



**Shire of Derby /
West Kimberley**

UNCONFIRMED MINUTES

CEO Performance Review Committee Meeting

Thursday, 14 May 2020

Date: Thursday, 14 May 2020

Time: 4.30pm

**Location: Council Chambers
Clarendon Street
Derby**



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**MINUTES OF SHIRE OF DERBY / WEST KIMBERLEY
CEO PERFORMANCE REVIEW COMMITTEE MEETING
HELD AT THE COUNCIL CHAMBERS, CLARENDON STREET, DERBY
ON THURSDAY, 14 MAY 2020 AT 4.30PM**

- PRESENT:** Cr Geoff Davis, Cr Geoff Haerewa (Shire President), Cr Chris Kloss, Cr Rowena Mouda, Cr Steve Ross, Cr Andrew Twaddle, Cr Paul White (Deputy Shire President)
- IN ATTENDANCE:** Amanda O'Halloran (Chief Executive Officer), Carlie McCulloch (Executive Services Coordinator), Sarah Hardman (HR Advisor)
- VISITORS:** Nil
- GALLERY:** Nil
- APOLOGIES:** Cr Keith Bedford
- APPROVED LEAVE OF ABSENCE:** Cr Pat Riley
- ABSENT:** Nil

1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened at 4.29pm by Amanda O'Halloran

2 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the Local Government (Administration) Regulations 1996 Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

3 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

4 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

4.1 Declaration of Financial Interests

Nil

4.2 Declaration of Proximity Interests

Nil

4.3 Declaration of Impartiality Interests

Nil

5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

6 REPORTS

6.1 ELECTION OF PRESIDING MEMBER AND DEPUTY PRESIDING MEMBER - CEO PERFORMANCE REVIEW COMMITTEE

File Number: 4285

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

To elect the Presiding Member of the Deputy Presiding Member of the CEO Performance Review Committee.

COMMENT

The procedure for electing a Presiding Member and Deputy Presiding Member is set out in Section 5.12 of the *Local Government Act 1995* and Schedule 2.3, Division 1 and 2, of the *Local Government Act 1995*.

The Chief Executive Officer will act as the Returning Officer for this election.

Nominations for the office are to be received in writing to the Chief Executive Officer before the meeting, or during the meeting before the close of nominations. Nominations close at the meeting at a time announced by the Chief Executive Officer.

The Chief Executive Officer will call for nominations for Presiding Member and Deputy Presiding Member.

Committee members are to vote on the matter by secret ballot as if they were electors voting at an election. The votes cast are to be counted, and the successful candidate determined.

If two or more candidates receive the same number of votes, so that no candidate has the greatest number of votes, the count is to be discontinued and the meeting is to be adjourned for not more than seven days. Should this occur, it is intended to initially adjourn the meeting for ten minutes, and then resume the meeting. Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes. When the meeting resumes the councillors are to vote again.

The Chief Executive Officer is to declare and give notice of the result.

STATUTORY ENVIRONMENT

5.12. Presiding members and deputies, election of

(1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —

- (a) to "office" were references to "office of presiding member"; and
- (b) to "council" were references to "committee"; and
- (c) to "councillors" were references to "committee members".

(2) The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —

- (a) to “office” were references to “office of deputy presiding member”; and
- (b) to “council” were references to “committee”; and
- (c) to “councillors” were references to “committee members”; and
- (d) to “mayor or president” were references to “presiding member”.

5.13. Deputy presiding members, functions of

If, in relation to the presiding member of a committee —

- (a) the office of presiding member is vacant; or
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member, then the deputy presiding member, if any, may perform the functions of presiding member.

then the deputy presiding member, if any, may perform the functions of presiding member.

5.10. Committee members, appointment of

(4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

ATTACHMENTS

Nil

COMMITTEE RESOLUTION CR01/20

Moved: Cr Paul White

Seconded: Cr Andrew Twaddle

The Chief Executive Officer called for nominations in for the position of Presiding Member. The following candidates were nominated:

1. Cr Haerewa Nominated by Cr White

No other nominations, Cr Haerewa accepted the nomination.

The Chief Executive officer declared Cr Haerewa elected as Presiding Member.

