



**MINUTES
OF THE
SPECIAL MEETING OF THE COUNCIL
HELD ON
MONDAY 12 NOVEMBER 2018
AT 6.30PM IN THE COUNCIL CHAMBERS
MELVILLE CIVIC CENTRE**

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MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON MONDAY 12 NOVEMBER 2018.

1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm. Ms K Johnson, Acting Director Corporate Services, read aloud the Disclaimer that is on the front page of these Minutes and then His Worship the Mayor, R Aubrey, read aloud the following Affirmation of Civic Duty and Responsibility.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Meeting Procedures Local Law to ensure the efficient, effective and orderly decision making within this forum.

2. PRESENT

His Worship the Mayor R Aubrey

COUNCILLORS

Cr M Barling (Deputy Mayor)
Cr N Robins
Cr Woodall (*from 7:01pm*)
Cr C Robartson,
Cr N Pazolli, Cr S Kepert
Cr G Wieland, Cr J Barton
Cr K Mair, Cr D Macphail
Cr P Phelan, Cr K Wheatland

WARD

Bateman – Kardinya - Murdoch
Bateman – Kardinya - Murdoch
Bull Creek – Leeming
Bull Creek – Leeming
Applecross – Mount Pleasant
Bicton – Attadale – Alfred Cove
Central
Palmyra – Melville - Willagee

3. IN ATTENDANCE

Ms K Johnson
Ms C Newman
Mr G Blades

A/Director Corporate Services
Governance Coordinator
Consultant - Lester Blades

At the commencement of the meeting there were no members of the public and no representatives from the Press in the Public Gallery.

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE**4.1 APOLOGIES**

Cr Woodall, late arrival.

4.2 APPROVED LEAVE OF ABSENCE

Nil.

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)
AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN
DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE
BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ
THE ELECTED MEMBERS BULLETIN.**

Nil.

6. QUESTION TIME

Nil.

7. DEPUTATIONS

Nil.

8. DECLARATIONS OF INTEREST

The Members' and Officers' attention is drawn to the following provisions of the *Local Government Act 1995* regarding disclosures of interest;

8.1 FINANCIAL INTERESTS

Nil.

8.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Nil.

9. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Nil.

10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**Confidential Item C18/5655 – Chief Executive Officer Recruitment (AMREC)
(Confidential Attachment)**

The matter is confidential in accordance with Sections 5.23 (2), (a) and (c) of the *Local Government Act 1995* which states as follows:

“If a meeting is being held by Council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:-

(a) a matter affecting and employee or employees; and

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

11. REPORTS OF THE CHIEF EXECUTIVE OFFICER

Nil.

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**CONFIDENTIAL ITEM C18/5655 – CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

The Confidential Item and attachments were distributed to Elected Members on Friday 9 November 2018 under confidential cover.

COUNCIL RESOLUTION

At 6:33pm Cr Barling moved, seconded Cr Wheatland –

That the meeting be closed to the members of the public to allow for items deemed confidential in accordance with sections 5.23 (2), (a) and (c) of the *Local Government Act 1995*, to be discussed behind closed doors.

At 6:33pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (12/0)

COUNCIL RESOLUTION

At 6:34pm Cr Wheatland moved, seconded Cr Phelan -

That the *City of Melville Meeting Procedures Local Law 2017* be suspended to allow Elected Members permission to speak more than once.

At 6:34pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (12/0)

At 6:35pm the Mr Blades provided the Elected Members with an overview of the proceedings for the evening and called for volunteers to ask the questions, with questions allocated to the following Elected Members:

Question 1	Cr Wieland
Question 2	Cr Barling
Question 3	Cr Pazolli
Question 4	Cr Barton
Question 5	Cr Wheatland
Question 6	Cr Phelan
Question 7	Cr Kepert

At 6:39pm Ms Johnson left the meeting, and returned at 6:40pm.

At 6:40pm the first Candidate entered the meeting and commenced a presentation to the meeting addressing the questions provided prior to the meeting. The presentation concluded at 7:00pm.

At 7:00pm questions to the first Candidate from the Elected Members commenced.

At 7:01pm Cr Woodall entered the meeting.

