



# MINUTES

Ordinary Meeting of Council

16 October 2019

**SHIRE OF CARNAMAH**  
**ORDINARY MEETING OF COUNCIL – 16 October 2019**

**MINUTES**

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## SHIRE OF CARNAMAH

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The Shire of Carnamah advises that anyone who has any application lodged with the Shire of Carnamah shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Carnamah in respect of the application.

Signed: \_\_\_\_\_

**CHIEF EXECUTIVE OFFICER**

# SHIRE OF CARNAMAH

## MINUTES

### ORDINARY MEETING OF COUNCIL

Held at the Council Chambers, 33-37 Macpherson Street, Carnamah 6517

Wednesday 16 October 2019

Commencing at 4:00pm

#### 1. DECLARATION OF OPENING

The President welcomed those present and declared the meeting open at 4.00pm.

#### 2. RECORD OF ATTENDANCE

##### Present

|                      |                  |
|----------------------|------------------|
| Cr Merle Isbister    | President        |
| Cr Dwayne Wooltorton | Deputy President |
| Cr Ian Bowman        |                  |
| Cr Ian Stirling      |                  |
| Cr Luke Risinger     |                  |

|                  |                                |
|------------------|--------------------------------|
| Mr Sean Fletcher | Acting Chief Executive Officer |
| Mr Ian Walsh     | Deputy Chief Executive Officer |
| Mr Phil Casbolt  | Manager of Works and Services  |
| Ms Jennie Benson | Executive Officer              |

##### Apologies

Cr Andrew Bowman-Bright

##### Leave Of Absence (Previously Approved)

Cr Kikeros

#### 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

#### 4. PUBLIC QUESTION TIME

There were no members of the public present.

**5. APPLICATION FOR LEAVE OF ABSENCE**

Moved: Cr Woollorton  
Seconded: Cr Bowman

That Cr Luke Risinger be granted Leave of Absence for the Ordinary Meeting of Council scheduled for 20 November 2019.

**CARRIED: 5-0**

**6. DISCLOSURE OF INTEREST**

Sean Fletcher declared an Impartial Interest in Items 10.2.1 and 10.2.2 in today's agenda – he has a training contract with WALGA.

**7. PETITIONS, DEPUTATIONS AND PRESENTATIONS**

Nil

**8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

The President (Cr Merle Isbister) acknowledged that this would be the last meeting with Cr Ian Stirling who is retiring from Council, and thanked him for his contribution and service to the communities of Carnamah and Eneabba.

**9. CONFIRMATION OF MINUTES**

**9.1 Minutes of Ordinary Meeting of Council held 18 September 2019**

*As Circulated*

**VOTING REQUIREMENT**

Simple Majority

**Council Resolution 20191001**

**Item 9.1**

Moved: Cr Risinger  
Seconded: Cr Woollorton

**That the Minutes of the Ordinary Meeting of Council held on 18 September 2019 be accepted as a true and correct record.**

**CARRIED 5-0**

## 10 MANAGEMENT REPORTS

### 10.1 FINANCE REPORTS

#### 10.1.1 Accounts for Payment

|                         |  |
|-------------------------|--|
| Applicant:              | N/A  |
| Location / Address:     | N/A  |
| File Ref:               | ADM0075                                    |
| Disclosure of Interest: | Nil  |
| Date:                   | 8 October 2019                             |
| Author:                 | Ian Walsh - Deputy Chief Executive Officer |
| Attachments:            | 10.1.1 - Cheque & EFT Listing              |

#### SUMMARY

Council to confirm the payment of creditors for the period 7 September 2019 to 4 October 2019, in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

#### ATTACHMENT

Copy of list of accounts paid (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13(1).

#### BACKGROUND

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

#### COMMENT

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the provision of services and as to prices, computations and costings, and that the amounts shown were due for payment.

#### CONSULTATION

Nil

#### STATUTORY ENVIRONMENT

Local Government Act 1995, Section 6.4 *Financial Report*  
Local Government (Financial Management) Regulations 1996 -  
*Section 12 Payments from municipal fund or trust fund;*  
*Section 13 Lists of accounts; and*  
*Section 15 Rounding off figures*



**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENT**

Simple Majority

**Council Resolution 20191002**

**Item: 10.1.1**

**Moved: Cr Bowman**  
**Seconded: Cr Risinger**

**That payment listed as Attachment 10.1.1. List of Accounts Due and Paid for the period 7 September 2019 to 4 October 2019; and paid by the Chief Executive Officer under delegated authority of Council, or by the Deputy CEO (in the Chief Executive Officer's absence) as delegated by the Chief Executive Officer including:**

|                                  |                        |
|----------------------------------|------------------------|
| <b>Manual Municipal cheques:</b> | <b>022623 – 022626</b> |
| <b>Municipal cheques:</b>        | <b>28135 – 28138</b>   |
| <b>Municipal EFT's:</b>          | <b>12722 – 12818</b>   |
| <b>Trust Cheques:</b>            | <b>NIL</b>             |
| <b>Payroll direct debits:</b>    | <b>#06 - #07</b>       |
| <b>Municipal Direct Debits</b>   | <b>30/09/2019</b>      |

**Totalling \$449,161.54 be approved and passed for payment.**

**CARRIED 5-0**

## 10.1.2 Financial Reports to 30 September 2019

|                         |  |
|-------------------------|--|
| Applicant:              | N/A  |
| Location / Address:     | N/A  |
| File Ref:               | ADM0075  |
| Disclosure of Interest: | Nil  |
| Date:                   | 8 October 2019                                   |
| Author:                 | Ian Walsh - Deputy Chief Executive Officer       |
| Attachments:            | 10.1.2 - Monthly Statement of Financial Activity |

### SUMMARY

A Statement of Financial Activity and other supplementary financial information is produced monthly as part of the Council meeting agenda.

