



Shire of **Ngaanyatjaraku**  
ON A JOURNEY

**Minutes of Ordinary Council Meeting  
Held at Warburton  
22<sup>nd</sup> February 2016 at 1pm**



**MINUTES OF ORDINARY COUNCIL MEETING  
HELD ON 22<sup>nd</sup> FEBRUARY 2016 AT 1:00PM (WST)  
IN THE SHIRE OF NGAANYATJARRAKU MEETING ROOM**

Cr McLean welcomed all of the Members present and the CEO, and declared the meeting open at 1:00pm.

**PRESENT** Cr. J.D. McLean (President)  
Cr. B. Thomas (Deputy President)  
Cr. P. Thomas  
Cr. C.F. Twine  
Cr. A. Bates  
Cr. L. West  
Cr. A. Jones  
Cr. J. Frazer

Mr. Chris Paget - Chief Executive Officer

Public gallery: Mr Derek Harris Jnr.

**APOLOGIES**

Nil

**LEAVE OF ABSENCE**

Nil

**QUESTION TIME**

Mr Derek Harris Jnr: Asked whether the Shire had been contacted regarding a meeting with the Shire of Laverton about the two Shires coming together to try resolve the issues around itinerant visitors and related anti-social issues in Laverton. Mr Harris felt the Shire of Ngaanyatjarraku needed to 'come to the party' by contacting President Cr. Patrick Hill and CEO Steve Deckert and work with Laverton to come up with a solution.

Cr. McLean responded that we have already been in discussion with Laverton Shire in regards to these issues, and suggested the best course of action was engagement with the Ngaanyatjarra Council. Cr. Preston Thomas stated that the perception of Ngaanyatjarra people causing 'all the problems' in Laverton was not a reasonable view, and that it is the Commonwealth and State Government policies that needed to be looked at to see why problems are happening.

Mr. Harris thanked the Council members for their time and added that he and many others think the ".....Government have deserted us in the Lands".

**DECLARATION OF MEMBERS' AND OFFICERS' INTERESTS**

Nil

**CONFIRMATION OF MINUTES**

Ordinary Council meeting 29<sup>th</sup> January 2016

**MOVED Cr. Jones, seconded Cr. Frazer, that the minutes of the Ordinary Council meeting held on 29<sup>th</sup> January 2016 be confirmed as a true and accurate record of the proceedings of that meeting.**

**CARRIED 8/0**

**REPORT NO: 004-16** TO: ORDINARY COUNCIL MEETING 22<sup>nd</sup> FEBRUARY 2016  
**SUBJECT: ACCOUNTS PAID AND PAYABLE**

**AUTHORITY: FINANCIAL MANAGEMENT REGULATIONS 12 & 13**

In accordance with Financial Management Regulations 12 & 13, a list of all accounts paid or payable shall be presented to Council (Refer to Accounts for Payment attached).

Council is requested to confirm the payment of accounts listed in the Accounts for Payment. (**See attachments**)

**RECOMMENDATION**

That Council payment of accounts amounting to \$145,057.35 for the period ending 31<sup>st</sup> January 2016 be received and noted.

**VOTING REQUIREMENTS**

Simple majority

**MOVED Cr. Twine, seconded Cr. Bates, that the recommendation contained within report 004-16 be adopted.**

**#004-16**

**RESOLUTION**

*That Council payment of accounts amounting to \$145,057.35 for the period ending 31<sup>st</sup> January 2016 be received and noted.*

