



Shire of Pingelly

Minutes

Ordinary Council Meeting
16 October 2019

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chairman declared the meeting open at 2pm.

2. ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Noongar people of this area and recognise their continuing connection to land, waters and community. We pay respect to both the Aboriginal and non-Aboriginal people past and present.

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER

The Shire President thanks Crs Hodges and Walton-Hassell for their service and input as this is their last meeting of their terms as Elected Members.

3.1 Council Agenda Reports

Please note that all elected members have been provided with the relevant information pertaining to each Officers reports within today's Agenda and the Officer Recommendations are based on Council Policy and or State Acts and Legislation.

4. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

MEMBERS PRESENT

Cr WV Mulroney	President (Chairperson) Councillor Elect
Cr DI Freebairn	Deputy President
Cr K Hastings	Councillor Elect
Cr B Hotham	
Cr PJ Wood	
Cr J McBurney	
Cr JM Walton-Hassell	
Cr EJ Hodges	

STAFF IN ATTENDANCE

Ms J Burton	Chief Executive Officer
Mr D Watkins	Director Technical Services
Mr S Billingham	Director Corporate and Community Services
Mrs L Boddy	Executive Assistant

APOLOGIES

Nil

OBSERVERS & VISITORS

Mr Anthony Oliveri (Councillor Elect)

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

6. PUBLIC QUESTION TIME

No questions received.

7. APPLICATIONS FOR LEAVE OF ABSENCE

12759 Moved: Cr Walton-Hassell Seconded: Cr Freebairn
That Cr Wood be granted leave from the 10th to 11th December 2019 inclusive.

Carried 8:0

8. DISCLOSURES OF INTEREST

Nil.

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.1 Ordinary Meeting – 18 September 2019

Statutory Environment:

Section 5.22 of the *Local Government Act* provides that minutes of all meetings are to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

Voting Requirements:

Simple Majority

12760 Moved: Cr Hodges Seconded: Cr McBurney

Recommendation and Council Decision:

That the Minutes of the Ordinary Meeting of the Council of the Shire of Pingelly held in the Council Chambers on 18 September 2019 be confirmed with the following alteration:

In item 16.2 Dual Fire Control Officer Appointment – Shire of Brookton, the name listed was Rod Evans and it should read Ross Evans.

Carried 8:0

9.2 Special Council Meeting – 9 October 2019 – Selection of Date for Extraordinary Election

Statutory Environment:

Section 5.22 of the *Local Government Act* provides that minutes of all meetings are to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

Voting Requirements:

Simple Majority

12761 Moved: Cr Hotham Seconded: Cr Hastings

Recommendation and Council Decision:

That the Minutes of the Special Meeting of the Council of the Shire of Pingelly held in the Council Chambers on 9 October 2019 be confirmed.

Carried 8:0

10. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

11. REPORTS OF COMMITTEES OF COUNCIL

Audit Committee	Full Council
Recreation & Cultural Committee	Member – Shire President Deputy – Deputy President
Bushfire Advisory Committee	Member – Cr Freebairn Deputy – Cr Hotham
Chief Executive Officer Performance Review Committee	Member – Shire President Member – Deputy President Member – Cr Hodges

12. REPORTS OF COUNCIL DELEGATES ON EXTERNAL COMMITTEES

Central Country Zone of WALGA	Delegate – Shire President Delegate – Deputy President Deputy – Cr Wood
Hotham-Dale Regional Road Sub-Group	Delegate – Shire President Deputy – Cr McBurney
Development Assessment Panel	Delegate – Cr Mulroney Delegate – Cr Freebairn Deputy – Cr Hodges Deputy – Cr Wood
Pingelly Tourism Group	Delegate – Cr McBurney Deputy – Cr Freebairn
Regional Waste Group	Delegate – Cr Mulroney Deputy – Cr Wood
Shires of Pingelly and Wandering Joint Local Emergency Management Committee	Delegate – Shire President Deputy – Cr Hodges
Youth Focus Group	Delegate – Cr Walton-Hassell Delegate – Cr Hastings Deputy – Cr McBurney
Pingelly Somerset Alliance	Delegate – Shire President Deputy – Cr McBurney
Pingelly Early Years Network	Delegate – Cr Hastings
Pingelly Community Wellbeing Group	Delegate – Cr Walton-Hassell

13. REPORTS FROM COUNCILLORS

Cr William Mulroney (President)

Meetings attended September

19th PRACC Board meeting

24th President and CEO meeting- Council matters

26th Opening of new bowling green

Meetings attended October

1st Meeting with CEO and CEO review committee - Re KRAs

2nd Sundowner for Works Supervisor leaving Shire workforce

3rd Regional Road Group Meeting Wickepin - Wheatbelt Secondary Grain Freight Network - endorse the WSNF committee to commence the development of an agreement that will formalise the commitment of the 42 local governments to enable them to be eligible for future funding and projects consideration

9th Special Council Meeting - to set the date for the extraordinary election to fill the vacancy that was not filled when nominations closed in September 2019

9th Agenda Briefing

9th Pingelly Somerset Alliance AGM

10th Unveiling of Plaque to recognise the members of the focus group that were in collaboration with Council in the designing and construction of the PRACC

2. The use must be exclusively be used for this purpose.

If land is used for a dual purpose, it is not exclusively used for a charitable purpose, even though one of the purposes may be charitable. Nor will land be used exclusively for a charitable purpose where the land is used for the purpose of a business enterprise which is raising funds to be used for charitable purposes. The use of land for a charitable purpose may produce a 'profit' which is incidental to its charitable purpose. In this case the land may still be considered as 'exclusively used' for a charitable purpose.

