



Shire of Cunderdin

Minutes of an Ordinary Council Meeting

Dear Council Member,

The Ordinary Meeting of the Cunderdin Shire Council was held on **Thursday 19th November 2020** in the Council Chambers, Lundy Avenue, Cunderdin WA, 6407 **commencing at 5.00pm**

Stuart Hobley
Chief Executive Officer
19th November 2020

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MINUTES

1. Declaration of Opening

The President declared the meeting open at 5:06 pm.

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”.

Read by Cr B (Bernie) Daly

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

2.1 Record of attendances

Councillors

Cr DA (Dennis) Whisson	Shire President
Cr AE (Alison) Harris	Deputy President
Cr TE (Todd) Harris	
Cr B (Bernie) Daly	
Cr A (Tony) Smith	
Cr NW (Norm) Jenzen	
Cr W (Sam) Stewart	
Cr J (Jayson) Goldson	

In Attendance

Stuart Hobley	Chief Executive Officer
Hayley Byrnes	Deputy Chief Executive Officer
Lauren Cole	Governance and Compliance Officer

Guests of Council

Nil

Members of the Public

Nil

2.2 Apologies

Nil

2.3 Leave of Absence Previously Granted

Nil

3. Public Question Time

Nil

4. Petitions, Deputations & Presentations

Nil

5. Applications for Leave of Absence

Nil

6. Confirmation of the Minutes of Previous Meetings

6.1 Ordinary Meeting of Council held on 15th October 2020

Resolution 6.1 OCM November 2020

That the Minutes of the Ordinary Council Meeting held on Thursday 15th October 2020 be confirmed as a true and correct record.

Moved: Cr AE (Alison) Harris

Seconded: Cr NW (Norm) Jenzen

Vote – Simple Majority

Carried: 8/0

Note to this item:

The President will sign the minute declaration on the previous minutes.

7. Declaration of Members and Officers Interests

Nil

8. Announcements by President without Discussion

Nil

9 Finance & Administration

9.1 Financial Reports for October 2020

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Date:	3rd November 2020
Author:	Hayley Byrnes
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachment/s:	1 attachment – Monthly Report

Proposal/Summary

The financial reports as at 31 October 2020 are presented for consideration.

Background

The financial reports have been circulated to all Councillors.

Comment

Nil.

Consultation

Nil.

Statutory Environment

The *Local Government Act 1995* Part 6 Division 3 requires that a monthly financial report be presented to Council.

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

Resolution 9.1 OCM November 2020

That Council receives the monthly financial reports for the period ending 31st October 2020.

Moved: Cr J (Jayson) Goldson

Seconded: Cr A (Tony) Smith

Vote – Simple Majority

Carried: 8/0

9.2 Accounts Paid –October 2020

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	3rd November 2020
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	2 attachment - Creditors list of payments October 2020 - Credit Card Statements for October 2020

Proposal/Summary

Council is requested to confirm the payment of Accounts totalling:

Total for Municipal -	\$396,727.58
Total for Trust -	\$0.00
TOTAL -	\$396,727.58

For October 2020 as listed in the Warrant of Payments for the period 1st to 31st October 2020.

Background

Nil.

Comment

Nil.

Consultation

Nil.

Statutory Environment

In accordance with Financial Management Regulations 12 & 13, a List of all accounts paid or payable shall be presented to Council (Refer Warrant of Payments attached).

Financial Management Regulations 12 & 13.

Policy Implications

Nil.

Financial Implications

All financial implications are contained within the reports.

Strategic Implications

Nil.