### BACKGROUND

The attached financial report for the period 1 July 2019 to 30 September 2019 (Attachment 10.1.2) has been prepared in accordance with the Local Government Financial Management Regulations.

### COMMENT

Included with this report is the following:

- Statement of Financial Activity for the period 1 July 2019 to 30 September 2019;
- Summary Rates Trial Balance Report as at 30 September 2019;
- Cash and Investment Listing;
- Debtors Listing;
- Other Supplementary Information;

### CONSULTATION

Nil

### STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulation 34 - *Financial activity statement report* — s. 6.4

### POLICY IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### VOTING REQUIREMENT

Simple Majority

**Council Resolution 20191003**

**Item: 10.1.2**

**Moved: Cr Wooltorton**

**Seconded: Cr Bowman**

**That Council receive the Statement of Financial Activity for the period 1 July 2019 to 30 September 2019; and other supplementary financial information as presented.**

**CARRIED 5-0**

## 10.2 ADMINISTRATION REPORTS

### 10.2.1 Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination

|                         |   |
|-------------------------|---|
| Applicant:              | WALGA   |
| Location / Address:     | Level 1, 170 Railway Parade, West Leederville WA 6007   |
| File Ref:               | ADM0414   |
| Disclosure of Interest: | Impartial – Mr Fletcher has a training contract with WALGA  |
| Date:                   | 10 October 2019   |
| Author:                 | Sean Fletcher – Acting Chief Executive Officer  |
| Attachments:            | 10.2.1(a) WALGA Draft Submission)<br>10.2.1(b) Proposed response to WALGA Draft Submission)<br>10.2.1(c) DLGSCI Draft Submission)<br>10.2.1(d) Proposed response to DLGSCI Draft Submission |

#### SUMMARY

Council is asked to consider and approve the draft submissions to both the Department of Local Government, Sport and Cultural Industries and WALGA regarding the proposed Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.

#### BACKGROUND

The Department of Local Government, Sport and Cultural Industries (the Department) on 24 September 2019 issued for comment the proposed Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination (the Standards). Feedback will help inform the changes proposed the Local Government Act as part of the *Local Government Legislation Amendment Act 2019*. The Standards were developed through a working group with key stakeholders including WALGA, but it would seem additional changes were made without reference to the stakeholders and that the draft does not necessarily reflect the views of those consulted so far. The Shire's comments are due by 6 November 2019.

WALGA subsequently advised in an email on 25 September 2019 that this document was released without WALGA's endorsement and it has a number of concerns. In a follow-up email on 4 October 2019, WALGA provided a draft submission for comment as well as outlining its concerns that include: why the need to readvertise the CEO's position after ten years, having an independent person on the selection panel is of no real benefit and that a Local Government Commissioner would be of no real value. WALGA has asked for feedback from local governments by Friday 25 October 2019 so that its submission can be considered at the November Zone meetings and then at WALGA State Council on 4 December 2019.

Today's report contains information that can be used in response to the WALGA draft submission and also for submission to the Department. A key point to make is a guideline that is a reference tool to assist a Council build capacity regarding matters concerning the CEO is far more preferable to one a set of rules that are legislated.

#### COMMENT

The author has reviewed both the Department's proposed Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination. The Shire's response to the WALGA submission can also be used as the submission to the Department. Accordingly, the author provides the following comments in relation to the WALGA draft submission, both in terms of points of common interest and points of difference:

## **Survey Approach**

The Shire notes that a submission could be made through either the completion of an online survey or by sending through a written submission. The use of a survey to provide responses may be suitable for the wider audience in Western Australia, but not where a local government is concerned. Surveys, if not constructed properly and applied through an independent mechanism can lead to a constructed outcome. This may not be the intent, but it does cause some concern. The matter of CEO standards is a specific issue and not one of a broad nature as when the Department was seeking a direction regarding the raft of changes proposed to the Local Government Act. The matter of CEO standards is too important not to have a wider range of qualitative feedback instead of quantitative feedback, although the author does note that there is an opportunity to provide a written response within some parts of the survey.

## **General Comments – Philosophical Approach**

WALGA's comments regarding its' principle that democratically elected Councils are competent and should be empowered to undertake their governing role is a key statement and one that others need to take note of. After-all, this is the original intent of the Local Government Act in terms of its construction based on the neo-liberal approach (local governments through a less prescriptive approach ensure the well-being of its communities). However, local government seems to have entered, in recent years, a more prescriptive environment!

A guideline that can be used to assist a Council build capacity regarding matters concerning the CEO is far more preferable to one that is required to be legislated and included in the *Local Government (Administration) Regulations 1996*.

## **Part 1 - Recruitment and Selection Standard**

The author notes that Departmental Guideline 10 is already available to help guide Councils regarding the CEO Recruitment and Selection process. The Shire currently uses this guideline in conjunction with Council's policy regarding the recruitment and appointment of the CEO.

## **Re-advertising the Position after 10 Years (S1.11)**

The author is aware that in some overseas jurisdictions, the requirement to advertise the CEO's position after two contractual terms is used. In Victoria, the council must give public notice that it is going to reappoint the CEO. However, the Shire agrees with WALGA that there is no need to include a re-advertising requirement as Councils (as do CEOs) already have the opportunity to explore renewing the incumbent's contract. So, Standard 1.11 should be removed.

