



**MINUTES
ORDINARY MEETING
OF COUNCIL**

20 NOVEMBER 2018

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SHIRE OF CUE
Ordinary Council Meeting
MINUTES

Held in the Council Chambers, 73 Austin Street Cue on Tuesday 20 November 2018
commencing at 6:30pm

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1. DECLARATION OF OPENING

The Presiding Member welcomed those present and read the following disclaimer:

No responsibility whatsoever is implied or accepted by the Shire of Cue for any act, omission or statement or intimation occurring during this Meeting.

It is strongly advised that persons do not act on what is heard at this Meeting and should only rely on written confirmation of council's decision, which will be provided within fourteen (14) days of this Meeting.

PRESENT:

Councillor Ross Pigdon, Shire President

Councillor Les Price, Deputy Shire President

Councillor Ian Dennis

Councillor Ron Hogben

Councillor Leonie Fitzpatrick

Councillor Fred Spindler

Councillor Liz Houghton

STAFF:

Mr Rob Madson, Chief Executive Officer

Mr Richard Towell, Deputy Chief Executive Officer

Mrs Janelle Duncan, Coordinator Community Development

GALLERY:

Mr Peter Tegg

Ms Peta Houghton

Mr Geoff Willetts, Golden State Mining

Mr Brenton Siggs, Golden State Mining

Ms Tracy Bachraty

Ms Stephanie Wandek

Ms Janet Wicks

Mrs Jenni Dennis

2. APOLOGIES AND APPROVED LEAVE OF ABSENCE

Nil

3. DISCLOSURE OF MEMBERS' INTERESTS

Nil

4. PUBLIC QUESTION TIME

Mr Peter Tegg, Dowley Street, Cue

Q1. Are the duties of the Shire and Council to help the town?

A1. Yes it is.

Q2. Mr Tegg asked a question about operational matters.

Ms Peta Houghton, Robinson Street, Cue

Q1. Is there a drinking fountain in the budget for the Children's playground?

A1. There is no specific budget allocation.

Q2. Is there a fence in the budget to go around the water park?

A2. There is no specific budget allocation.

Q3. When is the Shire fogging again?

A3. As soon as favourable weather conditions allow it.

5. CONFIRMATION OF MINUTES

Council Decision: 01112018

Voting requirement: Simple Majority

MOVED: CR DENNIS

SECONDED: CR HOGBEN

That the Minutes of the Ordinary Meeting of 16 October 2018 are confirmed as a true and correct record of the meeting.

CARRIED: 7/0

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. DEPUTATIONS

Nil

8. PETITIONS

Nil

9. ANNOUNCEMENTS WITHOUT DISCUSSION

The Presiding Member advised that representatives from Golden State Mining, Mr Brenton Siggs and Mr Geoff Willetts, were in the gallery and would like to make a presentation. The men introduced themselves and their company.

10. REPORTS

10.1 ACCOUNTS & STATEMENTS OF ACCOUNTS

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Richard Towell – Deputy Chief Executive Officer
DATE: 15 November 2018

Matters for Consideration:

To receive the List of Accounts Due & Submitted to Ordinary Council Meeting on Tuesday 20 November 2018 as attached – see [Appendix 1](#)

Background:

The local government under its delegated authority to the CEO to make payments from the municipal and trust funds is required to prepare a list of accounts each month showing each account paid and presented to Council at the next ordinary Council meeting. The list of accounts prepared and presented to Council must form part of the minutes of that meeting.

Comments:

The list of accounts is for the month of October 2018.

Statutory Environment:

Local Government (Financial Management Regulations) 1996 – Clause 13.

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Consultation:

Nil

Officer’s Recommendation:

Voting requirement: Simple Majority

That Council endorse the payments for the period 1 October 2018 to 31 October 2018 as listed at [Appendix 1](#), which have been made in accordance with delegated authority per LGA 1995 S5.42.

Municipal Fund Bank EFTs	6632 – 6710	\$225,264.37
Direct Debit Fund Transfer		\$ 22,400.85
Payroll		\$110,746.51
BPAY		\$ 13,437.84
Cheques		\$ -
Total		\$371,849.57

Council Decision: 02112018

Voting requirement: Simple Majority

MOVED: CR PRICE

SECONDED: CR DENNIS

That Council endorse the payments for the period 1 October 2018 to 31 October 2018 as listed at [Appendix 1](#), which have been made in accordance with delegated authority per LGA 1995 S5.42.

