



# Shire of Pingelly

## Minutes

Ordinary Council Meeting  
15 August 2018

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

The Chairman declared the meeting open at 2.03pm.

**2. ACKNOWLEDGEMENT OF COUNTRY**

We acknowledge the Noongar people of this area and recognise their continuing connection to land, waters and community. We pay respect to both the Aboriginal and non-Aboriginal people past and present.

**3. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

Nil.

**3.1 Council Agenda Reports**

Please note that all elected members have been provided with the relevant information pertaining to each Officers reports within today's Agenda and the Officer Recommendations are based on Council Policy and or State Acts and Legislation.

**4. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**

At the Ordinary Council Meeting held on 18 July 2018 the following leave was granted:

**12457 Moved: Cr Hodges Seconded: Cr Wood**

**Council Decision:**

**That Cr McBurney be granted leave from the 1<sup>st</sup> August to the 30<sup>th</sup> September 2018.**

Carried 7:0

**Note: Cr McBurney was in attendance at this meeting.**

**12458 Moved: Cr McBurney Seconded: Cr Hotham**

**Council Decision:**

**That Cr Walton-Hassell be granted leave from the 6<sup>th</sup> September to 12<sup>th</sup> September 2018.**

Carried 7:0

**MEMBERS PRESENT**

Cr WV Mulroney	President
Cr DI Freebairn	Deputy President
Cr BW Hotham	
Cr J McBurney	
Cr PJ Wood	
Cr JM Walton-Hassell	
Cr EJ Hodges	
Cr K Hastings	

**STAFF IN ATTENDANCE**

Mr N Hartley	Acting Chief Executive Officer
Mr S Billingham	Director Corporate Community Services
Mr B Gibbs	Director Technical Services
Mrs L Boddy	Executive Assistant

**APOLOGIES**

Nil.

## **OBSERVERS & VISITORS**

Mrs Lee Steel  
Mr Craig McLennan

## **5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Ordinary Council Meeting 18 July 2018:

### **Mrs Lee Steel**

Questions submitted prior to the meeting.

Re: Councils “treating” of a section of Shaddick St as last mile access.

The Shire President advised these questions would be taken on notice.

#### *Summary of Question:*

Are you saying that you cannot answer these questions today?

#### *Summary of Response:*

The Shire President responded that yes they can be answered today.

1. Will the Shire President please confirm that this was not a decision of Council and was in fact a decision made by the CEO as an operational matter?

The Shire President replied yes it was.

2. Can the Shire President advise what processes and/or policies were or should have been adhered to by the CEO when making operational decision re approval of last mile access to RAV4 vehicles on Shaddick St Pingelly.

The Shire President asked the CEO answer that question.

The Chief Executive Officer added I would like to clarify I think there has been some confusion as to what has been allowed as access to Taylor Street or Shaddick Street for Pingelly Transport compared to the RAV 4 network. We have only allowed semis to access this property. A prime mover and a trailer have no problems as a Shire or with Main Roads. When they have a second trailer is when it falls into the RAV4 network. The Shire applied to Main Roads to get sections of that road assessed and approved as RAV4 and that was not approved. The Shire has not approved RAV4 for Shaddick Street. Anything that has two trailers has been referred to Main Roads and they advised to let the local police know so they can enforce it.

#### *Summary of Question:*

So to be clear if they have two trailers on they are not allowed on Shaddick Street?

#### *Summary of Response:*

The Chief Executive Officer answered Correct.

#### *Summary of Question:*

And you are aware they are doing that?

#### *Summary of Response:*

The Chief Executive Officer replied the Shire unfortunately can't police it.

*Summary of Question:*

So when the questions were asked in writing to you in regards to company vehicles on that road and you responded that last mile access had been granted you didn't clarify it was for one trailer and did you assume we were asking about one trailer even though it was for two?

*Summary of Response:*

The Chief Executive Officer replied I assumed that it was for any trailer on Shaddick Street.

Question

When you responded to our questions that clearly only has two trailer vehicles on it you responded assuming we were talking about one trailer?

*Summary of Response:*

The Chief Executive Officer responded that the Shire haven't approved the two trailers and have notified Main Roads of the complaints and asked them to look at it and they have said it is up to local police to enforce. We will progress this once again as there has been an issue about two trailers.

*Summary of Question:*

We have been writing to you about a particular business and when you have been responded you have been responding about general stuff?

*Summary of Response:*

The Chief Executive Officer advised we have been replying that it was granted for semi trailers not two trailers we have never approved that.

*Summary of Question:*

When you have been responding to us you have responded that last mile access was granted, you did not state it was granted for their vehicle configurations. When did you envisage we would work out that your response did not pertain to the trucks at that business?

*Summary of Response:*

The Chief Executive Officer replied that the letters received are about truck movement and that is what we replied to. We have reported these issues to Main Roads.

*Summary of Question:*

So you have formally done that?

*Summary of Response:*

The Chief Executive Officer replied yes we have.

*Summary of Question:*

We have spoken to them and they have no record of a complaint. You have made complaints about two trailers to main roads?

*Summary of Response:*

The Chief Executive Officer responded that we have made Main Roads aware of these issues.

*Summary of Question:*

Could I ask the Shire President - when you responded to the letters we wrote were you aware that it was a single trailer we were discussing?

*Summary of Response:*

The Shire President responded no he wasn't.

The Chief Executive Officer added he would follow up the correspondence and find the dates of when the complaints have gone to Main Roads.

*Summary of Question:*

Can we get a formal response as to what they have been approved for and clearly define that is it one truck and one trailer? You did formal complaints? How was this done?

*Summary of Response:*

The Chief Executive Officer advised it will be through our regular reporting process.

*Summary of Question:*

Can you tell us when the application was made for last mile access for single trailer and when you formally approved single trailer access on that road?

*Summary of Response:*

The Chief Executive Officer replied that we have written to Pingelly Transport advising them of access and their requirements, they don't need approval for a prime mover and a single trailer.

*Summary of Question:*

They didn't make formal application for last mile access?

*Summary of Response:*

The Chief Executive Officer replied that we granted access as a single trailer.

