



SPECIAL COUNCIL MEETING

MINUTES

**The Special Meeting of Council was held
in the Council Chambers, Welcome Road, Karratha,
on 17 August 2009 at 5.00pm**

Robert Sharkey
Executive Manager Development Services

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AGENDA

1 OFFICIAL OPENING

The meeting was declared open at 5pm.

2 RECORD OF ATTENDANCES / APOLOGIES / LEAVE OF ABSENCE

Councillors: Cr Brad Snell [President]
Cr Des Rothe [Deputy President]
Cr Nicole Lockwood
Cr Fay Cechner
Cr Harry Hipworth
Cr Garry Bailey
Cr Ben Lewis
Cr Sharon Vertigan
Cr John Lally

Staff: Robert Sharkey, Acting Chief Executive Officer
Simon Kot, Executive Manager Community Services

Apologies: Cr Fiona White-Hartig

Absent:

Leave of Absence: Cr Gary Wieland

3 IN CAMERA ITEM

3.1.1 Employment Contract of a Senior Employee

Attachment(s) 'Confidential - Report'
Responsible Officer: Robert Sharkey
Acting Chief Executive Officer
Author Name: Robert Sharkey
Acting Chief Executive Officer
Disclosure of Interest: Nil

REPORT

Confidential report to be provided at Special Council Meeting.

RECOMMENDATION/COUNCIL RESOLUTION

Res No : 14740
MOVED : Cr Lally
SECONDED : Cr Bailey

That Council move "In Camera" due to the following reason under Section 5.23 (2) [a] of the Local Government Act 1995:

[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

CARRIED

FOR : Cr Snell, Cr Rothe, Cr Bailey, Cr Cechner, Cr Hipworth, Cr Lally, Cr Lewis
Cr Lockwood, Cr Vertigan
AGAINST : Nil

COUNCIL RESOLUTION

Res No : 14741
MOVED : Cr Vertigan
SECONDED : Cr Lewis

That Council suspend Standing Orders to allow for open discussion of this item.

CARRIED

FOR : Cr Snell, Cr Rothe, Cr Bailey, Cr Cechner, Cr Hipworth, Cr Lally, Cr Lewis
Cr Lockwood, Cr Vertigan
AGAINST : Nil

COUNCIL RESOLUTION

Res No : **14742**
MOVED : **Cr Vertigan**
SECONDED : **Cr Lewis**

That Council reinstate Standing Orders.

CARRIED

FOR : Cr Snell, Cr Rothe, Cr Bailey, Cr Cechner, Cr Hipworth, Cr Lally, Cr Lewis
Cr Lockwood, Cr Vertigan
AGAINST : Nil

RECOMMENDATION/COUNCIL RESOLUTION

Res No : **14743**
MOVED : **Cr Vertigan**
SECONDED : **Cr Lally**

That Council move “Out of Camera”

CARRIED

FOR : Cr Snell, Cr Rothe, Cr Bailey, Cr Cechner, Cr Hipworth, Cr Lally, Cr Lewis
Cr Lockwood, Cr Vertigan
AGAINST : Nil

COUNCIL RESOLUTION

Res No : **14744**
MOVED : **Cr Cechner**
SECONDED : **Cr Vertigan**

That Council:

- (a) The employment contract for the Acting Chief Executive Officer, Collene Longmore be endorsed as Council is satisfied with the conditions therein and Ms Longmore is an appropriately qualified candidate.**
- (b) The Shire President send the attached letter and email to the Department of Local Government as a record of the advice received from the Department regarding the process of appointing an Acting Chief Executive Officer**

CARRIED

FOR : Cr Snell, Cr Rothe, Cr Bailey, Cr Cechner, Cr Hipworth, Cr Lally, Cr Lewis
Cr Lockwood, Cr Vertigan
AGAINST : Nil

The Acting Chief Executive Officer Bob Sharkey requested that it be recorded that he specifically asked Council whether they had read and fully understood the legal advice received from solicitors McLeod and Co dated Friday 14 August 2009.

Council confirmed that they had read and fully understood the document.

