



Shire of Ngaanyatjaraku
ON A JOURNEY

ORDINARY MEETING OF COUNCIL

MINUTES

28 June 2023

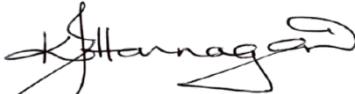
at

1.00 pm

SHIRE OF NGAANYATJARRAKU

ORDINARY MEETING OF COUNCIL

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



Chief Executive Officer

Date: 5/07/2023

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 28 June 2023.

Presiding Member: _____



Date: 26/
/07/2023

1.	DECLARATION OF OPENING.....	4
2.	ANNOUNCEMENT OF VISITORS.....	4
3.	ATTENDANCE	4
3.1	PRESENT	4
3.2	APOLOGIES.....	4
3.3	APPROVED LEAVE OF ABSENCE.....	4
4.	PUBLIC QUESTION TIME	4
4.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.2	PUBLIC QUESTION TIME	4
5.	APPLICATIONS FOR LEAVE OF ABSENCE.....	4
6.	DECLARATION BY MEMBERS.....	4
6.1	DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA.....	4
6.2	DECLARATIONS OF INTEREST	4
7.	ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION.....	6
8.	PETITIONS, DEPUTATIONS, PRESENTATIONS	6
8.1	PETITIONS.....	6
8.2	DEPUTATIONS	6
8.3	PRESENTATIONS	6
9.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	6
9.1	ORDINARY MEETING OF COUNCIL.....	6
10.	CEO REPORTS.....	7
10.1	PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS	7
10.2	REVIEW OF COUNCIL POLICIES.....	9
10.3	BUSH FIRE BRIGADES LOCAL LAW 2023	11
10.4	COUNCILLOR VACANCY TO REMAIN UNFILLED	15
11.	GENERAL MANAGER OPERATIONS REPORTS.....	17
11.1	RFT 01 2022/23, ROAD CONSTRUCTION AND MAINTENANCE	17
11.2	ACTION REPORT – OPERATIONS	20
12.	CHIEF FINANCIAL OFFICER REPORTS	22
12.1	MONTHLY PAYMENTS LISTING	22
12.2	COUNCIL INVESTMENTS.....	24
12.3	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED	27
13.	DIRECTOR GOVERNANCE & STRATEGIC REPORTS.....	30
14.	NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION	30
15.	CONFIDENTIAL MATTERS	30
15.1	STAFF MATTER, ORGANISATION REVIEW	30
15.2	STAFF MATTER, CEO RETIREMENT	30
16.	NEXT MEETING.....	32
17.	CLOSURE OF MEETING	32

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.00 pm.

2. ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed members of the public to the gallery.

3. ATTENDANCE

3.1 PRESENT

Elected Members:	President Deputy President Councillor Councillor Councillor Councillor	D McLean P Thomas (President phone approval given 21/06/23) D Frazer J Porter (President phone approval given 21/06/23) J Frazer (President phone approval given 21/06/23) A Jones
Staff:	CEO GMO AC OC	K Hannagan D Mosel S Richardson S Latham (via video conference)
Guests:	Fergus Kiley Kim Pervan	General Manager, Nico Resources Stakeholder Manager, Nico Resources
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	

3.2 APOLOGIES

Nil

3.3 APPROVED LEAVE OF ABSENCE

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. DECLARATION BY MEMBERS

6.1 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.

6.2 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:

- (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. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

This is Kevin's last meeting. The Council would like to record a debt of gratitude and thanks to Kevin for all the work done over the last 5 years for the Shire and to send Kevin a letter of appreciation. The Council would also like to welcome David Mosel as the incoming CEO.

Council Resolution

Moved: Cr P Thomas

Seconded: Cr A Jones

That Council approves a letter of appreciation be given to the outgoing Shire CEO Kevin Hannagan upon his retirement and welcomes David Mosel as the incumbent CEO.

