



— *City of* —
Melville

MINUTES
OF THE
SPECIAL MEETING OF THE COUNCIL
HELD ON
11 SEPTEMBER 2007

DISTRIBUTED: 21 SEPTEMBER 2007



CONTENTS PAGE

	PAGES
BUSINESS	
REPORT OF THE CHIEF EXECUTIVE OFFICER	
C07/5011 - PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER	3

MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.05PM ON TUESDAY, 11 SEPTEMBER 2007.

1. PRESENT

Her Worship the Mayor K J Jackson JP

COUNCILLORS

WARD

Cr D J Macphail (Deputy Mayor)
Cr A Ceniviva
Cr R Aubrey, Cr C W Robartson
Cr C M Halton
Cr L J Wyatt, Cr M J Barton
Cr J R Bennett; Cr L M Reynolds
Cr H R Everett, Cr J Phillips

City
City
Bull Creek/Leeming
Palmyra/Melville/Willagee
Bicton/Attadale
University
Applecross/Mount Pleasant

2. IN ATTENDANCE

POSITION TITLE

Eric Lumsden PSM
Marten Tieleman
Craig McClure
Kylie Johnson

Chief Executive Officer
Director Customer & Corporate Services
Director Strategic Urban Planning
Manager Organisational Development

3. APOLOGIES AND APPROVED LEAVE OF ABSENCE

Cr P M Phelan

4. PUBLIC QUESTION TIME

Nil.

5. DISCLOSURES OF INTEREST

Nil

DISCLOSURE OF FINANCIAL INTERESTS

LOCAL GOVERNMENT ACT 1995

Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who as an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

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

Meeting to be informed of disclosures

S.5.66 If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

Disclosing members not to participate in meetings

S.5.67 A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

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

Please refer to your Handbook for definitions of interests and other detail.

6. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Cr Bennett – University Ward

Cr Robartson moved, seconded Cr Everett -

THAT CR BENNETT'S REQUEST FOR LEAVE OF ABSENCE BE APPROVED

At 6.07pm, the Mayor submitted the motion, which was declared

CARRIED WITHOUT DISSENT (12/0)

7. REPORT OF THE CHIEF EXECUTIVE OFFICER**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER**
(AMREC) (CONFIDENTIAL ATTACHMENTS)

Ward	:	All
Category	:	Administration
Subject Index	:	Recruitment
Customer Index	:	Not Applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Nil
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Kylie Johnson Manager Organisational Development

AUTHORITY / DISCRETION

	<u>Definition</u>
<input type="checkbox"/> Advocacy	<i>when 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 Council review decisions made by Officers.</i>
<input type="checkbox"/> Quasi-Judicial	<i>when 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>

KEY ISSUES / SUMMARY

- Council are required to approve a selection process for the Chief Executive Officer role prior to the vacancy being advertised.
- Council need to identify the salary package range available for the advertised vacancy of the Chief Executive Officer role.
- Council to determine if they want to delegate authority to the Governance Committee to facilitate the selection process to the point that the Council are required to make a decision by Absolute Majority.

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)****BACKGROUND**

The Chief Executive Officer, Mr Eric Lumsden tendered his resignation on Thursday 30 August 2007, effective 2 November 2007.

The process to select a Chief Executive Officer must be in line with best practice standards and in a manner that complies with Local Government Legislation. Although the City of Melville has an extremely professional and competent Employee Service Team, it is recommended that, to ensure the process is seen as transparent and perceived as providing a strong merit based selection process, an external consultant is appointed.

The Manager Organisational Development has coordinated the initial stage of the quotation process for the recruitment service to be completed by an external agency, so that this option can be discussed by Council with adequate costings and detail provided.

The Manager Organisational Development is able to assist both the Consultant, Governance Committee, and the Council, to advise and ensure compliance with the Local Government Act and best practice, and should be present at any meetings to record minutes and the overall process on behalf of the organisation.

In accordance with legislative requirements the process for recruitment needs to be determined through a resolution to the Council before the process can commence. To facilitate the process it is recommended that Council authorise the Governance Committee to coordinate the process to advertise, interview and recommend the preferred applicants to Council. The final approval of the recommended applicant and the associated contract will require an Absolute Majority decision of the Council.