In the instance where a local government refuses a rates exemption application, the applicant can challenge this decision in the State Administrative Tribunal. If approval is subsequently granted, the Council must apply a non rateable status for that property, to the extent of the decision.

Comment

The PSA is a not-for-profit organisation which primarily exists to provide age/disability friendly housing units. The determination of eligibility for a rating exemption is not on ownership, but on the use of the land. The key matter to be determined is whether the land is being used exclusively for charitable purposes as required by Section 6.26 (2) (g) of the Local Government Act.

The PSA, must utilise the properties for the purposes outlined in the JVA. In September 2019, the Department of Communities provided confirmation that the eligible persons defined in the JVA can be extended to include aged persons. The PSA have subsequently confirmed that they intend to offer the units exclusively in accordance with their constitution, that is, to provide age/disability friendly housing.

Utilisation of the properties for the purpose of providing residential housing for persons who meet the Department of Housing eligibility criteria for public rental housing would be considered a residential rather than charitable purpose, and in that case the criteria for a rates exemption is not met. Given the PSA has confirmed the exclusive use for aged/disability, the criteria for a rates exemption is satisfied, and the properties are deemed to be exempt from rates under the Local Government Act.

Consultation

Pingelly Somerset Alliance
Western Australian Local Government Association

Statutory Environment

Section 6.26(2)(g) of the Local Government Act 1995 states that land used exclusively for charitable purposes is not rateable land. The Charities Act 2013 sets out a list of 'charitable purposes'.

Policy Implications

Nil

Financial Implications

As the application is for a rates exemption from 1 July 2020, there will be no effect on the current budget.

Strategic Implications

Nil

Risk Implications

Risk	There is a risk that if Council does not approve this exemption, the applicant can take the matter to the State Administrative Tribunal and apply to have Council's decision overturned.
Risk Rating (Prior to Treatment or Control)	Medium (6)
Principal Risk Theme	Reputational
Risk Action Plan (Controls or Treatment Proposed)	Nil

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

Voting Requirements

Absolute Majority

12763 Moved: Cr Walton-Hassell Seconded: Cr McBurney

Recommendation and Council Decision

That Council approves the application for an exemption from rates for the properties at Lot 602 and Lot 603 Sharow Street Pingelly, from 1 July 2020.

Carried 8:0

14.2 Chief Executive Officer – Performance Targets

File Reference:	0005
Location:	Not Applicable
Applicant:	Not Applicable
Author:	Chief Executive Officer
Disclosure of Interest:	Nil
Attachments:	Attachment 1 (following red sheet in Attachment Booklet)
Previous Reference:	Nil

Summary

Council is requested to endorse the Chief Executive Officer's Key Performance Indicators for the 9 months ending 31 July 2020.

Background

As a part of the development of the contract of employment for the Chief Executive Officer, agreement on KPI's for the first 9 months is required within the first 3 months of employment. Council is also required to review the performance of the Chief Executive Officer on an annual basis in accordance with Section 5.38 of the Local Government Act 1995.

Comment

An informal discussion has been held with the members of the Chief Executive Officer Performance Review Committee, with the draft Performance Indicators for the 9 months commencing 1 November 2019 being formulated. These indicators span a range of governance, staffing community and economic development areas, and are outlined in Attachment 1.

Consultation

Nil

Statutory Environment

Local Government Act 1995, Section 5.38. Annual review of employees' performance.

- 1) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.

Policy Implications

Nil

Financial Implications

There are no additional financial resources required as a result of setting the Key Performance Indicators, however, there may be a need to reallocate resources from some projects that can be carried out through internal resources, to support the achievement of other KPI's that will need external support and where there is no budget.

Strategic Implications

Strategic Community Plan Goal 5: Innovation, Leadership and Governance

Risk Implications

Risk	The key risk is in relation to non achievement of the stated key performance indicators, due to lack of financial and workforce resources, or an inability to control an outcome, such as where other levels of government are involved.
Risk Rating (Prior to Treatment or Control)	Medium (6)
Principal Risk Theme	Reputational
Risk Action Plan (Controls or Treatment Proposed)	A careful assessment of financial and workforce resources will be undertaken to ensure achievement of the key actions. This may result in a recommendation to reallocate funds at Budget Review in February 2020.

Consequence Likelihood		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

Voting Requirements

Simple Majority

12764 Moved: Cr Hodges Seconded: Cr Hastings

Recommendation and Council Decision

That Council adopts the CEO Performance Targets for the year ending 31 July 2020 as included in Attachment 1.

