



Special Council Meeting  
Minutes  
18 November 2016

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 15 December 2016 as a true and accurate record of the Special Council Meeting held on 18 November 2016.

A handwritten signature in black ink, appearing to read 'Cr (Turk) Shales', is positioned above a dotted line.

.....  
Cr (Turk) Shales  
Shire President

All attachment items referred to in these minutes are available for public perusal at the Shire Office

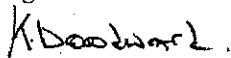
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Signed at Exmouth



(K Woodward), Acting Chief Executive Officer Shire of Exmouth

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# SPECIAL COUNCIL MEETING MINUTES

## *Our Vision*

To support and develop a vibrant, welcoming community that embraces its past, values its present and plans for a sustainable future

## *Our Purpose*

To responsibly provide governance for the whole community in the best interest of current and future generations

## *Our Strategic Objectives*

- To provide sustainable management of the organisation
- To consistently apply the principles of Good Governance
  - To communicate effectively
  - To promote socioeconomic development
  - To value our environment and heritage

### **1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at 2.02pm and welcomed the visitors to the gallery.

### **2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**

Councillor C (Turk) Shales	Shire President
Councillor R (Bob) Todd	
Councillor S McHutchison	
Councillor G Jones	
Mrs S O'Toole	Executive Manager Corporate Services
Mrs J Kox	Executive Manager Aviation Services
Mr R Manning	Executive Manager Health & Building
Mr R Kempe	Executive Manager Community Engagement
Mr R Mhasho	Executive Manager Town Planning
Mr K Woodward	Executive Manager Engineering Services
Mrs M Head	Minute Clerk

### **GALLERY**

Visitors 16



Question 3 – by Babs White

*Will overspent credit expenses be reimbursed? Legal fees – who pays?*

The Shires solicitors will investigate the credit card use. CCC are to finalise their investigations.

The Shire has an insurance policy and a budget to cover legal fees.

Question 4 – by Ken Downes

*Why did the Councillors that knew about the signing of the contract do nothing? They should step down. There is now broken trust issues.*

This question will be taken on notice.

Question 5 – by Ann Sigley

*Who approved B Price leave and when?*

The Shire President signed the current leave form for Mr Price.

Question 6 – by Ann Sigley

*Is the CEO on annual leave or unpaid leave?*

Annual Leave until the 9/12/16.

*Can we see the leave application form?*

CCC has all the information.

Question 7 – by Ann Sigley

*How can an acting CEO be approved retrospectively ie from 14/11?*

The report was written with the 14/11/16 as the start date, however the Special Council meeting planned for that day was postponed due to not having a quorum. The proposed Acting Chief Executive Officer has not exercised the role until the resolution is passed by Council today.

Question 8 - by Shane Owen

*Why does the Council need to wait for legal advice when there has been an admission?*

The conditions of employment are managed within the framework of contract. The associated processes need to be managed within law.

Question 9 - Ken Downes

*Why didn't the Shire President take action prior to this?*

The Shire President responded: I didn't know if there were any further allegations that needed to be presented to the solicitors.

Question 10 - Peter Lake

*Why wasn't it dealt with?*

Shire President responded: I should have forced the issues straight away. This is not an easy time for any of this us. I'm sorry if you feel if I have erred in this matter.

Question 11 - Heather Lake

*Did you think to seek advice?*

Shire President responded: No

*If it happened again would you?*

Shire President responded: If I knew I would have.

The Shire President made the following statement:

In seven years as Shire President I have acted in the best interest of the community. Yes I should have taken action straight away. If the solicitors advise me to stand down I will resign. I have always completed my role as Shire President to the best of my abilities. Council can't please everyone all of the time.

Question 12 - by Ann Sigley

*If there is to be an increase in salary how can the financial implication be nil?*

There is no budget deficit associated with Acting Chief Executive Officer because this expense is included in our annual budget.

Question 13 – by Jackie Brooks

*Why did Council fail to act when they had received documentation that questioned the assignment of the contract in a fit and proper manner on the 19<sup>th</sup> of October?*

This question has been discussed previously; and Jackie Brooks accepted this.

Question 14 – by Heather Lake

*Will the Ningaloo Centre project continue as planned initially?*

There is every intention to complete the Ningaloo Centre and yes there will be a review of how the project is managed in the future.

Question 15 - Peter Lake

Will those names who appear on the Shire Honour board be removed if their employment is terminated?

Keith Woodward stated that he didn't know.

Keith Woodward read out the following statement to the gallery in relation to what the Shire has done so far in relation to the CCC Investigation:

"Public examinations held by the CCC this week have highlighted the importance of the Shire of Exmouth's existing policies and procedures. It is a timely reminder to staff at the Shire to ensure they have read and understand the Shire's existing policies and procedures, particularly as they relate to their areas of operation.

Shire managers are working to deal with the findings and consequences associated with the Corruption and Crime Commission hearings.

It is important to note the Shire is acting in close consultation with the CCC, Department of Local Government and Communities (DLGC), Western Australia Local Government Association (WALGA) and the Shire solicitors.

To date the Shire has:

- Requested the CCC Commissioner release the examination and investigation transcript including the 'private hearing' to the Shire solicitors;
- Engaged McLeods Barrister and Solicitors to provide advice regarding the employment contracts noting procedural fairness;
- Consulted with WALGA regarding Industrial relations support and advise on the legislation and various corporate activity;
- Sought advice from DLGC on the statutory environment.