## **Selection Panel – Independent Person**

The Guidelines require an independent person to be on the recruitment panel. The author, like WALGA believes this is totally unnecessary and will cause problems during the recruitment process.

If a Council uses a qualified recruitment consultant to assist it with the CEO recruitment process, where that consultant adheres to the Local Government Act, the Administration Regulations and Guideline 10, then this is more than enough to ensure an effective CEO recruitment process.

## **Creating Diversity Section**

The author agrees that this section in the Guidelines should be renamed 'Sound Decision Making'.

Creating diversity is important. However, many councils across Western Australia are already diverse in their nature. The Act requires quite clearly that a council member, as a representative, is typical of the type of persons that reside or operate in the local government district, must make decisions for the good of the persons in its district and apply the principles of the general function.

## **Part 2 – Performance Review**

The principles, standards and guidelines presented in Part 2 are sound. The only further suggestion it would make is that examples of key result areas (KRAs) and how they are constructed as key performance indicators (KPIs) should be included.

That being said, Part 2 should be set out as a separate guideline similar to the Department's existing Guideline 10 or included in a revised version of this document.

## **Part 3 – Termination**

The principles, standards and guidelines presented in Part 3 are also sound. An independent review of the termination report is not required.

The issue, however, is when a CEO is terminated without following due process. It is the Shire's view that the Minister should have some capacity to seek a review if it was warranted.

As per the comments regarding Part 2, Part 3 should be set out as a separate guideline similar to the Department's existing Guideline 10 or included in a revised version of this document.

## **Part 4 – Monitoring and Enforcement**

In terms of potential models regarding the monitoring and enforcement of the CEO principles, standards and guidelines, the author makes the following comments:

- There is no value in appointing an independent Local Government Commissioner just for a quality assurance role regarding the CEO principles, standards and guidelines. Victoria has in place The Local Government Inspectorate which not only investigates offences under the Local Government Act, but also plays an integral role in the monitoring of governance in Victorian Councils (as the local governments are referred to there). This has included the recent release of a publication regarding Managing the Employment Cycle of a Council CEO. Although Western Australia has in place many of the matters Victoria has yet to adopt regarding CEOs, the above publication makes the following statement:

It was generally agreed that if the sector is to operate within best practice guidelines that they should be developed and owned by the sector.

Of course the author would also argue it is now a case of pursuing better practice rather than best practice as outlined in recent comments by the Auditor General.

- Perhaps of value would be the improvement within the Department of Local Government, Sport and Cultural Industries regarding either its governance support function or further strengthening of the inspection resources.

## **Feedback on Consultation (Survey) Questions**

As stated at the commencement of today's report, the use of a survey as a feedback mechanism regarding the Standards and Guidelines for Local Government CEO's is perhaps not the most effective mechanism when considering a key change to the Local Government Act.

However, the comments made by WALGA for each question within the survey where a written response can be provided are pertinent.

## **CONSULTATION**

- The author provided the information from the Department and WALGA to Councillors by email on 4 October 2019
- Shire President

## **STATUTORY ENVIRONMENT**

N/A. The matter is in relation to proposed changes regarding the Local Government Act.

## **STRATEGIC IMPLICATIONS (Community Strategic Plan 2017-2022)**

Civic Leadership

*Objective 4:*

*To be a professional, customer focussed organisation, which*

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

The CEO plays a key role in providing advice to Council on the Shire's strategic direction, manages the Shire's assets and financial resources on its behalf and supports Council regarding its advocacy role.

## **POLICY IMPLICATIONS**

N/A

## **FINANCIAL IMPLICATIONS**

Nil

## **VOTING REQUIREMENT**

Simple Majority

**Council Resolution 20191004**

**Item: 10.2.1**

**Moved: Cr Woollorton**

**Seconded: Cr Stirling**

**That Council approves for issue by the Acting Chief Executive Officer:**

- 1. The feedback to WALGA regarding its submission on the proposed Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination as set out in Attachment 10.2.1(b); and**
- 2. The submission to the Department of Local Government, Sport and Cultural Industries regarding proposed Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination as set out in Attachment 10.2.1(d).**

**CARRIED 5-0**

## 10.2.1 Mandatory Code of Conduct for Council Members, Committee Members and Candidates

|                         |  |
|-------------------------|--|
| Applicant:              | WALGA  |
| Location / Address:     | Level 1, 170 Railway Parade, West Leederville WA 6007  |
| File Ref:               | ADM0414  |
| Disclosure of Interest: | Impartial – Mr Fletcher has a training contract with WALGA   |
| Date:                   | 9 October 2019   |
| Author:                 | Sean Fletcher – Acting Chief Executive Officer   |
| Attachments:            | 10.2.2(a) WALGA Draft Submission)<br>10.2.2(b) Proposed response to WALGA Draft Submission)<br>10.2.2(c) DLGSCI Draft Submission)<br>10.2.2(d) Proposed response to DLGSCI Draft Submission) |

### SUMMARY

Council is asked to consider and approve the draft submissions to both the Department of Local Government, Sport and Cultural Industries and WALGA regarding the proposed Mandatory Code of Conduct for Council Members, Committee Members and Candidates.

### BACKGROUND

The Department of Local Government, Sport and Cultural Industries (the Department) on 24 September 2019 issued for comment the proposed Mandatory Code of Conduct for Council Members, Committee Members and Candidates (The Code). Feedback will help inform the changes proposed the Local Government Act as part of the *Local Government Legislation Amendment Act 2019*. The Code was developed through a working group with key stakeholders including WALGA, but it would seem additional changes were made without reference to the stakeholders and that the draft does not necessarily reflect the views of those consulted so far. The Shire's comments are due by 6 November 2019.