**CARRIED 8/0**

SHIRE OF NGAANYATJARRAKU - PAYMENTS LISTING JANUARY 2016

12/01/2016	15	WESTPAC BANK	WESTPAC BANK Credit Card Trans - CEO C.Paget	-3495.70	07	EFT322
13/01/2016		SHIRE OF NG - PAYROLL	Payroll Direct Debit Of Net Pays Payroll Direct Debit Of Net Pays	-49080.43	07	PAY
13/01/2016	54	WA SUPER	WA SUPER Payroll deductions	-6091.91	07	DD124.1
13/01/2016	300	AMP RETIREMENT SAVINGS ACCOUNT	AMP RETIREMENT SAVINGS ACCOUNT Superannuation contributions	-328.13	07	DD124.2
13/01/2016	1034	AUSTRALIAN SUPER	AUSTRALIAN SUPER Superannuation contributions	-190.76	07	DD124.3
13/01/2016	1085	LUCRF SUPER	LUCRF SUPER Superannuation contributions	-185.38	07	DD124.4
15/01/2016	50	TELSTRA CORPORATION LTD	TELSTRA CORPORATION LTD Phone & data charges - December 2015	-2001.91	07	1
15/01/2016	361	PIVOTEL SATELLITE PTY LTD	PIVOTEL SATELLITE PTY LTD Satphone charges Dec 2015-Jan 2016	-400.59	07	2
15/01/2016	40	NGAANYATJARRA SERVICES (ABORIGINAL CORPORATION)	NGAANYATJARRA SERVICES (ABORIGINAL CORPORATION) Rental of units for Shire's Perth	-1906.66	07	EFT323
15/01/2016	824	GALLERIA TOYOTA	GALLERIA TOYOTA 90,000km service & major repairs to EHO/BS Prado 1DRS231	-6265.42	07	EFT332
15/01/2016	880	BUNNINGS WAREHOUSE KALGOORLIE	BUNNINGS WAREHOUSE KALGOORLIE HARDWARE	-21.86	07	EFT333
15/01/2016	941	NGAANYATJARRA COUNCIL REGIONAL HOUSING PROGRAM	NGAANYATJARRA COUNCIL REGIONAL HOUSING PROGRAM Install 3 lights and remove	-960.19	07	EFT334
15/01/2016	997	METEX NICKEL PTY LTD	METEX NICKEL PTY LTD Camp accom Early Years Prog Shinkfield	-165.00	07	EFT335
15/01/2016	1015	BUNBURY TOYOTA	BUNBURY TOYOTA Carry out 20000km service to Toyota Landcruiser 200 series 1EK611	-541.70	07	EFT336
15/01/2016	1092	MARK & EMMA HOLBERTON	MARK & EMMA HOLBERTON rEIMBURSEMENT	-445.93	07	EFT337
15/01/2016	1102	Moore Stephens	Moore Stephens Monthly financial statements preparation & BAS October and November	-5357.00	07	1
15/01/2016	57	WARAKURNA ROADHOUSE	WARAKURNA ROADHOUSE Diesel fuel Admin Prado 1EPU755	-105.00	07	EFT324
15/01/2016	61	WARRUNYINNA STORE	WARRUNYINNA STORE Supply tyre levers for Jameson Depot	-34.00	07	EFT325
15/01/2016	147	AUSTRALIA POST	AUSTRALIA POST Australia Post postal charges Dec 2015	-17.90	07	EFT326
15/01/2016	253	GLOBETROTTER CORPORATE TRAVEL	GLOBETROTTER CORPORATE TRAVEL VirginAust airfare PER-KAL EHO P.Todd 13th Nov +	-257.50	07	EFT327
15/01/2016	268	INDERVON PTY LTD	INDERVON PTY LTD Diesel fuel - YSM Prado 1EBO496	-163.89	07	EFT328
15/01/2016	538	PERFECT COMPUTER SOLUTIONS PTY LTD	PERFECT COMPUTER SOLUTIONS PTY LTD IT assistance with Shire network-update glitches	-297.50	07	EFT329
15/01/2016	726	DIPLOMAT MOTEL	DIPLOMAT MOTEL Accom & meals YSM Tom O'Brien	-558.50	07	EFT330
15/01/2016	785	IT VISION AUSTRALIA PTY LTD	IT VISION AUSTRALIA PTY LTD IT Vision monthly payroll, financial processing & rates service	-9638.20	07	EFT331
27/01/2016		SHIRE OF NG - PAYROLL	Payroll Direct Debit Of Net Pays Payroll Direct Debit Of Net Pays	-47312.82	07	PAY
27/01/2016	54	WA SUPER	WA SUPER Payroll deductions	-6411.26	07	DD147.1
27/01/2016	300	AMP RETIREMENT SAVINGS ACCOUNT	AMP RETIREMENT SAVINGS ACCOUNT Superannuation contributions	-328.13	07	DD147.2
27/01/2016	1085	LUCRF SUPER	LUCRF SUPER Superannuation contributions	-185.38	07	DD147.3
28/01/2016	368	DEPT FOR PLANNING & INFRASTRUCTURE	DEPT FOR PLANNING & INFRASTRUCTURE Dot Transactions	-2193.80	07	EFT338
28/01/2016	559	WESTNET PTY LTD	WESTNET PTY LTD Internet account charges - Shire of Ngku ADSL+remote dialup through	-114.90	07	1

