



Shire of Ngaanyatjaraku

ON A JOURNEY

SPECIAL MEETING OF COUNCIL

MINUTES

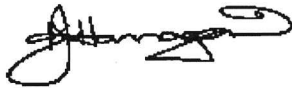
**Shire Meeting Room
Tjulyuru Cultural and Civic Centre
Warburton Community**

**14 June 2018
1.00 pm**

MINUTES - SPECIAL MEETING OF COUNCIL 14 JUNE 2018

The Acting Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.

ACEO



Date: 16-06-2018

These minutes were confirmed by Council as a true and correct record of proceedings of the Special Meeting of Council held on the 14 June 2018.

Presiding Member: _____

Date: 11/7/2018

DISCLAIMER

The resolutions contained in these Minutes have been confirmed by Council. The Shire of Ngaanyatjarraku warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ngaanyatjarraku for any act, omission or statement or intimation occurring during a Council meeting.

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.00 pm.

2. ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed Jasmin Cooke of the public in the gallery.

3. ATTENDANCE

3.1 PRESENT

Elected Members:	Cr D McLean Cr P Thomas Cr A Jones Cr A Bates L West J Frazer D Frazer	Shire President, (Presiding Member) Deputy Shire President (by telephone, Perth) Councillor Councillor Councillor Councillor Councillor
Staff:	K Hannagan G Handy	Acting Deputy CEO (by telephone, Tom Price) Finance & Administration Coordinator
Guests:		
Members of Public:	There was one member of the public in attendance at the commencement of the meeting.	

3.2 APOLOGIES

Cr. B Thomas
C Paget, Chief Executive Officer

4. PUBLIC QUESTION TIME

5. DECLARATION BY MEMBERS

5.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

Councillors are requested to give due consideration to all matters contained in the Agenda presently before the meeting.

5.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

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- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under *Section 5.68 or Section 5.69 of the Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under *s.5.68(1)(b)(ii) or the Local Government Act*, or
 - 6.2 Where the Minister allows the Councillor to participate under *s.5.69(3) of the Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
7.1	CONFIDENTIAL	ITEM - POSITION OF DEPUTY CHIEF EXECUTIVE OFFICER

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K Hannagan	Financial Interest	The nature of my interest is that I am currently the Acting Deputy CEO.
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6. OFFICE OF THE CEO REPORTS

6.1 DESIGNATED SENIOR EMPLOYEES

FILE REFERENCE:	CM.00
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Deputy CEO
AUTHORISING OFFICER AND POSITION:	Chris Paget Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	2 June 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and authorising officer have an interest as they are both the subject of these reports.

Summary

The purpose of this agenda item is for Council to review its Policy 2.17 Designated Senior Employees and create a new Policy CS2.28 Acting Chief Executive Officer.

Background

The best practice in governance supports the regular review of Council policies to ensure that they are relevant and current.

Comment

With the change in staff and organisation structure it is appropriate for Council to review its Policy 2.17 Designated Senior Employees and create a new Policy CS2.28 Acting Chief Executive Officer.

Statutory Environment

Section 5.36 (2)(a) of the Local Government Act 1995, Local Government Employees states:

- (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;*

Section 5. of the Local Government Act 1995, 37 Senior Employees states:

- (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*

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- (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*
- (3) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*
- (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*
- (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.*

Financial Implications

Not Applicable

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is considered to be "Low" risk and can be managed by routine procedures, and is unlikely to need specific application of resources.

Policy Implications

Corporate Policy CS2.17 Designated Senior Employees

Attachments

Attachment 6.1a - Corporate Policy CS2.17 Designated Senior Employees

Attachment 6.1b – Corporate Policy CS2.28 Acting Chief Executive Officer

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr Bates Seconded: Cr Thomas

That Council adopts the attached:

- a) reviewed Corporate Policy CS2.17 Designated Senior Employees, and
- b) new Corporate Policy, CS2.28 Acting Chief Executive Officer.

Carried: 7/0

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Attachment 6.1a



Policy Register – Corporate Services

Policy Title	Designated Senior Employees
Document version	
Policy number	CS2.17
Council Adoption date	
Minute number	
Review due date	
Date revoked	
Responsible officer	Deputy Chief Executive Officer

Purpose

To ensure that "designated senior" employees within the corporate structure are accurately identified in accordance with s. 5.37 of the *Local Government Act 1995*.

Policy

Council designates as senior employees of the Shire of Ngaanyatjaraku the following officers:

- Chief Executive Officer
- Deputy Chief Executive Officer

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Attachment 6.1b



Shire of **Ngaanyatjaraku**
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Policy Register – Corporate Services

Policy Title	Acting Chief Executive Officer
Document version	
Policy number	CS2.28
Council Adoption date	
Minute number	
Review due date	
Date revoked	
Responsible officer	Chief Executive Officer

Purpose

To provide for the appointment of the Shire's Deputy Chief Executive Officer as Acting Chief Executive Officer during absences of the Chief Executive Officer.

Policy

1. In accordance with the requirements of the Local Government Act 1995, section 5.36(2)(a), the Council has determined that the person appointed to the position of a Deputy Chief Executive Officer is suitably qualified to perform the role of Acting Chief Executive Officer.
2. In the event of Annual / Long Service Leave, Sickness or an unforeseen absence of the CEO, then the default Acting CEO will be the incumbent of the position with the title "Deputy Chief Executive Officer."

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6.2 RFT 02 – 2017/18, Road Maintenance and Improvements Program

FILE REFERENCE:	PL.23
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Chris Paget Chief Executive Officer
DATE REPORT WRITTEN:	11 June 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

A Request for Tender 02 2017/18, Road Maintenance and Improvements Program was advertised via state wide public notice in The West Australian Newspaper on 19 May 2018.