WALGA subsequently advised in an email on 25 September 2019 that this document was released without WALGA's endorsement and it has a number of concerns. In a follow-up email on 4 October 2019, WALGA provided a draft submission for comment as well as outlining its concerns that include inconsistent references regarding who the Code is applicable to, inappropriate nomenclature and whether Part C of the Code is relevant along with the inclusion of a number of other requirements in Part C not workshopped previously. WALGA has asked for feedback from local governments by Friday 25 October 2019 so that its submission can be considered at the November Zone meetings and then at WALGA State Council on 4 December 2019.

Today's report contains information that can be used in response to the WALGA draft submission and also for submission to the Department.

### COMMENT

The author has reviewed both the Department's proposed model code of conduct and the comments made by WALGA in response to the proposed model. The Shire's response to the WALGA submission can also be used as the submission to the Department. Accordingly, the author provides the following comments in relation to the WALGA draft submission, both in terms of points of common interest and points of difference:



## **Survey Approach**

The Shire notes that a submission could be made through either the completion of an online survey or by sending through a written submission. The use of a survey to provide responses may be suitable for the wider audience in Western Australia, but not where a local government is concerned. Surveys, if not constructed properly and applied through an independent mechanism can lead to a constructed outcome. This may not be the intent, but it does cause some concern. Also, this is a specific issue and not one of a broad nature when the Department was seeking a direction to take regarding the raft of changes proposed to the Local Government Act. The matter of council member behavior is too important.

## **Bringing Codes and Rules Together: Uncoupling Codes of Conduct for Council Members and Employees**

The clarification regarding the CEO preparing a separate code of conduct for local government employees with the introduction of the new section 5.51A to the Local Government Act is welcomed. Up until now, whether a local government has had one code of conduct in place or separate codes of conduct has been dependent on how section 5.103 (1) is interpreted. Under the Local Government Act, the CEO is responsible for all employees and so having a common code of conduct undermines the CEO's authority in this area.

The author supports that the Mandatory Code of Conduct applies to election candidates. It is important that candidates exhibit the same behavior that they will need to have as a council member once elected.

The ability to include additional behaviours into Part B of the Code, providing they are not inconsistent with the Code is also important. Some local governments do this now by way of their current code of conduct or through council policy e.g. dress standards, use of technology in meetings, no "eye rolling" and so on. The author has noted that the inclusion of dress standard is one that is very suitable to the Shire of Carnamah.

### **Part A - Principles**

The expanded explanation of the 'General principles that guide the behaviour' currently found under Regulation 3 of the *Local Government (Rules of Conduct Regulations 1996)* is of benefit. The further clarification provided makes sure there is no doubt the intent of the Regulations in this regard.

However, like all things, consistency in wording is important. Some words mean different things to different people. For example: Part A states "Council members and candidates are expected to adhere to and promote and support the following principles by example." In this case the word expected is the issue. A person who is committed to the principles will give a much stronger meaning to the word expected as opposed to the person who does not. In other words there may be some wriggle room here. Similarly, the word "should" in the statement "All behavior should be considered against these principles..."

Then we have in the Guidelines a statement after the listed principles that says "The principles outlined in Part A are overarching behaviours that council members, committee members and candidates must take into consideration in their role as public representatives." In other words, the words: expected, should and must are not the same as they have different meanings.

### **Part B - Behaviours**

#### 1. Application

The author supports WALGA's comments that seeking an explanation from the Department as to why neither Part B nor Part C includes a reference to committee members or candidates.

Also, the term council employee should be replaced with either local government employee or local government officer. The Council is a different legal entity to that of a local government per –se and only has one employee, and that is the CEO!

## II. New Complaints Provision

The introduction of a complaints provision is important. This is certainly consistent with what some other states in Australia have introduced regarding a council being able to “deal” with its own.

The notion of education as a constructive approach through effectively using a performance improvement plan (action plan) to help address breaches of the Code of Conduct is positive. However, there are occasions when this approach is ineffective.

Further discussion is certainly required by the sector regarding the processes and consequences associated with managing behavioural breach allegations.

## III. Complaint Management

Under the Guidelines section it says that local governments are to have a policy in place. The Guidelines also outline sources for developing a policy and what should be in the policy regarding a complaints process. That being said, the Ombudsman does have a good resource available. This resource outlines that a matter can either be dealt with formally or informally and that the principles of natural justice, procedural fairness, a fair hearing etc. are applied.

In addition to the above, differentiation does need to be made between a policy and a procedure. The Guidelines should be re-written so that it contains policy elements underpinned by the procedural elements. This is a common problem in local government where policies and procedures are combined in the one statement. A policy is an official statement or position of the organisation. The procedure can simply be attached to the policy.

In terms of the possible actions in Attachment 1 to the Department’s model code, in the author’s experience, the use of training, mediation, counselling and an apology does work in many instances. However, sometimes these are not enough re very strong personalities or repeat offenders.

Perhaps the criterion that might allow a Council by resolution the ability to refer the matter to the Standards Panel (similar to what the CEO can do at present) should be removed from Part C and placed here. Referring a matter to the Standards Panel though may be subject to verification by the Standards Administrative Tribunal (SAT). Also, some consideration should be given as to whether a matter should be referred by Council to the Minister for a determination. Referring the matter to the Minister would imply, in terms of consistency with other provisions of the Act, the Minister’s decision is final.