**\$145,057.35**

**REPORT NO: 005-16 TO: ORDINARY COUNCIL MEETING 22<sup>nd</sup> FEBRUARY 2016**  
**SUBJECT: COUNCIL INVESTMENTS AS AT 17<sup>th</sup> FEBRUARY 2016**

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
- 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.

**COUNCIL INVESTMENTS AS AT 17 FEBRUARY 2016**

Institution	Amount Invested	Investment type	Assets Repl./Acq./Devp. Reserve Fund	Cultural Centre Reserve Fund	Municipal Account
Westpac Banking Corporation		Term deposit	\$786,303.72	\$66,420.40	
Westpac Banking Corporation		Operating a/c			\$4,012,109.43
<b>TOTAL INVESTMENTS</b>	<b>\$4,864,833.55</b>		<b>\$786,303.72</b>	<b>\$66,420.40</b>	<b>\$4,012,109.43</b>

**RECOMMENDATION**

That the report on Council investments as at 17<sup>th</sup> February 2016 be received and noted.

**VOTING REQUIREMENTS**

Simple majority

**MOVED Cr. P. Thomas, seconded Cr. Bates, that the recommendation contained within report 005-16 be adopted.**

**#005-16**

**RESOLUTION**

*That the report on Council investments as at 17<sup>th</sup> February 2016 be received and noted.*

**CARRIED 8/0**

**REPORT NO: 006-16** TO: ORDINARY COUNCIL MEETING 22<sup>nd</sup> FEBRUARY 2016  
**SUBJECT: KANPA COMMUNITY LAYOUT PLAN – REQUEST FOR ENDORSEMENT**

**TABLED**

Kanpa Community Layout Plan 1 – Draft maps & Background Report (prepared February 2016)

**BACKGROUND**

The Kanpa Community Layout Plan 1 has been produced by the WA Planning Commission, following consultation with the Kanpa community members, Ngaanyatjarra Council (A.C.) and the Shire of Ngaanyatjarraku.

The Plan identifies all of the current Lots in the Community with buildings and structures located on them, as well as the provision of new lots for future development within the community site. Additionally, it also clearly identifies the designated land tenure and land use types (eg housing, public open space, commercial and industrial use, buffer zones and flood areas), utilities services and existing roads.

The WA Planning Commission requires endorsement from the Shire of Ngaanyatjarraku prior to the Plan being formally endorsed and adopted by WAPC.

**STATUTORY ENVIRONMENT**

Not applicable

**POLICY IMPLICATIONS**

The Community Layout Plans provide the Shire with a tool to guide appropriate land use planning, building and development with the Ngaanyatjarra Lands Communities.

**RECOMMENDATION**

That Council endorses the Kanpa Community Layout Plan 1 & Background Report as presented.

**VOTING REQUIREMENTS**

Simple majority

**MOVED Cr. Bates, seconded Cr. Twine, that the recommendation contained within report 006-16 be adopted.**

**#006-16**

**RESOLUTION**

That Council endorses the Kanpa Community Layout Plan 1 & Background Report as presented.

**CARRIED 8/0**

The President, Cr. McLean, gave an introduction and background to the history of CDEP and other Commonwealth programs in the Lands prior to the discussion of this item.

<b>REPORT NO: 007-16</b> <b>TO: ORDINARY COUNCIL MEETING 22nd FEBRUARY 2016</b> <b>SUBJECT: LEGAL ADVICE PROPOSAL – COMMONWEALTH INCOME SUPPORT &amp;</b> <b>RACE DISCRIMINATION ACT</b>
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## **BACKGROUND**

Report to the Council of the Shire of Ngaanyatjarraku on seeking legal advice as to whether electors of the Shire of Ngaanyatjarraku have been subject to requirements for access to Commonwealth Income Support payments that are not consistent the Race Discrimination Act.