The Chief Executive Officer called for nominations in for the position of Deputy Presiding Member. The following candidates were nominated:

1. Cr White Nominated by Cr Haerewa

No other nominations, Cr White accepted the nomination.

The Chief Executive officer declared Cr White elected as Deputy Presiding Member.

In Favour: Crs Geoff Davis, Geoff Haerewa, Chris Kloss, Rowena Mouda, Steve Ross, Andrew Twaddle and Paul White

Against: Nil

CARRIED 7/0

Amanda O'Halloran left the meeting room.

MOTION**COMMITTEE RESOLUTION CR02/20****Moved: Cr Andrew Twaddle****Seconded: Cr Paul White**

That the meeting be closed to the public.

In Favour: Crs Geoff Davis, Geoff Haerewa, Chris Kloss, Rowena Mouda, Steve Ross, Andrew Twaddle and Paul White**Against:** Nil**CARRIED 7/0****COMMITTEE RESOLUTION CR03/20****SUSPENSION OF STANDING ORDERS****Moved: Cr Chris Kloss****Seconded: Cr Paul White**

A motion was moved that Council suspend standing orders.

In Favour: Crs Geoff Davis, Geoff Haerewa, Chris Kloss, Rowena Mouda, Steve Ross, Andrew Twaddle and Paul White**Against:** Nil**CARRIED 7/0****6.2 CEO PERFORMANCE APPRAISAL 2020****File Number: 5345****Author: Sarah Hardman, Human Resources Advisor****Responsible Officer: Amanda O'Halloran, Chief Executive Officer****Authority/Discretion: Executive****SUMMARY**

This item is requesting the CEO Performance Committee to confirm the process to be undertaken to review the Chief Executive Officers (CEO) performance in line with legislative and best practice standards and guidelines and make their recommendations to Council.

DISCLOSURE OF ANY INTEREST

Financial, the Author is a Consultant currently engaged by the Chief Executive Officer, Amanda O'Halloran to support high level strategic Human Resource functions. Therefore, Consultant Sarah Hardman declares a financial conflict in terms of a financial contract with the Shire.

BACKGROUND

The Chief Executive Officer commenced her employment with the Shire of Derby/West Kimberley on 3 June 2019. Her probation was endorsed by Council at the Ordinary Council Meeting on 12 December 2019. With no formal key result areas (KRA's), key performance indicators (KPI's) or goals formally agreed to.

Section 5.38 of the *Local Government Act 1995 (the Act)*, provides that the performance of the CEO is to be reviewed formally at least once in every year of their employment.

This is further maintained by the *Local Government Legislation Amendment Act 2019* which stipulates a requirement for model standards covering but not limited to a performance review.

The proposed *Standards and Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination*, specifically outline best practice process across these areas and although not yet adopted by the Department it is a clear indicator of their intent and good guide as to expected industry best practice. This should be followed closely by the CEO Performance Review Committee.

It is one of Councils most important governance responsibilities to steward the CEO's performance review and create the key result areas for the following 12 months based on community and commercial requirements.

Council is now required to conduct a review of Ms O'Halloran's performance that considers what has been achieved during the past 12 months and what is required of the CEO for the next 12 months.

Standards and Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination, advise that an external Consultant is recommended to facilitate the performance review process to allow for a truly independent nonbiased process.

Consultation with LG Professionals CEO – Candy Choo was undertaken, and three consultants were recommended to undertake the review: Helen Hardcastle – Learning Horizons, Conor Fahey – Mapien and Tony Friday – Brainbox. On further discussions with industry networks Price Consulting was also recommended and each company was initially reviewed by Sarah Hardman.

STATUTORY ENVIRONMENT

Section 5.38 and 5.39(3)(b) of the Act and Regulation 18D of the *Local Government (Administration) Amendment Regulations (No 2) 2005*, which requires that:

- The performance of the CEO be reviewed at least once a year;
- The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review; and
- A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

In order to engage an independent consultant to conduct the performance review and establish the KPI's/KRA's for the CEO \$10,000.00 was allocated in the 2019/20 Annual Budget, no expenditure has occurred to date.

Please refer to **Attachment One** outlining the quotes received.

STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
Good Governance and an effective organisation	Outcome 4.1: Effective Governance and Leadership	Leadership that provides strategic Direction for the Community, supported by efficient and effective service delivery.
	Outcome 4.5: Skilled, committed and professional staff in a supportive environment	Provide opportunities for the training and development of the Shires' employees

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: 1. Failure to conduct the annual performance review of the CEO would result in noncompliance of a statutory requirement under the Local Government Act 1995. 2. If the process is not conducted well there is a risk of supporting poor performance and reputational and operational risks. 3. If the relationship between the Shire/Council and CEO is untenable then failure to conduct a performance review could prohibit the	Possible	Moderate	Low	Accept officer recommendation.

ability to manage the situation in a timely and procedurally correct manner.				
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CONSULTATION

The CEO and the Author have consulted on the activation of the process, procurement guidelines and available funding. The CEO has provided all the necessary documentation to ensure contractual and governance guidelines have been met.

LG Professionals were consulted to obtain a list of suitably qualified Consultants for review.

Primary consultation with the four consultants was undertaken by the author. Further shortlisting was conducted by the Author and discussed with the Shire President for information sharing purposes. The four proposals are attached for your review.

COMMENT

The Performance Review Committee has a legislative requirement under the *Local Government Act 1995*, to review the CEO's performance on a yearly basis. The primary purpose of the performance review is to assess the performance of the CEO on key result areas, key performance indicators or goals and set new agreed objectives for the next 12 months.

As per the *Standards and Guidelines For Local Government CEO Recruitment and Selection, Performance Review and Termination*, an external consultant is sought to assist the Council for the purposes of the review in facilitating the process.

It is the author's view that Price Consulting was assessed as the most appropriate Consultant for this assignment given their experience with Local Government, economic and social awareness the Shire Derby/West Kimberley are experiencing and value for money.

The process for conducting the CEO's performance review is similar across all proposals and will follow this general plan:

- Reviewing the strategic community plan and corporate business plan.
- Establishing the process and maintaining the timeline.
- Distributing surveys, background materials and other assessment materials.
- Sending out reminders and receiving completed surveys.
- Analysing results and seeking further input or clarification where necessary.
- Building a draft assessment report for Council and the CEO.
- Managing the assessment cycle through to completion.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

1. **Proposal - Mapien - Confidential**
2. **Proposal - Brainbox - Confidential**
3. **Brainbox - Terms and Conditions - Confidential**

4. **Proposal - Learning Horizons - Confidential**
5. **Proposal - Price Consulting - Confidential**

RESUMPTION OF STANDING ORDERS**COMMITTEE RESOLUTION CR04/20****Moved: Cr Geoff Davis****Seconded: Cr Steve Ross**

A motion was moved that Council resume standing orders.

In Favour: Crs Geoff Davis, Geoff Haerewa, Chris Kloss, Rowena Mouda, Steve Ross, Andrew Twaddle and Paul White

Against: Nil

CARRIED 7/0**COMMITTEE RESOLUTION CR05/20****Moved: Cr Geoff Davis****Seconded: Cr Paul White**

That the CEO Performance Review Committee recommend Council to:

1. **Authorise the engagement of an external consultant to conduct the CEO Performance review for 2020;**
2. **Recommends Price Consulting to conduct the CEO performance review in consultation with the CEO Performance Review Committee based on Local Government experience, economic and social awareness of the Shire of Derby/West Kimberley, value for money, commercial and strategic reality of the Shire; and**
3. **Accept that the fee for the consultant is \$6160.00 inc GST which includes fee for annual performance and remuneration review, with minor revisions to the existing performance criteria for 2020/21 and “ground up” development of new performance criteria for 2020/21.**

In Favour: Crs Geoff Davis, Geoff Haerewa, Chris Kloss, Rowena Mouda, Steve Ross, Andrew Twaddle and Paul White

Against: Nil

CARRIED 7/0

- 7 NEW BUSINESS OF AN URGENT NATURE**
- 8 NEW AND EMERGING ITEMS FOR DISCUSSION**
- 9 CLOSURE OF MEETING**

The Presiding Member closed the meeting at 5.16pm.

These minutes were confirmed at a meeting on

.....

Signed:

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

Date: