

Notice of Meeting



17 Queen Street, Pingelly
Western Australia 6308
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Dear Elected Member

A Special meeting of Council will be held on Monday 7 November 2016 in the Council Chambers, 17 Queen Street, Pingelly commencing at 9.00am.

The meeting has been called by the President.

The purpose of the meeting is to endorse:

- the Sale of 16 Eliot Street, Pingelly

A handwritten signature in black ink, appearing to be 'G. Pollock'.

Gavin Pollock
Chief Executive Officer

4 November 2016

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Pingelly for any act, omission or statement or intimation occurring during Council or Committee meetings or during formal/informal conversations with staff. The Shire of Pingelly disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings or discussions. Any person or legal entity that act or fails to act in reliance upon any statement does so at the person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Pingelly during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Pingelly. The Shire of Pingelly warns that anyone who has an application lodged with the Shire of Pingelly must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Pingelly in respect of the application.

AGENDA

Shire of Pingelly
Special Council Meeting
7 November 2016

MISSION STATEMENT

To enhance the quality of life for the people of Pingelly through the provision of leadership, services and infrastructure.

DISCLAIMER

INFORMATION FOR PUBLIC ATTENDING COUNCIL MEETINGS

PLEASE NOTE:

The recommendations contained in this agenda are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations.

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Councils decision.

A handwritten signature in blue ink, appearing to be 'G. Pollock', written in a cursive style.

**GAVIN POLLOCK
CHIEF EXECUTIVE OFFICER**

COUNCIL MEETING INFORMATION NOTES

Your Council generally handles all business at Ordinary or Special Council Meetings.

From time to time Council may form a Committee to examine subjects and then report to Council.

Generally all meetings are open to the public; however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.

Public Question Time. It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Chairman.

Written notice of each question should be given to the Chief Executive Officer fifteen (15) minutes prior to the commencement of the meeting. A summary of each question and response is included in the Minutes.

When a question is not able to be answered at the Council Meeting a written answer will be provided after the necessary research has been carried out. Council staff will endeavour to provide the answers prior to the next meeting of Council.

Councillors may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter trivial, insignificant or in common with a significant number of electors or ratepayers. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.

Members of staff, who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The member of staff must declare that interest and generally the Chairman of the meeting will advise the Officer if he/she is to leave the meeting.

Agendas, including an Information Bulletin, are delivered to Councillors within the requirements of the Local Government Act 1995, i.e. seventy-two (72) hours prior to the advertised commencement of the meeting. Whilst late items are generally not considered there is provision on the Agenda for items of an urgent nature to be considered.

Should an elector wish to have a matter placed on the Agenda the relevant information should be forwarded to the Chief Executive Officer in time to allow the matter to be fully researched by staff. An Agenda item, including a recommendation, will then be submitted to Council for consideration. The Agenda closes the Monday week prior to the Council Meeting (i.e. ten (10) days prior to the meeting).

The Information Bulletin produced as part of the Agenda includes items of interest and information, which does not require a decision of Council.

Agendas for Ordinary Meetings are available in the Shire of Pingelly Office, on the website and the Pingelly Library seventy-two (72) hours prior to the meeting and the public are invited to secure a copy.

Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council. Please note the Disclaimer in the Agenda (page 3).

Public Inspection of Unconfirmed Minutes (Reg 13)

A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection from the Shire of Pingelly Office and the Shire of Pingelly website within ten (10) working days after the Meeting.

NOTE:

Unopposed Business

Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.

If no member signifies opposition to the motion the person presiding may declare the motion in sub clause (1) carried without debate and without taking a vote on it.

A motion carried under sub clause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.

If a member signifies opposition to a motion the motion is to be dealt with according to this Part.

This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

Question Time

This Policy provides guidance to the Presiding Member (noting the provisions of the *Local Government (Administration) Regulation 7*).

Question time is for the asking of questions. General comments, issues for debate etc. are to be progressed through the normal procedure for submitting Agenda items for Council's consideration. Tabled correspondence will not be accepted.

Unless the person is known to all other persons in the Chamber, the Questioner is to state their name and address prior to asking the question.

The Questioner is to stand to address the Presiding Member, unless illness or a physical or other disability prevents him/her from doing so. All questions are to be addressed to the Presiding Member.

The question must be immediately put and may be followed by a brief statement related to the question.

The Presiding Member may respond to the question or may nominate a Councillor or an Officer to respond.

Debate between the Questioner or public and a Councillor or Officer is not permitted.

Questions may not be put by Councillors to the Questioner or other members of the public except for the purpose of clarification.

If the Presiding Member determines that a full and complete answer is unable to be given at that time, the question may be taken on notice. In that case, an answer will be given in writing to the Questioner within 7 days and the response tabled at the next Ordinary Council meeting.

A summary of the question and the response only is to be recorded in the minutes of the meeting.

