

Notice of Meeting



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Dear Elected Member

The next special meeting of the Shire of Pingelly will be held on 9 October 2019 in the Council Chambers, 17 Queen Street, Pingelly commencing at 9.00am.

Schedule

9.00am Special Council Meeting

A handwritten signature in black ink, appearing to read 'Julie Burton'.

Julie Burton
Chief Executive Officer

3 October 2019

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
9 October 2019

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.

JULIE BURTON
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 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 are made available to Councillors within the requirements of the Local Government Act 1995 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).

Agendas for Ordinary Meetings are available in the Shire of Pingelly Office and on the website 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.

PUBLIC QUESTION TIME AND INFORMATION

QUESTIONS FROM THE PUBLIC (PUBLIC QUESTION TIME)

The Shire of Pingelly welcomes community participation during public question time and this document is to be read in conjunction with the *Shire of Pingelly Standing Orders Local Law 2017* and the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

1. A member of the public who raises a question during question time must:
 - a. be in attendance at the meeting;
 - b. first state their name and address;
 - c. direct the question to the Presiding Member;
 - d. ask the question briefly and concisely;
 - e. limit any preamble to matters directly relevant to the question; and
 - f. ensure that the question is not accompanied by any expression of opinion, statement of fact or other comment, except where necessary to explain the question;
 - g. each member of the public with a question is entitled to ask up to 3 questions before other members of the public will be invited to ask their questions;
 - h. where a member of the public seeks a written response to their questions to be tabled at a meeting, the member of the public must submit their questions to Council by no later than 12 noon on the day prior to the meeting date of which the response is to be tabled;
 - i. where a member of the public submits their questions after 12 noon on the day prior to the meeting date of which the response is to be tabled, a written response may be provided at the discretion of the presiding member;
 - j. where a member of the public submits a written question after 12 noon the day prior to the meeting at which they are to be tabled, a verbal response may be provided at the meeting;
 - k. A member of the public may ask questions without notice at a meeting, provided they present a written copy of their questions to Council prior to the commencement of the meeting.

The following is a guide to assist you on the process of Public Question Time. You can submit questions using the form attached, or by e-mail to admin@pingelly.wa.gov.au.

1. **Please Note:** Members of the public must be in attendance at the Council Meeting to which they have submitted a question(s) for response. If this is not the case, the question(s) will be treated as 'normal business correspondence' and the question / response will not appear in the Council Minutes.
2. This is a "question" time only. Orations, explanations or statements of belief will not be accepted or allowed.
3. Questions must relate to a matter affecting the Shire of Pingelly.
4. Questions must be appropriate and made in good faith. Those containing defamatory remarks, offensive language or question the competency or personal affairs of council members or employees may be ruled inappropriate by the Shire President or Presiding Member and therefore not considered.
5. Frame your question so that it is both precise and yet fully understood. Long questions covering a multitude of subjects are easily misunderstood and can result in poor replies being given.
6. Write your question down on the attached form, it helps you to express the question clearly and provides staff with an accurate record of exactly what you want to know.
7. When the Shire President calls for any questions from the public, stand up and wait until you are acknowledged and invited to speak. Please start by giving your name and address first, and then ask the question.
8. Questions to be put to the presiding member and answered by the Council. No questions can be put to individual Councillors.
9. The question time will be very early in the meeting. **There is only 15 minutes available for Question Time.** The extension of public question time beyond 15 minutes would require a Council resolution. Questions not asked may still be submitted to the meeting and will be responded to by mail.
10. When you have put your question, await the reply. If possible, the Shire President will answer directly or invite a staff member with special knowledge to answer in his place. Complex questions that require research, may be Taken on Notice by the Shire President and an answer will be forwarded to you in writing. Please note in NO circumstances, will the question be debated or discussed by Council at that meeting.
11. To maximise public participation only three questions per person with a time limit of 2 minutes per person unless extra time is granted by the presiding person.
12. To fill out the form, just enter your name and address in the appropriate areas together with details of any group you are representing, then write out your question.
13. Please ensure your form is submitted to the meeting secretary by 1.45pm.

If you have difficulty in writing the question, Shire staff are available on request to assist in this task.

We hope this note assists you in the asking of your question and thank you for your interest and participation in the affairs of our Shire.

SHIRE OF PINGELLY QUESTIONS FROM THE PUBLIC

Name: _____

Residential Address: _____

Phone Number: _____ Meeting Date: _____

Signature: _____

Council Agenda Item Number: _____

If applicable-see below*

Name of Organisation Representing: _____

If applicable

QUESTION

Each member of the public is entitled to ask up to 3 questions before other members of the public will be invited to ask their question. 15 Minutes is allotted to Public Question Time at Council Meetings. If submitting questions to the Agenda Forum, they are to relate to the Agenda Item tabled at that meeting.