Resolution 9.2 OCM November 2020

1. That Council's payment of accounts amounting to \$396,727.58 being from Municipal Account for October 2020, as follows:

Municipal Account	\$	Total
Electronic Funds Transfer: EFT 4531 – 4620	\$363,114.36	
Direct Debit (Inc Bank Charges): DD1949.1- DD1975.10	\$13,291.02	
Cheques: 11662-11673	\$20,322.20	
TOTAL		\$396,727.58

be confirmed and noted; and,

2. That the Payments List as presented be incorporated in the Minutes of the Meeting.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr AE (Alison) Harris

Vote – Simple Majority

Carried: 8/0

9.3 Council Investments – As at 31st October 2020

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	3rd November 2020
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 Attachment- Bank Statements

Proposal/Summary

To inform Council of its investments as at 31st October 2020.

Background

The authority to invest money held in any Council Fund is delegated to the Chief Executive Officer. Council Funds may be invested in one or more of the following:

- Fixed Deposits;
- Commercial Bills;
- Government bonds; and
- Other Short-term Authorised Investments.

Council funds are to be invested with the following financial institutions:

- Major Banks & Bonds Issued by Government and/ or Government Authorities.

Comment

In addition to the Shire's Municipal Operating Accounts, the below investment accounts are held as at 31st October 2020.

COUNCIL ACCOUNTS					
Institution	Amount	Investment type/ Account details	Municipal Funds	Reserve Funds	Trust Funds
Westpac Bank	\$752,042.64	Municipal- 0000030	\$752,042.64		
Bendigo Bank	\$2,736,342.18	Municipal- 155971377	\$1,456,495.59	\$828,299.01	\$451,547.58
Westpac Bank	\$146.78	Business Cash Reserve 22-3647 0.50%	\$146.78		
Bendigo Bank	\$0.00	Bendigo Trust Account 164 488 686			\$0.00
Westpac Bank	\$0.00	Trust Working Account 12-2981			\$0.00
Westpac Bank	\$251,915.25	Westpac Term Deposit 0.65% Expires:31/10/2020	\$251,915.25		
TOTAL INVESTMENTS	\$3,740,446.85		\$2,460,600.26	\$828,299.01	\$451,547.58

In addition to the above Shire funds, the Shire administers the Cunderdin Community Centre Trust Account being Westpac Account 000 073 - \$ 96,974.05 and Bendigo Muni - \$451,547.58.

CUNDERDIN COMMUNITY TRUST DETAILS		
31 October 2020		
Opening Balance as per Bank Statement & Term Deposits	INVESTMENT ACC	96,973.26
	MUNI ACC	451,547.58
	TOTAL	548,520.84
		0.79
Credits		0.79
Debits		0.00
Closing Balance as Per Bank Statements & Term Deposits	TOTAL	548,521.63
INCOMING		
<i>Interest (Investment account)</i>		0.79
		0.79
OUTGOING		
		0.00
Balance as at end of month	TOTAL	548,521.63

Consultation

Nil.

Statutory Implications

Financial Management Regulation 19.

Policy Implications

Nil.

Financial Implications

There are no financial implications in considering this item.

Strategic Implications

This item related to the Integrated Planning and Reporting Framework, which feeds into the Long Term Financial Plan when determining annual Council Budgets.

Resolution 9.3 OCM November 2020

That the report on Council investments as at 31st October 2020 be received and noted.

Moved: Cr J (Jayson) Goldson

Seconded: Cr AE (Alison) Harris

Vote – Simple Majority

Carried: 8/0

9.4 Amendment to the Fees and Charges 2020/2021

Location:	Cunderdin
Applicant:	Deputy Chief Executive Officer
Author:	Hayley Byrnes
Report Date:	10th November 2020
Item Approved By:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

It is proposed that Council adopt the following new/ amendments to our Fees and Charges:

1. 20 Egeberg Street, Cunderdin from \$260.00 per week to \$300.00 per week to reflect the current rental market.
2. 14 Robyn Street, Cunderdin from \$230.00 per week to \$300.00 per week to reflect the current rental market.
3. Water charges- Standpipes (per kilolitre) for other Local Governments, at cost plus 20%.