Carried: 6/0

8. PETITIONS, DEPUTATIONS, PRESENTATIONS

8.1 PETITIONS

8.2 DEPUTATIONS

8.3 PRESENTATIONS

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.1 ORDINARY MEETING OF COUNCIL

Voting Requirement

Simple Majority

Officer Recommendation and Council Resolution

Moved: Cr J Porter

Seconded: Cr D Frazer

That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 31 May 2023 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community (as circulated and available on the Shires official website) be confirmed as a true and accurate record.

Carried: 6/0

10. CEO REPORTS

10.1 PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS

FILE REFERENCE: GV.05

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 13 June 2023

DISCLOSURE OF INTERESTS: The author has no direct financial interests, indirect financial interests, proximity, and impartiality interests in the proposal.

Summary

The purpose of this agenda item is to report back to Council on the progress of the implementation of Council resolutions.

Background

The best practice in governance supports the regular review of Council decisions to ensure that they are actioned and implemented in a timely manner.

Comment

Wherever possible, Council decisions are implemented as soon as practicable after a Council meeting. However, there are projects or circumstances that mean some decisions take longer to action than others.

Ongoing monthly reports will show the status of Council Resolutions that have not been actioned.

Generally, all resolutions have been enacted. Some matters are of an on-going nature and will take several months to complete. Attached is a list of those items not yet completed.

Statutory Environment

Local Government Act 1995:

Section 2.7

"Role of council

(1) The council —

- a) governs the local government's affairs; and*
- b) is responsible for the performance of the local government's functions.*

(2) Without limiting subsection (1), the council is to —

- a) oversee the allocation of the local government's finances and resources; and*
- b) determine the local government's policies."*

The above section of the Act notwithstanding, there is no specific legal requirement to present such a report to Council or for Council to receive or consider such a report. The decision to have the report in the Council's monthly agenda is entirely Council's prerogative. Staff acknowledge the critical and ongoing nature of the document, in that Council 'speaks by resolution'.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation
Strategy, 8.2, Maintain corporate governance, responsibility, and accountability.

Risk Management

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

Policy Implications

There are no known policy implications for this matter.

Attachments

10.1 – Table of items not yet completed

Voting Requirement

Simple Majority

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Frazer

That Council notes the monthly report, Progress on the implementation of Council Resolutions.

Carried: 6/0

10.2 REVIEW OF COUNCIL POLICIES

FILE REFERENCE: CM.14

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 15 June 2023

DISCLOSURE OF INTERESTS: The author has no financial, proximity or impartiality interest in the proposal.

Summary

For Council to consider the Annual review of policies for the Shire of Ngaanyatjarraku, including a new policy.

Background

Legislation provides for policies to be determined by Council, and for the CEO to manage the day to day operations of the local government. Policies should provide a written reference to clearly link the higher-level directions set by the Council and the operational considerations which the CEO will employ to cause council decisions to be implemented.

Policies should provide guidance to articulate the strategic direction of Council and set out the position of the local government to follow at an operational level (e.g. we shall, we shall not), particularly where legislation does not provide such guidance. They are not necessarily intended to provide direction on how different functions are to be executed, except where legislation requires it.

The CEO/administration will interpret the policies and strategic direction set by Council to formulate operational processes and procedures. These processes and procedures should detail the tasks and requirements which must be accomplished, as well as specific actions to be performed by staff. They are essentially a set of business rules intended to communicate expected standards to staff from the CEO, to achieve the strategic direction of Council.

Comment

It is good practice to review Council Policies annually as a minimum.

Minor changes to the Policy Manual to reflect changes in staff position titles.