Please Note: Members of the public must be in attendance at the Council Meeting to which they have submitted a question(s) for response. If this is not the case, the questions(s) will be treated as 'normal business correspondence' and the question / response will not appear in the Council Minutes.

Please see Notes on Public Question Time overleaf

* **Agenda Forums:** Questions can only be addressed where they relate to an Agenda Item.

* **Council Meetings:** Questions are to relate to a matter affecting the Shire of Pingelly.

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:

9 October 2019

(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 (08) 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 Wednesday 9 October 2019 – commencing at 9.00am.

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Chairman to declare the meeting open.

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

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

Cr Walton-Hassell
Cr McBurney
Cr Wood

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

6. PUBLIC QUESTION TIME

7. APPLICATIONS FOR LEAVE OF ABSENCE

8. DISCLOSURES OF INTEREST

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

N/A

10. OFFICE OF THE CHIEF EXECUTIVE OFFICER

10.1 Extraordinary Election

File Reference:	ADM0325
Location:	Not Applicable
Applicant:	Not Applicable
Author:	Chief Executive Officer
Disclosure of Interest:	Nil
Attachments:	Nil
Previous Reference:	Nil

Summary

Council is requested to set the date for an Extraordinary Election which is required to be held by 19 February 2020.

Background

At the close of nominations for the 2019 Local Government Elections, three (3) nominations were received and the candidates were declared elected. As there were four (4) vacancies, there is a requirement to have an extraordinary election to fill the remaining position on Council.

Comment

It is the responsibility of the President or the Council to set the date for holding an extraordinary election. An extraordinary election must be held within four months of the vacancy occurring, that is, by 19 February 2020.

An electoral roll is to be prepared for each election, except in the case where the extraordinary election day is less than 100 days after the Election Day for another election for the local government. Therefore, if Council wishes to have the extraordinary election before the 27 January 2020 it can use the existing roll with the approval of the Electoral Commissioner. If it would like to give eligible electors an opportunity to apply to go on the roll for the extraordinary election, a process of statewide public notice is required. It is proposed to update the residents roll, to ensure the option for both nominating to be an elected member, and to vote, is provided to new residents, and those who may not yet be on the roll.

The proposed date for the election is Friday 17 January 2020. This will assist in the potential of reducing costs due to proposed joint statewide advertising with the Shires of Wandering, Wagin and Williams, who will also be holding their election on Friday 17 January 2020.

Early voting will be able to be undertaken from 12 December 2019, with the close of early voting being 4pm on 16 January 2020.

Alternative dates have been considered, however due to the Christmas / New Year period, and the significant processes required leading up to the election date, mid January appears to be the best option to allow the preparation of an updated residents roll, candidate nominations, early voting and the election date.

The key dates for the election process based on a 17 January 2020 election are:

Process	Dates
State-wide public notice of the closing date and time for elector enrolments	8/11/2019 – 22/1/2019
Nominations open	4/12/2019
Nominations close	11/12/2019
Close of early voting	16/1/2020
Election Day	17/1/2020

Consultation

Western Australian Local Government Association

Statutory Environment

Local Government Act

Section 4.9 - Election day for extraordinary election

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed:
 - (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or
 - (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).
- (2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to:
 - (a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and
 - (b) advise the CEO of the day fixed.

Policy Implications

Nil

Financial Implications

There will be additional costs incurred due to the requirements to undertake Statewide advertising. These costs will be minimised if it is possible to share advertising with other Shires.

Strategic Implications

Strategic Community Plan Goal 5: Innovation, Leadership and Governance

Risk Implications

Risk	The key risk is in relation to the election process not being adhered to.
Risk Rating (Prior to Treatment or Control)	Medium (6)
Principal Risk Theme	Reputational / Legislative
Risk Action Plan (Controls or Treatment Proposed)	The timetable provided by the Department of Local Government Sport and Cultural Industries will be utilised throughout the election process.

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)

Voting Requirements

Simple Majority

Recommendation

That Council set the date for the Extraordinary Election to fill one (1) vacancy expiring 21 October 2023, as Friday 17 January 2020, and undertake the process of providing eligible electors an opportunity to be included on a new electoral roll.

Moved: _____ Seconded: _____

11. DIRECTORATE OF CORPORATE AND COMMUNITY SERVICES

Nil.

12. DIRECTORATE OF TECHNICAL SERVICES

Nil.

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

Nil

14. 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).

15. CLOSURE OF MEETING

The Chairman to declare the meeting closed.