



'The Council and Staff of the Shire of Boddington, in partnership with the community, are committed to operating effectively and efficiently to provide quality lifestyle opportunities that encourage population growth and development'

AGENDA

For The
Ordinary Meeting of Council
To Be Held At

Thursday 18 June 2020

At 5:00pm

Council Chambers
39 Bannister Rd, Boddington

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Agenda

| | | |
|-------|--|----|
| 1. | DECLARATION OF OPENING: | 4 |
| 2. | ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE: | 4 |
| 2.1.1 | Attendance | 4 |
| 2.1.2 | Apologies | 4 |
| 2.1.3 | Leave of Absence | 4 |
| 3. | DISCLOSURE OF FINANCIAL INTEREST: | 4 |
| 4. | PUBLIC QUESTION TIME: | 4 |
| 4.1 | RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE: | 4 |
| 4.2 | WRITTEN QUESTIONS PROVIDED IN ADVANCE: | 5 |
| 4.3 | PUBLIC QUESTIONS FROM THE GALLERY: | 5 |
| 5. | PETITIONS/DEPUTATIONS/PRESENTATIONS/ SUBMISSIONS: | 5 |
| 6. | CONFIRMATION OF MINUTES: | 5 |
| 6.1.1 | Ordinary Meeting of Council held on Thursday 28 May 2020 | 5 |
| 6.1.2 | Special Meeting of Council held on Thursday 28 May 2020 | 5 |
| 6.1.3 | Special Meeting of Council held on Tuesday 2 June 2020 | 5 |
| 7. | ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION: | 5 |
| 8. | REPORTS OF OFFICERS AND COMMITTEES: | 6 |
| 8.1 | PLANNING CONSULTANT: | 6 |
| 8.2 | MANAGER FINANCIAL SERVICES: | 6 |
| 8.3 | PRINCIPAL ENVIRONMENTAL HEALTH OFFICER/ BUILDING SURVEYOR: | 6 |
| 8.4 | MANAGER WORKS & SERVICES: | 6 |
| 8.5 | DIRECTOR CORPORATE & COMMUNITY SERVICES: | 7 |
| 8.6 | ACTING CHIEF EXECUTIVE OFFICER: | 7 |
| 8.6.1 | Action Sheet | 7 |
| 8.6.2 | Actions Performed Under Delegated Authority for the Month of May 2020 | 8 |
| 8.6.3 | Resignation Councillors McSwain and McGrath | 10 |
| 9. | ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN: | 14 |
| 10. | URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING: | 15 |
| 11. | CONFIDENTIAL ITEM: | 15 |
| 8.6.3 | Attachment A - Resignation Councillors McSwain and McGrath (CONFIDENTIAL ATTACHMENT) | 15 |
| 12. | CLOSURE OF MEETING: | 15 |

1. DECLARATION OF OPENING:

I acknowledge that this meeting is being held on the traditional lands of the Noongar people.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

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| 2.1.1 | Attendance |
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| 2.1.2 | Apologies |
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Nil at this time.

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| 2.1.3 | Leave of Absence |
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Nil at this time.

3. DISCLOSURE OF FINANCIAL INTEREST:

Nil at this time.

4. PUBLIC QUESTION TIME:

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Response to Charlotte Miles to her question from the 28 May 2020 Ordinary Council meeting:

Charlotte Miles: Regarding the Boddington Riding Club – we pay a yearly lease but don't have a lease contract. We don't have exclusive use of the ground as other entities use it such as the Rodeo and Newmont (for shutdown). Newmont cannot give us donations for the use as we don't have exclusive rights. Therefore may we have more assistance with the Shire regarding the maintaining the grounds/fencing.

Comment: The fee charged to the Riding Club for the usage of the facility has been misnamed in the fees and charges schedule. It should have been called a usage fee as the Riding Club does not have exclusive use of the area. If it were to have exclusive use a much higher charge would apply. However the Council will be looking at making a greater contribution to the maintenance of the grounds and fencing in the new financial year.