*Summary of Question:*

So can you advise me when you formally notified them? You will send those replies in writing clearly outlined?

*Summary of Response:*

The Shire President advised yes we would.

Mrs Steel left the meeting at 2.25pm and did not return. Mrs Steel's remaining questions are shown below:

3. How does the Shire allocate approval for last mile access – is Shaddick St approved for any RAV4 vehicle to use the road or is Shire approval to individual vehicles?
4. Can the Shire President advise if the CEO's actions of approving last mile access to the owners of Lots 168 and 169 Taylor Street took into account the main roads report 22/08/2016 clearly stating that Shaddick St and Taylor St requests for RAV4 rating were not approved as they were "deemed unsuitable for RAV Networks 2-4 due to non complainant swept paths..."
  - a) If CEO did not consider the report when granting approval then why not?
  - b) If CEO did take this report into account, what justification did he use for overriding the decision and findings of Main Roads report?
5. When the CEO granted approval to the owners of Lots 168 and 169 Taylor St to allow last mile access what if any requirements did he put on the approval to ensure all users of this road would be safe?

6. As council is aware of the report by main roads that refused RAV4 rating to Shaddick St and received written advise that late last year my daughter and grandson narrowly avoiding a collision with a RAV4 vehicle that entered Shaddick St without stopping, will council be asking the CEO to immediately revoke the approval to owners of Lots 168 and 169 Taylor Street?
- a) If not how will council ensure the safety of persons using Shaddick Street and how will council mitigate the liability risk to councillors and ratepayer as council will effectively be endorsing the actions of the CEO to allow RAV4 use of Shaddick St.

The Shire President advised that these questions would be taken on notice and a written reply will be sent.

**Mr Craig McLennan**

*Summary of Question:*

The record of the minutes for last question time at the last Ordinary Council Meeting there has been an omission from the questions I asked – regarding the duration of question time I would like to have it recorded that in the discussion the Shire President and I had that the Shire President advised that as Presiding Member it was his prerogative to limit question time to 15 minutes.

*Summary of Response:*

The Shire President responded that is correct it is the prerogative of the Shire President to limit the length of question time.

*Summary of Question:*

Why doesn't the Shire publish question time in the Shire News?

*Summary of Response:*

The Shire President responded that the Shire News is just an overview of what has happened at the Council meeting, the full minutes are available on the website.

*Summary of Question:*

I notice that Wikipedia has listed the Shire of Pingelly population as per the 2016 census of 809 is this correct? If not can the Shire President please direct the Shire to update this figure.

*Summary of Response:*

The Shire President responded that we will check that on the ABS website.

*Summary of Question:*

In the last two community surveys one of the most significant issues raised by the community was the establishment of a heavy vehicle bypass around Pingelly. Please update the community on the progress of that.

*Summary of Response:*

The Chief Executive Officer advised the survey question was "Would the community support an alternative route around town?" it was only a question.

*Summary of Question:*

Is the Shire acting on that?

*Summary of Response:*

The Chief Executive Officer responded not at this stage.

*Summary of Question:*

The procurement of the PRACC is a complex and expensive exercise and is composed of many stages one of which is the formal documentation by the architects with is mirrored by a quantity surveyor's estimate of probable costs. This is not the estimate I have asked for previously. Can the Council please release the quantity surveyor of estimate of probable cost in full?

*Summary of Response:*

The Shire President responded that an overview of the report is in the business case. The Chief Executive Officer added that as a previous employee of the Shire we would ask where did you file them? We have found a lot of shortcomings to do with document location from your time employed by the Shire.

*Summary of Question:*

Are you making an accusation against me?

*Summary of Response:*

The Chief Executive Officer replied saying I am purely stating the facts, you have asked a question in a public forum and I am stating the facts there is a lot of documentation during your time that is very hard to locate. The costings were done by the Quantity Surveyor and they were assessed and the documentation has been provided to you, you were part of that process you were the Project Manager responsible for that process and in control of the documentation. You are aware that the documents that were provided to you were part of our assessment when the architects provided their preliminary costings it was based on that documentation.

*Summary of Question:*

I was talking to the policeman the other day and he informed me that his wife had been employed at the Shire to fix my stuff ups. Why would he say that?

*Summary of Response:*

The Chief Executive Officer replied I am not sure, perhaps he heard it somewhere.

*Summary of Question:*

This is a different estimate of probable cost one that was prepared at the same time as the documentation. Given my absence from the office and I note that there is a record of a payment going to that Quantity Surveyor all I am asking is that document is presented and published.

*Summary of Response:*

The Chief Executive Officer replied what would be the nature and benefit to that?

*Summary of Question:*

It doesn't have to have a nature or benefit I am merely asking for it to be done. It is not your prerogative to question is it Mr Pollock?

*Summary of Response:*

The Chief Executive Officer replied seeking clarification is part of getting the right question across.

*Summary of Question:*

Do you understand which document?

*Summary of Response:*

The Shire President responded I don't understand what the bottom line is.

Mr McLennan replied - you don't have to know what the bottom line is.

The Shire President asked why do you want the Quantity Surveyors report? Is there something worrying you?

Mr McLennan replied I just want to see the copy.

*Summary of Question:*

So you will provide that document?

*Summary of Response:*

The Shire President replied we will endeavour to locate it.

*Summary of Question:*

Do you accept this advice from the Minister for Local Government about the limit for public question time?

*Summary of Response:*

The Shire President advised he would take that question on notice.

*Summary of Question:*

If the Minister for Local Government is correct, which you are going to determine, will the Shire President now acknowledge he has been censoring question time by imposing a maximum 15 minute question time?

*Summary of Response:*

The Shire President advised he would take that question on notice.

*Summary of Question:*

You were advised again today about the duration of question time. If the Minister is correct will you acknowledge you have received very poor advice on this issue?

*Summary of Response:*

The Shire President advised he would take that question on notice.

*Summary of Question:*

Do you realise by sticking with this 15 minutes duration you are breaking the law?

*Summary of Response:*

The Shire President advised he would take that question on notice.

## **6. PUBLIC QUESTION TIME**

Public question time opened at 2.04pm.