Background

20 Egeberg Street

Due to a significant shortage of rental accommodation within in Cunderdin, Government Regionals Officers Housing Program (GROH) have contacted the Shire seeking any houses available for staff. Council has been in discussions with GROH regarding setting up a lease agreement and have agreed to the proposed amount of \$300 per week for a 12 month lease.

14 Robyn Street

14 Robyn Street has recently been vacated and budgeted works have commenced to do improvements to the property. This property has had little maintenance completed and no upgrades for an excluded period of time. When the upgrades are completed it is feasible that the property may be able to be rented out to GHOH or a commercial tenant.

Standpipe

Currently the only fee for Standpipe Water is set at \$15 per kilolitre, Neighbouring Shires have been in contact wishing to utilise the Standpipes on the borders to complete road works.

Comment

20 Egeberg Street

For the last 12 months Council has been utilising this property as housing for the Doctor, however the Doctor has recently moved into Unit 2 at the Sandalwood village and this house has become vacant.

Previously the house was rented to the Deputy Chief Executive Officer and included in the salary package.

Last financial year Council completed new guttering and replaced the hot water system and the vinyl plank flooring to the kitchen, dining and passage way of the property.

Council in the 2020/2021 budget approved for new light fittings installed internally throughout, new toilet system and new range-hood. These items have all been completed. Council also budgeted for

some extra gardening and plant replacement, this is scheduled to be completed before the commencement of the lease.

Council had budgeted \$10,000.00 to complete a new bathroom in this property. This has been put on hold as they are wanting to property as of the 1st of December and there is not the adequate time to complete the bathroom upgrade.

To ensure the property meets the minimum security requirements (for GROH), a new security light in carport and repairs to locks need to be completed. Renting the property to GROH will enable Council to put the income received back into the property to complete further improvements.

14 Robyn Street

14 Robyn Street was previously tenanted by the Pool Manager/Contractor (as part of the contract) and mainly utilised to store equipment and not lived in full time. In 2016 the property was empty as the pool manager was living in his own property, the Shire was approached by a staff member that needed accommodation and the property was made available to them. The employee has recently moved out of the property.

As the property is vacant we are using this time to complete some much needed improvements as per our budget. The following works are scheduled to be completed in the next month; Paint internals throughout, Replace flyscreens and cracked window, new ceiling fans, new blinds and quotes have been requested to upgrade the bathroom.

Standpipe

Due to the locality the shire has been approached requesting the use of the stand pipe by a neighbouring Local Government to complete road works near the shires border.

Currently the charges for standpipe water in the fees and charges are set at \$15 per kilolitre. This charge was set to allow recovery of the \$8.776 per kilolitre the Shire is charged, administration costs associated with invoicing, swipe card costs and software fees for the swipe card system.

As the standpipes in question does not have a swipe card system in place it is proposed that a cost recovery basis is used and a new charge be adopted for Local Governments using these standpipes at cost plus 20%.

Consultation

Government Regionals Officers Housing Program
Mr Stuart Hobley, Chief Executive Officer
Mrs Hayley Byrnes, Deputy Chief Executive Officer
Mrs Brooke Davidson, Finance Officer

Statutory Implications

Local Government Act 1995 – Section 6.16

6.16. Imposition of fees and charges

(1) A local government may impose* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

* *Absolute majority required.*

(2) A fee or charge may be imposed for the following —

- (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
- (b) supplying a service or carrying out work at the request of a person;
- (c) subject to section 5.94, providing information from local government records;
- (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
- (e) supplying goods;
- (f) such other service as may be prescribed.

- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
- (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

Local Government Act 1995 – Section 6.19

6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

Policy Implications

Nil.

Financial Implications

Amending the 2020/2021 Fees and Charges adopted by Council, of the following charges;

20 Egeberg Street, Cunderdin (3 Bedroom, 1 Bath) from \$260.00 per week to \$300.00 per week.

14 Robyn Street, Cunderdin (3 Bedroom, 1 Bath) from \$230.00 per week to \$300.00 per week.

An additional fee for Standpipes (per kilolitre) for other Local Governments, at cost plus 20%

Strategic Implications

Key Result Area – Infrastructure and Transport

We work together for the provision of essential services and assets to support our growing community.

Resolution 9.4 OCM November 2020

That Council,

- a) Approve to amend the current rental income on 20 Egeberg Street, Cunderdin from \$260.00 per week to \$300.00 per week.
- b) Approve to amend the current rental income on 14 Robyn Street, Cunderdin from \$230.00 per week to \$300.00 per week.
- c) Approve the addition of Water charges- Standpipe (for Local Governments) at cost plus 20%.

Moved: Cr TE (Todd) Harris

Seconded: Cr B (Bernie) Daly

Vote – Absolute majority

Carried: 8/0

9.5 Shire of Cunderdin Time Off in Lieu (TOIL) – Policy

Location:	Shire of Cunderdin
Applicant:	Administration
Date:	23 rd October 2020
Author:	Hayley Byrnes
Item Approved by:	Stuart Hobley, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	1 Attachments

Proposal/Summary

It is proposed that Council consider and endorse adopting the attached Shire of Cunderdin Time Off in Lieu (TOIL) Policy. This policy will provide further guidance and consistency to in the treatment of all personnel and to ensure that managers and individuals have an understanding of the use of TOIL and are aware of the associated procedures.

Background

Although the Shire currently has staff who have been utilising the flexible working hours as Time Off in Lieu, we do not have a formal policy or procedure in place. It has been brought to our attention when we recently had to pay an employee out of their Time Off in Lieu we did not have the recommended documentation according to the Award.

Without a policy in place the Award requirement would be to record each individual occasion separately including a signed agreement per occasion for the accrual and use of time in lieu, for some employees this would be a daily task.

Upon adoption of this policy it will be provided to all staff for their information and acknowledgement then a signed copy will be retained in personnel.

Comment

The Time Off in Lieu Policy has been created to ensure the Shire of Cunderdin stays compliant with the requirements in the *Local Government Industrial Award 2020, Fair Work Act 2009* and the *Occupational Safety and Health Act 1984*.

The Time Off in Lieu policy does not supersede the Award and relevant legislation that apply to this matter. Where inconsistencies do exist or exist in the future the relevant law and award will apply.

The policy has been created with a section for staff to sign and acknowledge that they understand the requirements for both employer and employees

Policy may be made, amended or revoked at any time by simple majority.

The general hierarchy of authority is –

1. Legislation – including regulations and local planning scheme
2. Local laws
3. Delegations – being under direct authority of legislation or local laws, and being made by absolute majority
4. Policy – as it outlines how the above three authorities are to be implemented and being made by simple majority

Although every policy is at Council’s discretion, they are essential for the effective and efficient operation of the Shire.

Consultation

Stuart Hobley, Chief Executive Officer
Hayley Byrnes, Deputy Chief Executive Officer
Brooke Davidson, Finance Officer

Statutory Implications

Local Government Act 1995
The Local Government Industrial Award 2020
Fair Work Act 2009
Occupational Safety and Health Act 1984
Occupational Safety and Health Regulations 1996

Policy Implications

This policy is intended to ensure that the Shire offers consistent and accountable process for the authorisation and taking of Time Off in Lieu for all staff.

Financial Implications

There are no direct financial implications of adopting the proposed Time Off in Lieu Policy, however the proposed policy is aimed at ensuring the Council and employee needs in providing flexible working hours are provided in a compliant manner.

Strategic Implications

The Policy Manual is to enable the effective and efficient implementation of Council’s instructions, adopted annual budget, and legislative and local law obligations.

Resolution 9.5 OCM November 2020

That Council adopted the attached Policy – Shire of Cunderdin Time Off in Lieu (TOIL) Policy as amended; and include the policy within the Policy Manual.