Also, clarification regarding what happens when a council member is charged with an offence that, if convicted, will disqualify them from being a council member may need to be included by way of explanation as this is a ministerial intervention under the Act.

## IV. Rules

The author agrees that a separate nomenclature is required for numbered provisions in Part B i.e. use the word item or clause to avoid any potential for confusion between Part B and Part C. Please note that the Shire considers Part C is not necessary.

### **Part C – Rules of Conduct**

The value of Part C is for information only. To this extent, it should be removed from the Model Code and be made available as a separate reference tool. However, it could be included as an attachment to the Code to explain certain criteria. That being said, the inconsistencies and corrections identified by WALGA should be addressed before such a step is taken.

Also, if the new matters regarding repeat offences, threatening behavior towards an employee and disclosure of personal information are agreed to, they should be listed in Part B.

## CONSULTATION

- The author provided the information from the Department and WALGA to Councillors by email on 4 October 2019
- Shire President

## STATUTORY ENVIRONMENT

N/A. The matter is in relation to proposed changes regarding the Local Government Act.

## STRATEGIC IMPLICATIONS (Community Strategic Plan 2017-2022)

### Civic Leadership

#### Objective 4:

*To be a professional, customer focussed organisation, which*

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

An elected member's behaviour is a key component in carrying out their functions under the Local Government Act e.g. represents the interests of electors, ratepayers and residents of the district.

## POLICY IMPLICATIONS

N/A

## FINANCIAL IMPLICATION

Nil

## VOTING REQUIREMENT

Simple Majority

**Council Resolution 20191005**

**Item: 10.2.2**

**Moved: Cr Woollorton**

**Seconded: Cr Bowman**

**That Council approves for issue by the Acting Chief Executive Officer:**

- 1. The feedback to WALGA regarding its submission on the proposed Mandatory Code of Conduct for Council Members, Committee Members and Candidates as set out in Attachment 10.2.2(b); and**
- 2. The submission to the Department of Local Government, Sport and Cultural Industries regarding proposed Mandatory Code of Conduct for Council Members, Committee Members and Candidates as set out in Attachment 10.2.2(d).**

**CARRIED 5-0**

### 10.2.3 Integrated Planning and Reporting Update

|                          |  |
|--------------------------|--|
| Applicant:               | Sean Fletcher – Acting Chief Executive Officer |
| Location / Address:      | Shire of Carnamah                              |
| File Ref:                | ADM0202  |
| Disclosure of Interest:  | Nil  |
| Date:                    | 7 October 2019                                 |
| Author:                  | Sean Fletcher – Acting Chief Executive Officer |
| Previous Item Reference: | OCM July 2019 – Item 10.2.2                    |
| Attachments:             | 10.2.3 – Corporate Business Plan update        |

#### SUMMARY

Council is requested to accept the September Quarterly update on Integrated Planning and Reporting including the status of the Shire's Corporate Business Plan.

#### BACKGROUND

The author has conducted the quarterly of the Corporate Business Plan for the September Quarter 2019.

#### Note:

The CBP is also required to be reviewed annually and this is reported in the Annual Report. It is also a requirement that the objectives for the next 12 months in the CBP are reported as well.

#### COMMENT

The progress for the September Quarter is summarised as follows:

| Outcome                     | Actions   | Off-Track | Monitor   | On Track  | Deferred | Comp %       |
|-----------------------------|-----------|-----------|-----------|-----------|----------|--------------|
| Social                      | 15        | 1         | 3         | 9         | 2        | 60           |
| Environment                 | 9         | 0         | 3         | 6         | 0        | 67           |
| Economic                    | 12        | 0         | 4         | 8         | 0        | 67           |
| Civic Leadership            | 13        | 0         | 1         | 11        | 1        | 85           |
| <b>Total/Overall Status</b> | <b>49</b> | <b>1</b>  | <b>11</b> | <b>34</b> | <b>3</b> | <b>69.34</b> |

#### Social

The green flag has improved from 8 actions completed/on-track to 9. This change has been due to the Shire's support for Carnamah Child Care Inc securing key funding for 2019/20 and also installation of new playground and outdoor gym equipment thus changing from a monitored outcome to one that is on-track. The GP service in Eneabba has not been provided during 2019 and so has seen the doctor flag move from green to amber. Other matters have been clarified. The red flag indicates that there have been no joint shire initiatives re shared recreational facilities.

There are two deferred actions. These are: Assist with the provision of teacher housing (Page 5). The note is that the Council will consider requests in future reviews of the SCP. The other is

construct and maintain residences suitable for an ageing population (Page 7). The note is that they would be considered if there future demand is sufficient.

The other two matters requiring monitoring are:

- The provision of financial and in-kind assistance to sporting clubs and the facilities. The self supporting loans for the Bowling Club should be completed June 2020;
- Engaging the communities of Carnamah and Eneabba on beautification ideas and priorities. The actions here have been based in part on the district learning and culture precinct and whether this is part of the economic development priorities.

### **Environment**

The red flag re advocacy and information regarding unconventional gas impacts has changed to amber:

- Beach Energy has met with senior staff re Perth Gas Basin exploration and production using conventional methods. It is planned for Beach Energy to address Council in November or December 2019;
- Matsui invites the CEO to community meetings in Dongara (the last community meeting was held on same day as September 19 OCM).

Also recognised is that, although the waste initiatives are completed, there is a new requirement for waste plans being introduced. The MAF funding for rounds 1, 2 & 3 have also been recognized within the action for the Central West Coast Fire Protection Plan. There is also a reference to the Geraldton Alternative Settlement Area (GASA) re the coastal management reserves.

