



AGENDA

and

Notice of Ordinary Council Meeting

to be held on

Tuesday 28 May 2019

in the

Council Chambers

11-13 Waldeck Street, Dongara

5.00pm – Agenda Briefing Session

5.10pm – Councillor Information Session

6.00pm – Ordinary Council Meeting

AGENDA & BUSINESS PAPERS

Welcome to the Ordinary Council Meeting of the Shire of Irwin.

Please be advised that Ordinary Council Meetings during 2019 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, commencing at **6.00pm**.

DATES	
26 February 2019	23 July 2019
26 March 2019	27 August 2019
30 April 2019	24 September 2019
28 May 2019	22 October 2019
25 June 2019	26 November 2019
	10 December 2019

Members of the public are most welcome to attend the Agenda Briefing, the Councillor Information session and the Ordinary Council Meetings.

Disclaimer

The Shire of Irwin advises that the purpose of an Ordinary Council Meeting is to discuss and, where possible, make resolutions about items appearing in the agenda. No person should rely or act on the basis of any decision, advice or information provided by a Member or Officer, or on the content of any discussion occurring during the course of the meeting. No person should rely on the decisions made by Council until formal written advice of the Council is received by that person.

The Shire of Irwin expressly disclaims any liability for any loss or damage whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.



Shane Ivers
CHIEF EXECUTIVE OFFICER (Acting)

Council Meeting Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee, Working Party or Steering group to examine specific subjects and then report to Council.
3. Generally all meetings are open to the public; however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.
4. **Public Question Time:** It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Presiding Member. If presenting questions to Council please note the following, as guided by the *Shire of Irwin Meeting Procedures Local Law 2016*:
 - Public Question Time occurs early in the meeting so please arrive at least 5 minutes before the advertised meeting start time (Ordinary Meetings are scheduled for a **6.00pm** start, unless otherwise advised).
 - Record your full name and suburb of residence on the Attendance Form available in the public seating area.
 - When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the minute taker and those present.
 - Only questions can be addressed to Council, not statements.
 - A minimum of 15 minutes is allocated to Public Question Time. A member has 2 minutes to submit a question.
 - You may ask up to 2 questions before other members of the public will be invited to ask their questions to ensure all have an equal and fair opportunity to ask questions.
 - The Presiding Member may elect for written questions to be responded to as normal business correspondence.
 - The Presiding member may decide that a question shall not be responded to where:
 - the same or similar question has been asked at a previous meeting and a response has already been provided;
 - a statement has been made and is not reformed into a question; or
 - a question is offensive or defamatory in nature and is not reformed into a question.
 - A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and a summary will be included in the agenda of the next meeting of Council.
 - Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request system.
 - At a Special Meeting of Council, only questions relating to the purpose of that meeting may be raised.
 - Should you wish to provide written questions prior to the meeting so that an appropriate response can be prepared, please submit them at least 72 hours prior to the Council meeting at which you wish them to be presented.
5. **Councillors** may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter **trivial, insignificant or in common with a significant number of electors or ratepayers**. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.
6. **Members of staff**, who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The Officer must declare that interest and generally the Presiding Member will advise the Officer if he/she is to leave the meeting.
7. Agendas are delivered to Councillors within the requirements of the Local Government Act 1995, i.e. seventy-two (72) hours prior to the advertised commencement of the meeting.
8. Agendas for Ordinary Meetings are available to the public from the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au seventy-two (72) hours prior to the meeting.
9. Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council and ideally received written confirmation of the outcome. Please note the Disclaimer in the Agenda (page 3).
10. **Public Inspection of Unconfirmed Minutes (Reg 13):** A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection at the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au within ten (10) working days after the Meeting.

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FORM - Declaration of Interest
FORM - Leave of Absence Request

ORDINARY COUNCIL MEETING

to be held on

Tuesday 28 May 2019

at 6.00pm

AGENDA

- 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**
- 2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**

Members

Councillor M T Smith
Councillor B Wyse
Councillor A J Gillam
Councillor S F Gumley
Councillor M Leonard
Councillor I F West
Councillor K L Wilson

President
Deputy President

Staff

Mr S D Ivers
Mr B Jeans
Mrs D K Chandler
Miss N A M'Leane

Chief Executive Officer (Acting)
Manager Regulatory Services
Governance & Executive Coordinator
Regulatory & Governance Officer

Apologies

Councillor I Scott

Approved Leave of Absence

Nil.

