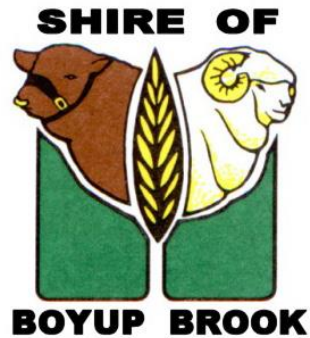


MINUTES



**SPECIAL MEETING
HELD ON**

**MONDAY, 31 AUGUST 2020
COMMENCED AT 1.00PM**

AT

**SHIRE OF BOYUP BROOK
ABEL STREET – BOYUP BROOK**

Purpose: Consideration of the appointment of a Chief Executive Officer

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1. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

1.1 Attendance

Cr R Walker-Shire President
Cr S Alexander
Cr K Moir
Cr H O'Connell
Cr T Oversby
Cr P Kaltenrieder
Cr A Price

STAFF: Mr Peter Dittrich (Acting CEO)
OBSERVER: Mike FitzGerald

1.2 Apologies
Nil

1.3 Leave of Absence

2. PUBLIC QUESTION TIME

Nil

3. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

Adjournment

MOVED: Cr Moir

SECONDED: Cr Alexander

That the meeting be adjourned for a lunch break, the time being 1.02pm.

Resumption

MOVED: Cr Moir

SECONDED: Cr Alexander

That the meeting resume, the time being 1.20pm.

That the meeting resumed with the following persons in attendance

Cr R Walker – Shire President
Cr S Alexander
Cr K Moir
Cr H O'Connell
Cr T Oversby
Cr P Kaltenrieder
Cr A Price
Mr P Dittrich
Mr M Fitzgerald

Behind Closed Doors

MOVED: Cr O'Connell

SECONDED: Cr Oversby

That the meeting move behind closed doors to discuss a confidential matter pursuant to s.5.23 (2) (a) and (b) of the Local Government Act.

Carried 7/0

4. CONFIDENTIAL MATTER REQUIRING A DECISION

4.1 Appointment of CEO

Location:	<i>Boyup Brook</i>
Applicant:	<i>Not Applicable</i>
File:	<i>P/F</i>
Disclosure of Interest:	<i>None Applicable</i>
Date:	<i>31 August 2020</i>
Author:	<i>Peter Dittrich – Acting CEO</i>
Authorising Officer:	<i>Peter Dittrich – Acting CEO</i>
Attachment:	<i>Yes</i>

SUMMARY

It is for Council to consider the appointment of a Chief Executive Officer for the Shire of Boyup Brook.

BACKGROUND

At the Ordinary Council Meeting in July 2020, Council appointed Fitzgerald Strategies to assist Council with the recruitment of a Chief Executive Officer for the Shire of Boyup Brook.

COMMENTS

The position of Chief Executive Officer was duly advertised. Sixteen applications were received, all of which were distributed to Council for consideration.

Two applicants were selected for interview. Reference checks have been conducted by FitzGerald Strategies, for both applicants. Those comments were provided to Council for their consideration.

Council conducted inperson interviews on Monday 31 August 2020.

CONSULTATION

FitzGerald Strategies

STATUTORY ENVIRONMENT

Local Government Act 1995

5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

** Absolute majority required.*

- (3) A person is not to be employed by a local government in any other position unless the CEO —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.
[Section 5.36 amended by No. 49 of 2004 s. 44; No. 17 of 2009 s. 21.]

5.39. Contracts for CEO and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
 - (1a) Despite subsection (1) —
 - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
 - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2-year period, without a written contract.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
 - (a) the expiry date is specified in the contract; and
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

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- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A.
- (8) A local government is to ensure that subsection (7) is complied with in entering, or renewing, a contract of employment with a CEO.

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3); No. 2 of 2012 s. 13 (correction to reprint in Gazette 28 Mar 2013 p. 1317).]

18A. Vacancy in position of CEO or senior employee to be advertised (Act s. 5.36(4) and 5.37(3))

- (1) If a position of CEO, or of a senior employee, of a local government becomes vacant, the local government is to advertise the position in a newspaper circulating generally throughout the State unless it is proposed that the position be filled by —
 - (a) a person who is, and will continue to be, employed by another local government and who will fill the position on a contract or contracts for a total period not exceeding 5 years; or
 - (b) a person who will be acting in the position for a term not exceeding one year.
- (2) An advertisement referred to in subregulation (1) is to contain —
 - (a) the details of the remuneration and benefits offered; and
 - (b) details of the place where applications for the position are to be submitted; and
 - (c) the date and time for the closing of applications for the position; and
 - (d) the duration of the proposed contract; and
 - (e) contact details for a person who can provide further information about the position; and
 - (f) any other information that the local government considers is relevant.

[Regulation 18A inserted in Gazette 31 Mar 2005 p. 1037-8; amended in Gazette 19 Aug 2005 p. 3872; 3 May 2011 p. 1594.]

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Provision has been made in the draft 2020-21 budget

STRATEGIC IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute majority.

MOVED INTO COMMITTEE

MOVED: Cr O'Connell

SECONDED: Cr Oversby

That the Council move into a committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1 to allow members free discussion on the matter.

Carried 7/0

MOVED OUT OF COMMITTEE

MOVED: Cr Kaltenrieder

SECONDED: Cr Price

That the Council moves out of committee of the whole under clause 15.6 of the Standing Orders, Local Law No.1.

Carried 7/0

COUNCIL DECISION & OFFICER RECOMMENDATION – Item 4.1

MOVED: Cr Alexander

SECONDED: Cr Kaltenrieder

That Council:

1. That Council believes that all applicants interviewed were suitably qualified for the position of Chief Executive Officer.
2. That Council offers the position of Chief Executive Officer to candidate (4) for a period of five years, subject to the successful finalisation of a Contract of Employment.
3. That in the event that the preferred applicant declines the offer of employment, that Interviewee (16) be offered the position for a period of five years subject to the successful finalisation of a Contract of Employment.
4. That the President, Deputy President, and Mike FitzGerald of FitzGerald Strategies be authorised to negotiate the finalisation of a Contract of Employment with the preferred applicant or the alternative candidate per 3 above.

CARRIED BY ABSOLUTE MAJORITY 7/0

Res 148/20

5. CLOSURE OF MEETING

There being no further business the Shire President, thanked all for attending and declared the meeting closed at 2.15pm.