As indicated 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. Similarly, if the interviews involve the full council, the elected member should make an appropriate declaration before the interviews commence.*” 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.

The Guideline also states that “*Elected Members may act as referees for applicants... When this occurs it is recommended that the member provide a written referee report prior to interview.*”

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

DETAIL

The following process is proposed for the recruitment and selection process for the Chief Executive Officer position:

1. Council to authorise the Governance Committee to coordinate the aspects of the selection process as outlined in the following points.
2. The Consultant to be selected by the decision of Council. The salary package to be advertised is also to be determined by Council decision. Confidential Attachment A relates to the quotations and evaluation report for external recruitment consultancy services, and Confidential Attachment B relates to a report on salary packages. Confidential attachments were distributed to members on 4 September 2007.
3. Elected Members, the Consultant and the Manager Organisational Development are to sign a Confidentiality Agreement, which requires all persons involved in the selection process to agree to appropriate levels of confidentiality. *This suggestion is from the Local Government Operational Guidelines for Appointing a CEO on the basis that any information which finds its way into the public domain before a recommendation is made to the Council may well compromise the selection process.*
4. The Consultant to liaise with the Governance Committee through a Workshop process to review the Position Description, Selection Criteria and attributes required for the position.
5. The draft Contract outlined in Confidential Attachment C is also to be reviewed, with the Consultant coordinating discussion on the qualitative and quantitative performance criteria to be included in the draft contract. The attached contract is based on the Model contract developed by the Department of Local Government, and further refined through legal comment.
6. The Consultant is to liaise with the Governance Committee on the advertisement, to be placed in 'The Weekend Australian' and the 'West Australian', and any other medium as agreed by the Governance Committee and Consultant.
7. The Consultant is to manage all enquiries and applications.
8. Short-listing to be completed by the Consultant and a review provided to the Governance Committee. Applicants are to be short-listed according to their capacity to address the relevant selection criteria, with the most competitive applicants interviewed. The number to be interviewed is to be determined by the Governance Committee and Consultant, based on the quality of the applicants.
9. The Consultant to liaise with the Governance Committee to draft questions for preliminary and final interviews.
10. The Consultant to coordinate and conduct preliminary interviews, which may involve members of the Governance Committee.

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

11. The Consultant to liaise with the Governance Committee to confirm the questions for the final interviews with members of the Governance Committee.
12. Interviews to include members of the Governance Committee and Consultant.
13. The Consultant is to undertake reference checking, obtain police clearances, and verify qualifications for short-listed applicants.
14. The Consultant is to coordinate medical and psychometric testing on applicants short-listed from interview with the Governance Committee. Testing to be agreed between the consultant and the Governance Committee.
15. The Governance Committee will review all information and make a decision on which two applicant(s) are the most suitable for final selection by the full Council, in line with best practice standards and in a manner that complies with Local Government Legislation.
16. A Selection Report, documenting the assessment of each applicant interviewed, with a recommendation for those applicants to be presented to Council for consideration of appointment, is to be prepared by the Consultant on behalf of the Governance Committee.
17. Council will assess preferred Applicants through a presentation and questions session and refer to information in the Selection Report from the Governance Committee. Council will then select the preferred Applicant in accordance with section 5.36 of the Local Government Act. Approval to appoint the preferred Applicant and the final contract is to be by Absolute Majority decision.
18. Following the selection of the preferred Applicant by the Council, the Applicant is to be offered the position and the contract is to be finalised through the Consultant, under the direction of the Governance Committee. Finalisation of the contract is to include obtaining legal comment on the final contract, noting that the value of the remuneration and benefits cannot be greater than the amount advertised.
19. The Recruitment Consultant to contact unsuccessful applicants and provide feedback if so requested.

If, as the recruitment process is undertaken, any changes to the proposed process are required, they are able to occur with the authorisation of the Governance Committee. Any variation to the process will, however need to be noted in the final report to the Council that identifies the recommended applicant.

PUBLIC CONSULTATION/COMMUNICATION

The advertising process will be the key public communication aspect of this process.

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

A scope document was distributed under the classification of quotation Q0016/07 to the following three external consultants;

- Local Government Workplace Solutions (WALGA)
- Lester Blades; and
- Gerard Daniels.