### **Economic**

The number of green actions has remained at 8. The review of LPS 2 (Pages 15 & 16) has been brought forward and so has changed from a blue flag to an orange flag as Council has completed its first workshop and a draft land use availability document has been compiled.

Although the action for the Main Roads WA Heavy Transport Section is in hand (Page 15), there are changes afoot regarding changing the CA07 Local Government Approval Notice regarding access to RAV rated roads.

Also work around the revamping of the Economic Development Plan and the Working Group has been recognized (Page 17).

It should be noted that one of the factory units is now vacant (Page 16).

### **Civic Leadership**

There are no red flags in this objective. The Shire has continued to maintain good inroads with its actions regarding civic leadership. In particular it has met its Integrated Planning and Reporting obligations, although it is overdue with its two year SCP review, which is now planned for the December Quarter 2019. Also the Community Economic Development workshop on 15 October 2019 is a good starting place for the four year review of the SCP.

The author has also included the full list of resource sharing the shire participates in on Page 20.

### **Overall Assessment**

The level of actions completed is 69% (which is in striking distance of the 70-80% satisfactory level), despite deferred actions improving from 5 to 3 (7%) and actions requiring monitoring increasing from 8 to 11 (22%). Non actioned items are 2%.

## Major Projects

### **Carnamah-Bunjil Road upgrade**

This major project is completed. Maintenance only going forward. Subjected to some WANDRRA damage Feb 2017.

### **Eneabba–Coolimba Road upgrade**

Ongoing for the next 3–4 years. Funding of \$1.6M per year auspiced via Main Roads WA.

**Note:** 2019/20 is the last year regarding this funding

### **Commissioning of extended refuse sites at Carnamah and Eneabba**

Completed.

## Integrated Planning and Reporting Review: Due Second Half of 2020

Please note that the Shire's Strategic Community Plan is due for review in the second half of next year (2020) to meet the adoption and implementation timelines in the first half of 2021. This will also mean that the Shire's other integrated plans will need to be updated accordingly i.e:

- Corporate Business Plan;
- Long Term Financial Plan;
- Asset Management Plans; and
- Workforce Plan.

**Note: The Shire needs to undertake the SCP Desk Top (Two Yearly) review in the second half of 2019**

## **CONSULTATION**

Senior Staff

## **STATUTORY ENVIRONMENT**

### ***Local Government Act 1995***

#### ***Section 5.56. Planning for the future***

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

### ***Local Government (Administration) Regulations 1996***

#### ***19C. Strategic community plans, requirements for (Act s. 5.56) – In part:***

- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.

\*Absolute majority required.

- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.

**19DA. Corporate business plans, requirements for (Act s. 5.56) – In part:**

- (3) A corporate business plan for a district is to —
- (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government’s priorities for dealing with the objectives and aspirations of the community in the district; and
  - (b) govern a local government’s internal business planning by expressing a local government’s priorities by reference to operations that are within the capacity of the local government’s resources; and
  - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.

Department of Local Government, Sporting and Cultural Industries Guidelines on Integrated Planning and Reporting

**STRATEGIC IMPLICATIONS (Community Strategic Plan 2017-2022)**

**Strategic Planning**

1. *Ongoing reviews of the Strategic Community Plan*

**Rationale** - To comply with legislation as well as keeping the Plan relevant. **Restraints to success** - Lack of community interest and involvement. Negativity in the community towards the Shire Council and staff.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**VOTING REQUIREMENT**

Simple Majority

|  |                     |
|--|---------------------|
| <b>Council Resolution 20191006</b>   | <b>Item: 10.2.3</b> |
| <b>Moved: Cr Risinger</b>  |                     |
| <b>Seconded: Cr Woollorton</b>   |                     |
| <b>That Council accept:</b>  |                     |
| <b>1. The Integrated Planning and Reporting Update for September 2019; and</b>   |                     |
| <b>2. September 2019 Quarterly Review of the Shire’s Corporate Business Plan as provided for in Attachment 10.2.3.</b> |                     |
|  | <b>CARRIED 5-0</b>  |

## 10.2.4 Special Meeting – Declaration of Office and Election of Shire President and Deputy Shire President

|                         |  |
|-------------------------|--|
| Applicant:              | Sean Fletcher – Acting Chief Executive Officer                   |
| Location / Address:     | Shire of Carnamah  |
| File Ref:               | ADM0331  |
| Disclosure of Interest: | Nil  |
| Date:                   | 8 October 2019   |
| Author:                 | Sean Fletcher – Acting Chief Executive Officer                   |
| Previous Item Ref:      | September Council Briefing – Returning Officers' Election Report |
| Attachments:            | Nil  |

### SUMMARY

Council is asked to consider holding a special meeting so that the Councillor elects and the Shire President and Deputy Shire President can be elected as soon as possible after the 19 October 2019 Local Government Ordinary Election.

### BACKGROUND

The Local Government Ordinary Elections 2019 will be held on Saturday 19 October 2019. Accordingly, those Councillors who were up for re-election, vacate their position on this day in accordance with Part 2 of the Local Government Act.

As the Shire received three nominations from sitting Councillors up for re-election at this election regarding the four vacant positions, they were elected unopposed after the close of nominations on Thursday 12 September 2019.

In accordance with section 2.29 of the *Local Government Act 1995* the returning Councillors are required to undertake a declaration of office (Form 7 – Declaration by an Elected Member of Council) that includes a statement that they will abide by the *Local Government (Rules of Conduct) Regulations 2007*.