Two conforming tenders were received via email in response to the RFT.

The evaluation panel has now completed its assessment of the tender submission and makes their recommendation.

Background

The Shire of Ngaanyatjaraku is seeking the services of a highly competent and experienced company or companies to undertake the Shire's road maintenance, construction and improvement programs as per the scope of works:

- Routine maintenance;
- Periodic maintenance; and
- Construction.

The advertised selection criteria were:

Criteria		Weighting
(a)	Relevant Experience	20%
(b)	Skills, experience and management of key personnel	10%
(c)	Tenderers Resources	10%
(d)	Methodology/Demonstrated Understanding	10%
(e)	Price	50%

After initial compliance assessment, the submissions were deemed compliant for further assessment. The evaluation panel then assessed the submissions against the selection criteria and value for money.

The Evaluation and Recommendation Report, including the overall evaluation scores and rankings, are attached as a confidential item.

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Comment

The tenders have been assessed with the below scores and rankings. Complete details of the tenders and assessment are provided in Attachment A.

Rank	Tenderer	Score (/100)
1	Breakaway Earthmoving and Haulage	100
2	NPJV	89

The evaluation panel concluded that Breakaway Earthmoving and Haulage are suitable and provided a value for money submission in relation to RFT 02, 2017/18.

Consultation

Chief Executive Officer
Deputy Chief Executive Officer

Statutory Environment

Local Government Act 1995 Section 3.57. Tenders for providing goods or services

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Local Government Act 1995 Section 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 —*
 - (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;*

Local Government (Functions and General) Regulations 1996

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless sub-regulation (2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if:*
 - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program;*

Financial Implications

The provision for the 2018/19 Road Maintenance and Improvements Program will be subject to Council approval of the 2018/19 budget.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is considered to be "Low" risk

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and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

Corporate Services Policy CS2.6, Purchasing

Attachments

Attachment - Confidential Attachment A

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr Jones Seconded: Cr West

In respect to Tender RFT 02, 2017/18 – Road Maintenance and Improvements Program, Council:

1. Resolve that Evaluation Report ATTACHMENT A is confidential in accordance with s5.23 (2) the Local Government Act because it deals with matters affecting s5.23 (2): (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”;
2. Note the attached Evaluation Report, CONFIDENTIAL ATTACHMENT A;
3. Award the contract to Breakaway Earthmoving and Haulage as per their submitted Schedule of Rates for an estimated annual value of \$4,125,400 excluding GST;
4. Authorise the Chief Executive Officer to enter into a contract with the appointed Contractor; and
5. Authorise the Chief Executive Officer to manage the Contract, including any variations providing this does not exceed the 2018/19 budget allocation or reduce the overall scope.

Carried: 7/0

7. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

- (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;*

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- (b) the personal affairs of any person;*
- (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;*
- (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;*
- (e) a matter that if disclosed, would reveal:*
 - (I) a trade secret;*
 - (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.
- (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;*
 - (II) Endanger the security of the local government's property; or*
 - (III) Prejudice the maintenance or enforcement of any lawful measure for protecting public safety;*
- (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1981; and*
- (h) such other matters as may be prescribed.*

Moved: Cr Thomas Seconded: Cr D Frazer

That Council close the meeting to the public at 1.17 pm pursuant to sub section 5.23 (2)(a) and (b) of the Local Government Act 1995.

Carried: 7/0

All members of the public gallery and staff member G Handy and Acting DCEO K Hannagan (hung up phone) left the meeting at 1.17 pm.

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7.1 CONFIDENTIAL ITEM – POSITION OF DEPUTY CHIEF EXECUTIVE OFFICER

FILE REFERENCE: PL.00

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Acting Deputy CEO

AUTHORISING OFFICER AND POSITION: Chris Paget
Chief Executive Officer

NAME OF APPLICANT/RESPONDENT: Not Applicable

DATE REPORT WRITTEN: 2 June 2018

DISCLOSURE OF FINANCIAL INTEREST: The author has a financial interest in the proposal.

Declaration of Interest

Prior to consideration of this Agenda Item:
Kevin Hannagan declared a financial interest.

Report / Attachments are Confidential as per Local Government Act 1995, Section 5.23

REASON FOR CONFIDENTIALITY

The report is confidential in accordance with s5.23(2) of the Local Government Act 1995 because it deals with matters affecting s5.23(2):

- (a) a matter affecting an employee or employees;*
- (b) the personal affairs of any person;*

Officers Recommendation and Council Resolution

Moved: Cr Thomas Seconded: Cr D Frazer

That Council:

- 1. Endorses the Chief Executive Officers' acceptance of the Professional Placement Proposal from Core Business Australia (Att. 7.1).**
- 2. Pursuant to s5.37 (2) of the Local Government Act 1995 accepts the Chief Executive Officer's recommendation of Kevin Hannagan to be appointed as Deputy Chief Executive Officer for a Term of 3 years as per the Contract of Employment (Att. 7.2).**
- 3. Pursuant to s5.36 (1)(a) and (2)(a) of the Local Government Act 1995 appoints Kevin Hannagan as Acting Chief Executive Officer from 1 September 2018 for a period not exceeding one year or the appointment of a new Chief Executive Officer, whichever is sooner.**

Carried: 7/0

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Moved: Cr Thomas Seconded: Cr D Frazer

That Council re-open the meeting to the public at 1.20 pm.

Carried: 7/0

Staff member G Handy re-entered the room and telephoned K Hannagan at 1.20 pm.

The Presiding Member advised of Council's decision for the Confidential Agenda Item 7.1

8. CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 1.21 pm.