### **6.1 Mrs Lee Steel**

#### Summary of Question

At the last meeting I believe there were misrepresentations as to what the letter I was referring to was saying. Is it the President's opinion I am still misreading the letter?

#### Summary of Response

The Shire President responded I believe you were misreading those words.

#### Summary of Question

So what was said in the letter was not what it was meant to say?

#### Summary of Response

The Shire President responded that is correct.

#### Summary of Question

Could you please explain how the business in question is meant to interpret it if it doesn't say what is it supposed to say?

#### Summary of Response

The Shire President responded I don't think he would interpret it I would think it would be read that he can run the whole configuration of two trailers from the current location.

#### Summary of Question

So what is Council going to do with that if it is not correct?

#### Summary of Response

The Shire President responded I will take that on notice.

#### Summary of Question

So you are advising me that Council did not endorse this decision and it was a mistake by the CEO that he did not get Council permission to say what he said and it does allow two trailers on that road?

#### Summary of Response

The Shire President responded that is what I would interpret it as, the two trailers.

#### Summary of Question

Are Council saying they are allowing that at this stage?

#### Summary of Response

The Shire President responded I don't believe so.

Summary of Question

So Council is going to take how long to act? Are they going to do anything about the unsafe circumstances this has created - this is an urgent issue for me.

Summary of Response

The Shire President responded I understand that and we will undertake to remedy this situation as soon as possible.

The Director Technical Services added that in an email I sent to you the position at the moment is that the road is a not rated RAV road and should allow only up to 19.5m vehicles with one trailer and anything else is in breach of that. If a resident wants to report that traffic to Main Roads Heavy Haulage or the police they can and also submit photos.

Summary of Question

If you have misinformed a business that their trucks are allowed to be on that road how are you going to remedy that quickly?

Summary of Response

The Director Technical Services replied I am happy to send a letter stating the above requirements and clarification of the letter.

Summary of Question

If Council did not approve this and sent them a letter saying they can run their business then I would like, when the CEO is available, for an apology as I was humiliated at the last meeting being told that the letter stated this business was not allowed whereas in fact it didn't state that at all.

Summary of Response

The Shire President responded we can take that on notice and respond to you.

Summary of Question

Could you please give me a timeframe for that?

Summary of Response

The Shire President responded within the next month.

Summary of Question

I hope you understand that there are big liability issues as Council and ratepayers because he believes that he is allowed to run his trucks on these roads.

Summary of Response

The Shire President responded thank you for your questions.

Mrs Steel left the meeting at 2.10pm and did not return.

**6.2 Mr Craig McLennan**

Summary of Question

One should never ask a question unless they know the answer – do you Mr President feel that I would ask a question that I do not know the answer?

Summary of Response

The Acting Chief Executive Officer responded by saying that question time is to ask about the business of the Local Government and the question did not seem to be consistent with that.

Summary of Question

Can you please provide me with at least one document that talks about the mandated maximum duration of question time.

Summary of Response

The Shire President responded this matter is closed, the Presiding Member has the right to determine the length of time public question time goes for.

Summary of Question

At the last Ordinary Council Meeting held on 18 July 2018 I asked about the heavy vehicle bypass. Given the various incidents that have occurred on the main street will the Council order the Shire to take action to create a bypass before somebody gets killed?

Summary of Response

The Shire President responded we have lobbied the Minister for Transport of the Previous Government and they came up with three options and none of those are what the Shire can afford to do.

Summary of Question

Council and Shire are aware I have repeatedly asked for the documents on estimates of probable cost for the PRACC and my questions have been ignored. These documents are that the Shire have or should have shown to the Council as the normal verification of costs throughout the project. I was advised this document dated 2016 was included on Shire website and this cannot be true as the document I am referring to was dated 2015. As an employee of the Shire I kept these in a file next to my desk and put them on official record – where are they? These were seen on the CEOs desk on 22 February 2017 as I put them there. I was advised at last meeting I had not kept a copy and disparaged in my profession.

The Quantity Surveyor was directed to reduce the costs by removing items such as builders margins. Would Council authorise me to obtain documents from the Quantity Surveyor and allow me to print in press and social media?

Summary of Response

The Shire President responded no we will not and we will endeavour to find the copies you have described above.

Public question time ended at 2.22pm at the presiding member's discretion.

12495 Moved: Cr Hastings Seconded: Cr Hodges  
That the meeting be suspended at 2.22pm for a short break.

Carried 8:0

12496 Moved: Cr Hodges Seconded: Cr McBurney  
That the meeting resume at 2.25pm with everyone present before the break in attendance.

Carried 8:0

**7. APPLICATIONS FOR LEAVE OF ABSENCE**

12497 Moved Cr Wood Seconded Cr Hotham

That Cr Hodges be authorised to take leave from 24<sup>th</sup> August to 10<sup>th</sup> September 2018.

Carried 8:0

12498 Moved Cr Hodges Seconded: Cr Freebairn

That Cr Wood take leave from 10<sup>th</sup> to 14<sup>th</sup> September 2018.

**8. DISCLOSURES OF INTEREST**

Mr Neil Hartley disclosed an interest in item 14.2 Chief Executive Officer Leave and Appointment of Acting Chief Executive Officer

Cr Hotham disclosed an interest in item 18.1 Proposed Transfer of Joint Venture Interest to Pingelly Somerset Alliance.