- 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
- 4. PUBLIC QUESTION TIME**
- 5. APPLICATIONS FOR LEAVE OF ABSENCE**
- 6. PETITIONS AND DEPUTATIONS**

7. CONFIRMATION OF MINUTES

A copy of the previous Minutes of the Ordinary Council Meeting have been provided to all Councillors under separate cover.

RECOMMENDED:

That the minutes of the Ordinary Council Meeting, held on 30 April 2019, as previously circulated, be adopted as a true and accurate recording of that meeting.
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A copy of the Minutes of the Special Council Meeting held 17 May 2019 have been provided to all Councillors under separate cover.

RECOMMENDED:

That the minutes of the Special Council Meeting, held on 17 May 2019, as previously circulated, be adopted as a true and accurate recording of that meeting.

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01 – 05/19
Subject:	Accounts for Payment	
Author:	S Clarkson, Finance Officer	
Responsible Officer:	S Ivers, Acting Chief Executive Officer	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws, local planning schemes and policies.
- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

To receive the list of accounts paid under delegated authority during April 2019.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of April 2019.

Officer's Comment:

Nil

Consultation:

Nil

Statutory Environment:

The Local Government (Financial Management) Regulations 1996 provides as follows:

13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
- (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (3) *A list prepared under sub-regulation (1) or (2) is to be —*

- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) *recorded in the minutes of that meeting.*

Policy Implications:

Under Delegation CEO3 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

Financial/Resource Implications:

Nil

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles Strategy

4.3.2 Adopt and follow better practice processes

Attachments:

Accounts for Payment – April 2019

Officer Recommendation:

RECOMMENDED:

That Council receives the Accounts paid during April 2019 as presented in Attachment Booklet – May 2019, represented by

Payment Type/Numbers	Total Amount
EFT 24153 – 24271	\$387,151.19
Muni Cheques - 31898 – 31909	\$21,869.24
Direct Debit – Solar Panel Repayments 04/19	\$1,947.66
Direct Debit – Credit Card	\$423.35
Direct Debit – Superannuation	\$47,569.27
Direct Debit - Transport – PL280319 – PL260419	\$57,335.45
Grand Total	\$516,296.16

CORPORATE AND COMMUNITY		CC02-05/19
Subject:	Financial Statements for the Period ending 30 April 2019	
Author:	J Dillon, Consultant	
Responsible Officer:	S Ivers, Acting Chief Executive Officer	
File Reference:	Minute Book	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws, local planning schemes and policies.
- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

To consider and receive the Monthly Financial Statements for the period 1 July 2018 to 30 April 2019.

Background:

The Monthly Financial Report to the 30 April 2019 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information and Graphs
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Cash Flows
- Statement of Capital Acquisitions and Capital Funding
- Significant Accounting Policies
- Explanation of Material Variances
- Net Current Funding Position
- Cash and Investments
- Budget Amendments
- Receivables
- Cash Backed Reserves
- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants and Contributions
- Trust Fund
- Detailed of Capital Acquisitions

Officer's Comment:

The financial position to the end of April 2019 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

Operating Revenue	\$7,585,623	0.6% positive variance
Operating Expenditure	\$7,799,555	6.4% positive variance
Net Operating	-\$213,932	
Capital Revenue	\$1,821,761	7.8% negative variance
Capital Expenditure	\$2,068,829	46.6% positive variance
Cash at Bank – Municipal	\$1,586,152	
Cash at Bank – Reserve	\$1,665,287	
Total Funds Invested	\$3,251,439	
Net Rates Collected	91.48%	
Rates Receivables Outstanding	\$464,005	
Non Rates Receivables Outstanding	\$628,517	

The attached report provides explanatory notes for items greater than 10% or \$10,000. This commentary provides Council with an overall understanding of how the financial position is situated in relation to the adopted budget.

Consultation:

Nil.