QUESTION TIME FOR THE PUBLIC

(Please write clearly)

DATE: _____

NAME: _____

TELEPHONE : _____

ADDRESS: _____

QUESTIONS TO THE PRESIDENT:

GENERAL QUESTION / QUESTION RELATED TO THE AGENDA *(strike out which is not applicable)*

ITEM NO	PAGE NO	QUESTION

PLEASE PASS TO THE CHIEF EXECUTIVE OFFICER FOR REFERRAL TO THE PRESIDENT BY 11.00 AM AT THE MEETING, OR BY 10.45AM ON THE DAY OF THE MEETING AT THE SHIRE OF PINGELLY OFFICE, 17 QUEEN STREET, PINGELLY.

Public Question Time – Statutory Provisions – Local Government Act 1995

Time is to be allocated for questions to be raised by members of the public and responded to at every ordinary meeting of a council; and

Such other meetings of councils or committees as may be prescribed.

Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

9A. Question Time for the Public at Certain Meetings – s5.24 (1) (b) Local Government (Administration) Regulations 1996.

Reg 5 For the purpose of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are:

every special meeting of a council; and

every meeting of a committee to which the local government has delegated a power or duty.

Minimum Question Time for the Public – s5.24 (2)

Reg 6 (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is fifteen (15) minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Procedures for Question Time for the Public – s5.24 (2)

Local Government (Administration) Regulations 1996

Reg 7 (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6 (1) are to be determined:

by the person presiding at the meeting; or

in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of members, having regard to the requirements of sub regulations (2) and (3).

The time allocated to the asking and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.

Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.

Nothing in sub regulation (3) requires:

A council to answer a question that does not relate to a matter affecting the local government;

A council at a special meeting to answer a question that does not relate to the purpose of the meeting;

or

A committee to answer a question that does not relate to a function of the committee.

SHIRE OF PINGELLY

DISCLOSURE OF INTERESTS

TO THE CHIEF EXECUTIVE OFFICER:

Under the Provisions of Division 6 of Part 5 of the Local Government Act 1995, I hereby disclose a Financial Interest/s in the matter/s listed on this form, which is/are scheduled for consideration at the meeting of Council to be held on:

7 November 2016

(Print Name)

(Signature)

(Date)

NOTE: Members of Council are asked to deliver this completed form to the Chief Executive Officer on the day of the Council Meeting as required by the Act. Where this is not practicable the Disclosure/s may be telephoned to the Council Office on 9887 1066 and/or the form subsequently passed to the Chief Executive Officer prior to the meeting.

ITEM NO	PAGE NO	TYPE	REASON

DISCLOSURE OF FINANCIAL INTEREST, PROXIMITY INTEREST AND/OR INTEREST AFFECTING IMPARTIALITY

Chief Executive Officer, Shire of Pingelly

In accordance with Section 5.60-5.65 of the *Local Government Act* and Regulation 34(B) and 34(C) of the *Local Government (Administration) Regulations* and Regulation 11 of the *Local Government (Rules of Conduct) Regulations*, I advise you that I declare a appropriate box):

financial interest (Section 5.60A)

A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

proximity interest (Section 5.60B)

A person has a proximity interest in a matter if the matter concerns a proposed —
(a) change to a planning scheme affecting land that adjoins the person's land;
(b) change to the zoning or use of land that adjoins the person's land; or
(c) development (as defined in section 5.63(5)) of land that adjoins the person's land.

interest affecting impartiality (Regulation 11). I disclose that I have an association with the applicant. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

An interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association but does not include a financial or proximity interest as referred to in section 5.60.

SHIRE OF PINGELLY

Agenda for the Special Meeting of Council to be held in the Council Chambers, 17 Queen Street, Pingelly on 7 November 2016 commencing at 9.30am.

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chairman to declare the meeting open.

1.1 Acknowledgement of Country

I respectfully acknowledge the past and present traditional owners of this land on which we are meeting, the Noongar people. It is a privilege to be standing on Noongar country. I also acknowledge the contributions of Aboriginal Australians and non-Aboriginal Australians to the security and wellbeing of all the people of this country where we live and that we share together - Australia

1.2 Reminder

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

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. DISCLOSURES OF INTEREST

7. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

8. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

9. REPORTS OF OFFICERS

9.1 OFFICE OF THE CEO

9.1.1 Sale of 16 Eliot Street, Pingelly

File Reference:	A7987
Location:	Shire of Pingelly
Applicant:	Gavin Pollock, Chief Executive Officer
Author:	Craig McLennan, Project Manager
Date:	21 October 2016
Disclosure of Interest:	Nil
Attachments:	Nil

Summary:

On 21 September 2016, the Council resolved to dispose of the property at 16 Eliot Street, Pingelly in accordance with the requirements of the *Local Government Act 1995* Section 3.58.

