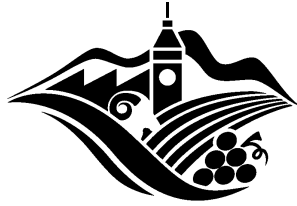


Ararat Rural City

**SPECIAL
COUNCIL MEETING
AGENDA**

TUESDAY 26 SEPTEMBER 2017



Ararat Rural City

25 September 2017

Dear Councillors,

You are cordially advised and invited to attend a Special Council Meeting, which will be held in the Council Chamber, Shire Hall, Barkly Street, Ararat on *Tuesday 26 September 2017* commencing at *6.00pm*.

BUSINESS:

- 1 **Traditional Acknowledgement/Opening Prayer/Oath**
- 2 **Apologies**
- 3 **Disclosure of Interests**
- 4 **Officer's Reports**

Your attendance is respectfully requested.

Yours sincerely,

COLLEEN WHITE
INTERIM CHIEF EXECUTIVE OFFICER

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the Council Meeting, Special Council Meeting or Assembly of Councillors. Recordings of Council Meetings and Special Council Meetings (excluding closed sessions) will be made available on Council's website.

1 – TRADITIONAL ACKNOWLEDGEMENT / OPENING PRAYER/OATH

TRADITIONAL ACKNOWLEDGEMENT

WE ACKNOWLEDGE THE TRADITIONAL OWNERS OF THE LAND ON WHICH WE MEET TODAY, AND PAY OUR RESPECTS TO THEIR ELDERS, PAST AND PRESENT.

OPENING PRAYER

ALMIGHTY GOD, WE HUMBLY ASK YOU TO HELP US, AS ELECTED COUNCILLORS OF THE ARARAT RURAL CITY COUNCIL. GUIDE OUR DELIBERATIONS. PROSPER WHAT IS YOUR WILL FOR US, TO YOUR HONOUR AND GLORY AND FOR THE WELFARE AND BENEFIT OF THE PEOPLE WHOM WE SERVE IN THE ARARAT RURAL CITY.

COUNCILLORS OATH

WE WILL UNDERTAKE THE DUTIES OF THE OFFICE OF COUNCILLOR IN THE BEST INTERESTS OF THE PEOPLE OF THE MUNICIPAL DISTRICT OF THE ARARAT RURAL CITY COUNCIL AND FAITHFULLY AND IMPARTIALLY CARRY OUT THE FUNCTIONS, POWERS, AUTHORITIES AND DISCRETIONS VESTED IN US UNDER THE LOCAL GOVERNMENT ACT 1989 OR ANY OTHER ACT TO THE BEST OF OUR SKILL AND JUDGMENT.

2 – APOLOGIES

MOTION (if required)

That the apology of (Name) be accepted.

3 – DISCLOSURE OF INTERESTS

Disclosure of Interests are to be made immediately prior to any relevant item being discussed.

Local Government Act 1989 Section 79 (2)

A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest -

- (a) by either -
 - (i) advising the Council or special committee at the meeting of the details required under paragraph (b) and (c) immediately before the matter is considered at the meeting; or
 - (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
- (b) classifying the type of interest that has given rise to the conflict as either -
 - (i) a direct interest; or
 - (ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and
- (c) describing the nature of the interest; and
- (d) if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a) (ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.

Local Government Act 1989 Section 80C)

A person who is providing advice or a report to a meeting of the Council or a special committee, and who has a conflict of interest in a matter to which the advice or report relates, must disclose the constituting the conflict of interest when providing the advice or report and before the advice or report is considered by the Council or the committee.

4 - OFFICERS REPORTS

ITEM 4.1 APPOINTMENT OF CHIEF EXECUTIVE OFFICER
13039317

AUTHOR:

PRESENTED BY EXECUTIVE SERVICES ON BEHALF OF THE
MUNICIPAL ASSOCIATION OF VICTORIA

Introduction

A report and associated documentation has been prepared by the Municipal Association of Victoria (MAV) in relation to the appointment of a Chief Executive Officer.

Discussion

The Minister for Local Government presented the Mayor and Interim Chief Executive Officer with correspondence regarding the Commission of Inquiry into Ararat Rural City Council on 9 August 2017.

The correspondence contained 6 recommendations to the Mayor for action by the Ararat Rural City Council with the first one being:

1. External Interim Chief Executive Officer

- a. Appoint an external interim Chief Executive Officer to the Council for a fixed period of 12 months to undertake an organisational restructure of responsibilities and reporting lines, with a capacity to extend the term.
- b. Ensure the Interim Chief Executive Officer works with any municipal monitor to the Council to achieve contemporary good governance practices within the Council senior staff.

At a Special Council Meeting held on 22 August 2017 Council accepted and endorsed the ‘Ararat Rural City Council Response to Recommendations Work Plan/Action Plan’ which included the recruitment of an External Chief Executive Officer.

Council, with the assistance of the Chief Executive Officer of the MAV conducted interviews on Wednesday 13 September 2017 with the preferred candidate being Mr Allan Bawden.

Sections 94(4A) and (5) of the Local Government Act state that a Council can appoint a person to act as its Chief Executive Officer for a period of not more than 12 Months.

Options

Council could:

Endorse the appointment of Mr Allan Bawden to the role of Chief Executive Officer of Ararat Rural City Council for the fixed term period of 2 October 2017 to 30 September 2018.

POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE

Council plan reference

- | | |
|-----|---|
| 5.1 | Good Governance through leadership |
| 5.3 | Organisational Risk |
| 5.4 | Professional and skill staff in a safe and supportive environment |
| 5.5 | Sustainable, long term financial management |

4 - OFFICERS REPORTS

Officer’s Declaration of Interest

Under Section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

Financial and resource implications

The 2017/2018 budget includes an amount for the Chief Executive Officer role and budgetary savings have been made in the months since the retirement of the previous Chief Executive Officer.

Risk implications

Reputational risk to Council if the matter is not resolved in a timely manner and risk of non-compliance to the *Local Government Act 1989*.

The process for appointment of an Interim Chief Executive Officer is in accordance with the provisions of the *Local Government Act 1989*, in as much as clause 94(4A) of the Act waives the public notice requirements for a permanent appointment of a Chief Executive Officer “where Council appoints a person to act as its Chief Executive Officer for a period of not more than 12 months”.

Statutory Implications

Potential non-compliance with *Section 94 – The Chief Executive Officer of the Local Government Act 1989* if Council do not appoint a Chief Executive Officer.

The Chief Executive Officer will undertake the role, including all required functions and delegations of the Chief Executive Officer position from 2 October 2017 until 30 September 2018.

Community Implications

Reputational and organisational stability to be ensured and communicated.

Environmental Implications

None identified.

Internal/external consultation

Minister for Local Government
Commission of Inquiry into Ararat Rural City Council Report
Local Government Victoria
Municipal Monitor
Municipal Association of Victoria
Interim Chief Executive Officer

Attachments

There are no attachments relating to this item.

Conclusion

As per the Ministerial recommendation from the Commission of Inquiry into Ararat Rural City Council a recruitment process has been undertaken for the role of Chief Executive Officer for a period of 12 months.

4 - OFFICERS REPORTS

Recommendation

That:

- 1 Council appoint Mr Allan Bawden to the role of Chief Executive Officer on a Fixed Term Contract to commence on 2 October 2017 and end on 30 September 2018;**
- 2 Total Remuneration to apply in accordance with the terms and conditions as contained in the agreed Contract of Employment;**
- 3 Council authorises the Mayor and Chief Executive Officer to sign and seal the Contract of Employment; and**
- 4 Council distributes a media release regarding the appointment of Mr Allan Bawden to the role of Chief Executive Officer.**

4 - OFFICERS REPORTS

ITEM 4.2 DISPUTE RESOLUTION - COUNCILLOR CODE OF CONDUCT
15059144

AUTHOR:

DIRECTOR CORPORATE STRATEGY, RISK & GOVERNANCE

DEPARTMENT:

CORPORATE STRATEGY, RISK & GOVERNANCE

Introduction

A written complaint has been received under clauses 2.1, 2.2, 3 and 7 of the Ararat Rural City Council Councillor Code of Conduct Policy (C.1.6.).

At the 19 September 2017 Council Meeting the following resolution was passed:

MOVED CR ARMSTRONG

SECONDED CR BEALES

That:

- 1 Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council I wish to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
- 2 As I am the applicant it is appropriate for Council to resolve to appoint Cr Peter Beales to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
- 3 The initial Complaint Resolution meeting be scheduled to take place on 21 September 2017; and
- 4 The Ministerial Monitor, Ms Janet Dore be included in the complaint resolution process.

CARRIED 3635/17

Discussion

The details of the complaint shall remain confidential to those associated with the matter.

Due to Disclosure of Interest legislation that impacts on this matter, the applicant and respondent will be required to leave the Council Chamber whilst discussion is being held regarding clause 8 of the aforementioned Policy.

The Councillor Code of Conduct Policy, Clause 8.3 states that “In the event that the Mayor is either the Applicant or the Respondent, a Councillor appointed by the Council shall perform the role of the Mayor for this purpose.”

Due to Cr McLean being unavailable on 21 September 2017 and Cr Beales taking Leave of Absence from 22 September 2017 to 21 October 2017 the initial Complaint Resolution meeting was unable to proceed.

Options

Council need to determine who shall assume the role of the Mayor for the purposes of this matter.

POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE

Council plan reference

- 5.1 Good governance through leadership

4 - OFFICERS REPORTS

Financial and resource implications

Potential budget implications if the matter cannot be resolved internally.

Risk implications

High if the matter cannot be resolved in a timely manner.

Statutory Implications

Potential breach of the Councillor Code of Conduct and the Ararat Rural City Response to Recommendations Work Plan/Action Plan if the matter is not dealt with in a timely manner.

Community Implications

None identified.

Environmental Implications

None identified.

Internal/external consultation

Municipal Monitor

Local Government Victoria

Independent legal advice

Attachments

There are no attachments relating to this item.

Conclusion

Determining who shall assume the role of the Mayor for this matter is the initial step to achieve a resolution.

Recommendation

That:

- 1 Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council Cr Hooper wishes to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
- 2 As Cr Hooper is the applicant it is appropriate for Council to resolve to appoint another Councillor to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
- 3 The initial Complaint Resolution meeting be scheduled to take place as soon as is practicable; and
- 4 The Ministerial Monitor, Ms Janet Dore be included in the complaint resolution process.