



UNCONFIRMED MINUTES
OF THE SPECIAL MEETING
OF COUNCIL
HELD ON
MONDAY 3 FEBRUARY 2014
AT 11.00AM

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Minutes of the Special Meeting of the Yalgoo Shire Council,
held in the Council Chambers, 37 Gibbons Street, Yalgoo,
on Monday 3 February 2014 commencing at 11:00am.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President Neil Grinham declared the Special Meeting open at 11.11am.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

MEMBERS	Cr Neil A Grinham, Shire President Cr M Raul Valenzuela, Deputy Shire President Cr Robert W Grinham Cr Stanley K Willock Cr Adam B Fawkes
STAFF	Sharon Daishe, Chief Executive Officer (CEO)
GUESTS	
OBSERVERS	
LEAVE OF ABSENCE	
APOLOGIES	

3. DISCLOSURE OF INTERESTS

Disclosures of interest made before the Meeting

4. PUBLIC QUESTION TIME

4.0 RESPONSE TO QUESTIONS TAKEN ON NOTICE

4.1 QUESTIONS WITHOUT NOTICE

5. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Item 7.1 Consideration of a matter affecting an employee 5.23 (2) (a)

6. BUSINESS AS NOTIFIED

6.0 Purpose of Meeting

- To approve the process of engaging WALGA for the employment of a permanent CEO.
- To consider a proposal to employ an Executive Manager Works & Infrastructure.

6.1 Selection and Appointment Process for CEO r18C

File:	
Author:	Sharon Daishe, CEO
Interest Declared:	No interest to disclose
Date:	30 January 2014
Attachments (yellow)	Commercially in confidence quote from WALGA for services to recruit, select and appoint CEO – provided under separate confidential cover.

Matter for Consideration

To consider the process to select and appoint a CEO (r18C).

Background

The position of CEO becomes vacant on 15 March 2014.

Recruitment of CEO: At a special meeting held on 16 January 2014 Council made a decision that quotes be sought from WALGA for recruitment services (S2014-0104) to select and appoint a CEO. The quote (commercially in confidence) was obtained and provided to councillors on 17 January 2014.

Recruitment of Acting CEO: At the special meeting council also made a decision that WALGA be engaged to assist council to recruit an acting CEO (decision S2014-0106). A separate quote was obtained and a purchase order was issued on 29 January 2014 to engage WALGA's recruitment services for the acting CEO.

Note that if the Shire engages WALGA to provide full services to recruit, select and appoint the permanent CEO then sourcing, drafting and negotiating a contract for a temporary/acting CEO forms part of the service.

Statutory Environment

Local Government Act 1995

5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government;
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.

- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.

Local Government (Administration) Regulations 1996

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State unless it is proposed that the position be filled by —

- (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
- (b) a person who will be acting in the position for a term not exceeding one year.
- (2) An advertisement referred to in subregulation (1) is to contain —
 - (a) the details of the remuneration and benefits offered; and
 - (b) details of the place where applications for the position are to be submitted; and
 - (c) the date and time for the closing of applications for the position; and
 - (d) the duration of the proposed contract; and
 - (e) contact details for a person who can provide further information about the position; and
 - (f) any other information that the local government considers is relevant.

[Regulation 18A inserted in Gazette 31 Mar 2005 p. 1037-8; amended in Gazette 19 Aug 2005 p. 3872; 3 May 2011 p. 1594.]

18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- (a) the value of one year’s remuneration under the contract; or
- (b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

[Regulation 18B inserted in Gazette 13 May 2005 p. 2086.]

18C. Selection and appointment process for CEOs

The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.

[Regulation 18C inserted in Gazette 31 Mar 2005 p. 1038.]

18F. Remuneration and benefits of CEO to be as advertised

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4).

[Regulation 18F inserted in Gazette 31 Mar 2005 p. 1039.]

Error! Use the Home tab to apply Name Of Act/Reg to the text that you want to appear here.

7A. Determinations as to remuneration of local government CEOs

- (1) The Tribunal is to, from time to time as provided by this Act, inquire into and determine, the amount of remuneration, or the minimum and maximum amounts of remuneration, to be paid or provided to chief executive officers of local governments.

Business Implications

Strategic Community Plan	
Corporate Business Plan	
Long Term Financial Plan	

Business Implications

Asset Management Plan	
Workforce Plan	
Policy	
Financial (short term/ annual budget)	The annual budget allocation for admin staff recruitment is \$10,000. The cost of recruitment of a CEO will exceed the budgeted amount. The annual budget review is currently being prepared and an appropriate amendment will be proposed as part of the review.

Consultation

- President Neil Grinham
- Lydia Highfield, Recruitment Services Manager, WALGA Business Solutions

Comment

In accordance with Local Government Administration Regulation 18C, the local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.