## **9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **9.1 Ordinary Meeting – 18 July 2018**

**Statutory Environment:**

Section 5.22 of the *Local Government Act* provides that minutes of all meetings are to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

**Voting Requirements:**

Simple Majority

**12499 Moved: Cr Hodges                      Seconded: Cr Hastings**

**Recommendation and Council Decision:**

**That the Minutes of the Ordinary Meeting of the Council of the Shire of Pingelly held in the Council Chambers on 18 July 2018 be confirmed.**

Carried 8:0

### **9.2 Special Council Meeting – 30 July 2018**

**Statutory Environment:**

Section 5.22 of the *Local Government Act* provides that minutes of all meetings are to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

**Voting Requirements:**

Simple Majority

**12500 Moved: Cr Hodges                      Seconded: Cr Wood**

**Recommendation and Council Decision:**

**That the Minutes of the Special Meeting of the Council of the Shire of Pingelly held in the Council Chambers on 30 July 2018 be confirmed.**

Carried 8:0

### **9.3 Special Council Meeting – 8 August 2018**

**Statutory Environment:**

Section 5.22 of the *Local Government Act* provides that minutes of all meetings are to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

**Voting Requirements:**

Simple Majority

**12501 Moved: Cr Hodges                      Seconded: Cr McBurney**

**Recommendation and Council Decision:**

**That the Minutes of the Special Meeting of the Council of the Shire of Pingelly held in the Council Chambers on 8 August 2018 be confirmed.**

Carried 8:0

**10. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil.

**11. REPORTS OF COMMITTEES OF COUNCIL**

Audit Committee

Full Council

Recreation & Cultural Committee

Member – Shire President  
Deputy – Deputy President

Bushfire Advisory Committee

Member – Cr Freebairn  
Deputy – Cr Hotham

Chief Executive Officer Performance Review Committee

Member – Shire President  
Member – Deputy President  
Member – Cr Hodges

## **12. REPORTS OF COUNCIL DELEGATES ON EXTERNAL COMMITTEES**

Central Country Zone of WALGA	Delegate – Shire President Delegate – Deputy President Deputy – Cr Wood
Hotham-Dale Regional Road Sub-Group	Delegate – Shire President Deputy – Cr McBurney
Development Assessment Panel	Delegate – Cr Mulroney Delegate – Cr Freebairn Deputy – Cr Hodges Deputy – Cr Wood
Pingelly Tourism Group	Delegate – Cr McBurney Deputy – Cr Freebairn
Regional Waste Group	Delegate – Cr Mulroney Deputy – Cr Wood
Shires of Pingelly and Wandering Joint Local Emergency Management Committee	Delegate – Shire President Deputy – Cr Hodges
Aged Care Planning Regional Sub-Group (BBP)	Delegate – Shire President Delegate – Cr Hotham Deputy – Cr Freebairn
Youth Focus Group	Delegate – Cr Walton-Hassell Delegate – Cr Hastings Deputy – Cr McBurney
Pingelly Somerset Alliance	Delegate – Shire President Deputy – Cr McBurney

### **13. REPORTS FROM COUNCILLORS**

#### **Cr William Mulronev (President)**

##### **Meetings attended July:**

- 13<sup>th</sup> Meeting with Cr Elect Mrs Kacey Hastings
- 17<sup>th</sup> Meeting to instigate questions for applicants interview
- 17<sup>th</sup> Meeting and teleconference with Doctor's renewal of contract
- 18<sup>th</sup> Swearing in of Councillor Elect Mrs Kacey Hastings
- 18<sup>th</sup> Corporate Discussion and Council Meeting
- 19<sup>th</sup> ABC phone Interview re IGA and PRACC
- 20<sup>th</sup> Radio FM 101.3 Interview re Shire Profile and Projects
- 20<sup>th</sup> GWN phone interview re IGA Progress
- 23<sup>rd</sup> PRACC interview potential applicants for PRACC Manager Position
- 24<sup>th</sup> Great Southern Waste Regional Meeting Cuballing re Pyrolysis Concept
- 25<sup>th</sup> Meeting with DCCS re budget
- 24<sup>th</sup> ABC video recording of PRACC project with representative from Forrest Commission Products
- 24<sup>th</sup> Discussion with Councillors and CEO and DCCS re incident on 21<sup>st</sup> July 2018
- 26<sup>th</sup> Regional Road Group Wickepin re funding for 2018/19
- 30<sup>th</sup> Pingelly Somerset Alliance – Workshop - future direction of PSA
- 30<sup>th</sup> Special Council Meeting- re incident 21 July 20187
- 31<sup>ST</sup> Managing Conflict Course - Shire Chambers.
- 31<sup>st</sup> Mayors and Presidents Forum and Sundowner Perth

##### **Meetings attended August:**

- 1<sup>st</sup> Local Government Convention - Mayors, President and CEO's Forum
- 1<sup>st</sup> WALGA Annual General Meeting
- 1<sup>st</sup> Welcome and Sundowner
- 2<sup>nd</sup> WALGA Convention – keynote speakers and meeting WALGA Policy Officer
- 2<sup>nd</sup> WALGA Annual Gala Dinner
- 3<sup>rd</sup> Meeting with LGIS Area Manager Ms Carissa Chung re insurance matters in regards to Councillors
- 3<sup>rd</sup> Visit Curtain University inspection of the model pyrolysis plant and information session on concept and funding of
- 8<sup>th</sup> Budget Workshop

#### **Cr David Freebairn (Deputy President)**

##### **Meetings attended July**

- 24<sup>th</sup> PRACC
- 24<sup>th</sup> Helen Morton re Assets of the Pingelly Somerset Alliance
- 25<sup>th</sup> Special Council Meeting
- 30<sup>th</sup> Somerset Alliance Looking Forward Meeting

##### **Meetings attended August**

- 1<sup>st</sup> Local Government Conference
- 8<sup>th</sup> Shire Budget Meeting
- 14<sup>th</sup> PRACC Meeting
- 14<sup>th</sup> RSA Training at CRC for future of PRACC

#### **Cr Evan Hodges**

Nil

#### **Cr Bryan Hotham**

Nil

**Cr Jackie McBurney**

**Meetings attended July**

30<sup>th</sup> Somerset Alliance Workshop with Peter Kenyon

**Meetings attended August**

8<sup>th</sup> Tourism Group Meeting

**Cr Michelle Walton-Hassell**

Nil

**Cr Peter Wood**

Nil

**Cr Kacey Hastings**

Nil

***Note: Standing Orders Apply***

## **14 OFFICE OF THE CHIEF EXECUTIVE OFFICER**

### **14.1 Council Meeting Dates for 2019**

**File Reference:** 0000  
**Location:** Council  
**Applicant:** Chief Executive Officer  
**Author:** Chief Executive Officer  
**Date:** 6 August 2018  
**Disclosure of Interest:** Nil  
**Attachments:** Nil  
**Previous Reference:** Nil

#### **Summary:**

Council consider setting the following proposed dates for the Ordinary Meetings of Council in 2019:

20 February 2019  
20 March 2019  
17 April 2019  
15 May 2019  
19 June 2019  
17 July 2019  
21 August 2019  
18 September 2019  
16 October 2019  
20 November 2019  
11 December 2019

#### **Background:**

Council is required to advertise its meeting dates prior to meetings being held. In order to allow this to occur, it is recommended that Council adopt the 2019 dates for meetings in advance as per policy 4.1 Ordinary Meetings of Council.