The Shire of Ngaanyatjarraku is a mainstream WA Local Government Authority, incorporated under the Local Government Act 1994. The Shire advocates the interests and provides Local Government services to residents of the Shire.

The Shire of Ngaanyatjarraku is notable for a range of indicators of social and economic disadvantage. The 2008 census identified the Shire as having the lowest per capita incomes by Local Government on mainland Australia.

The Shire's population is predominantly made up of Ngaanyatjarra people who have a largely traditional social and cultural orientation. The Communities within the Shire are the homes of Ngaanyatjarra people living in their traditional lands. These Communities are very remote from access to very many services that are taken for granted by most Australians in their everyday lives; the nearest Centrelink Office and bank branch is a 1,000 kms away in either Kalgoorlie or Alice Springs.

The CDEP program has been terminated and replaced with an outsourced Remote Jobs and Communities Program which was in turn replaced with the Community Development Program or CDP.

The CDP that is now in place requires the Centrelink client to make application for payment, report to Centrelink fortnightly to update any earnings and personal circumstances.

The report is usually be done by phone to a Centrelink call centre Indigenous Helpline.

Access through MyGov for people who are marginally literate and numerate, with basic English language and without a personal email address for the allocation of customer number and username and an SMS supplied linking code is not an option for nearly all customers.

The client is then required to attend and initial CDP/Job services appointment to prepare a Job Plan and subsequent monthly appointments to update the plan and look at opportunities for employment or training.

Nearly all participants are referred to a compulsory 5 day a week 5 hour a day year round Work for the Dole activity.

Breaches of any of these requirements may result in the suspension or cancellation of payments.

The CDP is funded from the Indigenous specific Indigenous Advancement Strategy (IAS).

Very few of the people affected by the CDP are non- Indigenous and even less of those non Indigenous people affected live in discrete Aboriginal Communities.

For more than 30 years, Commonwealth Income Support was delivered in the Ngaanyatjarra Communities through an Indigenous specific community controlled program called the Community Development and Employment Program.

The program was a bulk allocation of Income Support based on a schedule of CDEP participants and an amount of between 10% and 15% of that allocation to administer the program and provide suitable activities and opportunities for work and engagement.

The CDEP program was remarkably successful in taking Ngaanyatjarra people from extreme levels of violence, poverty, petrol sniffing and alcohol abuse, social and administrative dysfunction and almost every other conceivable expression of disadvantage. The program delivered significant and sustainable improvements in living conditions and economic circumstances of Ngaanyatjarra people.

The CDEP was derided generally and there may well have been places, where on a case by case basis there, was no sound reason to continue with the program.

The Ngaanyatjarra Communities were not the subject of any examination of the impact of the cancellation of the program and in to a set of conditions and obligations they were not able to comply with in order to access Income Support.

The CDEP was the centrepiece of the very modest Ngaanyatjarra regional economy. The combination of community controlled access to appropriate levels of Income Support and the additional funds to govern and administer built an economy and infrastructure that was far greater than the sum of its parts.

A key driver for closing CDEP down in the NT to enable the implementation of compulsory Income Management as the central element of the Northern Territory Emergency Response.

Ensuing years has seen an increasing Commonwealth Government insistence that all ills in Indigenous Communities were the product of the corrosive effects of passive welfare and that all solution were to be found in coercive welfare reform.

The Commonwealth Government is insisting on characterising Income Support in remote Indigenous Communities as a payment for engagement in sub minimum wage employment with no conditions of employment.

The Income Support is calculated as the sum needed to meet the basic necessities of life for people with no other resources. The amount is also set as low as possible with the intention of leaving the maximum incentive to get a job and an income.

Poverty, like being homeless is a full time occupation, requiring endless compromise and adaptation to circumstances and trivial obstacles become un-negotiable hurdles.

The CDP program provides no consideration as to whether the obligations imposed on access to Income Support are reasonable or achievable given the fundamental purpose of Income Support and the capacity of the people affected to comply with the program requirements. It is entirely self-defeating and wrong if the purpose of providing a legislated social safety net for the most vulnerable people in the Australian community is undermined by a policy that undermines access to that provision for the basic necessities of life.