Moved: Cr NW (Norm) Jenzen

Seconded: Cr W (Sam) Stewart

Vote – Simple Majority

Carried: 8/0

9.6 Chief Executive Officers Report

Location:	Cunderdin
Applicant:	Chief Executive Officer
Date:	11 September 2020
Author:	Stuart Hobley
Item Approved by:	Stuart Hobley, Chief Executive Officer
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

To provide an update on the matters the Chief Executive Officer has been addressing over the past month.

Background

Doctor

The second Doctor (Dr Alan) has commenced at Cunderdin Medical Practice. The Doctor is living in the Respite Care House at the Sandalwood Village and is driving the Ford Focus that was used by a previous Doctor.

Industrial Land

At the request of Council, Development WA have drawn plans to develop the industrial lots at the eastern end of Centenary Way. The plans are attached.

One option (Plan 4) includes a boundary adjustment with CBH. It involves approximately 6,600 square metres of CBH land being added into the Shire's title and the Shire forfeiting 50 square metres to CBH. This Option sets up an extended length of new boundary running parallel to CBH's access roads and concludes on the boundary of the existing Water Corporation's easement. In addition to survey costs, this option would require the Shire to provide compensation to CBH for the 6100 square metres of land they would relinquish for consideration includes purchasing land.

Oval Lighting

The Shire was successful in its application to CSRFF Small Grants round for the upgrade of the lights at the Cunderdin Oval and Basket Ball Courts. The grant amount received was \$89,158 which is one third of the project cost. The shire has applied for the remainder of the funding to be sourced from the Local Roads and Community Infrastructure Program (LRCI).

Due to the expected cost of the project it will need to go to tender and it is expected that the tender will be advertised before Christmas with the construction of the new lights commencing early in the new year.

Refuse Collection

The Shire has entered into a joint tender for refuse collection with the Shires of Kellerberrin and Tammin. The tender process is being coordinated by the Shire of Tammin with the assistance of WALGA. It is expected that the tender will be finalised early in the new year.

Local Roads and Community Infrastructure Program (LRCI)

In July 2020 Council received \$366,491 in additional grant funding from the Federal Government to assist in local job creation to stimulate the economy from the effects of COVID 19.

Council has just been advised that it will receive a further \$281,707 (LRCI 2) that is available from January 2021 and is required to be spent by December 2021.

During the Budget process Council allocated LRCI 1 funding to the following projects:

- **Swimming Pool**
Correction of the expansion joints in the swimming pool. Cost \$70,000 – \$110,000. Expected completion prior to summer 2020. This project has been delayed due to the contractor being held up on another project. This project is now planned to be completed in April 2021 with the new round of LRCI 2.
- **Oval Lights**
It was budgeted to commit approximately \$150,000 to upgrade the lights at the Cunderdin Oval and Basketball courts. The total amount was dependent on the final quotes for the project.
- **Basketball Courts**
\$30,000 was allocated to completing the works at the Cunderdin Basketball Courts including limestone retaining walls and fencing.
- **Surplus Funds**
Any remaining funds were to be spent on the project identified in the Cunderdin / Meckering landscaping plans that were being developed.

Recent changes have meant that this original budget for LRCI 1 will need to be amended. Council will need to consider projects that can be completed before 30 June 2021. These could include:

Oval Lights	\$180,000
Basketball Courts	\$30,00
Sandalwood Village Garden	\$100,00 to \$150,00
Meckering playground equipment	\$25,000
Cunderdin Oval parking	15,000

Projects now need to be considered for LRCI 2 (\$281,707). The correction of the expansion joints in the swimming pool (\$70,000 to \$110,000) should be allocated from these funds. It is recommended that the remaining funds be allocated to the landscaping projects in Cunderdin and Meckering.

Purchase of Land Cunderdin Townsite and Housing Update

The Shire had plans to demolish its house at 81 Mitchell St and construct two dwellings on that block. Unfortunately due to the alignment of the deep sewage pipes on this lot it would be difficult to complete this.