Other changes proposed are:

- 2.1, Purchasing Policy: Section 3.3, Table of Purchasing Thresholds and Practices – increase threshold 2 to \$5,000 to \$11,999 and reduce threshold 3 to \$12,000 - \$24,999. This is to reflect the large inflationary increases of prices during the last two years.
- 3.1 Senior Employees – Due to changes to the Organisational Structure and titles of senior staff, the policy also needs updating.
- 3.2 Appointment of Acting CEO - Due to changes to the Organisational Structure the default Acting CEO in an emergency situation needs to be amended to Finance Manager.
- 3.3 Employee Gratuity Payments sets out circumstances when an employee who is ceasing employment with the Shire may be paid an amount in addition to their entitlements the maximum payment has been increased from \$3,000 to \$5,000 in accordance with the Local Government (Administration) Regulations and reflects increased inflationary costs.
- 3.6 Expenses – New Policy to clarify how staff are reimbursed for reasonable expenses that are authorised to be incurred while performing the functions of their position.

Statutory Environment

Section 2.7(2)(b) of the Local Government Act 1995 sets out the role of council that includes determining Council policies.

Section 5.41 of the Local Government Act 1995 provides for the CEO to manage the day to day operations of the local government, and to cause Council decisions to be implemented.

There is no formal obligation for the adoption and review of Council policies, except where legislation requires it. Policies are also required by legislation to have an absolute majority decision of Council to amend the policies, and for up to date copies of the policies to be published on the official local government website.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.1.2, Maintain effective policies, procedures and practices

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku's Risk Management Strategy, Risk Assessment Matrix. The perceived level of risk is high prior to treatment, the adoption of reviewed policies will reduce the risk to low.

Policy Implications

Updated policies are intended to provide the Shire with clearer direction to guide the CEO/administration in the execution of decisions of Council, achieve the strategic direction of the Shire of Ngaanyatjarraku and maintain legislative compliance.

Attachments

Attachment 10.2 - Shire of Ngaanyatjarraku Council Policy Manual, 28 June 2023.

Voting Requirement

Absolute Majority

Officer Recommendation and Council Resolution

Moved: Cr A Jones

Seconded: Cr D Frazer

That Council:

- 1. adopts the review incorporating changes to amend and adopt new policies as per Attachment 10.2 which forms the updated Council policy manual; and**
- 2. publishes a copy of the reviewed policy manual on the Shire's official website.**

Carried: 6/0

10.3 BUSH FIRE BRIGADES LOCAL LAW 2023

FILE REFERENCE:	FM.02
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	15 June 2023
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider submissions made and adopt an amended Shire of Ngaanyatjaraku, Bush Fire Brigades Local Law 2023 to support the recently created brigade in Warburton.

Background

At Council's April Meeting the following resolution was made:

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Frazer

That Council:

- 1. requests the President presiding at this meeting to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.**
- 2. Gives:**
 - (a) local public notice stating that —**
 - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and**
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and**
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and**
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and**
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.**
- 3. After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.**

Carried: 6/0

Comment

Above resolution items 1 – 2 have been completed.

Item 3 – Submissions.

One submission was received from the Acting Commissioner, Department of Fire and Emergency Services. The submission was forwarded to Shire Lawyers McLeods regarding two matters raised as follows:

- The Shire may wish to consider the decision of the Joint Standing Committee of Delegated Legislation in *Report 16: City of Rockingham Bush Fire Control and Bush Fire Brigades Amendment Local Law 2018* (published June 2019)¹, and its findings in relation to the required content of BFB local laws.
- DFES notes that the *Fire Brigades Regulations 1943* stipulate eligibility criteria for volunteer brigades formed under the *Fire Brigades Act 1954*. Regulation 159C provides for eligibility of probationary members from 16 years if they have parental/guardian consent and the brigade's captain is satisfied that the prospective member is able to perform the requisite duties. As a matter of policy, the Shire may wish to consider adding these protective mechanisms within their clause 4.2.