The Shire of Ngaanyatjarraku is seeing the unravelling of decades of progress as the current uninformed Commonwealth policy and program are rolled out. As such, the Shire intends to seek legal advice as to whether the Commonwealth CDP program requirements for access to Income Support in the Shire of Ngaanyatjarraku breach the Race Discrimination Act.

Richard Bradshaw of Johnston Withers Adelaide has been approached to ask if the CDP Program may be unlawful in the requirements for access to Income Support imposed under the terms of the CDP Program.

Mr Bradshaw was approached because of his record of advocacy on behalf of Indigenous rights over a long career.

Mr Bradshaw has a history with the Ngaanyatjarra people over their land tenure and other matters. He has a familiarity with the circumstances of Ngaanyatjarra people that is key to the matter we have asked him to examine and to determine an opinion if the CDP is lawful under the provisions of the *Racial Discrimination Act 1975 (Cth)*.

Mr Bradshaw has responded by advising "I confirm my preliminary view that, having regard to the RDA, there appears to be a legal issue as to the lawfulness of the RJCP (Remote Jobs Community Program?) which warrants further research with a view to the provision of a legal opinion."

The Australian Federation has the Australian Government, State and Territory Government and Local Government.

The CDP program is a program that is not of direct to consequence the Australian Government or the State Government.

The CDP program is having a very big effect on this Local Government and it is appropriate for the Shire of Ngaanyatjarraku to look to the economic, social and cultural security of the Shire and its people.

## **STATUTORY ENVIRONMENT**

Not applicable.

## **POLICY IMPLICATIONS**

There are no policy implications resulting from the recommendation of this report.

## **FINANCIAL IMPLICATIONS**

An amount of \$50,000 will be needed to commence the work of research to provide a legal opinion in order to present the Shire with the most appropriate response to ensure the rights of their electors are adequately protected. This means that a budget amendment will be required to the line item 42232 “Legal Expenses – Other” which currently only has a \$2,500 provision for the 2015/16 year; this will be included in the forthcoming annual budget review.

## **STRATEGIC IMPLICATIONS**

Not applicable.

## **RECOMMENDATIONS**

- That Council resolve to engage Mr Richard Bradshaw of Johnson Withers Adelaide to commence work on the legal opinion in regards to CDP and the Race Discrimination Act with a view to progressing a complaint with the Australian Human Rights Commission.
- That Council resolve to amend the 2015/16 annual budget to provide an additional \$50,000 in the line item 42232 “Legal Expenses – Other”; capital expenditure of the same amount on a replacement tip truck will be reduced by the same amount in order to maintain the balanced budget. These actions to be incorporated in the annual budget review.

## **VOTING REQUIREMENT**

Absolute majority required

**MOVED Cr. P. Thomas, seconded Cr. Bates, that the recommendation contained within report 007-16 be adopted.**

**#007-16**

## **RESOLUTION**

- *That Council resolve to engage Mr Richard Bradshaw of Johnson Withers Adelaide to commence work on the legal opinion in regards to CDP and the Race Discrimination Act with a view to progressing a complaint with the Australian Human Rights Commission.*
- *That Council resolve to amend the 2015/16 annual budget to provide an additional \$50,000 in the line item 42232 “Legal Expenses – Other”; capital expenditure of the same amount on a replacement tip truck will be reduced by the same amount in order to maintain the balanced budget. These actions to be incorporated in the annual budget review.*

**CARRIED 8/0**

**REPORT NO: 008-16** TO: ORDINARY COUNCIL MEETING 22<sup>nd</sup> FEBRUARY 2016  
**SUBJECT: PROPOSED NGAANYATJARRA SPORTS DEVELOPMENT PROJECT**

The Shire of Ngaanyatjarraku, along with the Ngaanyatjarra Council, has been approached by the Ngaanyatjarra School Executive Principal about funding a sports development program and a number employment positions to anchor the operation of ‘home and away’ football and softball competition between the Ngaanyatjarra Communities.

The Project is stated to be prepared on behalf of the Shire of Ngaanyatjarraku. The project documents have been supplied to the Shire of Ngaanyatjarraku, however not prepared on behalf nor at this stage endorsed by the Shire of Ngaanyatjarraku.