These Consultants were selected based on positive feedback from their clients within the local government industry. The quotations were assessed in accordance with our procedures and the recommendation from the quotation panel is included in the Confidential Attachment A distributed to Council on 4 September 2007.

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;
- Department of Local Government & Regional Development publication Model Contract for Local Government CEOs ;
- Department of Local Government & Regional Development publication on Gender Diversity and the Selection of CEOs and Senior Staff in Local Government;
- Equal Opportunity Act 1984;
- Prevention of Workplace Bullying, Discrimination & Harassment (City of Melville Policy 10-PL-004).

Under Section 5.39 (7) of the Local Government Act 1995 it states that the recruitment process needs to take in to account *“a report made by the Salaries & Allowances Tribunal, under Section 7A of the Salaries & Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO.”* The latest report from the Salaries and Allowances Tribunal on recommendations for CEO salaries has recommended a salary package range for City of Melville of between \$193,662 to \$261,552.

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

Section 5.23. of the Local Government Act 1995 entitled “Meetings generally open to the public” provides

- (2) If a meeting is being held by a 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 an employee or employees;
 - (b) the personal affairs of any person;
 - (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;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal:
 - (i) information that has a commercial value to a person; or
 - (ii) information about the business, professional, commercial or financial affairs of a person,
 - (iii) where the trade secret or information is held by, or is about, a person other than the local government;
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

FINANCIAL IMPLICATIONS

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

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.

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)****POLICY IMPLICATIONS**

There are no specific Policy implications relating to this matter.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could determine to coordinate the selection and appointment process internally through the Employee Services Team. This has not been recommended on the basis that it is considered an external Consultant will be seen as more transparent and promote more interest from potential applicants.

CONCLUSION

To formally commence the recruitment process for the Chief Executive Officer role Council needs to confirm the Consultant they want to use to assist with the process, clarify the process to be followed, and determine whether the Governance Committee coordinate the process until the final short listed applicants are presented to Council for a final selection by Absolute Majority.

OFFICER RECOMMENDATION**ABSOLUTE MAJORITY APPROVAL**

1. **THAT AN EXTERNAL RECRUITMENT CONSULTANT, (TO BE DETERMINED), BE CONTRACTED TO COORDINATE THE RECRUITMENT PROCESS, WITH THE MANAGER ORGANISATIONAL DEVELOPMENT TO ASSIST THE CONSULTANT, GOVERNANCE COMMITTEE AND COUNCIL AS REQUIRED.**
2. **THAT BY ABSOLUTE MAJORITY DECISION OF THE COUNCIL THE GOVERNANCE COMMITTEE BE AUTHORISED TO COORDINATE THE CEO RECRUITMENT PROCESS TO THE POINT OF RECOMMENDATION OF THE PREFERRED APPLICANTS FOR FINAL DECISION BY COUNCIL.**
3. **THAT THE RECRUITMENT PROCESS OUTLINED IN THIS REPORT BE ENDORSED.**
4. **THAT BY ABSOLUTE MAJORITY DECISION OF THE COUNCIL THE GOVERNANCE COMMITTEE BE AUTHORISED 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 SALARY PACKAGE FOR THE CHIEF EXECUTIVE OFFICER POSITION BE ADVERTISED IN THE RANGE OF (TO BE DETERMINED), WITH A BASE SALARY COMPONENT OF (TO BE DETERMINED).**

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

At 6.10pm Cr Reynolds moved, seconded Cr Everett -

THAT OFFICER RECOMMENDATION NO 2 BE REPLACED WITH THE FOLLOWING:

- 2. THAT BY ABSOLUTE MAJORITY DECISION OF THE COUNCIL THE RECRUITMENT COMMITTEE, WHICH CONSISTS OF THE MAYOR, DEPUTY MAYOR AND THREE COUNCILLORS, BE AUTHORISED TO COORDINATE THE CEO RECRUITMENT PROCESS TO THE POINT OF RECOMMENDATION OF THE PREFERRED APPLICANTS FOR FINAL DECISION BY COUNCIL AND THAT WHERE THE WORDS “GOVERNANCE COMMITTEE” APPEARS IN THE OFFICER’S RECOMMENDATIONS THIS BE REPLACED WITH THE WORDS “RECRUITMENT COMMITTEE”.**