Further we propose to undertake a review of the Shire's Policy Manual, Delegation Register and Code of Conduct in conjunction with the Department of Local Government and Communities to identify ways to further improve governance and ensure effective management at the Shire in the future.

We will continue to provide staff and Councillors with opportunities to improve their understanding of good public sector management through training and professional support.

The community of Exmouth can be confident that staff at the Shire are working hard on their behalf to deliver projects and services effectively and that Exmouth remains a great place to live, work and visit".



**5. DECLARATIONS OF INTEREST**

Nil

**6. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil

**7. APPLICATIONS FOR LEAVE OF ABSENCE**

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

Cr McHutchison advised she will require leave in the near future, however unaware of the date at this stage.

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

Nil

## **9. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

### **9.1 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER**

File Reference:	GV.CM.0
Responsible Officer:	Shire President
Date of Report:	16 November 2016
Applicant/Proponent:	Nil
Disclosure of Interest:	Nil
Attachment(s):	Nil

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#### **PURPOSE**

The Council appoint Mr Keith Woodward, Executive Manager Engineering Services as Acting Chief Executive Officer for the period Monday 14 November 2016 to Friday 9 December 2016 in accordance with the *Local Government Act 1995* section 5.36 and section 5.42.

#### **BACKGROUND**

The Chief Executive Officer, Mr Bill Price will be on leave from Thursday 10 November 2016 to Friday 9 December 2016. To facilitate the signing of urgent documents, an acting Chief Executive Officer must be appointed to carry out the duties of the Chief Executive Officer in his absence.

Council Officers recommend appointing Mr Keith Woodward, Executive Manager Engineering Service as Acting Chief Executive Officer for the period Monday 14 November 2016 to Friday 9 December 2016.

#### **COMMENT**

Nil

#### **CONSULTATION**

Shire President and Executive Managers

#### **STATUTORY ENVIRONMENT**

Local Government Act 1995 Part 5, Division 4, Section 5.36 & Section 5.42

#### **POLICY IMPLICATIONS**

Policy 1.24 – Acting Chief Executive Officer

#### **FINANCIAL IMPLICATIONS**

Nil

#### **STRATEGIC IMPLICATIONS**

This item is relevant to the Councils approved Strategic Community Plan 2011-2021 and Corporate Business Plan 2016-2020.

- Civic Leadership: 4 To work together as custodians of now and the future.
- 4.1 *To be a collaborative community with the capacity to manage the current and future direction of Exmouth.*
- 4.2 *A local government that is respected, professional, trustworthy and accountable.*
- 4.3 *To be strong advocates representing the region's interests.*

## **VOTING REQUIREMENTS**

Absolute Majority

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### **OFFICER'S RECOMMENDATION**

**ITEM 9.1**

That Council:

1. Appoint Mr Keith Woodward, Executive Manager Engineering Services as Acting Chief Executive Officer for the period Monday 14 November 2016 to Friday 9 December 2016 in accordance with the *Local Government Act 1995* Division 4, section 5.36 and section 5.42.
2. The Acting Chief Executive Officer will be compensated at a higher duties rate of 80% per hour of the current Chief Executive Officer rate, as per the Higher Duties Payment form.

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### **COUNCIL RESOLUTION**

**ITEM 9.1**

**Res No: 01-1116**

**MOVED: Cr Todd**

**SECONDED: Cr McHutchison**

That Council:

1. **Appoint Mr Keith Woodward, Executive Manager Engineering Services as Acting Chief Executive Officer for the period Monday 14 November 2016 to Friday 9 December 2016 in accordance with the *Local Government Act 1995* Division 4, section 5.36 and section 5.42.**
2. **The Acting Chief Executive Officer will be compensated at a higher duties rate of 80% per hour of the current Chief Executive Officer rate, as per the Higher Duties Payment form.**

**CARRIED 4/0**

**10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Nil

## 12. MATTERS TO BE CONSIDERED BEHIND CLOSED DOORS

As the following report was a matter to be considered behind closed doors the Shire President asked the gallery and the Executive Managers to please leave the Chambers at 2.30pm.

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**COUNCIL RESOLUTION****ITEM 12.1****Res No: 02-1116****MOVED: Cr Jones****SECONDED: Cr Todd**

**That Council move Behind Closed Doors at 2.30pm in accordance with the Local Government Act 1995 section 5.23 (2) (A) (C) and (D).**

- **Employment/Legal Issue**

**CARRIED 4/0**

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### 12.1 THE ENGAGEMENT OF MC LEODS FOR LEGAL OPINION REGARDING THE CCC TRANSCRIPT, SHIRE POLICY AND CONTRACTS OF EMPLOYMENT

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**COUNCIL RESOLUTION****ITEM 12.1****Res No: 03-1116****MOVED: Cr Todd****SECONDED: Cr Jones**

**The Council authorise:**

- 1. The expenditure of funds outside the rules of Council Purchasing Policy 2.10.**
- 2. Referral to the Shire's Solicitors Mc Leods for legal opinion regarding the CCC examination and investigation, Shire Policy and Contracts of Employment.**
- 3. The release of this agenda and minutes to Mc Leods, the CCC, the Department of Local Government and Communities and the Western Australian Local Government Association.**

**CARRIED 4/0**

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**COUNCIL RESOLUTION**

**ITEM 12.1**

**Res No: 04-1116**

**MOVED: Cr McHutchison**

**SECONDED: Cr Todd**

**That Council return from Behind Closed Doors at 2.42 pm.**

**CARRIED 4/0**

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### **13. CLOSURE OF MEETING**

The Shire President closed the meeting at 2.42pm.