The election for the Shire President and the Deputy Shire President should then be conducted shortly thereafter.

It is proposed that the Declaration of Office for the Councillors is conducted prior to a special meeting of Council to elect the Shire President and the Deputy Shire President. The Shire President and Deputy Shire President will also have to make a further Declaration of Office as required by section 2.29.

### COMMENT

In terms of process at the special meeting, it will need to operate as follows:

- The CEO just before the special meeting is to preside over the swearing in ceremony of the returning Councillors. This cannot be done in the special meeting as the Council will not have a quorum at this point. Each Councillor elect will be given beforehand:
  - A copy of the *Local Government (Rules of Conduct) Regulations 2007*;
  - A copy of the Council's Code of Conduct.



- The CEO is to then open the special meeting (as there will now be a quorum of Council);
- The CEO to call for nominations for the position of Shire President;
- Once elected, the Shire President assumes the chair and calls for nominations for the position of Deputy Shire President;
- Once the Deputy Shire President is elected, the special meeting is closed.

An item requesting the appointment of members to committees and working groups will be submitted at the November Council meeting.

## **CONSULTATION**

Shire President

Council at the September Council Briefing Session regarding the Returning Officers Election Report.

## **STATUTORY ENVIRONMENT**

Section 2.29 of the Local Government Act requires a declaration office for newly elected councillors and presidents and deputy presidents.

Under Section 5.4 (b), of the Local Government Act, Council can call a special meeting of Council.

Under Section 5.5 (2) the CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place and purpose of the meeting. It is sufficient to do this by way of the notice at the front of the agenda meeting papers.

Regulation 13 (1) of the *Local Government (Constitution) Regulations 1996*, the oath is made using Form 7.

Under Schedule 2 Item 21 of the *Oaths, Affidavits and Statutory Declarations Act 2005*, the CEO or the Deputy CEO of a local government can act as witness to the declaration of office.

## **STRATEGIC IMPLICATIONS (Community Strategic Plan 2017-2022)**

### **Civic Leadership**

#### **Objective 4:**

*To be a professional, customer focussed organisation, which*

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

By following the requirements to swear in the Councillor elects and then elect the Shire President and Deputy Shire President, the Shire meets its strategic obligation to have in place a Council that is involved the outcomes for Objective 4.

## **POLICY IMPLICATIONS**

Nil

However, the author has referred to the Department of Local Government's Returning Officers Manual 2019 regarding key processes.

## **FINANCIAL IMPLICATIONS**

Nil

## **VOTING REQUIREMENT**

Simple Majority for calling the Special Meeting

### **OFFICER RECOMMENDATION**

Item: 10.2.4

**That Council:**

- 1. In accordance with s5.4(b) of the *Local Government Act 1995* calls for a special meeting to be held on \_\_\_\_\_ so that the election for the Shire President and Deputy Shire President can be conducted.**
- 2. Supports the Acting Chief Executive Officer conducting the Declaration of Office for the Councillor elects just prior to the special meeting referred to in Point 1.**

### **Council Resolution 20191007**

Item: 10.2.4

**Moved: Cr Risinger  
Seconded: Cr Wooltorton**

**That Council:**

- 1. In accordance with s5.4(b) of the *Local Government Act 1995* calls for a special meeting to be held on Tuesday 22 October 2019, at 5:00pm, so that the election for the Shire President and Deputy Shire President can be conducted.**
- 2. Supports the Acting Chief Executive Officer conducting the Declaration of Office for the Councillor elects just prior to the special meeting referred to in Point 1.**

**CARRIED 5-0**

## 10.2.5 Policy 2:18 – Trading in Public Places for Food Vendors

|                         |  |
|-------------------------|--|
| Applicant:              | Council  |
| Location / Address:     | Shire of Carnamah  |
| File Ref:               | ADM0231 / Policy Manual  |
| Disclosure of Interest: | Nil  |
| Date:                   | 10 October 2019  |
| Author:                 | Gordon Houston – Environmental Health Officer  |
| Previous Item Ref:      | OCM August 2019 – Item 10.2.2  |
| Attachments:            | 10.2.5(a) – Response from IGA Carnamah<br>10.2.5(b) – Policy 2:18 Trading in Public Place for Food Vendors |

### SUMMARY

A draft policy was presented at the August Ordinary Meeting of Council to consider the implementation and adoption of a policy for 'Trading in Public Places for Food Vendors'.

### BACKGROUND

The Shire had been approached on several occasions to consider a Traders Permit application. Currently, Council does not have a policy position on this type of activity. An agenda report was prepared to allow Council to consider a draft Policy to address itinerant and other traders and to provide a position on them for staff to administer the relevant Local Law. This item provided advice on potential actions for Council consideration should the draft Policy be tabled for consideration at a later date.

### COMMENT

It is noted that the adoption of the above-mentioned Local Law in 2013 would indicate that there is certain acceptance of trading in principle. However to avoid ad hoc or inconsistent decision making and to provide clarity to administration when considering any application, it is considered imperative that a policy is developed to deal with traders in Carnamah.

Before any further applications are received, a decision needs to be made to:

- a) Adopt the draft Policy subject of this item; or, prior to the promulgation of a Policy;
- b) provide administration with a preliminary policy position either allowing general competitive principles to apply to trading applications (and thus applications to be considered); or
- c) provide a formal position on the non-acceptance of all or particular traders within the townsite (operating on public places); or
- d) not consider any trading application until such time as Council have adopted a policy position on the matter; or
- e) agree by consensus to the general position of open competition (prior to a formal policy position) and authorise (by delegation under the Local Law) for the shire administration to consider any application to trade in a public place and where approval is granted, apply a set of requirements to the application including siting, hours of operation and any other relevant stipulations relevant to the nature of the application.