ATTACHMENT No 1 – Letter from Shire President to the Department of Local Government

18 August 2009

Department of Local Government
PO Box R1250
PERTH WA 6844

To Whom It May Concern

As a matter of record, please find the attached advice received from the Department as to the process required for the selection of the Acting CEO for the Shire of Roebourne.

Council is satisfied requirements under the act as stated in this advice have been complied with.

Thank you

Brad Snell
Shire President

ATTACHMENT No 2 – Email from the Department of Local Government

From: Stuart Fraser [mailto:stuart.fraser@dlg.wa.gov.au]
Sent: Monday, 6 July 2009 3:07 PM
To: nlockwood@aapt.net.au
Subject: Request for Information on Processes

Councillor Nicole Lockwood

Shire of Roebourne

Councillor Lockwood,

Ms Jenni Law, Manager Local Government Support and Development has requested that I provide some information to you on her behalf in relation to the following matters:

* Process for advertising for a temporary CEO.

The process governing the advertising of the appointment by a local government of an acting CEO is provided in section 5.36(4) of the Local Government Act 1995 and Local Government (Administration) Regulations 18A, 18C and 18F.

If the position of CEO becomes vacant, it is to be advertised in the prescribed manner and include the prescribed information.

For the appointment of an acting CEO's position for a period not exceeding 12 months it is required to only be advertised on a notice board exhibited to the public at the local government's offices (i.e. official office notice board).

Regulation 18A(1). states: Advertisement for position of CEO or senior employee -

s. 5.36(4) and 5.37(3)(1) If a position of CEO, or of senior employee, of a local government becomes vacant, the local government is to

advertise the position -

(a) on a notice board exhibited to the public at the local government's offices, if the position is -

(i) to be filled on a part time basis by a person who is also employed by another local government; or

(ii) an acting position for a term not exceeding one year;

The notice is to include the following information in accordance with Regulation 18A(2):

An advertisement referred to in subregulation (1) is to

contain -

(a) the details of the remuneration and benefits offered;

- (b) details of the place where applications for the position are to be submitted;
- (c) the date and time for the closing of applications for the position;
- (d) the duration of the proposed contract;
- (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.

* Process at Council Meetings for Dismissal of CEO

If the meeting is a Special Council meeting it is to be called by:

- (1) the Mayor or President; or
- (2) at least 1/3 of the councillors

in a notice to the CEO setting out the date and purpose of the proposed meeting; or

if so decided by the council.

The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time,

place and purpose of the meeting.

A Special Meeting of Council is to be open to members of the public and local public notice is to be given. However, if it is not practicable to give that public notice, then the CEO may decide the manner and to what extent public notice is to be given.

If the purpose of the meeting is to deal with the matter of the dismissal of the CEO then a decision is usually made to go behind closed doors in accordance with section 5.23(2) as it is (a) a matter affecting an employee and (b) relates to the personal affairs of any person or (d) legal advice or (c) CEO's employment contract.

Section 5.23(3) of the Act states:

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.

When Council has completed its deliberations it needs to come out from behind closed doors (make a decision to open the meeting) and it is suggested that the Presiding person reads out the decision/s made behind closed doors and the decision/s need to be recorded in the minutes (the council decision is not confidential).

* Provisions About Gratuities or Payment Entitlements on Termination

Local Government (Administration) Regulation 18B states:

18B. Matters to be included in contracts for CEO's and senior employees - 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.

A local government may have a policy in accordance with section 5.50 of the Local Government Act 1995, but this usually refers to the employment of a person whose employment is finishing with the local government (i.e. retiring or voluntary resignation etc), rather than having their employment terminated before the expiration of their employment contract.

I hope the above information is of assistance to you in this matter.

Regards

Stuart Fraser

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Department of Local Government
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Fax:(08) 9217 1555
Email:stuart.fraser@dlg.wa.gov.au
Web:www.dlg.wa.gov.au

4 CLOSURE & DATE OF NEXT MEETING

The meeting closed at 5.30pm. The next Ordinary Council meeting is Monday 17 August 2009 at 6.30pm.