Municipal Fund Bank EFTs	6632 – 6710	\$225,264.37
Direct Debit Fund Transfer		\$ 22,400.85
Payroll		\$110,746.51
BPAY		\$ 13,437.84
Cheques		\$ -
Total		\$371,849.57

CARRIED:5/2

AGAINST: CR FITZPATRICK AND CR HOUGHTON

10.2 FINANCIAL STATEMENT

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Richard Towell – Deputy Chief Executive Officer
DATE: 15 November 2018

Matters for consideration:

The Statement of Financial Activity for the period ended 31 October 2018 including the following reports:

Statement of Financial Activity
Significant Accounting Policies
Graphical Representation – Source Statement of Financial Activity
Net Current Funding Position
Cash and Investments
Major Variances
Budget Amendments
Receivables
Grants and Contributions
Cash Backed Reserve
Capital Disposals and Acquisitions
Trust Fund

see [Appendix 2](#)

Background:

Under the Local Government (Financial Management Regulations 1996), a monthly Statement of Financial Activity must be submitted to an Ordinary Council meeting within 2 months after the end of the month to which the statement relates. The statement of financial activity is a complex document but presents a complete overview of the financial position of the local government at the end of each month. The Statement of Financial Activity for each month must be adopted by Council and form part of the minutes.

Comments:

The Statement of Financial Activity is for the month of October 2018.

Statutory Environment:

Local Government (Financial Management Regulations) 1996 – Clause 14.

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Consultation:

RSM Australia Pty Ltd

Officer's Recommendation:

Voting requirement: Simple Majority

That Council receive the Financial Statements, prepared in accordance with the Local Government (Financial Management) Regulations, for the period ended 31 October 2018, as presented at [Appendix 2](#).

Council Decision: 03112018

Voting requirement: Simple Majority

MOVED: CR DENNIS

SECONDED: CR HOGBEN

That Council receive the Financial Statements, prepared in accordance with the Local Government (Financial Management) Regulations, for the period ended 31 October 2018, as presented at [Appendix 2](#).

CARRIED:5/2

AGAINST: CR FITZPATRICK AND CR HOUGHTON

10.3 SALE OF LAND, LOT 4 STEWART STREET, CUE

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Richard Towell – Deputy Chief Executive Officer
DATE: 16th November 2018

Matters for Consideration:

Sale of land, Lot 4 Stewart St, Cue for rates and charges outstanding for more than three years.

Background:

William John Heydon (Owner) is the registered proprietor of Lot 4 on Deposited Plan 300878, being the whole property contained in Volume 194 Folio 177, more commonly known as Lot 4 Stewart Street, Cue (Property)

The owner is deceased and Probate of the Estate of the owner was granted to James Chesson of 406 Charles Street, North Perth (Executor) on 24 February 1948.

The Executor is deceased and a search of the Probate Office confirms that probate of their estate has not been granted.

Rates and service charges have been outstanding on the Property since at least 2012.

The Shire may now take possession and sell the Property under section 6.64 of the *Local Government Act 1195 (WA)* for non-payment of rates and service charges.

Comments:

CS Legal have been engaged to assist with the sale of properties with rates and charges outstanding for more than three years. Part of the process requires the Shire to attempt to recover the outstanding monies in a court of competent jurisdiction. In order to undertake this the rightful owner of the property needs to be located to serve the notice. Attempts to find the rightful owner have been unsuccessful. Council can now proceed to exercise the power of sale without court proceedings but must record the decision to do so and the reasons for the decision in the minutes of the meeting at which the decision was made.

The attempts made by CS Legal to locate the rightful owner and associated correspondence is attached at [Appendix 3](#).

Statutory Environment:

Local Government Act 1995 (WA)

1..1.1.1 6.55. Recovery of rates and service charges

- (1) Subject to subsection (2) and the *Rates and Charges (Rebates and Deferments) Act 1992* rates and service charges on land are recoverable by a local government from —
- (i) the owner at the time of the compilation of the rate record; or
 - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.

1..1.1.2 6.56. Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

1..1.1.3 6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
- (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.

1..1.1.4 6.68. Exercise of power to sell land

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the **power of sale**) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
- (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or
 - (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.

- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Policy Implications:

Shire of Cue Policy Manual – section D1 Debt Recovery

Financial Implications:

The current rates outstanding for this property are \$11,545.12, any proceeds from the sale of the property will be offset against the current rates outstanding with the remainder being recommended to Council for write off.