The Shire does not own any other suitable lots in town and must consider other alternatives in town. A list of vacant blocks in town will be presented to the meeting for discussion.

Renovations have commenced at 14 Robyn St which includes new bathroom, floor coverings, painting, electric work, landscaping and general maintenance. At this stage it is expected the works will be completed within budget.

20 Egeberg St has been leased to the Government Regional Officer Housing for a 12 month period with a possible extension.

Department of Local Government – CEO Model Standards

The Local Government Legislation Amendment Act 2019 introduced numerous amendments to the Local Government Act 1995, including the yet to commence insertion of new sections introducing mandatory Model Standards for CEO recruitment, performance and termination.

In March 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the CEO Recruitment, Performance Review and Termination Working Group to develop Model Standards. The Department discontinued the Working Group in May 2019 and released a Consultation Paper without endorsement by the Working Group in October 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop and endorse Model Standards for further sector consultation, and identified several concerns with the proposals in the Consultation Paper. Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft Local Government (Administration) Amendment Regulations (No.2) 2020 (Draft Regulations), to prescribe the Model Standards, together with Explanatory Notes. Both documents are available via the Department's website. A short consultation period of three weeks will close on Friday 13 November, despite WALGA's advocacy for a more realistic period of consultation.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector. Due to the short time frame WALGA provides the following information as our initial concerns;

1. Requirement to re-advertise CEO positions after 10 years of continuous service Section 5.39(2)(b) of the Local Government Act already limits CEO contracts to a maximum of 5 years and Councils have general competence powers to consider whether to renew the incumbent's contract or advertise the position. Suggesting that a Council must re-advertise the position of a CEO after 10 years is likely to prove unworkable or counterproductive in any case as:
 - Councils conducting a selection process known to involve an incumbent CEO will risk allegations of non-compliance with Section 5.40 of the Local Government Act 'Principles affecting Local Government employees' due to actual or perceived bias, nepotism and lack of merit and equity in relation to other applicants;
 - May result in CEOs actively seeking alternative employment as the 10 year horizon approaches, meaning that a CEO that has provided satisfactory or perhaps exemplary service will be unnecessarily lost to the local government;
 - Where a CEO is re-employed as a consequence of re-advertising after the 10 year period, this process has incurred unnecessary costs and time waste for the LG, distracting from achieving its strategic objectives and may further entrench perceptions that contracts are for life, thus negating the very purpose of this proposal.

Further, Division 3 of the Draft Regulations seeks to improve the capacity of local governments to effectively manage CEO employment. This is a far more appropriate and adapted mechanism to address a perceived issue of 'contracts for life', by ensuring that the performance of CEOs, whether long serving or newly appointed, is appropriately assessed and managed.

2. Independent panel member Clause 8 of the Draft Regulations requires the selection panel to include at least one person who is neither a council member nor an employee of the local government. There is no guidance on the skills, experience or knowledge of the independent person, or their role on the panel. This has the potential to pose significant risk to the local government, as there are inadequate controls on the conduct of such a person (i.e. they will not be captured by a Code of Conduct as Panel is not a committee of Council). WALGA supports the ongoing use of an independent qualified and licensed recruitment consultant to provide guidance (as opposed to active participation) in both the recruitment process and to assist with obligations to finalise the employment of a CEO.

3. Transparency and procedural fairness – Schedule 2 The consultation draft emphasised that it is essential that the recruitment process is transparent and appropriately documented. Similar commentary featured in the Report of the Inquiry into the City of Perth, however the Draft Regulations fail to address these issues.

The selection panel is 'established' under cl.8 of Schedule 2 of the Draft Regulations, with no reference to the formation of a committee of Council under Sec. 5.8 of the Act. Cl. 9(4) of Schedule 2 includes a reference to the selection panel acting in accordance with the principles of s.5.40 of the Act. Similarly, cl.14 requires the local government to ensure confidentiality of information provided, rather than imposing this responsibility equally on the selection panel, or individual panel members.