#### **Comment:**

Normally Council don't hold an ordinary Council meeting in January unless urgent business is required to be addressed.

#### **Consultation:**

Shire President and Senior Staff

#### **Statutory Environment:**

##### **Local Government Act 1995, Part 5**

Division 2 — Council meetings, committees and their meetings and electors' meetings

Subdivision 1 — Council meetings

5.3. Ordinary and special council meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

##### **5.4. Calling council meetings**

An ordinary or a special meeting of a council is to be held —

- (a) if called for by either —
  - (i) the mayor or president; or
  - (ii) at least  $\frac{1}{3}$  of the councillors,in a notice to the CEO setting out the date and purpose of the proposed meeting; or
- (b) if so decided by the council.

**Policy Implications:**

Policy 4.1 - Ordinary Meetings of Council will need to be amended to reflect the endorsed resolution.

**Financial Implications:**

Nil

**Strategic Implications:**

Nil

**Risk Implications:**

Risk	Low (2)
Risk Likelihood (based on history and with existing controls)	Low (2)
Risk Impact / Consequence	Low (2)
Risk Rating (Prior to Treatment or Control)	Low (2)
Principal Risk Theme	Low (2)
Risk Action Plan (Controls or Treatment Proposed)	Low (2)

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 1 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

**Voting Requirements:**

Simple Majority

**12502 Moved: Cr McBurney**

**Seconded: Cr Hodges**

**Recommendation and Council Decision:**

**That Council endorse setting the following Ordinary Council Meetings dates for 2019:**

- 20 February 2019**
- 20 March 2019**
- 17 April 2019**
- 15 May 2019**
- 19 June 2019**
- 17 July 2019**
- 21 August 2019**
- 18 September 2019**
- 16 October 2019**
- 20 November 2019**
- 11 December 2019**

Carried 8:0

Prior to consideration of item 14.2, Mr Neil Hartley disclosed an interest in this matter due to it concerning him. Mr Hartley left the room at 2.44pm.

#### **14.2 Chief Executive Officer Leave and Appointment of Acting Chief Executive Officer**

**File Reference:** ADM0310  
**Location:** Shire of Pingelly  
**Applicant:** Chief Executive Officer  
**Author:** Chief Executive Officer  
**Date:** 10 August 2018  
**Disclosure of Interest:** Nil  
**Attachments:** Nil  
**Previous Reference:** Special Council Meeting 8 August 2018 Item 10.1

#### **Summary:**

Council to consider the appointment of an acting Chief Executive Officer from Wednesday 15 August to Sunday 2 September 2018 while the Chief Executive Officer is on leave.

#### **Background:**

The Chief Executive Officer has discussed the Acting Chief Executive Officer options with the Council. The Council feel due to the timing and other Executive Team members leave commitments Council has requested to appoint an external Acting Chief Executive Officer from 14 August to 2 September 2018.

The Chief Executive Officer has made contact with LOGO Appointments who have recommended Mr Neil Hartley. Mr Hartley has indicated he is prepared to be appointed to the position of Acting Chief Executive Officer of the Shire of Pingelly from 14 August to 2 September 2018.

#### **Comment:**

The Chief Executive Officer's request for leave is to undergo a knee reconstruction.

Mr Hartley has been contacted due to his experience within local government as a Chief Executive Officer. Mr Hartley has worked in local governments for 35 years and held the following positions:

- April – July 2018 Acting CEO Shire of Mingenew
- May – Dec 2017 Acting CEO Shire of Carnamah
- Oct 2013 – Mar 2017 CEO Shire of Ashburton
- Aug 2005 – Sep 2013 CEO City of Kwinana
- Mar 1993 – Aug 2004 Deputy CEO City of Belmont
- Mar 1986 – Mar 1993 Shire Clerk Shire of Kojonup
- Dec 1981 – Mar 1986 Shire Clerk Shire of Three Springs

The remuneration offered to Mr Hartley will be within the Band 4 reward package range prescribed by the Salaries and Allowances Tribunal in consideration with LOGO appointments.

#### **Consultation:**

- Shire President
- LOGO appointments
- Full Council

**Statutory Environment:**

Section 5.36 of the *Local Government Act 1995* provides that:

- (1) A local government is to employ —
  - (a) a person to be the CEO of the local government; and
  - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (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.
- (3) A person is not to be employed by a local government in any other position unless the CEO —
  - (a) Believes that the person is suitably qualified for the position; and
  - (b) is satisfied with the proposed arrangements relating to the person’s employment.
- (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 into contain such information with respect to the position as is prescribed.
- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (5) For the avoidance of doubt, subsection (4) does not impose requirement to advertise a position before the renewal of contract referred to in section 5.39.

Regulation 18 of the Local Government (Administration) Regulations provides that:

- (1) If a position of CEO, or of senior employee, of a local government becomes vacant, the local government is to advertise the position —
  - (a) on a notice board exhibited to the public at the local government’s offices, if the position is —
    - (i) to be filled on a part time basis by a person who is also employed by another local government; or
    - (ii) an acting position for a term not exceeding one year;or
  - (b) otherwise, in a newspaper circulating generally throughout the State.
- (2) An advertisement referred to in sub regulation (1) is to contain —
  - (a) the details of the remuneration and benefits offered;
  - (b) details of the place where applications for the position are to be submitted;
  - (c) the date and time for the closing of applications for the position;
  - (d) the duration of the proposed contract;
  - (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.

**Policy Implications:**

Nil

**Financial Implications:**

2018/19 budget adjustment may be required at the midyear budget review.

**Strategic Implications:**

The appointment of an external Acting Chief Executive Officer will allow operation to continue and be suitably resourced.