Moved: Cr Wood Seconded: Cr Hodges

12085 Recommendation and Council Decision:

- 1. The Council resolve to endorse the Valuation carried out on 10 December 2015 is still providing a true indication of the property's value and as adjusted by the current market factors.**
- 2. The Council authorise the Chief Executive Officer of the Shire of Pingelly to obtain the signature of the buyer on the Offer and Acceptance form to ratify the counter offer.**
- 3. The Council authorise the Chief Executive Officer to prepare a contract for the sale of the property under a standard REIWA contract for the sale of land. Specifically:
 - a. Buyer: Ashley James Bryant of 23 Eliot Street Pingelly 6308**
 - b. Property: 16 Eliot Street Pingelly (Lot 47 Vol 1332 Folio 655)**
 - c. Consideration: \$A165,000. Note: GST, if applicable, will need to be added to this figure.****
- 4. The Council affirms that the following Special Conditions will apply to the sale:
 - a. Chattels as above. That is, Curtains and other furniture as inspected on 12 September 2016.**
 - b. Subject to Buyer obtaining finance to buyers' satisfaction.**
 - c. Buyer understands that this sale has to be advertised as required by the Local Government Act.****
- 5. The Council authorise the Chief Executive Officer to carry out the advertising and other requirements as per the provisions of The Local Government Act S 3.58.**
- 6. The Council to reconvene to consider any submissions received as a result of the Public Notice before executing the sale and settlement of 16 Eliot Street, Pingelly.**

Carried: 6.0

Specific to the *Local Government Act 1995* are the requirements to issue Public Notices.

The required Public Notices have been advertised for the required time in the Narrogin Observer on 13 October 2016 and the Pingelly Times 11 and 18 October 2016 and requested written submissions by 4.30 PM on 24 October 2016. Please refer to attachments.

No written submissions were received.

According to the *Local Government Act 1995*, the Council is now required to

1. re-convene to consider all submissions made to it before the date specified in the Public Notice, and
2. make a decision regarding the disposal of the property, and
3. record the reasons in the minutes of the meeting at which the decision was made.

Background:

The Shire received an offer and acceptance form on 19 September 2016 to purchase 16 Eliot Street Pingelly (Lot 47 Vol 1332 Folio 655) of \$165,000. GST, if applicable, will need to be added to this figure.

Special conditions listed were:

1. Repair of side fence by seller.
2. Chattels as above. "Curtains and other furniture as inspected on 12 September 2016".
3. Subject to Buyer obtaining finance to buyers' satisfaction.
4. Buyer understands that this sale has to be advertised as required by the Local Government Act.

Subsequently, a counter offer was made to cancel special condition 1 above.

This was verbally accepted by the buyer on 20 September 2016. The Chief Executive Officer has obtained the signature of the buyer on the Offer and Acceptance form to ratify the counter offer.

Public Notices were placed in the Pingelly Times and the Narrogin Observer.

Comment:

It is supported that Council agree to dispose of 16 Eliot Street, Pingelly for the below mentioned sum in the resolution.

Consultation:

McLEODS, Barristers & Solicitors
Chief Executive Officer
Project Manager

Statutory Environment:

Local Government Act 1995 Section 3.58;

Policy Implications:

NA

Financial Implications:

Advertising costs, settlement agent fees, and any other required costs to be expended from the 2016/17 budget.

On the sale of the property, it is anticipated a nett of around \$160,000 will come back to the Shire and placed in the Building Infrastructure Reserve account.

Strategic Implications:

Continuing development and retention of community in Pingelly.

Voting Requirements:

Absolute Majority.

Recommendation:

1. The Council note no submissions were received as a result of the Public Notice before executing the sale and settlement of 16 Eliot Street, Pingelly.
2. The Council accept a contract for the sale of the property under a standard REIWA contract for the sale of land. Specifically:
 - a. Buyer: Ashley James Bryant of 23 Eliot Street Pingelly 6308
 - b. Property: 16 Eliot Street Pingelly (Lot 47 Vol 1332 Folio 655)
 - c. Consideration: \$A165,000. Note: GST, if applicable, will need to be added to this figure.
3. The Council affirms that the following Special Conditions still apply to the sale:
 - a. Chattels as above. That is, Curtains and other furniture as inspected on 12 September 2016.
 - b. Subject to Buyer obtaining finance to buyers' satisfaction.
4. The Council authorise the Chief Executive Officer to arrange for a property conveyancer to transfer the property.

Moved: _____

Seconded: _____

9.2 DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES

Nil

9.3 DIRECTORATE OF TECHNICAL SERVICES

Nil

10. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

New business of an urgent nature introduced by decision of the meeting. Best practice provides that Council should only consider items that have been included on the Agenda (to allow ample time for Councillors to research prior to the meeting) and which have an Officer Report (to provide the background to the issue and a recommended decision).

12. CLOSURE OF MEETING

The Chairman to declare the meeting closed