It is noted that these requirements would be conditioned on and subject to an annual trading permit renewal until a longer term licence (if applicable) could be issued once the Policy has been adopted, and would potentially be subject to compliance with additional or amended policy conditions to be determined in the future.

## CONSIDERATION

The draft policy document was circulated with one response being received, see Attachment 10.2.5(a). In light of there being no adverse response, no amendment/s to the draft policy document have been undertaken.

## LEVEL OF SIGNIFICANCE

This issue has a low to medium level of significance. While the town's businesses continue to struggle with the lack of activity, there may be a perception that allowing itinerant businesses to trade in the town may create a disadvantage to those permanent traders. The policy however allows for some protection around this issue by regulating the itinerant trading activities such that conflict is prevented.

## CONSULTATION

Senior Staff

Members of the business community and general public (for comment)

## LEGISLATION AND POLICY CONSIDERATIONS

### State

- Local Government Act 1995

## FINANCIAL AND RESOURCES IMPLICATIONS

There are no direct financial implications.

## RISK MANAGEMENT CONSIDERATIONS

There is no perceived risk from this consideration.

## VOTING REQUIREMENT

Simple majority

**Council Resolution 20191008**

**Item: 10.2.5**

**Moved: Cr Stirling  
Seconded: Cr Woollorton**

**That Council adopt the proposed Policy 2:18 – Trading in Public Places for Food Vendors.**

**CARRIED 5-0**

4:22pm

### 10.3 CONFIDENTIAL REPORTS

#### 10.3.1 Motion to close the meeting to the public – consideration of Confidential Reports

|                         |                                   |
|-------------------------|-----------------------------------|
| Applicant:              | N/A                               |
| Location / Address:     | N/A                               |
| File Ref:               | N/A                               |
| Disclosure of Interest: | Nil                               |
| Date:                   | 10 October 2019                   |
| Author:                 | Jennie Benson - Executive Officer |
| Attachments:            | Nil                               |

#### BACKGROUND

Items 10.3.2 and 10.3.3 of the Agenda of 16 October 2019, deals with matters affecting Council, of which the meeting may be closed to the public.

#### COMMENT

Nil

#### STATUTORY ENVIRONMENT

*Local Government Act 1995 Section 5.23 (2) (a) (c) (d) (e) Meetings generally open to the public.*

#### STRATEGIC IMPLICATIONS

Nil

#### POLICY IMPLICATIONS

Nil

#### VOTING REQUIREMENT

Simple Majority

**Council Resolution 20191009**

**Item 10.3.1**

**Moved: Cr Bowman**

**Seconded: Cr Stirling**

**That the meeting be closed to the public to consider Confidential Items 10.3.2 and 10.3.3 of the 16 October 2019 Agenda.**

**CARRIED 5-0**

### 10.3.2 CONFIDENTIAL ITEM

File: Tender 01-19 Vehicle Servicing and Mechanical Repairs  
Date: 10 October 2019  
Author: Sean Fletcher – Acting Chief Executive Officer

#### VOTING REQUIREMENT

Simple Majority

**Council Resolution 20191010**

**Item 10.3.2**

**Moved: Cr Wooltorton**  
**Seconded: Cr Bowman**

**That Council, in accordance with Section 3.57 of the Local Government Act 1995, award the tender for 'Vehicle Servicing and Mechanical Repairs' to North Midlands Motors for a two year period, at the quoted rate of \$120.00 per hour and travel/mobilisation at a rate of \$1.10 per kilometre.**

**CARRIED 5-0**

### 10.3.3 CONFIDENTIAL ITEM

File: Tender 04-19 Supply Full Seal Service  
Date: 10 October 2019  
Author: Sean Fletcher – Acting Chief Executive Officer

#### VOTING REQUIREMENT

Simple Majority

**Council Resolution 20191011**

**Item 10.3.3**

**Moved: Cr Stirling**  
**Seconded: Cr Risinger**

**That Council, in accordance with Section 3.57 of the Local Government Act 1995, award the tender for 'Supply of Full Seal Service' to Fulton Hogan at a 'per square metre rate' of \$2.46.**

**CARRIED 5-0**

4:23pm

### 10.3.4 Motion to re-open the meeting

|                         |                                   |
|-------------------------|-----------------------------------|
| Applicant:              | N/A                               |
| Location / Address:     | N/A                               |
| File Ref:               | N/A                               |
| Disclosure of Interest: | Nil                               |
| Date:                   | 10 October 2019                   |
| Author:                 | Jennie Benson - Executive Officer |
| Attachments:            | Nil                               |

#### VOTING REQUIREMENT

Simple Majority

|   |                    |
|---|--------------------|
| <b>Council Resolution 20191012</b>                  | <b>Item 10.3.4</b> |
| <b>Moved: Cr Woollorton</b>                         |                    |
| <b>Seconded: Cr Bowman</b>                          |                    |
| <b>That the meeting be re-opened to the public.</b> |                    |
|   | <b>CARRIED 5-0</b> |

#### 11. REPORTS OF COMMITTEES AND MEMBERS

#### 13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

#### 14. NOTICE OF MOTIONS

(For consideration at the following meeting, if given during the meeting)

#### 15. NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL

#### 16. CLOSURE OF MEETING

There being no further business, the meeting was closed at 4:24pm.