**Voting Requirements:**

Majority.

**Recommendation:**

**That Council Approve:**

- 1. Mr Neil Hartley be appointed as Acting Chief Executive Officer with full delegation from 14 August to 2 September 2018**
- 2. The Shire President in the event that the Chief Executive Officer's leave needs to be extended to negotiate with Mr Neil Hartley an extension of appointment and a remuneration package beyond the period of stated leave within the Band 4 reward package range prescribed by the Salaries and Allowances Tribunal under Section 7A of the Salaries and Allowances Act 1975.**

**12503 Moved: Cr Wood**

**Seconded: Cr McBurney**

**COUNCIL DECISION**

**That Council Approve:**

- 1. Mr Neil Hartley is suitably qualified for the position and that he be appointed as Acting Chief Executive Officer with full delegation from 14 August to 2 September 2018**
- 2. The Shire President in the event that the Chief Executive Officer's personal/annual leave needs to be extended to negotiate with Mr Neil Hartley an extension of appointment and a remuneration package beyond the period of stated leave within the Band 4 reward package range prescribed by the Salaries and Allowances Tribunal under Section 7A of the Salaries and Allowances Act 1975.**

Carried 8:0

Mr Neil Hartley rejoined the meeting at 2.46pm.

## **15. DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES**

### **15.1 Monthly Statement of Financial Activity – June 2018**

<b>File Reference:</b>	<b>ADM0075</b>
<b>Location:</b>	<b>N/A</b>
<b>Applicant:</b>	<b>Director Corporate &amp; Community Services</b>
<b>Author:</b>	<b>Director Corporate &amp; Community Services</b>
<b>Date:</b>	<b>11 June 2018</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Monthly Statements of Financial Activity for the period 1 July 2017 to 30 June 2018 (Attachment 1 following blue sheet in separate attachments booklet)</b>
<b>Previous Reference:</b>	<b>N/A</b>

#### **Summary:**

In Accordance with the *Local Government Act 1995* Section 5.25 (1) and *Local Government (Financial Management) Regulations 1996*, Monthly Financial Statements are required to be presented to Council, in order to ensure that income and expenditure is in keeping with budget forecasts.

The Monthly Statements of Financial Activity for the month of June 2018 is attached for Council consideration and adoption.

#### **Background:**

In order to prepare the monthly statements, the following reconciliations have been completed and verified:

- Reconciliation of assets, payroll and taxation services;
- Reconciliation of all shire's bank accounts, including term deposits;
- Reconciliation of Rates, including outstanding debtors;
- Reconciliation of Sundry Creditors and Debtors;

#### **Consultation:**

Chief Executive Officer.

#### **Statutory Environment:**

*Local Government Act 1995;*

*Local Government (Financial Management) Regulations 1996*

Section 34: Financial Reports to be Prepared

(1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -

- (a) Annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1) (b) or (c);
- (b) Budget estimates to the end of the month to which the statement relates;
- (c) Actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
- (d) Material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- (e) The net current assets at the end of the month to which the statement relates.

- (2) Each statement of financial activity is to be accompanied by documents containing -
- (a) An explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
  - (b) An explanation of each of the material variances referred to in sub regulation (1) (d); and
  - (c) Such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown -
- (a) According to nature and type classification;
  - (b) By program; or
  - (c) By business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), is to be -
- (a) Presented to the council -
    - (i) At the next ordinary meeting of the council following the end of the month to which the statement relates; or
    - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and
  - (b) Recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

**Policy Implications:**

There are no policy implications.

**Financial Implications:**

There are no significant trends or issues to be reported. The report and officer recommendation is consistent with Council's adopted Budget 2017/2018.

**Strategic Implications:**

There are no known significant strategic implications.

**Risk Implications:**

Risk	Low (2)
Risk Likelihood (based on history and with existing controls)	Low (2)
Risk Impact / Consequence	Low (2)
Risk Rating (Prior to Treatment or Control)	Low (2)
Principal Risk Theme	Low (2)
Risk Action Plan (Controls or Treatment Proposed)	Low (2)

Risk Matrix

Consequence Likelihood		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 1 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

**Voting Requirements:**

Simple Majority.

**12504 Moved: Cr Hodges                      Seconded: Cr McBurney**

**Recommendation and Council Decision:**

**That with respect to the Monthly Statements of Financial Activity for the month ending 30 June 2018 be accepted and material variances be noted.**

Carried 8:0

## **15.2 Accounts Paid by Authority - July 2018**

**File Reference:** ADM0066  
**Location:** Shire of Pingelly  
**Applicant:** Director Corporate & Community Services  
**Author:** Senior Finance Officer  
**Date:** 8 August 2018  
**Disclosure of Interest:** Nil  
**Attachments:** List of Accounts  
(Attachment 2 following orange sheet in separate attachments booklet)  
**Previous Reference:** N/A

### **Summary:**

Council endorsement is required for accounts made by authority for the month of July 2018.

### **Comment:**

Unless otherwise identified, all payments have been made in accordance with Council's 2018/19 Budget.

### **Consultation:**

Nil

### **Statutory Environment:**

Regulation 12 of the *Local Government (Financial Management) Regulations* provides that:

- (1) A payment may only be made from the municipal fund or the trust fund —
  - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
  - (b) otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

Regulation 13 of the *Local Government (Financial Management) Regulations* provides that:

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
  - (a) the payee's name;
  - (b) the amount of the payment;
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
  - (a) for each account which requires council authorisation in that month —
    - (i) the payee's name;
    - (ii) the amount of the payment; and
    - (iii) sufficient information to identify the transaction; and
  - (b) the date of the meeting of the Council to which the list is to be presented.
- (3) A list prepared under sub regulation (1) or (2) is to be —
  - (a) presented to the Council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting.

**Policy Implications:**

There are no policy implications arising from this amendment.

**Financial Implications:**

There are no known financial implications upon either the Council’s current budget or long term financial plan.

**Strategic Implications:**

There are no known significant strategic implications relating to the report.

**Voting Requirements:**

Simple Majority.