WALGA propose a methodology and approximate timeline for recruitment of the CEO on page 7 of the quote document. This is copied below with approximate dates added as a guide.

Timeline/dates (approximate)	Process for Selection and Appointment of CEO
Week One 3-7 Feb	Recruitment Manager to meet with Council to: a) Assist in the preparation of competency requirements (selection criteria) b) Assist in reviewing/updating position description, including indicative KPI's, remuneration package in line with the current Local Government Legislation requirements and draft employment contract for the position. c) Propose an advertising/recruitment plan and initiate actual recruitment process for the position along with the development of an Applicant information package.
Week Two to Five 10 Feb to 7 Mar	Advertisement designed and lodged. Information package distributed to applicants and applications received.
Week Six and Seven 9 – 21 Mar	Applicants short listed in consultation with the Council. Background checks and/or preliminary interviews conducted by the Recruitment Manager.
Week Seven 16-21 Mar	Recruitment Manager will draft interview questions in consultation with the Council. Interview format agreed with the Council.
Week Eight 24 -28 Mar	Recruitment Manager attends shortlisted applicant interviews. Reference and/or qualification and police checks conducted.
Week Nine and Ten	Either second round of interviews or final selection process along with selection report.

Timeline/dates (approximate)	Process for Selection and Appointment of CEO
31 Mar to 11 Apr	Further checks conducted (if required).
Week Eleven and Twelve 14 to 25 Apr	<p><i>Note that Easter and Anzac Day Public Holidays fall during this period</i></p> <p>WALGA Workplace Solutions commences Employment Contract negotiations and finalise.</p> <p>Employment contract negotiated and signed.</p> <p>Appointment and employment contract ratified at *Council meeting (LGA s5.36 (2) absolute majority required for contract).</p> <p><i>* The next ordinary meeting of Council is scheduled to be held at Paynes Find on Thursday 22 May (agenda closes Wed 14 May). A finance committee meeting is scheduled to be held on Thursday 08 May at 10am and this date may provide a suitable opportunity for a special meeting.</i></p>

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2014-0201 Selection and Appointment Process for CEO r18C

That Council:

1. Accept the commercial in confidence quote submitted by WALGA Business Solutions for services to recruit, select and appoint a CEO; and
2. Approve the process proposed by WALGA for selection and appointment of the CEO (r18C) as detailed under comments above, noting that dates and timelines are approximate.

Moved: Cr MR Valenzuela

Seconded: Cr SK Willock

Motion put and carried 5/0

7. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

7.0 STATUTORY ENVIRONMENT – MEETING CLOSED TO THE PUBLIC

Councillors are obliged to maintain the confidentiality of matters discussed when the meeting is closed. Fines of up to \$10,000 or two years imprisonment apply to certain offences relating to misuse of information.

The following legislative extracts were downloaded from www.auslii.edu.au on 8 November 2010.

Local Government Act 1995

5.23. Meetings generally open to the public

(1) Subject to subsection (2), the following are to be open to members of the public —

- (a) all council meetings; and
- (b) all meetings of any committee to which a local government power or duty has been

delegated.

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- (a) a matter affecting an employee or employees;
- (b) the personal affairs of any person;
- (c) a contract entered into, or which may be entered into, by the local government and which

relates to a matter to be discussed at the meeting;

(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;

(e) a matter that if disclosed, would reveal —

- (i) a trade secret;
- (ii) information that has a commercial value to a person; or
- (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local

government;

(f) a matter that if disclosed, could be reasonably expected to —

(i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;

(ii) endanger the security of the local government's property; or

(iii) prejudice the maintenance or enforcement of a lawful measure for protecting public

safety;

(g) information which is the subject of a direction given under section 23(1a) of the

Parliamentary Commissioner Act 1971 ; and

(h) such other matters as may be prescribed.

(3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.92. Access to information by council, committee members

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

(2) Without limiting subsection (1), a council member can have access to —

- (a) all written contracts entered into by the local government; and
- (b) all documents relating to written contracts proposed to be entered into by the local government.

5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or
- (b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

Local Government (Rules of Conduct) Regulations 2007

6. Use of information

- (1) In this regulation —

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;

non-confidential document means a document that is not a confidential document.

- (2) A person who is a council member must not disclose —

- (a) information that the council member derived from a confidential document; or
- (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.

(3) Subregulation (2) does not prevent a person who is a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

7.1 Consideration of a proposal to employ a senior employee (EMWI)

Motion to Close the Meeting to the Public

Voting Requirements - Simple Majority

OFFICER RECOMMENDATION/COUNCIL DECISION

S2014-0202 Close Meeting to the Public

That the meeting be closed to the public to discuss a matter affecting an employee (LGA s. 5.23 (2) (a)).

Moved: Cr MR Valenzuela

Seconded: Cr RW Grinham

Motion put and carried 5/0

The meeting was closed to the public at 11:23am