Legal Advice

McLeods response was as follows:

Point 2 refers to Report 16 of the JSCDL, which related to an amendment local law of the City of Rockingham that the JSCDL objected to on the basis that it sought to delete a number of provisions in the local law that the JSCDL considered were required by the Act. I don't have a copy of that local law, so can't refer to exact wording of the relevant provisions, however the JSCDL recently made a similar objection to bush fire brigade local laws submitted by two other LG clients (Geraldton and Carnarvon). The gist of the objection was that they had made local laws that didn't include provisions that the JSCDL considered were required by the Act. We wrote to the JSCDL and challenged that view with reference to the relevant provisions of the Act and the JSCDL agreed to not pursue the objection. The gist of our submission was that the wording of s. 62(1) is discretionary as to matters to be addressed in local laws and does not mandate that all matters referred to therein be included in a local law. In any event, your local law follows the WALGA model, so I would be surprised if the JSCDL objected to a local law based on the WALGA model local law. So I don't consider that second dot point necessitates any change in the Shire's local law.

Point 4 refers to eligibility criteria for volunteer brigades formed under the Fire Brigades Act 1954. However, that Act (and the Regulations referred to) applies to volunteer brigades established by the FES Commissioner under s. 26 of the Fire Brigades Act. In contrast, the local law applies to brigades formed by the Shire under s. 41 of the Bush Fires Act 1954. The Regulations referred to in the dot point thus refer to brigades under a separate statutory regime. I therefore do not consider that any amendment is required to cl. 4.2.

Attachment 10.3(b) contains the CEO response letter as outlined above.

A further submission was received from Department of Local Government, Sport and Cultural Industries with some procedural comments and some suggested Minor Edits regarding 'formatting'.

Statutory Environment

Local Government Act 1995

s.3.12 Procedure for making local laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

Financial Implications

The Shire made a Budget Allocation for the WBFB in its 2022/23 Mid-Year Budget Review. Funding is provided through the Local Government Grant Scheme for uniforms, training, and operating costs of the brigade.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 1, Our People

Outcome 2, Healthy people

Strategy 2.1, Advocate for adequate health and emergency services provision

Action 2.1.2, Lobby for appropriate levels of health and emergency services provision

Risk Management

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

Policy Implications

There are no known policy implications for this matter.

Attachments

10.3(a) – Submission from DFES

10.3(b) – Response letter to DFES

10.3(c) - Bush Fire Brigades Local Law 2023.

Voting Requirement

Absolute Majority.

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr A Jones

That Council:

- 1. Make a Bush Fire Brigades Local Law 2023;**
- 2. Authorise the use of the Common Seal to enable the President and Chief Executive Officer to sign and seal the Bush Fire Brigades Local Law 2023;**
- 3. Publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister;**
- 4. After the local law has been published in the Gazette give local public notice –**
 - (a) stating the title of the local law; and**
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and**
 - (c) advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office; and**
 - (d) Comply with the requirements of the Minister’s Local Laws Explanatory Memoranda Directions 2010.**

Carried: 6/0

10.4 COUNCILLOR VACANCY TO REMAIN UNFILLED

FILE REFERENCE: GV.07

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 22 June 2023

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial, proximity or impartiality interests in the proposal.

Summary

The purpose of this agenda item is for Council to consider requesting the approval of the Electoral Commissioner to allow the vacancy caused through the passing of Cr. L West to remain unfilled until the next ordinary Council election in accordance with section 4.17 of the Local Government Act 1995.

Background

Councillor Cr West has passed away as advised by the Shire President. In accordance with section 2.31 of the Local Government Act her vacant position is effective immediately.

Comment

Pursuant to Section 4.17(3) and (4A) of the *Local Government Act* 1995 the Council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and on that basis the term of the member who held the office is to be regarded to end on the day on which it would have ended if the vacancy had not occurred. Cr. L West was elected to office in October 2019, and her four-year term was to expire in October 2023. The next ordinary elections for Council are to be held in October 2023.

Statutory Environment

Local Government Act 1995:

2.32. How extraordinary vacancies occur in offices elected by electors

The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —

(a) dies;

4.17. Cases in which vacant offices can remain unfilled

(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

** Absolute majority required.*

(4A) Subsection (3) applies —

(a) if —

(i) the office is for a district that has no wards; and

(ii) at least 80% of the number of offices of member of the council in the district are still filled; or

(b) if —

(i) the office is for a ward for which there are 5 or more offices of councillor;

and

(ii) at least 80% of the number of offices of councillor for the ward are still filled.