If the selection panel were established as a committee in accordance with s.5.8 of the Act, the requirements relating to the calling and convening of meetings, keeping of minutes and agendas, confidentiality, declaration of conflicts of interest and application of the Code of Conduct would apply.

The Draft Regulations will delete current r.18C, requiring a local government to approve a process for the selection and appointment of a CEO. Schedule 2 does not include a similar requirement for the selection panel to follow a process decided upon by the Council. This removes Council from important input in, or oversight of, the process by which the selection panel assesses the candidates and makes recommendations.

4. Council decision making authority Schedule 2, Cl. 9(2)(a) requires the selection panel to recommend one or more applicants it considers suitable, with Cl. 9(2)(b) requiring that it advise Council if it considers no applicants are suitable. In the second event, Cl. 10 requires the local government to carry out a new recruitment process. Bypassing Council in this decision-making process appears to directly conflict with Sec. 5.36(2) of the Act, where it is the Council that determines if a person is or is not suitably qualified to be employed as CEO.

Department of Local Government – Code of Conduct Review

The Local Government Legislation Amendment Act 2019 introduced numerous amendments to the Local Government Act 1995, including a requirement for Local Governments to adopt a mandatory Code of Conduct for council members, committee members and candidates that is yet to take effect.

In 2019 the Department of Local Government, Sport and Cultural Industries invited WALGA and other parties to participate in the Mandatory Code of Conduct Working Group. The Department discontinued the Working Group and released a Consultation Paper without endorsement by the Working Group in September 2019.

At the WALGA State Council meeting held in December 2019, based on sector feedback, State Council resolved to request that the Working Group be reconvened to develop an endorsed mandatory Code of Conduct for further sector consultation. State Council also identified several concerns with the proposals in the Consultation Paper.

Throughout 2020, WALGA sought advice from the Department on the progress of draft regulations and a sector consultation process. The Department has now released the draft Local Government (Model Code of Conduct) Regulations 2020 (Draft Regulations), to prescribe the mandatory Code of Conduct, together with Explanatory Notes. Both documents are available via the Department's website. Consultation will close on Sunday 6 December.

WALGA notes that the Working Group was not reconvened, and the Draft Regulations include several elements that were highlighted as matters of concern by the sector.

Among concerns previously noted is the requirement for Local Governments to determine behavioural breach allegations specified in Division 3 of the Draft Regulations. The administrative process for dealing with breach allegations is unspecified and the option to use external consultants so that impartial and procedurally

fair outcomes can be achieved will prove costly, particularly where numerous allegations arise. It is also open for 'any person' to make a complaint which may in extreme circumstances lead to a proliferation of complaints.

WALGA is seeking to coordinate a sector response and seeks feedback from Member Local Governments on the Draft Regulation. Please provide any comments by 4pm Friday 13th November 2020 to governance@walga.asn.au to enable an agenda item to be prepared for the November/December round of Zone and State Council meetings.

Emergency Services Levy (ESL)

The Emergency Service Levy (ESL) funds Western Australia's fire and emergency services, including Career and Volunteer Fire and Rescue Service brigades, Volunteer Fire and Emergency Service units, bushfire fighting and management services including Rural Fire Division and Local Government Bush Fire Brigades, aviation services engaged over the high risk bushfire season, the South West Emergency Helicopter service, State Emergency Service (SES) units, the Marine Rescue WA and emergency response services provided by ChemCentre.

The Emergency Services Levy (ESL) is a compulsory charge for all property owners, issued by the State Government. Local Governments are required to include the levy in their rates accounts and collect it on behalf of the Department of Fire and Emergency Services.