Statutory Environment:

Local Government Act 1995 - Section 6.4

The Local Government (Financial Management) Regulations provides as follows:

Section 34 Financial activity statement report

- (1) *A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - (b) *budget estimates to the end of the month to which the statement relates;*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing -*
 - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - (b) *an explanation of each of the material variances referred to in sub-regulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown -*
 - (a) *according to nature and type classification;*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be -*
 - (a) *presented to the council -*
 - (i) *at the next ordinary meeting of the council following the end of the month to which the statement relates; or*
 - (ii) *if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and*

(b) *recorded in the minutes of the meeting at which it is presented.*

Policy Implications:

Nil.

Financial/Resource Implications:

Any issues in relation to expenditure and revenue allocations or variance trends are identified and addressed each month.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Financial Statements for the Month Ending 30 April 2019.

Officer Recommendation:

RECOMMENDED:

That Council receive the Monthly Financial Statement for the period 1 July 2018 to 30 April 2019 as provided in Attachment Booklet – May 2019.

OFFICE OF CEO		CEO01-05/19
Subject:	Review of Council to CEO Delegations and Update of Register	
Author:	D Chandler, Governance & Executive Coordinator	
Responsible Officer:	S Ivers, Acting Chief Executive Officer	
File Reference:	GV.AU.2	
Voting Requirements:	Absolute Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative** Includes adopting local laws, local planning schemes and policies.
- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to review and adopt the updated Register of Delegations – Council to CEO, provided as Attachment 1.

Background:

To delegate is to appoint another person to exercise a power or discharge a duty. A delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty. Local Governments are required to keep a register of delegations and to review the delegations at least once every financial year, as per the *Local Government Act 1995* s5.18 and s5.46. Council has not yet reviewed the Register this financial year.

Historically, Council have reviewed both the Council to CEO delegations and CEO to other staff delegations. Section 5.46 (2) of the *Local Government Act 1995* states that “*at least once every financial year, delegations made under this Division are to be reviewed by the delegator*”. Therefore Council is required to review only the Council to CEO delegations and it is the responsibility of the CEO to review delegations to other staff.

Officer’s Comment:

As part of process improvement across the organisation, it has been identified that an in depth review of delegations will achieve better practice and improve compliance. It is proposed to update all delegations using the template provided by WALGA over the coming months. As new delegations are developed, they will be implemented individually and incorporated into the Register. Therefore, Council will see delegations in the Register in both the old format and the new format, until all delegations have been reviewed and adopted.

The following new delegations have been incorporated into the Register as part of this review:

- *CEO20 – Trust Funds* has been added to delegate to the Chief Executive Officer the power to transfer trust funds that have been held for 10 years to the municipal fund and together with any interest earned, repay the money to a person claiming and establishing a right to the repayment – as per s6.94(4) of the *Local Government Act 1995*.

- *CEO21 – Food Business Registrations* has been added to delegate the Chief Executive Officer the power to grant or cancel registration of food businesses.
- *CEO22 – Appoint Authorised Officers and Designated Officers* has been added to delegate to the Chief Executive Officer the authority to appoint authorised officers for the purposes of the Food Act 2008 and Public Health Act 2016 and designated officers for the purposes of issuing infringement notices.

The following amendments to the Register include:

- *CEO8 – Approval / Refusal of Development Applications* has been amended to better reflect the current development application process under Local Planning Scheme No 5.

The paragraph relating to “A” uses has been revised to allow the CEO to approve these applications where the Scheme process has been carried out and no objections. Previously it only provided the CEO with delegation to proceed to advertise “A” use DA’s, which is actually required by the Scheme anyway.

The 3^d paragraph was revised to remove reference to approving developments that are in compliance with the Scheme, as this is suitably covered in other paragraphs, so is not considered necessary. Minor revisions were made in regards to the refusal to use language more consistent with the Scheme.

The 4th paragraph was revised with some additional wording to better reflect the process of development applications. Previously it suggested all minor proposals must be advertised to be considered, which is not always the case.

- *CEO10 – Oversized Sheds – Rural Smallholdings Zone* has been deleted as it was originally created reactively and ad-hoc and now can all be covered under Delegation CEO8. Please refer to Attachment 2 for the CEO10 delegation proposing to be deleted.
- *CEO11 – Subdivision Referrals from WAPC* has been amended by increasing the number of lots from “three” to “five”. The purpose of this is to streamline the approval process and avoid unnecessary delays for small subdivision applications.

Consultation:

Staff reviewed Council to CEO delegations that were relevant to their department and were consulted in the lead up to the preparation of this report.