4.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil at this time.

4.3 PUBLIC QUESTIONS FROM THE GALLERY:

5. PETITIONS/DEPUTATIONS/PRESENTATIONS/
SUBMISSIONS:

Nil at this time.

6. CONFIRMATION OF MINUTES:

6.1.1 Ordinary Meeting of Council held on Thursday 28 May 2020

That the minutes of the Ordinary Meeting of Council held on Thursday 28 May 2020 be confirmed as a true record of proceedings

6.1.2 Special Meeting of Council held on Thursday 28 May 2020

That the minutes of the Special Meeting of Council held on Thursday 28 May 2020 be confirmed as a true record of proceedings

6.1.3 Special Meeting of Council held on Tuesday 2 June 2020

That the minutes of the Special Meeting of Council held on Tuesday 2 June 2020 be confirmed as a true record of proceedings

7. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT
DISCUSSION:

Nil at this time.

8. REPORTS OF OFFICERS AND COMMITTEES:

8.1 PLANNING CONSULTANT:

Nil at this time.

8.2 MANAGER FINANCIAL SERVICES:

Nil at this time.

8.3 PRINCIPAL ENVIRONMENTAL HEALTH OFFICER/
BUILDING SURVEYOR:

Nil at this time.

8.4 MANAGER WORKS & SERVICES:

Nil at this time.

8.5 DIRECTOR CORPORATE & COMMUNITY SERVICES:

Nil at this time.

8.6 ACTING CHIEF EXECUTIVE OFFICER:

8.6.1 Action Sheet

Disclosure of Interest: Nil
 Date: 11 June 2020
 Author: Graham Stanley – Acting CEO

Purpose of Report

To bring forward Councillors information the Action Report with actions taken on previous Council resolutions.

| Meeting Date | Resolution Number | Responsible Officer | Subject | Date Completed | Comments Current Status |
|------------------------------|-------------------|---------------------|--|----------------|--|
| Ordinary Meeting 28 May 2020 | | | | | |
| 28/5/20 | 48/20 | DCCS | National Redress Scheme- Participation of WA Local Governments | pending | |
| 28/5/20 | 49/20 | DCCS | Elected Member and CEO Attendance at Events Policy | 5/6/20 | Placed on website |
| 28/5/20 | 50/20 | DCCS | Elected Member Continuing Professional Development Policy | 5/6/20 | Placed on website. |
| 28/5/20 | 51/20 | CEO | Review of Local Laws | 5/6/20 | Acting CEO amended closing date to 28/7/20 to allow for advertising period to occur. Advertised Locally 5/6/20; Snippets (12/6/20) & Narrogin Observer (11/6/20) |
| 28/5/20 | 53/20 | CEO | Request for rent relief- lease of shire building | 15/06/20 | Completed |
| Special Meeting 28 May 2020 | | | | | |
| 28/5/20 | 56/20 | | Staff Matter | 29/5/20 | Completed |
| Special Meeting 2 June 2020 | | | | | |
| 2/6/20 | None | Acting CEO | Election of Shire President | 2/6/20 | Sworn in 4 June prior to Councillor Information session. |

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| 8.6.2 | Actions Performed Under Delegated Authority for the Month of May 2020 |
|-------|---|

File Ref. No: ADM0686
Disclosure of Interest: Nil
Date: 11 June 2020
Author: Acting Chief Executive Officer
Attachments: Nil

Summary

To report back to Council actions performed under delegated authority for the month of May 2020.

Background

There is no specific requirement to report on actions performed under delegated authority. But to increase transparency this report has been prepared for Council and includes all actions performed under delegated authority for the month of May 2020.