**12505 Moved: Cr Hodges**

**Seconded: Cr Walton-Hassell**

**Recommendation and Council Decision:**

**That Council endorse the Accounts for Payments for July 2018 as presented:**

<b>July 2018</b>	
<b>MUNI - 117984856</b>	
EFT 5111 – 5168	\$641,257.05
CHEQUE 24575 – 24578	\$24,757.13
<b>TRUST ACCOUNTS</b>	
DEPT OF TRANSPORT – DD9894.1 – DD9947.1	\$23,363.45
TRUST FUND – 1929-1931	\$400.00
<b>DIRECT DEBIT -</b>	
DD9886.1 – DD9925.9 & EFT 5107 - 5172 – Pay and Super	\$21,755.33
DD9877.1 WATC Loan 120 repayment	\$13,476.31
DD9879.1 WATC Loan 123 repayment	\$93,080.62
<b>CREDIT CARD</b>	
DD9892.1	\$534.98
<b>GRAND TOTAL</b>	<b>\$818,624.87</b>

<b>Notification</b>	<b>Explanation</b>
Nil	

Carried 8:0

## **16. DIRECTORATE OF TECHNICAL SERVICES**

### **16.1 Non Commercial UTV Activities Request to Change Event Date**

**File Reference:** A22292  
**Location:** Loc 5048 & 9489 – 3810 Wickepin-Pingelly Rd, East Pingelly  
**Applicant:** Mr M Savill, UTV Club of WA Inc.  
**Author:** Administration Officer Technical  
**Date:** 9 August 2018  
**Disclosure of Interest:** Nil  
**Attachments:** Nil  
**Previous Reference:** Ordinary Council Meeting 18 April 2018 - Agenda Item 16.1

#### **Summary:**

A request has been received from Mr M Savill of the UTV Club of WA Inc to change the date of a previously approved event.

#### **Background:**

The UTV Club of WA sought planning consent from the Shire of Pingelly to hold events at Locations 5018 & 9489 – 3810 Wickepin-Pingelly Road, East Pingelly on various dates in 2018.

#### **Comment:**

Council granted planning consent for the UTV Club of WA to hold events as per the following resolution:

**12403 Moved: Cr Wood**

**Seconded: Cr Hotham**

#### **Recommendation and Council Decision:**

***That Council grant planning consent for the proposed UTV Club of WA Events at the following locations 5048 & 9489 at 3810 Wickepin-Pingelly Road, subject to the following conditions:***

- 1. Development shall be carried out only in accordance with the terms of the application as approved herein and any approved plan.***
- 2. This approval is for activities occurring on:***
  - 5-6 May 2018 Enduro Round 2***
  - 26-27 May 2018 People with Disability Drive Day***
  - 9-10 June 2108 Enduro Round 3***
  - 4-5 August 2018 Enduro/Drive Day Round 4***
  - 6-7 October 2018 Enduro Round 5***
  - 10-11 November 2018 People with Disability Drive Day***
  - 24-25 November 2018 Enduro/Drive BBQ Finally Round 6******in 2018, as described in the application.***
- 3. Ablution facilities that comply with the Shire of Pingelly's Environmental Health requirements shall be available on site at all times during the event.***
- 4. The risk mitigation, control and responsibilities as prescribed in an Emergency and Risk Management Plan (ERMP) to be provided to the Shire of Pingelly, to be complied with at all times during the event.***
- 5. Appropriately qualified in first aid persons shall be on site at all times during the event.***
- 6. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the event.***
- 7. Fire control procedures to be in place for the events in the months of October and November this includes firebreaks and fire units on site.***

**Carried 6:1**

Mr M Saville on behalf of the UTV Club of WA has requested a change of date of the Enduro Round 5 event to be held on 6-7 October 2018 to be now held on 22, 23 & 24 September 2018 to coincide with the anniversary memorial for Graeme Warner.

**Consultation:**

Gavin Pollock, Chief Executive Officer  
Barry Gibbs, Director of Technical Services

**Statutory Environment:**

*Shire of Pingelly's Local Planning Scheme No.3*

**Policy Implications:**

There are no known policy implications.

**Financial Implications:**

There are no known financial implications.

**Strategic Implications:**

There are no known significant strategic implications.

**Risk Implications:**

Risk	Low (1)
Risk Likelihood (based on history and with existing controls)	Low (1)
Risk Impact / Consequence	Low (1)
Risk Rating (Prior to Treatment or Control)	Low (1)
Principal Risk Theme	Low (1)
Risk Action Plan (Controls or Treatment Proposed)	Low (1)

Risk Matrix

Consequence Likelihood		Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 1 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

**Voting Requirements:**

Simple Majority

**12506 Moved: Cr Walton-Hassell**

**Seconded: Cr McBurney**

**Recommendation and Council Decision:**

**That Council grant consent for the change of date of the UTV Club event originally set for 6-7 October 2018 to 22, 23 & 24 September 2018 to coincide with the anniversary memorial for Graeme Warner, which does not change any of the conditions of the original approval.**

Carried 8:0

**17. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**18. NEW BUSINESS OR URGENT BUSINESS INTRODUCED BY DECISION OF THE 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).

12507 Moved: Cr Hodges                      Seconded: Cr Freebairn  
That new business be introduced.

Carried 8:0

Prior to consideration of item 18.1 Cr Hotham disclosed an interest in this matter due to being a resident and tenants' representative. Cr Hotham remained in the room.

**18.1 Proposed Transfer of Joint Venture Interest to Pingelly Somerset Alliance**

<b>File Reference:</b>	<b>ADM0309</b>
<b>Location:</b>	<b>Shire of Pingelly</b>
<b>Applicant:</b>	<b>Shire of Pingelly</b>
<b>Author:</b>	<b>Director Corporate &amp; Community Services</b>
<b>Authorising Officer</b>	<b>Chief Executive Officer</b>
<b>Date:</b>	<b>14 August 2018</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Housing Joint Venture Agreement – Shire of Pingelly and the Housing Authority (Attachment: Email from Department of Communities)</b>

**Summary:**

The Shire of Pingelly Council to consider a request from the Department of Communities to formally resolve to agree with conditions of the transfer to Pingelly Cottage Homes.