(4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.

Financial Implications

There would be a cost to hold an in-person extraordinary election if Council wished to fill the vacancy, this would vary in price depending on if it is conducted 'in-house' or via engaging the WA Electoral Commission (WAEC) to run the process on the Shire's behalf. Council's annual budget has generally made provision of approximately \$5,000 (plus staff and travel costs) for the costs of running elections in-house; appointing the WAEC to oversee and manage the election is likely to cost significantly more (estimated \$10,000 - \$20,000) and a quotation would be sought to ascertain the amount should Council wish to proceed in this way.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

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

Policy Implications

Not applicable

Attachments

Nil

Voting Requirement

Absolute majority.

Officer Recommendation and Council Resolution

Moved: Cr P Thomas

Seconded: Cr D Frazer

That Council pursuant to section 4.17 (3) and 4 (A) of the Local Government Act 1995, requests the WA Electoral Commissioner to permit the vacancy created by the passing of Cr L West to remain unfilled until the next ordinary election in October 2023.

Carried: 6/0

11. GENERAL MANAGER OPERATIONS

11.1 RFT 01 2022/23, ROAD CONSTRUCTION AND MAINTENANCE

FILE REFERENCE:	PL.23
AUTHOR'S NAME AND POSITION:	David Mosel General Manager Operations
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	22 June 2023
DISCLOSURE OF INTERESTS	The officers have no financial, proximity or impartiality interests in the proposal.

Summary

A Request for Tender 02, 2022/23, Road Construction and Maintenance was advertised via statewide public notice in The West Australian Newspaper on Saturday, 27 May 2023.

Five conforming tenders were received via Tenderlink in response to the RFT.

The evaluation panel is still in the process of completing its assessment of the tender submissions and is interviewing two preferred candidates.

Background

The Shire of Ngaanyatjarraku (Shire) invited Tenders from suitably qualified and experienced civil contractors to undertake unsealed road maintenance of roads within the district of the Shire of Ngaanyatjarraku in addition to (if requested) civil works which may include work on sealed roads (additional seal specification may be issued for identified works) and / or repair work following declared natural disasters.

The contract will be a performance-based 2-year contract, with possible extensions of 3 years, plus 3 years (up to 8 years in total). Contract renewal will be at the Principal's sole discretion and may be based on performance reviews and / annual budget allocation.

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 advertised selection criteria were:

Qualitative Criteria		Weighting
(a)	Relevant Experience and Organisational Capacity	25%
(b)	Resources	25%
(c)	Sustainability	10%
(d)	Price	40%

Comment

The Evaluation and Recommendation Report, including the overall evaluation scores, will be tabled at the Council Meeting as a confidential item.

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 Shire makes annual budget provision for works on its road network each financial year.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku'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 Services Policy CS2.6, Purchasing

Attachments

11.2 - Confidential Evaluation Report provided under separate cover to the meeting.

Voting Requirement

Simple Majority Required.

Officer's Recommendation

In respect to Tender RFT 01 2022/23, Road Construction & Maintenance:

1. Resolve that Evaluation Report and Attachment 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. Notes the attached Confidential Evaluation Report 11.1;
3. Award the contract toTBA..... as per their submitted Schedule of Rates for an estimated annual value of\$TBA.... 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 extensions / variations providing this does not exceed the annual budget allocation or reduce the overall scope.

