business the Shire President declared the meeting closed at 3:34pm.