**Background:**

Council on the 20 June 2018 Item 14.3 resolved the following:

'12440 Moved: Cr Wood                      Seconded: Cr Hodges

Recommendation and Council Decision:

That Council:

1. approve the listing in the 2018/19 Draft Budget the disposal and transfer of the Shire of Pingelly's entire interest in the Joint Venture at 36 and 38 Sharow Street with the Housing Authority for public rental housing to the Pingelly Cottage Homes.
2. approve the listing in the 2018/19 Draft Budget the transfer of the Joint Venture Housing Reserve balance to Pingelly Cottage Homes.
3. authorise the Chief Executive Officer to liaise with the Department of Communities and Pingelly Cottage Homes to action the transfer of this interest in the 2018/19 Financial Year.

Carried 7:0'

On 1 February 2008, the Shire of Pingelly entered in to a Joint Venture Agreement with the Housing Authority. The Agreement covered the construction and management and maintenance of four public rental housing units on Sharow Street in Pingelly. The Shire of Pingelly has an 18.28% Share in the Equity of the Land and Buildings.



**Comment:**

Pingelly Cottage Homes is currently a party to a Joint Venture Agreement with the Housing Authority for the collection of Cottage Home units in Pingelly. The Shire of Pingelly proposes to transfer its interest in the Joint Venture Agreement for the Sharow Street units to Pingelly Cottage Homes, in order to consolidate the management and maintenance of joint venture public rental housing within Pingelly. This will realise efficiencies by reducing the duplication of administrative activities and associated time and financial costs.

**Consultation:**

The Shire of Pingelly’s Chief Executive Officer has spoken with the board members and Chair from Pingelly Cottage Homes (Somerset Alliance) to determine their interest in taking over the ownership interest, management and maintenance responsibilities for the four units on Sharow Street.

Shire of Pingelly officers have been in contact with the Contracts Administrator, Housing for the Department of Communities, Sasha Davidovich, who has advised that the transfer is possible and has detailed the steps the Shire would need to take to complete it. The Shire has received correspondence from Stuart Macdonald A/Senior Contract Development Officer – Contracting Commissioning and Sector Engagement, Department of Communities.

**Statutory Environment:**

The Shire of Pingelly is guided by the Joint Venture Agreement, which states that:

*“ 6.1 The Organisation shall not assign, sell, transfer, lease, let, mortgage, charge, unencumber or otherwise surrender or dispose of its estate or Interest in the Land, any other Joint Venture Property or this Agreement (other than the letting of Units to Eligible Tenants) during the term EXCEPT to Housing Authority or another association or body approved by Housing Authority which is assessed as eligible under the Guidelines to participate in the Project, unless otherwise approved in writing by Housing Authority.”*

## **Local Government Act 1995 Section 3.58 Disposing of Property**

### 3.58. Disposing of property

- (1) In this section —  
**dispose** includes to sell, lease, or otherwise dispose of, whether absolutely or not;  
**property** includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
  - (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
  - (a) it gives local public notice of the proposed disposition —
    - (i) describing the property concerned; and
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
  - and
  - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
  - (a) the names of all other parties concerned; and
  - (b) the consideration to be received by the local government for the disposition; and
  - (c) the market value of the disposition —
    - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
    - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
  - (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

**Policy Implications:**

Shire of Pingelly Policy 5.13 Asset Management states:

*“The Shire of Pingelly will undertake to provide the appropriate service levels for its assets, in a whole-of-life and economically, environmentally and socially sustainable manner. In providing and managing assets, the Shire will take into account an appropriate balance between service delivery, risk, reliability, safety and cost.*

*Budgeting priority will be given to the operation, maintenance and renewal of existing assets and services, and adequate resources will be provided to manage them in a cost effective manner.”*

**Financial Implications:**

Loss of Joint Venture Rental Operating Revenue, Operating and Capital Expenses and removal of the Joint Venture Reserve Funds from the Shire Accounts. Net operating surpluses transferred to Reserve. Capital Expenses transferred from Reserve.

Assets # 10173 Lot 602 (38) Sharow St Land Only WDV \$4,752.80  
and #10174 Lot 603(36) Sharow St Land Only WDV \$4,752.80  
and #10289A Lot 602 (38) and Lot 603 (4 Units only) WDV \$115,043.24

Joint Venture Reserve Fund Balance: \$51,936 as at 31 May 2018

Items have been listed in the 2018/19 Annual Budget for the transfer and the handing over of the JV Reserve Funds to the Pingelly Cottage Homes.

**Strategic Implications:**

The transfer of these assets will reduce the administrative burden on the Shire and will consolidate the management and maintenance of joint venture public rental housing within Pingelly.

**Voting Requirements:**

Simple Majority

**12508 Moved: Cr Freebairn Seconded: Cr Wood**

**Recommendation and Council Decision:**

**That Council agrees:**

- 1. to the condition of transfer that it contacts the Joint Venture tenants and makes them aware of the Shire’s proposal to transfer tenancy management to Pingelly Cottage Homes.**
- 2. to undertake to transfer the tenancy management function so that disruption to tenants will be minimised.**
- 3. that the Joint Venture properties be transferred in an “as is” condition and the Shire seeks written evidence from Pingelly Cottage Homes of their agreement to this.**
- 4. to provide the Department of Communities written evidence that Pingelly Cottage Homes accepts the Shire of Pingelly’s interest in the Joint Venture for the four Sharow Street units, and that they agree to be bound by all the terms and conditions of that agreement for the remainder of the Joint Venture term.**
- 5. to provide the Department of Communities acceptance in writing (by this resolution) that if for any reason:**
  - Pingelly Cottage Homes fail to perform all their contractual responsibilities as required by the existing Joint Venture Agreement or;**
  - Are unable to effectively function as a community housing organisation, that the Shire will resume the Joint Venture Agreement responsibilities of the units.**

Carried 8:0

**19. CLOSURE OF MEETING**

The Chairman declared the meeting closed at 2.53pm.

These minutes were confirmed by Council at the Ordinary Council Meeting held on 19 September 2018.

Signed.....  
Presiding Person at the meeting at which the minutes were confirmed.