Strategic Implications:

Nil

Consultation:

Rob Madson – Chief Executive Officer

Jason O’Meara – CS Legal

Officer’s Recommendation:

Voting requirement: Simple Majority

That Council:

Pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA), resolves to exercise its power of sale under Part 6 Subdivision 6 of the Local Government Act 1995 (WA) over Lot 4 on Deposited Plan 300878 being all that piece of land contained in Certificate of Title Volume 194 Folio 177, more commonly known as Lot 4 Stewart Street, Cue, noting that the Shire of Cue has not made any attempt to recover the outstanding money under section 6.56 of the Local Government Act 1995 (WA) because the Owner and Executor are believed to be deceased and no executor or administrator of the estate of the Executor can be located.

Council Decision: 04112018

Voting requirement: Simple Majority

MOVED: CR PRICE

SECONDED: CR DENNIS

That Council:

Pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA), resolves to exercise its power of sale under Part 6 Subdivision 6 of the Local Government Act 1995 (WA) over Lot 4 on Deposited Plan 300878 being all that piece of land contained in Certificate of Title Volume 194 Folio 177, more commonly known as Lot 4 Stewart Street, Cue, noting that the Shire of Cue has not made any attempt to recover the outstanding money under section 6.56 of the Local Government Act 1995 (WA) because the Owner and Executor are believed to be deceased and no executor or administrator of the estate of the Executor can be located.

CARRIED:7/0

10.4 SALE OF LAND, 6 DOWLEY STREET, CUE

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Richard Towell – Deputy Chief Executive Officer
DATE: 16th November 2018

Matters for Consideration:

Sale of land, 6 Dowley Street, Cue for rates and charges outstanding for more than three years.

Background:

Alfred Quacker is the registered proprietor of Lot 290 on deposited Plan 103031, being the whole of the land contained in Certificate of Title Volume 562 Folio 188, more commonly known as 6 Dowley Street, Cue.

William Collier is the registered proprietor of Lot 290 on deposited Plan 103031, being the whole of the land contained in Certificate of Title Volume 562 Folio 189, more commonly known as 6 Dowley Street, Cue.

(Owners)

As at 26 August 2018 the Shire of Cue (Shire) has imposed local government rates and charges against the Property in the sum of \$9,848.78 (Rates).

The Rates have remained outstanding for a period of more than three (3) years.

The owners are deceased and there have been no grants of probate.

The Shire has not attempted to recover the outstanding rates and service charges through legal proceedings.

The Shire has undertaken reasonable efforts to locate the Owners of the Property and have been unable to do so.

Comments:

CS Legal have been engaged to assist with the sale of properties with rates and charges outstanding for more than three years. Part of the process requires the Shire to attempt to recover the outstanding monies in a court of competent jurisdiction. In order to undertake this the rightful owner of the property needs to be located to serve the notice. Attempts to find the rightful owner have been unsuccessful due to the owners being deceased and no probate being granted for the Estate. Council can now proceed to exercise the power of sale without court proceedings but must record the decision to do so and the reasons for the decision in the minutes of the meeting at which the decision was made.

The attempts made by CS Legal to locate the rightful owner and associated findings are attached at [Appendix 4](#).

Statutory Environment:

Local Government Act 1995 (WA)

1..1.1.5 6.55. Recovery of rates and service charges

- (1) Subject to subsection (2) and the *Rates and Charges (Rebates and Deferments) Act 1992* rates and service charges on land are recoverable by a local government from —
- (i) the owner at the time of the compilation of the rate record; or
 - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.

1..1.1.6 6.56. Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

1..1.1.7 6.64. Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
- (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.

1..1.1.8 6.68. Exercise of power to sell land

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the **power of sale**) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
- (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or
 - (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted

under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.

- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Policy Implications:

Shire of Cue Policy Manual – section D1 Debt Recovery

Financial Implications:

The current rates outstanding for this property are \$9,848.78, any proceeds from the sale of the property will be offset against the current rates outstanding with the remainder being recommended to Council for write off.

Strategic Implications:

Nil

Consultation:

Rob Madson – Chief Executive Officer

Jason O'Meara – CS Legal

Officer's Recommendation:

Voting requirement: Simple Majority

That Council:

Pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA), resolves to exercise its power of sale over the Property, noting that the Shire of Cue has not made any attempt to recover the outstanding money under section 6.56 of the Local Government Act 1995 (WA) because we have made reasonable attempts to locate the Owners of the Property and have been unable to do so because they are believed to be deceased.

Council Decision: 05112018

Voting requirement: Simple Majority

MOVED: CR PRICE

SECONDED: CR DENNIS

That Council:

Pursuant to section 6.68(2)(b) of the Local Government Act 1995 (WA), resolves to exercise its power of sale over the Property, noting that the Shire of Cue has not made any attempt to recover the outstanding money under section 6.56 of the Local Government Act 1995 (WA) because we have made reasonable attempts to locate the Owners of the Property and have been unable to do so because they are believed to be deceased.