Statutory Environment:

Local Government Act 1995

- s5.18
- s5.42
- s5.46

Local Government (Miscellaneous Provisions) Act 1960

- Section 2

Bush Fires Act 1954

- Section 48

Planning and Development Act 2005

- Item 11.3.1

Policy Implications:

The Delegations Register will link with and guide some Council policies. Reference to the relevant Council Policy for each delegation is made within the Register.

Financial/Resource Implications:

Delegations allow for a more streamlined and timely service which is an effective use of Council's human resources. However, there will be increased resourcing requirements over the coming months to update the entire delegations register using the WALGA template.

Strategic Implications:

Strategic Community Plan 2017 - 2027

Strategy 4.2.1 Ensure compliance whilst embracing innovation and best practice principles.

Attachments:

Attachment 1 – Register of Delegations – Council to CEO – May 2019

Attachment 2 – CEO10 Delegation – proposed to be deleted

Officer Recommendation:

RECOMMENDED:

That Council, by Absolute Majority, adopt the 'Register of Delegations – Council to CEO' dated May 2019, as presented in Attachment Booklet – May 2019.

9.2. Committee Reports

Nil.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

13. MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC

14. CLOSURE

Declaration of Interest

This form is provided to enable members and officers to disclose an interest in a matter in accordance with the requirements of the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

Note: Use one form per declaration of interest

To: Chief Executive Officer

I hereby declare my interest in the following matter/s included on the Agenda paper for the Council/Committee meeting to be held on: [Click here to enter the Council/Committee meeting date](#)

Agenda Item No.	Subject	Type of Interest Impartial/Financial
Click here to enter the Agenda Item number	Click here to enter the Agenda item subject.	<input type="checkbox"/> Financial pursuant to Section 5.60A of the Local Government Act 1995 <input type="checkbox"/> Proximity pursuant to Section 5.60B of the Local Government Act 1995 <input type="checkbox"/> Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995 <input type="checkbox"/> Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

Extent of Interest only has to be declared if the Councillor also requests to remain present at a meeting, preside, or participate in discussions of the decision making process. Employees must disclose extent of interest if the Council or Committee requires them to.

The extent of my interest is: Click or tap here to enter the extent of interest.

Click here to enter your name.		Click here to enter the date.
Name (Please Print)	Signature	Date

- NB:**
- This notice must be given to the Chief Executive Officer prior to the meeting or at the meeting immediately before the matter in which you have declared an interest is discussed.
 - The responsibility to declare an interest rests with individual Councillors/Employees. If in any doubt seek legal opinion or, to be absolutely sure, make a declaration.

Office Use Only:	Date/Initials
Particulars of declaration given to meeting	
Particulars recorded in the minutes	
Signed by Chief Executive Officer	

Leave of Absence Request

FRM Leave of absence request DRAFT

This form is provided to enable members and officers to apply for leave pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995.

To: Chief Executive Officer

I hereby request at the Ordinary Council Meeting on **Enter full date of Council Meeting** that Council grant me a leave of absence for the following period:

From:	Enter first date of absence	To:	Enter last date of absence (inclusive)
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Click here to enter your name.		Click here to enter the date.
Name (Please Print)	Signature	Date

Guidance Notes to aid completion of Leave of Absence Request Form:

- Once you have completed this form, please arrange for it to be delivered to the Chief Executive Officer (ideally before the commencement of the ordinary Council meeting at which the request is to be made)
- If you are unable to attend the Council meeting at which the request for leave of absence is to be put forward, please complete this form and submit to the Chief Executive Officer as soon as is practicable, so that he can advise the Shire President to put forward the request on your behalf.
- Any leave of absence approved by Council can only apply to subsequent meetings. Therefore, leave of absence cannot be granted for the ordinary Council meeting at which the approval is given.
- Pursuant to the provisions of Section 2.25(4) of the Local Government Act 1995, an Elected Member who is absent throughout three (3) consecutive **ordinary** Council meetings, without first obtaining a leave of absence, is disqualified from continuing his or her membership of the Council.
- Council cannot grant leave of absence in respect of more than six (6) consecutive ordinary meetings of the Council, without the approval of the Minister for Local Government.

Office Use Only:

Date/Initials

Particulars of declaration given to meeting	
Particulars recorded in the minutes	
Signed by Chief Executive Officer	