At 7:16pm questions to the first Candidate from Elected Members concluded.

At 7:17pm the first Candidate left the meeting.

At 7:17pm Ms Johnson left the meeting and returned at 7:18pm.

At 7:19pm Ms Johnson left the meeting and returned at 7:23pm.

At 7:19pm Cr Mair left the meeting, and returned at 7:21pm.

At 7:19pm Cr Pazolli left the meeting, and returned at 7:22pm.

At 7:20pm Cr Wieland left the meeting, and returned at 7:23pm.

At 7:21pm Cr Wheatland left the meeting, and returned at 7:22pm

At 7:23pm the second Candidate entered the meeting and tabled documents for the information of Elected Members and commenced a presentation to the meeting addressing the three questions provided prior to the meeting. The presentation concluded at 7:42pm.

At 7:43pm questions to the second Candidate from the Elected Members commenced.

At 8:02pm questions to the second Candidate from Elected Members concluded.

At 8:02pm the second Candidate left the meeting.

At 8:02pm Ms Johnson left the meeting and returned at 8:07pm.

At 8:03pm Mr Blades provided some background information as a result of the reference process.

At 8:17pm the Mayor adjourned the meeting.

At 8:26pm the Mayor resumed the meeting.

COUNCIL RESOLUTION

At 8:26pm Cr Robartson moved, seconded Cr Wheatland-

That the City of Melville Meeting Procedures Local Law 2017 be resumed.

At 8:26pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Recruitment
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	C18/5625 – Process for recruitment of the Chief Executive Officer (OMC 19 June 2018) C18/5641- Chief Executive Officer Recruitment Process (Governance Committee 19 September 2018)
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Kylie Johnson Acting Director Corporate Services

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- The proposed recruitment process to appoint a Chief Executive Officer was determined by the Council at the Ordinary Meeting of Council on 19 June 2018. This item notes the amendments which occurred to that proposed process.
- The Governance Committee members reviewed initial shortlisting by the Consultant and determined the applicants to be interviewed by the Council.
- This stage of the recruitment process is for the Council to consider the recommended applicants by the Governance Committee members.
- The Council is to make a decision on the selection of a Chief Executive Officer and the contract, which must be an Absolute Majority decision.
- The Council be required to delegate authority for the contract negotiations within the range advertised.

BACKGROUND

The Chief Executive Officer, Dr Shayne Silcox tendered his resignation on Thursday 24 May 2018, effective 30 July 2018.

The process to appoint a Chief Executive Officer, was endorsed by the Council at the Ordinary Meeting of Council on 19 June 2018 as follows.

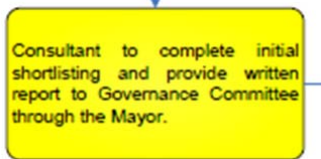
1. ***That an external Recruitment Consultant be contracted to coordinate the recruitment process, with the Executive Manager Organisational Development to assist the Consultant, Governance Committee and the Council as required.***
2. ***That the Council authorises the Governance Committee to coordinate the Chief Executive Officer recruitment process to the point of recommendation of the preferred applicants for final decision by the Council.***
3. ***That the recruitment process 5625 CEO Recruitment – Proposed Process be endorsed.***
4. ***That the Council authorises the Governance Committee to make variations to the recruitment process should the need to do so arise, and that any variations made be reported back to the Council in the final report that recommends the preferred applicant.***
5. ***That the value of the total remuneration package for the Chief Executive Officer position be advertised in accordance with the Salaries and Allowances Tribunal Chief Executive Officers Total Reward Package Determination of 10 April 2018.***
6. ***That the draft Employment Contract 5625 Draft Contract of Employment CEO be endorsed as the base document for finalisation by the Council once the preferred Applicant is decided.***