Carried 8:0

14.3 Tender – Provision of Medical Services

File Reference:	ADM0297
Location:	Not Applicable
Applicant:	Not Applicable
Author:	Chief Executive Officer
Disclosure of Interest:	Nil
Attachments:	Nil
Previous Reference:	Nil

Summary

Council is requested to approve the advertising of a Request for Tender for the provision of medical services to the Shire of Pingelly.

Background

In December 2018, Council approved a three year contract, backdated to 1 May 2018, between the Shire of Pingelly and Agape Ventures Pty Ltd.

In order to plan for the long term, it is proposed to go out to tender to determine the provision of medical services from 1 May 2021 to 30 April 2028.

A tender is required to be called where the consideration under the contract is, or is expected to be, more than \$150,000.

Comment

Under the Local Government Act 1955 and the Local Government (Functions and General) Regulations 1996, prior to advertising a Request for Tender, Council is required to determine the criteria which will decide which tender should be accepted.

To determine the most advantageous Tender, the Evaluation Panel will score each Tenderer against the criteria detailed below. Each criterion will be weighted to indicate the Principal's relative degree of importance.

Description of Criteria	Weighting
a) Price	40%
b) Technical and physical capacity	20%
c) Level of service proposed	20%
d) Demonstrated understanding of the medical service requirements, as relevant to regional communities	20%

The criteria and weightings have been formulated to achieve an outcome that will represent value for money, while providing an effective service to the community.

Consultation

Shire Auditors
Western Australian Local Government Association
Agape Ventures Pty Ltd

Statutory Environment

Section 3.57 of the Act and Part 4, Division 2 of the Local Government (Functions and General) Regulations 1996 specifies the procedures relating to tenders.

Policy Implications

Nil

15. DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES

15.1 Accounts Paid by Authority – September 2019

File Reference:	ADM0066
Location:	Not Applicable
Applicant:	Not Applicable
Author:	Senior Finance Officer
Disclosure of Interest:	Nil
Attachments:	List of Accounts (Attachment 2 following orange sheet in separate attachments booklet)
Previous Reference:	Nil

Summary

Council endorsement is required for accounts made by authority for the month of September 2019.

Comment

Unless otherwise identified, all payments have been made in accordance with Council's adopted 2019/20 Budget.

Consultation

Nil

Statutory Environment

Regulation 12 of the *Local Government (Financial Management) Regulations* provides that:

- (1) A payment may only be made from the municipal fund or the trust fund —
 - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

Regulation 13 of the *Local Government (Financial Management) Regulations* provides that:

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name;
 - (b) the amount of the payment;
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) for each account which requires council authorisation in that month —
 - (i) the payee's name;
 - (ii) the amount of the payment; and
 - (iii) sufficient information to identify the transaction; and
 - (b) the date of the meeting of the Council to which the list is to be presented.
- (3) A list prepared under sub regulation (1) or (2) is to be —
 - (a) presented to the Council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

Policy Implications

There are no policy implications arising from this amendment.

Financial Implications

There are no known financial implications upon either the Council’s current budget or long term financial plan.

Strategic Implications

There are no known significant strategic implications relating to the report.

Risk Implications

Risk	Failure to present a detailed listing of payments in the prescribed form would result in non-compliance with the Local Government (Financial Management) Regulations 1996, which may result in a qualified audit.
Risk Rating (Prior to Treatment or Control)	Low (2)
Principal Risk Theme	Reputational / Legislative
Risk Action Plan (Controls or Treatment Proposed)	Nil

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

Voting Requirements

Simple Majority

12766 Moved: Cr Hodges Seconded: Cr Hastings
Recommendation and Council Decision

That Council endorse the Accounts for Payments for September 2019 as presented:

SEPTEMBER 2019	
MUNI - 117984856	
EFT 6304 - 6384	\$247,599.86
CHEQUE 24702 - 24709	\$20,651.25
TRUST ACCOUNTS	
DEPT OF TRANSPORT – DD10795.1 – DD10850.1	\$24,644.55
TRUST FUND – 1959 - 1962	\$500.00
DIRECT DEBIT -	
DD10790.1 – DD10814.5 & EFT6307 – EFT6356 – Pay and Super	\$16,887.02
CREDIT CARDS	
DD10824.1 – DD10824.1	\$1,917.34
GRAND TOTAL	\$312,200.02
Notification	Explanation
Nil	N/A

Carried 8:0

16. DIRECTORATE OF TECHNICAL SERVICES

Nil.

17. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.


18. NEW BUSINESS OR URGENT BUSINESS INTRODUCED BY DECISION OF THE MEETING

New business of an urgent nature introduced by decision of the meeting. Best practice provides that Council should only consider items that have been included on the Agenda (to allow ample time for Councillors to research prior to the meeting) and which have an Officer Report (to provide the background to the issue and a recommended decision).

19. CLOSURE OF MEETING

The Chairman declared the meeting closed at 2.34pm.

These minutes were confirmed by Council at the Ordinary Council Meeting held on 20 November 2019.

Signed..........
Presiding Person at the meeting at which the minutes were confirmed.