Officer Recommendation and Council Resolution

Moved: Cr P Thomas

Seconded: Cr D Frazer

That Council:

1. **Resolve that Evaluation Report and Attachment is confidential in accordance with section 5.23 (2) of the Local Government Act 1995 because it deals with matters affecting section 5.23 (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. **Notes the attached Confidential Evaluation Report 11.1;**
3. **That Council award tender RFT01 FYE2023 Road Construction and Maintenance to Desert Sands (Trustee for Ty Service Trust); and**
 - (a) **authorise the CEO to finalise and execute a contract to complete the works in accordance with Desert Sands’ Tender (and further submitted documents);**
 - (b) **delegate authority to the CEO to determine the inclusion and scope of the “Road Manager” role and include into the contract;**
 - (c) **delegate authority to the CEO to determine the requirements for the additional maintenance crew for the mine haulage route, with rates to be based on the pricing provided on Desert Sand’s clarification (dated 26 June 2023) and include into the contract;**
 - (d) **renew the contract at the end of each contract term (for an additional three years, up to a total of 8 years), subject to contractor performance, providing this does not exceed the annual budget allocation or reduce the overall scope.**

Carried: 6/0

Note: Council Resolution is different from the original Officer Recommendation as the confidential Evaluation Report tabled contained an updated Recommendation.

11.2 ACTION REPORT – OPERATIONAL SERVICES

FILE REFERENCE: CP.00, PE.00, RD.00 & WM.00

AUTHOR'S NAME AND POSITION: David Mosel
General Manager Operations

AUTHORISING OFFICER AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 22 June 2023

DISCLOSURE OF INTERESTS: The author and the authorising officer have no direct financial interests, indirect financial interests, proximity and impartiality interests in the proposal.

Summary

To inform Council of Building Maintenance, Plant & Equipment, Waste and Road activities and actions for the preceding month.

Background

Not applicable

Comment

See attachment.

Statutory Environment

Not applicable

Financial Implications

No known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 1, Our People

Outcome 2, Healthy People

Strategy: 2.2, Ensure appropriate regulatory health and waste services provision with funding

Goal 2, Looking after our Land

Outcome 6, Living on our Land

Strategy 6.1, Maintain Shire owned buildings and facilities

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy 8.2, Provide a good place to work

Risk Management

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

Policy Implications

There are no known policy implications for this matter.

Attachments

Attachment 11.2 – Action Report, Operations to be tabled.

Voting Requirement
Simple Majority Required.

Officer Recommendation and Council Resolution

Moved: Cr A Jones

Seconded: Cr D Frazer

That Council receives the Action Report, Operational Services for May / June 2023.

Carried: 6/0

12 CHIEF FINANCIAL OFFICER REPORTS

12.1 MONTHLY PAYMENTS LISTING

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kerry Fisher Chief Financial Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	16 June 2023
DISCLOSURE OF INTERESTS:	The author has no direct financial interests, indirect financial interests, proximity, and impartiality interests in the proposal.

Summary

For Council to confirm the payment of accounts listed in the attached Accounts for Payment.

Background

In accordance with the Local Government (Financial Management) Regulations 1996 the Chief Executive Officer is required to present a list of payments to the Council at the next ordinary meeting of the council after the list is prepared.

Comment

The payments made are consistent with previous months.

Statutory Environment

Local Government (Financial Management) Regulations 1996

S13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

- (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; and*
 - (b) *the amount of the payment; and*
 - (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; and*
 - (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 subregulation (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.*

Financial Implications

The Shire makes annual budget allocations for payment of accounts.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

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

Policy Implications

There are no known policy implications for this matter.

Attachments

12.1 – Payment Listing, May 2023

Voting Requirement

Simple Majority Required.

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr P Thomas

That Council receives the Payment Listings for May 2023 totalling payments of \$928,520.34 as per Attachment 12.1.

Carried: 6/0

12.2 COUNCIL INVESTMENTS

FILE REFERENCE:	FM.04
AUTHOR'S NAME AND POSITION:	Kerry Fisher Chief Financial Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	22 June 2023
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no direct financial interests, indirect financial interests, proximity and impartiality interests in the proposal.

Summary

For Council to be advised of the Shires Municipal Account and Investments.

Background

To invest the Shire of Ngaanyatjarraku surplus funds with consideration of risk and at the most favourable rate of interest available to it at the time, for that investment type, whilst ensuring that liquidity requirements are being met.