Details of the ESL for the Shire of Cunderdin in the 2019/2020 financial year are;

\$82,501.39	Raised for collection on Rates
\$82,606.07	ESL paid to DFES
\$29,432.70	Grant income received from ESL
\$4,000.00	Administration fees paid to the Shire for collecting the ESL

Operation costs covered by this levy include running and maintenance of vehicles, vessels and facilities, personal protective equipment, operational equipment and consumables. Capital equipment purchases include firefighting appliances, vehicles, road rescue trailers, rescue/flood boats and buildings. The levy also funds training of volunteers, fire investigations, building inspections, community safety programs, emergency management planning and DFES's administration costs.

Comment

Nil.

Consultation

Nil.

Statutory Implications

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Resolution 9.6 OCM November 2020

That the Chief Executives Officers Report be received.

Moved: Cr TE (Todd) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple majority

Carried: 8/0

9.7 Move Behind Closed Doors

Resolution 9.7 OCM 2020

That Council move behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr TE (Todd) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple Majority

Carried:8/0

9.8 Financial Hardship Application – 62 Throssell Street, Meckering

Resolution 9.8 OCM November 2020

That Council authorises the Chief Executive Officer:

1. Accept the Financial Hardship Application submitted by Mr Colin Biddle for Assessment A53684 being 62 Throssell Street, Meckering freezing accruing interest until the 30th June 2021 and suspending payments until the 1st July 2021; and
2. Re-assess Mr Biddles circumstances on the 1st July 2021

Moved: Cr AE (Alison) Harris

Seconded: Cr B (Bernie) Daly

Vote – Simple majority

Carried: 8/0

9.9 Disposal of Asset - Lots 159, 160 and 161 on DP 222359 (Sale of Doctors House and Surgery)

Resolution 9.9 OCM November 2020

That Council authorises the Chief Executive Officer:

1. To dispose of Council assets being Lots 159, 160 and 161 on Deposited Plan 222359 via Expression of Interest.

Moved: Cr B (Bernie) Daly

Seconded: Cr A (Tony) Smith

Vote – Simple majority

Carried: 8/0

9.10 Disposal of Asset – 17 Byfield Street, Meckering

Resolution 9.10 OCM November 2020

That Council authorises the Chief Executive Officer:

1. To dispose of Council asset 17 Byfield Street, Meckering, being Lot 25 on Deposited Plan 9285 via advertised sale.

Moved: Cr B (Bernie) Daly

Seconded: Cr AE (Alison) Harris

Vote – Simple majority

Carried: 8/0

9.11 Nominations for Citizenship of the Year – Shire of Cunderdin

Note, the resolution in respect to item 9.11 Nominations for Citizenship of the Year – Shire of Cunderdin, will be available following the presentation of awards to the successful nominees.

9.12 Move from behind closed doors

Resolution 9.12 OCM November

That Council move from behind closed doors in accordance with s.5.23 of the Local Government Act.

Moved: Cr W (Sam) Stewart

Seconded: Cr AE (Alison) Harris

Vote – Simple Majority

Carried: 8/0

10. Environmental Health and Building

Nil

11. Planning & Development

Nil

12. Works & Services

Nil

13. Urgent Items

Nil

14. Scheduling of Meeting

14.1 December 2020 Ordinary Meeting

The next ordinary meeting of council is scheduled to take place on Thursday 17th December 2020 commencing at 5pm at the Cunderdin Shire Council Chambers, Cunderdin, WA 6407

Resolution 14.1 OCM November 2020

That Council adopts and provides Local Public Notice for the December 2020 Ordinary Council meeting to commence at 4pm on the 17th December 2020 and be held in the Council Chambers, Lundy Avenue, Cunderdin.

Moved: Cr TE (Todd) Harris

Seconded: Cr AE (Alison) Harris

Vote – Simple Majority

Carried: 8/0

15. Closure of meeting

There being no further business the Shire President will declare the meeting closed at 7:03 pm.

16. Certification

DECLARATION

I, Dennis Whisson, certify that the minutes of the Ordinary Council Meeting held on 19th November 2020 as shown were confirmed at the ordinary meeting of Council held on 17th December 2020.

Signed: _____

Date: _____