



SHIRE OF NORTHAM

**MINUTES
OF THE
SPECIAL COUNCIL MEETING
HELD ON
WEDNESDAY
22 MAY 2013**

SHIRE OF NORTHAM

SUMMARY OF MINUTES PRESENTED TO THE SPECIAL COUNCIL MEETING HELD ON 22 MAY 2013 AT 5.30 PM

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SHIRE OF NORTHAM

Minutes of the Special Council Meeting held in the Council Chambers on WEDNESDAY, 22 MAY 2013 at 5.30 pm

1. DECLARATION OF OPENING AND WELCOME

The Presiding Officer, Cr S B Pollard declared the meeting open at 5.30 pm.

2. DECLARATION OF INTEREST

Parts of Division 6 Subdivision 1 of the Local Government Act 1995 requires Council members and employees to disclose any direct or indirect financial interest or general interest in any matter listed in this agenda.

The Act also requires the nature of the interest to be disclosed in writing before the meeting or immediately before the matter being discussed.

NB A Council member who makes a disclosure must not preside or participate in, or be present during, any discussion or decision making procedure relating to the disclosed matter unless the procedures set out in Sections 5.68 or 5.69 of the Act have been complied with.

Cr U Rumjantsev has declared an "Impartiality" interest in item 7.1.2- Former Wundowie Share & Care- 1 Wandoo Parade, Wundowie- His wife has periodic dealings with Bea Dale of Animal Care of Bakers Hill.

3. ATTENDANCE

Council

President	S B Pollard
Councillors	T M Little
	R M Head
	R W Tinetti
	A W Llewellyn
	U Rumjantsev
	D A Hughes
	D G Beresford
	J E Williams
A/Chief Executive Officer	A J Middleton
Executive Manager Development Services	P B Steven
Executive Manager Corporate Services	D R Gobbart
Community Development Officer	A Gray
A/Executive Manager Engineering Services	K Kane
Project Manager Community Infrastructure	C B Hunt

Gallery

1 Member of Staff (Roy Djanegara- Planning Officer)

4. APOLOGIES

Councillor

K D Saunders

5. PUBLIC QUESTION TIME

6. ANNOUNCEMENTS BY PRESIDING OFFICER

7. AGENDA ITEMS

7.1. Special Items

7.1.1 APPOINTMENT OF A CHIEF EXECUTIVE OFFICER

Name of Applicant:	Internal Report
Name of Owner:	Shire of Northam
File Ref:	1.1.1.1
Officer:	Allan Middleton
Officer Interest:	Nil
Policy:	N/A
Voting:	Simple
Date:	22 May 2013

PURPOSE

For Council to endorse the appointment of a Chief Executive Officer.

BACKGROUND

Council has now concluded interviews for the position of Chief Executive Officer for the Shire of Northam.

The necessary requirements of appointing a Chief Executive Officer, under the Local Government Act, have been complied with, and all negotiations have been completed in accordance with Councillors agreement as determined during the interview process.

With the ratification of the appointment, all unsuccessful applicants will be notified and a press release issued.

STATUTORY REQUIREMENTS

1.1.1. LOCAL GOVERNMENT ACT 1995

1.1.2. DIVISION 4 — LOCAL GOVERNMENT EMPLOYEES

1.1.2.1.1.5.36. Local government employees

- (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.
- * *Absolute majority required.*
- (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 is to 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 a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

[Section 5.36 amended by No. 49 of 2004 s. 44; No. 17 of 2009 s. 21.]

Local Government (Administration) Regulations 1996

Part 4 — Local government employees

[Heading inserted in Gazette 26 Aug 2011 p. 3482.]

1.1.2.1.2.18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State unless it is proposed that the position be filled by —
 - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
 - (b) a person who will be acting in the position for a term not exceeding one year.
- (2) An advertisement referred to in subregulation (1) is to contain —
 - (a) the details of the remuneration and benefits offered; and

- (b) details of the place where applications for the position are to be submitted; and
- (c) the date and time for the closing of applications for the position; and
- (d) the duration of the proposed contract; and
- (e) contact details for a person who can provide further information about the position; and
- (f) any other information that the local government considers is relevant.

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

1.1.2.1.3.18B. Contracts of CEOs and senior employees, content of (Act s. 5.39(3)(c))

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

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

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

1.1.2.1.4.18C. Selection and appointment process for CEOs

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

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

CONFORMITY WITH THE PLAN FOR THE FUTURE

KEY RESULT AREA:	DEVELOPING OUR ORGANISATION
GOAL;	To ensure the residents of the Shire are informed, represented, engaged with and provided with services and facilities expected of a contemporary sub regional centre.
STRATEGIES	Provide good governance

BUDGET IMPLICATIONS

Provision included within the 2013/14 annual budget.