Comment

Preservation of capital is to be the principal objective with consideration given to liquidity, cashflow requirements and return on investment.

Preservation of capital is the principal objective of the investment portfolio. Investments are to be performed in a manner that seeks to ensure security and safeguarding the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters.

The investment portfolio will ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment.

The investment is expected to achieve a predetermined market average rate of return that takes into account the Shire's risk tolerance. Any additional target set by the Shire will also consider the risk limitation and prudent investment principles.

Better rates have been thru a quotation process with Commonwealth Banking and as such funds have been deposited there. Westpac have now agreed to be more competitive, and funds have also been invested with them. Westpac's 31-day Notice account interest rate has also improved and with the Shires Muni Operating a/c remaining stable. These funds are mainly from the Commonwealth's FAG's 2022/23 and Roads grants paid in advance along with shire reserve accounts.

Attached is a copy of the Shire Investment Register recording the details of these longer-term investments.

Statutory Environment

*Local Government Act
1995 Section 6.14*

Power to Invest

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be*

- invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may—*
- (a) make provision in respect of the investment of money referred to in subsection (1); and*
 - [(b) deleted]*
 - (c) prescribe circumstances in which a local government is required to invest money held by it; and*
 - (d) provide for the application of investment earnings; and*
 - (e) generally, provide for the management of those investments.*

Local Government (Financial Management) Regulations 1996

19. *Investments, control procedures for*
- (1) A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.*
 - (2) The control procedures are to enable the identification of—*
 - (a) the nature and location of all investments; and*
 - (b) the transactions related to each investment.*
- 19C. *Investment of money, restrictions on (Act s. 6.14(2)(a))*
- (1) In this regulation—*
 - authorised institution means—*
 - (a) an authorised deposit taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
 - (b) the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*
 - foreign currency means a currency except the currency of Australia.*
 - (2) When investing money under section 6.14(1), a local government may not do any of the following—*
 - (a) deposit with an institution except an authorised institution;*
 - (b) deposit for a fixed term of more than 3 years;*
 - (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;*
 - (d) invest in bonds with a term to maturity of more than 3 years;*
 - (e) invest in a foreign currency.*

Financial Implications

Not applicable.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

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

Policy Implications

Corporate Policy Finance 2.12 Investment.

Attachments

12.2 – Investment Register.

Voting Requirement

Simple Majority Required.

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr A Jones

That the report on Council Investments as at 22 June 2023 as per Attachment 12.2 be received.

Carried: 6/0

12.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED

FILE REFERENCE:	FM.10
AUTHOR'S NAME AND POSITION:	Kerry Fisher Chief Financial Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	22 June 2023
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no direct financial interests, indirect financial interests, proximity and impartiality interests in the proposal.

Summary

For Council to receive the monthly financial report.

Background

Council is to prepare monthly financial reports as required by the Local Government (Financial Management Regulations) 1996.

Council has resolved those details and explanations of the material variances reflected on the Statement of Financial Activity are provided as required by Local Government (Financial Management) Regulation 34(1) (d). The attached statements include details of variances between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold of \$20,000 or 10.00% whichever is the greater (refer last page of statements). These materiality levels have been applied in the preparation of this report.

Comment

Comments in relation to budget to actual variances are included as notes (last page) in the Financial Report attached. Comments related to 'Timing' refer to an estimate of when costs would occur at the time the budget was formulated versus actual costs being incurred.

'Permanent' variances to note as at end of the month are:

- Operating Grants under budget yet to be received.
- Building Fees over budget due to OzMinerals building applications for their mine construction, noting that some is payable to the Building Commission
- Interest earnings are lower due to maturity of investments later than budgeted
- Employee Costs under budget due to staff vacancies.
- Materials Costs under budget consultancy, waste, WHS, office maintenance and road maintenance
- Utility charges lower as meters estimated, not read yet.
- Other expenditure under budget as building levies yet to be remitted to CTF.