At 6.18pm the Mayor submitted the motion, which was declared

CARRIED (8/4)

At 6.18pm nominations for the 3 positions of Councillor representatives on the recruitment committee were called and as there were 4 nominations received for the 3 vacant positions a secret ballot was conducted. The nominees were:

Cr Robartson	(Cr Aubrey moved, seconded Cr Bennett)
Cr Ceniviva	(Cr Macphail moved, seconded Cr Robartson)
Cr Barton	(Cr Wyatt moved, seconded Cr Halton)
Cr Reynolds	(Cr Bennett moved, seconded Cr Aubrey)

The Chief Executive Officer assumed the position of returning officer for the ballot. The Director Customer & Corporate Services distributed the ballot papers which were then collected by him and counted on the first past the post basis by the Chief Executive Officer who then advised the Mayor of the results.

At 6.28pm the Mayor declared the results of the ballot, with Cr Ceniviva, Cr Robartson and Cr Reynolds designated to be the 3 Councillor representatives on the Recruitment Committee.

COUNCIL RESOLUTION**APPROVAL**

At 6.28pm Cr Bennett moved, seconded Cr Robartson -

- 1. THAT AN EXTERNAL RECRUITMENT CONSULTANT, LESTER BLADES, BE CONTRACTED TO COORDINATE THE RECRUITMENT PROCESS, WITH THE MANAGER ORGANISATIONAL DEVELOPMENT TO ASSIST THE CONSULTANT, RECRUITMENT COMMITTEE, AND COUNCIL AS REQUIRED.**

At 6.28pm the Mayor submitted the motion, which was declared

CARRIED WITHOUT DISSENT (12/0)

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

At 6.28pm Cr Robartson moved, seconded Cr Bennett -

- 3 THAT THE RECRUITMENT PROCESS OUTLINED IN THIS REPORT BE ENDORSED.**
- 4. THAT BY ABSOLUTE MAJORITY DECISION OF THE COUNCIL THE RECRUITMENT COMMITTEE BE AUTHORISED 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.**

At 6.29pm the Mayor submitted the motions, which were declared
CARRIED WITHOUT DISSENT (12/0)

At 6.29pm Cr Reynolds moved, seconded Cr Phillips -

THAT IN ACCORDANCE WITH SECTION 5.23 (2) (A) OF THE LOCAL GOVERNMENT ACT 1995 THE DISCUSSION REGARDING THE POTENTIAL CEO SALARY BE DISCUSSED CONFIDENTIALLY BEHIND CLOSED DOORS.

At 6.30pm The Mayor submitted the motion, which was declared
CARRIED WITHOUT DISSENT (12/0)

At 6.30pm the member of the gallery and Mr Tieleman Director Customer & Corporate Services left the Council Chamber.

COUNCIL RESOLUTION

At 6.30pm Cr Bennett moved, seconded Cr Robartson

- 5. THAT THE VALUE OF THE TOTAL SALARY PACKAGE FOR THE CHIEF EXECUTIVE OFFICER POSITION BE ADVERTISED IN THE RANGE OF \$215,000 TO \$261,000, WITH A BASE SALARY COMPONENT OF \$170,000 TO \$210,000 AND THAT THIS DECISION BE MOVED INTO OPEN FORUM AS THE SALARY RANGE IS REQUIRED TO BE ADVERTISED**

At 6.40pm the Mayor submitted the motion, which was declared
CARRIED WITHOUT DISSENT (12/0)

At 6.42pm Cr Bennett moved, seconded Cr Macphail -

THAT THE CONFIDENTIAL SECTION OF THE MEETING BE CONCLUDED AND THE MEETING BE RE-OPENED TO THE PUBLIC

At 6.42pm the Mayor submitted the motion, which was declared
CARRIED WITHOUT DISSENT (12/0)

**C07/5011 – PROCESS FOR RECRUITMENT OF THE CHIEF EXECUTIVE OFFICER
(AMREC) (CONFIDENTIAL ATTACHMENTS)**

At 6.42 pm the meeting moved into open forum.

15. CLOSURE

There being no further business, the Mayor thanked everyone for their attendance and declared the meeting closed at 6.42pm.