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

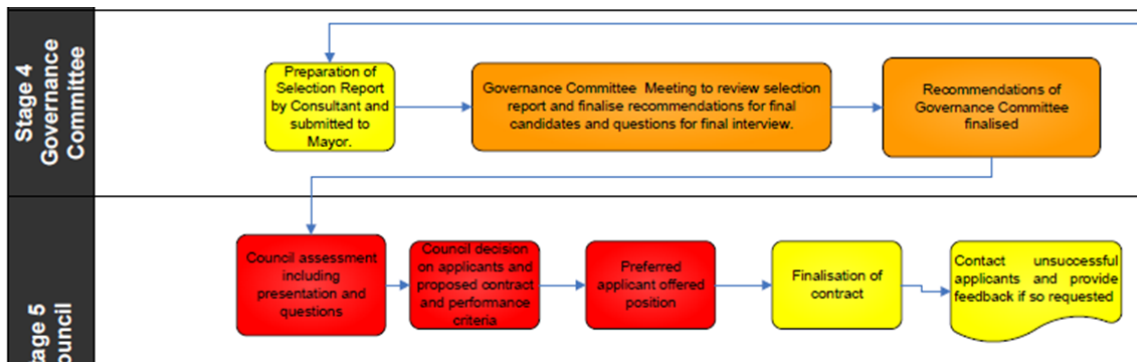
DETAIL

The following detail outlines the changes to the Council process:

Stage 3 – The Consultant liaised with Governance Committee members on the Applicants that had applied, and gained feedback on Applicants he would meet with in order to progress to the next stage of the process.



Stage 4 - The Selection Report went directly to Council not the Governance Committee, and was done after recommendations for final candidates was determined by Governance Committee members.



In this stage (Stage 5) Council will assess the Governance Committee’s preferred Applicants through a presentation and question session, and reference to the confidential Selection Report from the external Consultant.

As detailed in the Local Government Operational Guidelines for Appointing a CEO “Elected Members should declare any previous association with a potential applicant at the time of short-listing if they are part of the interview panel/selection committee established for the purpose. If a Member’s relationship with an applicant is deemed by the Governance Committee to be significant and may be perceived as nepotism or patronage, the member should exclude himself/herself from the selection process.

** A Confidential Shortlist Report from the external Consultant, Geoff Blades, of the applicants for consideration by Council, was distributed to Elected Members prior to the 19 September Special Meeting of Council, under confidential cover (Confidential Attachment A).

** A Confidential Contract was distributed to Elected Members prior to the 19 September Special Meeting of Council, under confidential cover (Confidential Attachment B).

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

The selection process has been assisted through the external Consultant, Lester Blades.

STATUTORY AND LEGAL IMPLICATIONS

There are a variety of legal and policy requirements as detailed below. The key requirement to note at this point is that under *Local Government (Administration) Regulations 1996*, Regulation 18C it is required that “*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.*”

The specific relevant documentation that guides this process includes;

- Relevant sections of the *Local Government Act 1995* (Sections 5.36,5.39,5.40);
- Relevant sections of the *Local Government (Administration) Regulations 1996* (18A, 18B, 18C, 18E, 18F);
- Local Government Operational Guideline Number 10 – Appointing a CEO;
- *Equal Opportunity Act 1984*;
- Salary and Allowances Tribunal CEOs and Elected Members Determination 10 April 2018;
- Prevention of Workplace Bullying, Discrimination & Harassment (City of Melville Policy OP-OO3).

It is noted that the value of the remuneration and benefits in the proposed contract cannot be greater than the amount advertised.

The final approval of the recommended applicant and the associated contract will require an Absolute Majority decision of the Council.

FINANCIAL IMPLICATIONS

The cost of the recruitment process and the CEO remuneration is within the current operational budget.

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risks with this matter relate to ensuring the recruitment process is seen as professional, confidential, and transparent, attracts suitable applicants, and complies with legislative requirements.

Risk Statement	Level of Risk	Risk Mitigation Strategy
Risk of the City of Melville not coordinating a transparent, confidential and professional process that attracts a suitable applicant.	Medium level of risk	Use of external consultant based on quote evaluation that includes referees. Use of confidentiality agreements. Broad advertisement of vacancy.

Some of the key legislative requirements relating to confidentiality include:

Local Government Act 1995

s5.93. Improper use of information

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

- (a) to gain directly or indirectly an advantage for the person or any other person; or*
- (b) to cause detriment to the local government or any other person.*

Penalty: \$10 000 or imprisonment for 2 years.