Statutory Environment

Local Government Act 1995

6.4. Financial report

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.
- (2) The financial report is to —
 - (a) be prepared and presented in the manner and form prescribed; and
 - (b) contain the prescribed information.

Local Government (Financial Management) Regulations 1996.

34. Financial activity statement required each month (Act s. 6.4)(1A) In this regulation — committed assets means revenue unspent but set aside under the annual budget for a specific purpose.
- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
 - (2) Each statement of financial activity is to be accompanied by documents containing
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
 - (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
 - (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
 - (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Financial Implications

Monthly financial reporting is a primary financial management and control process. It provides the Council with the ability to oversee the Shire's financial performance against budgeted targets.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

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

Policy Implications

No policy implications apply in the preparation of the report.

Attachments

12.3 - Monthly Financial Report, May 2023

Voting Requirement
Simple Majority Required.

Officer Recommendation and Council Resolution

Moved: Cr J Porter

Seconded: Cr D Frazer

That Council receives the monthly financial report for May 2023.

Carried: 6/0

13. DIRECTOR GOVERNANCE & STRATEGIC REPORTS

14. NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION

15. CONFIDENTIAL MATTERS

15.1 STAFF MATTER, ORGANISATION REVIEW

FILE REFERENCE: PL.23

AUTHORISING OFFICER AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 17 June 2023

DISCLOSURE OF INTERESTS: The authorising officer has no financial, proximity or impartiality interests in the proposal.

Attachments

Attachment provided under separate cover – Confidential Report 15.1

15.2 STAFF MATTER, CEO RETIREMENT

FILE REFERENCE: PL.23

AUTHORISING OFFICER AND POSITION: Kevin Hannagan
Chief Executive Officer

DATE REPORT WRITTEN: 17 June 2023

DISCLOSURE OF INTERESTS: The authorising officer has a financial interest in the proposal as he is the subject matter.

Attachments

Attachment provided under separate cover – Confidential Report 15.2

Voting Requirement

Simple Majority Required.

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr A Jones

That Council:

- 1. Resolve that Reports 15.1 and 15.2 are confidential in accordance with s5.23 (2) the Local Government Act because it deals with matters affecting s5.23 (2):
(a) a matter affecting an employee or employees;**
- 2. Close the meeting to the public pursuant to sub section 5.23 (2)(a) of the Local Government Act 1995.**
- 3. Authorises the Chief Executive Officer and General Manager Operations to remain in the meeting for report 15.1.**
- 4. Authorises the General Manager Operations to remain in the meeting for report 15.2.**

Carried: 6/0

Local Government (Administration) Regulations 1996, Reg 14CA(5)

The following councillors made a declaration under subregulation (5):

- Cr P Thomas
- Cr J Porter
- Cr J Frazer

All members of the public gallery and staff left the meeting at 1.32 pm. (Note: Chief Executive Officer and General Manager Operations to remain for report 15.1, and General Manager Operations to remain for report 15.2, to answer any questions and take minutes).

The Chief Executive Officer left the meeting at 1.34 pm.

Voting Requirement

Simple Majority.

Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Porter

That Council re-open the meeting to the public.

Carried: 6/0

No members of the public gallery and staff members re-entered the room at 1.36 pm.

The Presiding Member advised of Council's decision for the Confidential Agenda Items.

15.1 Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Porter

That Council approves the proposed organisation structure, 1 July 2023 as an appropriate structure for administering the local government, as per Confidential Attachment 15.1.

Carried: 6/0

15.2 Officer Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr A Jones

That Council in accordance with its Employee Gratuity Payments Policy 3.3, approves the retiring Chief Executive Office to be gifted the proposed items mentioned in Confidential Item 15.2.

Carried: 6/0

16 NEXT MEETING

Scheduled for Wednesday, 26 July 2023 at the Tjulyuru Cultural and Civic Centre, Warburton Community commencing at 1:00 pm.

17 CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 1.38 pm.

Note: Nico Resources personnel will be giving Councillors a presentation of their plans for their Wingellina mine development after the Council meeting.