CARRIED:7/0

10.5 COUNCIL MEETING DATES 2019

APPLICANT: Shire of Cue
DISCLOSURE OF INTEREST: Nil
AUTHOR: Rob Madson –Chief Executive Officer
DATE: 16 November 2018

Matters for Consideration:

Council is required to adopt and advertise their Council meeting dates and the proposed dates for 2019 are submitted for Council's consideration

Background:

Nil

Comments:

Council is required under the Local Government (Administration) Regulations 1996 to adopt annual meeting dates and times and advertise them to the community.

Council traditionally meets on the 3rd Tuesday of the month at 6.30pm, therefore the dates proposed for 2019 are:

January	No meeting
February	Tuesday 19 th
March	Tuesday 19 th
April	Tuesday 16 th
May	Tuesday 21 st
June	Tuesday 18 th
July	Tuesday 16 th
August	Tuesday 20 th
September	Tuesday 17 th
October	Tuesday 15 th
November	Tuesday 19 th
December	Tuesday 17 th

With meetings commencing at 6.30pm

Statutory Environment:

Local Government Act 1995 - SECT 5.25

5.25. Regulations about council and committee meetings and committees

(1) Without limiting the generality of section 9.59, regulations may make provision in relation to —

(g) the giving of public notice of the date and agenda for council or committee meetings;

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996 - REG 12

12. Meetings, public notice of (Act s. 5.25(1)(g))

(1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —

(a) the ordinary council meetings; and

(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.

Policy Implications:

Nil

Financial Implications:

Nil

Strategic Implications:

Nil

Consultation:

Nil

Officer's Recommendation:

Voting requirement: Absolute Majority

That Council:

Adopt the following meeting dates for 2019 and advertise them in accordance with the Local Government (Administration) Regulations 1996:

January	No meeting
February	Tuesday 19 th
March	Tuesday 19 th
April	Tuesday 16 th
May	Tuesday 21 st
June	Tuesday 18 th
July	Tuesday 16 th
August	Tuesday 20 th
September	Tuesday 17 th
October	Tuesday 15 th
November	Tuesday 19 th
December	Tuesday 17 th

With meetings commencing at 6.30pm

Council Decision: 06112018

Voting requirement: Absolute Majority

MOVED: CR HOGBEN

SECONDED: CR FITZPATRICK

That Council:

Adopt the following meeting dates for 2019 and advertise them in accordance with the Local Government (Administration) Regulations 1996:

January	No meeting
February	Tuesday 19 th
March	Tuesday 19 th
April	Tuesday 16 th
May	Tuesday 21 st
June	Tuesday 18 th
July	Tuesday 16 th
August	Tuesday 20 th
September	Tuesday 17 th
October	Tuesday 15 th
November	Tuesday 19 th
December	Tuesday 17 th

With meetings commencing at 6.30pm

CARRIED:7/0

11. MOTIONS BY MEMBERS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS FOR CONSIDERATION AT THE NEXT MEETING

Nil

13. NEW BUSINESS OF AN URGENT NATURE

Cr Price indicated his disappointment in the poor attendance at the Information Forums and urged all Councillors to be involved.

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Council Decision: 07112018

Voting requirement: Simple Majority

MOVED: CR DENNIS

SECONDED: CR HOUGHTON

That the meeting be closed to members of the public to discuss a staff matter.

CARRIED: 7/0

Mr Richard Towell and Mrs Janelle Duncan left the meeting at 7.13pm

Cr Hogben left the meeting at 7.20pm

Cr Hogben returned to the meeting at 7.24pm

14.1 CONFIDENTIAL ITEM – STAFF MATTER

Council Decision: 08112018

Voting requirement: Simple Majority

MOVED: CR DENNIS

SECONDED: CR HOUGHTON

That Council accepts and endorses the CEO Annual Performance Review Report dated October 2018, prepared by Mike FitzGerald of Fitz Gerald Strategies, and adopts the recommendations contained at clause 7.

CARRIED: 7/0

Council Decision: 09112018

Voting requirement: Simple Majority

MOVED: CR FITZPATRICK

SECONDED: CR DENNIS

That the meeting be reopened to the members of the public.

CARRIED: 7/0

Mr Richard Towell and Mrs Janelle Duncan returned to the meeting 7.31pm

15. CLOSURE

The Presiding Member thanked those present for attending the meeting and declared the meeting closed at 7.35pm.

To be confirmed at Ordinary Meeting on the 18 December 2018

Signed:.....

Presiding Member at the Meeting at which time the Minutes were confirmed.