OFFICER'S COMMENT

N/A

RECOMMENDATION/ COUNCIL DECISION

Minute No C.2056

**MOVED: R Tinetti
SECONDED: A Llewellyn**

That Council appoint Mr. Jason Whiteaker as Chief Executive Officer for a period of five (5) years, commencing on 2nd September 2013, in accordance with the contract negotiated and duly signed by both parties.

CARRIED 9/0

Cr U Rumjantsev has declared an "Impartiality" interest in item 7.1.2- Former Wundowie Share & Care- 1 Wandoo Parade, Wundowie- His wife has periodic dealings with Bea Dale of Animal Care of Bakers Hill.

7.1.2 FORMER WUNDOWIE SHARE & CARE- 1 WANDOO PARADE, WUNDOWIE

Name of Applicant:	B Dale
File Ref:	A110
Officer:	Phil Steven
Officer Interest:	Nil
Policy:	Delegations Register
Voting:	Simple
Date:	22 May 2013

PURPOSE

For Council to consider an offer for the sale of the former Wundowie Share & Care property located on Lot 310 (1) Wandoo Parade, Wundowie.

BACKGROUND

The building on the above property was formerly used as the R&I Bank in Wundowie, which was sold to the Shire in 1995, and subsequently used by the Wundowie Share & Care. In early 2010, Share & Care relocated their operations in Wundowie to the Wundowie Medical Centre.

At Council's Meeting on 19 May 2010, Council decided to call for tenders for the sale of the property. The property was advertised for Tender in previous years, and whilst there was interest, there were no acceptable offers.

The property was advertised in the West Australian on 10 April 2013, with tenders closing on 24 April 2013. No tenders were received.

An offer has been received from Mr B Dale to the value of \$30,800 plus GST.

STATUTORY REQUIREMENTS

The property on 1 Wandoo Parade, Wundowie is 273m² and zoned 'commercial', which allows it to be used for commercial purposes.

The disposal of Council property (including leasing) is administered through Section 3.58 of the local Government Act, 1995. The Act states the following with respect to land transactions:

“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.*

Exemptions are described under the Local Government (Functions & General) Regulations 1996 and includes:

“(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been —

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the

Act, but either no tender is received or any tender received is unacceptable;”

Under Council’s Policy, the Chief Executive Officer is delegated authority to dispose of property to the highest bidder, at public auction, public tender or by private treaty subject to the following limits:

Land - to a value of \$5,000 in accordance with Local Government (Functions General) Regulations – Reg 30(2)(a) & (c);

CONFORMITY WITH THE PLAN FOR THE FUTURE

GOAL: To partner with business stakeholders to identify opportunities for economic growth and continuously improving the presentation of the Shire of Northam to attract new residents and investment.

BUDGET IMPLICATIONS

The income from the sale of the property will be included in the relevant Shire of Northam reserve fund.

OFFICER'S COMMENT

The disposal of this property is an exempt disposition in accordance with the Local Government (Functions & General) Regulations 1996, since no tenders were received in the tender process, and an offer is being considered within 6 months of advertising the property for tender.

The submitted offer from Mr B Dale to the value of \$30,800 plus GST is considered reasonable based on the size of the property. It is subject to the Shire re-connecting all plumbing to the building and for the plumbing to be in good working order; the broken glass in the front door being fixed; and the front door lock is in good working with 2 keys supplied.

It is considered that if the building is held by the Shire unused for too long, then it will result in further expenditure on advertising (tender), maintenance and repairs. Therefore it is suggested that the offer on the property is accepted.

RECOMMENDATION/ COUNCIL DECISION

Minute No C.2057

MOVED: R Head

SECONDED: T Little

That Council accept the offer from Brian John Dale & Diana Dale, of \$30,800 plus GST, subject to the conditions within this report, for the former Wundowie Share & Care land & building located on Lot 310 (1) Wandoo Parade, Wundowie.

CARRIED 9/0

8. DECLARATION OF CLOSURE

There being no further business, the Presiding Officer, Cr S B Pollard declared the meeting closed at 5.40pm.

"I certify that the Minutes of the Special Meeting of Council held on 22 May 2013 have been confirmed as a true and correct record."

_____ Shire President

_____ Date