While it potentially involves the Ngaanyatjarra Council CDP, the project also links to a proposed incorporated Ngaanyatjarra Sports Association – it would appear that this would be set up as an autonomous body to receive, manage and expend funds for the project.

The project is currently beyond the financial and human resources of the Shire to fund, and is a lesser priority than the support for the 3 local community swimming pools.

One of the key executive function tests is whether a project will be well managed. As it is presently described, this project would appear to have a very diffuse accountability and control method that would not mesh comfortably with our Local Government structure of operating.

The project clearly has a significant deficit in the funding required to meet the cost described. The communities and individuals are all under considerable financial stress as a consequence of the cancellation of community controlled CDEP. Community financial support to any appreciable extent is highly unlikely. Individual membership fees are similarly unlikely to produce useful outcomes against the considerable cost of the project. The project author/consultant has identified many potential avenues for funding, however most of these would require considerable time and also expense to manage and acquit – these administrative costs have not been factored in to the proposal in any way.

The project duplicates a long standing existing form of football carnivals that reflect the social, cultural and sporting nature of the events. In past attempts to establish a home and away competition, the community organised carnival format has prevailed.

**STATUTORY ENVIRONMENT**

Not applicable.

**POLICY IMPLICATIONS**

There are no policy implications resulting from the recommendation of this report.

## **FINANCIAL IMPLICATIONS**

Whilst the proposal author has identified considerable funding streams or grants that could be accessible, no consideration has been given to the administrative overheads involved should funding be made available through these avenues. The proposal itself also relies heavily on anticipated community contributory funding and other costs that the Shire would have to meet directly – none of this is presently provided for in the annual budget, and the budget would require significant re-working if Council was to take part in the project.

It should also be noted that Council already makes a significant investment (in excess of \$1.5 million) each year in recreation and youth services throughout the Lands communities, including most importantly the management and operation of the pools in Warburton, Warakurna and Blackstone.

## **STRATEGIC IMPLICATIONS**

Not applicable.

## **RECOMMENDATIONS**

That Council resolves and advises that it is not in a position to manage or otherwise be involved in the proposed Ngaanyatjarra Sports Development Project; however if another party can administer and fund the program the Shire would support this.

## **VOTING REQUIREMENT**

Simple majority required

**MOVED Cr. Jones, seconded Cr. Frazer, that the recommendation contained within report 008-16 be adopted.**

**#008-16**

## **RESOLUTION**

*That Council resolves and advises that it is not in a position to manage or otherwise be involved in the proposed Ngaanyatjarra Sports Development Project; however if another party can administer and fund the program the Shire would support this.*

**CARRIED 8/0**

Councillor Bates commented that he wished to place on record he felt it would be very good to have a scheduled local AFL competition, but the Shire's investment in programs like the pools was more important.

Councillor Preston Thomas added that he can see the point of the proposal, but said the cost of a league would be very expensive. The South Australian APY communities already have this but it is sponsored by the SANFL and the Shire wouldn't have those sort of resources to do it at the moment.

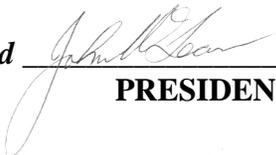
**MATTERS FOR THE INFORMATION OF MEMBERS**

The CEO Mr. Paget provided a briefing to the Members on the Department of Local Government & Communities Circular 01-2016 “Upcoming Changes to Declaration of Gifts and Travel Contributions”, explaining the new requirements for Councillors and designated employees to declare gifts and travel contributions within 10 days of receiving such; previously these were included on the individual’s annual return. Such declarations are then kept on a register which is maintained by the Chief Executive Officer of the Local Government; it is the responsibility of the individual concerned to make the declaration and the relevant form(s) can be provided by the CEO.

**CLOSURE**

There being no further business, the Shire President thanked everyone for their attendance and closed the meeting at 1.31pm (WST).

These minutes of the meeting held 22<sup>nd</sup> February 2016 were confirmed at the meeting held on 30<sup>th</sup> March 2016.

Signed  \_\_\_\_\_  
**PRESIDENT**

Date 30.03.16