Corruption, Crime and Misconduct Act 2003 - Section 4

4. Term used: misconduct

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or*
- (b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or*
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or*

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

- (d) *a public officer engages in conduct that —*
- (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or*
 - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or*
 - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or*
 - (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,*
and constitutes or could constitute —
[(v) deleted]
 - (vi) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the Public Sector Management Act 1994 (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).*

A specific Confidentiality Agreement has been signed by elected members, the Consultant and Acting Director Corporate Services

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This stage of the recruitment process is for the Council to select the preferred Applicant for the Chief Executive Officer role, and the associated employment contract, by Absolute Majority. It is recommended that the preferred Applicant manage the process of the timing of the release of information once the contract is finalised.

It is important to note that confidentiality needs to continue with respect to the unsuccessful Applicants and all applications received.

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)**

Deferral Motion

At 8:27pm Cr Pazolli moved, seconded Cr Kepert

That the item be deferred to the 20 November Ordinary Meeting of Council, as a late item, for decision.

At 8:30pm the Mayor submitted the motion, which was declared

LOST (5/8)

Vote Result Summary	
Yes	5
No	8

Vote Result Detailed	
Cr Barton	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Robins	Yes
Cr Barling	No
Cr Macphail	No
Cr Phelan	No
Cr Robartson	No
Cr Wheatland	No
Cr Wieland	No
Cr Woodall	No
Mayor	No

OFFICER RECOMMENDATION (5655)

ABSOLUTE MAJORITY DECISION

At 8:32pm Cr Macphail moved, seconded Cr Phelan–

1. **That by absolute majority decision the preferred applicant, XXXXX, be offered the Chief Executive Officer role.**
2. **That by absolute majority decision the contract included in confidential attachment B be adopted, with the remuneration package being within the advertised range.**
3. **That by absolute majority decision His Worship the Mayor be authorised to finalise the contract to be negotiated within the advertised salary package range by the external Consultant, Geoff Blades.**
4. **That confidential attachments (A) and (B) remain confidential and that this Council report and resolution remain confidential until contract negotiations have been concluded.**

**CONFIDENTIAL ITEM - C18/5655 CHIEF EXECUTIVE OFFICER RECRUITMENT
(AMREC) (CONFIDENTIAL ATTACHMENT)****COUNCIL RESOLUTION**

At 8:32pm Cr Barling moved, seconded Cr Wheatland -

That the City of Melville Meeting Procedures Local Law 2017 be suspended to allow Elected Members permission to speak more than once.

At 8:32pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

At 9:23pm Cr Barling left the meeting, and returned at 9:26pm.

COUNCIL RESOLUTION

At 9:52pm Cr Barling moved, seconded Cr Wieland -

That the City of Melville Meeting Procedures Local Law 2017 be resumed.

At 9:52pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

COUNCIL RESOLUTION (5655)

ABSOLUTE MAJORITY DECISION

At 8:32pm Cr Macphail moved, seconded Cr Phelan–

1. **That by absolute majority decision the preferred applicant, Mr M Tieleman, be offered the Chief Executive Officer role.**
2. **That by absolute majority decision the contract included in confidential attachment B be adopted, with the remuneration package being within the advertised range.**
3. **That by absolute majority decision His Worship the Mayor be authorised to finalise the contract to be negotiated within the advertised salary package range by the external Consultant, Geoff Blades.**
4. **That confidential attachments (A) and (B) remain confidential and that this Council report and resolution remain confidential until contract negotiations have been concluded.**

At 9:53pm the Mayor submitted the motion, which was declared

CARRIED (9/4)

Vote Result Summary	
Yes	9
No	4

Vote Result Detailed	
Cr Barling	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Wheatland	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Barton	No
Cr Kepert	No
Cr Mair	No
Cr Pazolli	No

COUNCIL RESOLUTION

At 9:54pm Cr Wieland moved, seconded Cr Wheatland-

That the meeting come out from behind closed doors and the public be invited back into the meeting.

At 9:54pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

No members of the public returned.

The Mayor acknowledged the contribution by Mr Blades through this process and the involvement of Ms Johnson in providing guidance and advice to Elected Members.

13. CLOSURE

There being no further business to discuss, the Mayor declared the meeting closed at 9:55pm.