Affixing of Common Seal

One off delegations by CEO

Authorisation to call Tenders

Building Approvals issued

Health

Development Approvals issued

Subdivision Approvals issued

Land Administration

Comment

The following tables outline the action performed within the organization relative to delegated authority for the month of May and are submitted to Council for information.

| Common Seal - Nil | |
|-------------------|---------------|
| Date Affixed | Documentation |
| | |
| | |

| One off Delegations by CEO - Nil | |
|----------------------------------|--------|
| Date | Action |
| | |

| Authorisation to call Tenders - Nil | |
|-------------------------------------|--------|
| Date | Action |
| | |

| Peter Haas - PEHO | | | |
|-----------------------|--|---|-----------------------|
| Building Applications | | | |
| Application No. | Applicant | Lot & Street | Type of Building Work |
| 3287 | T & G Salmeri PO Box 56 Boddington | Lot 7615 No 99 Ashcroft Road Marradong | Dwelling |
| Health | | | |
| | Nil | | |

| Steve Thompson - Town Planning Consultant | | | |
|---|---------------------|-----------------------|------------------|
| Development Approvals | | | |
| Application No. | Applicant | Lot & Street | Type of Approval |
| A1189 | Shire of Boddington | Lot 36 Bannister Road | PUMA signage |
| | | | |
| Subdivision Applications - Nil | | | |
| Application No. | Applicant | Lot & Street | Action |
| | | | |
| Land Administration - Nil | | | |
| Application No. | Applicant | Lot & Street | Action |
| | | | |

Strategic Implications – Nil

Statutory Environment

Regulation 19 of the *Local Government (Administration) Regulations 1996* requires delegates to keep a record of each occasion on which they exercise the powers or discharge the duties delegated to them.

Policy Implications - Nil

Financial Implications - Nil

Economic Implications – Nil

Social Implications - Nil

Environmental Considerations – Nil

Consultation - Nil

OFFICER'S RECOMMENDATION – ITEM 8.6.2

That Council accept the report outlining the actions performed under delegated authority for the month of May 2020.

8.6.3 Resignation Councillors McSwain and McGrath

File Ref. No: GOVN004
Disclosure of Interest: Nil
Date: 15 June 2020
Author: Graham Stanley, Acting CEO
Attachments: 8.6.3A Quote from Western Australian Electoral Commission (CONFIDENTIAL ATTACHMENT)

Council is to consider holding a postal vote by-election.

Background

Councillor McSwain and McGrath both resigned from Council on 2nd of June 2020.

Due to the fact that less than 80% of positions on Council are currently filled Council is required to hold an extraordinary election no later than 2nd October 2020

Comment

Council has three options in holding the extraordinary election. It could choose to hold an in-person election itself, utilising Shire staff, or engage the WA Electoral Commission (WAEC) to conduct either an in-person or postal election.

For a number of years now the Shire of Boddington has utilised the services of the WAEC and held postal ballots. History shows that postal ballots generally achieve a higher voter turn-out than in-person elections. They are also more inclusive as they enable people, who aren't mobile or are absentee landholders, to vote from the comfort of their own homes.

Council has received a cost estimate from the WAEC for the extraordinary election at a cost which is in line with the quote that they provided for the previous extraordinary election that filled the vacancy created by the resignation of Councillor Martin Glynn. The quotation which is included in the agenda as a confidential attachment, has been based on the following assumptions:

- 1,200 electors
- Response rate of approximately 50%
- Count to be conducted at the offices of the Shire of Boddington
- Appointment of a local Returning Officer
- Standard Australian Post delivery service to apply

Costs not incorporated in the estimate include:

- non-statutory advertising (i.e. any additional advertisements in community newspapers and promotional advertising); and
- any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns

The Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis and Council should note that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election, Council will be advised as early as possible.

The current procedure required by the *Local Government Act 1995* is that the WA Electoral Commissioner's written agreement has to be obtained before the vote by Council is taken to undertake a postal election. In providing the cost estimate to Council, the WA Electoral Commissioner has advised that, to facilitate the process, Council can take this letter, including the cost estimate, as the WA Electoral Commissioner's agreement to be responsible for the conduct of the ordinary elections in 2017 for the Shire of Boddington, in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. This agreement is subject to the proviso that the Shire of Boddington also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

The electoral commission has indicated that a decision to conduct the election as a **voting in person** election, as opposed to a **postal vote** election, would generate some savings, but this would be offset by a significantly poorer voter turnout. The same can be said if the Shire chooses to run the election utilizing Shire staff. Additionally, at the moment, with a number of senior staff positions vacant, it would place an unreasonable burden on the existing staff at this time to run an election.

Strategic Implications – Nil

Statutory Environment

Local Government Act 1995

2.32. How extraordinary vacancies occur in offices elected by electors

The office of a member of a council as an elector mayor or president or as a Councillor becomes vacant if the member —

- (a) dies; or
- (b) resigns from the office;

4.8. Extraordinary elections

(1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.

4.17. Cases in which vacant offices can remain unfilled

(1) If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

(2) If a member's office becomes vacant under section 2.32 —

(a) after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but

(b) before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.

* *Absolute majority required.*

(4A) Subsection (3) applies —

(a) if —

(i) the office is for a district that has no wards; and

(ii) at least 80% of the number of offices of member of the council in the district are still filled;

or

(b) if —

(i) the office is for a ward for which there are 5 or more offices of councillor; and

(ii) at least 80% of the number of offices of councillor for the ward are still filled.

(4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.

4.20. CEO to be returning officer unless other arrangements are made

(1) Subject to this section the CEO is the returning officer of a local government for each election.

(2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for —

(a) an election; or

(b) all elections held while the appointment of the person subsists.

* *Absolute majority required.*

(3) An appointment under subsection (2) —

(a) is to specify the term of the person's appointment; and

(b) has no effect if it is made after the 80th day before an election day.

(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time,

and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.

* *Absolute majority required.*

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

[Section 4.20 amended by No. 64 of 1998 s. 19(1); No. 49 of 2004 s. 16(4) and 32(1)-(4).]

4.61. Choice of methods of conducting election

- (1) The election can be conducted as a –
postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or
voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

- (2) The local government may decide* to conduct the election as a postal election.

* Absolute majority required.

- (3) A decision under subsection (2) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- (5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

[Section 4.61 amended by No. 64 of 1998 s. 25; No. 49 of 2004 s. 16(4) and 32(5).]

Policy Implications - Nil

Financial Implications

Conducting a postal voting election is more costly to the Shire of Boddington than conducting a voting in-person election, however as a voting in-person election is usually held on a Saturday staffing costs are increased due to overtime penalty rates.

The cost of the previous postal election actually came in under the estimate quoted by WAEC and whilst two vacancies may attract more voter interest the WAEC is also conducting a postal election for another Local Government on the same timeline so savings in shared advertising will be able to be achieved.

Economic Implications – Nil

Social Implications

Postal voting could be anticipated to be more convenient for both local residents and absentee owners. This form of voting will provide all registered voters with a postal voting package and not require the voter to make contact or visit the Shire Office.

Environmental Considerations – Nil

Consultation

West Australian Electoral Commissioner

Options

Council can:

1. adopt the recommendation/s;
2. adopt the recommendation/s with further amendments; or
3. not accept the recommendation/s, giving reasons..

Voting Requirements - Absolute Majority

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| OFFICER RECOMMENDATION – ITEM 8.6.3 |
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That Council declares that,

1. In accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2020 Shire of Boddington extra ordinary election together with any other elections or polls which may be required.
2. In accordance with section 4.61(2) of the *Local Government Act 1995*, the method of conducting the 2020 Shire of Boddington election will be as a postal election.
3. The election timeline as indicated by the Western Australian Electoral Commission with the election day being Friday 11 September 2020 be agreed to.

9. **ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:**

Nil at this time.

10. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

Nil at this time.

11. CONFIDENTIAL ITEM:

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| 8.6.3 | Attachment A - Resignation Councillors McSwain and McGrath (CONFIDENTIAL ATTACHMENT) |
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12. CLOSURE OF MEETING: