

MINUTES
MARCH 2020
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**MINUTES
ORDINARY MEETING OF COUNCIL
18 MARCH 2020**

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Chair Person, Shire President Cr Scott Crosby, declared the meeting opened at 5:30pm.

2 RECORD OF ATTENDANCE/APOLOGIES & APPROVED LEAVE OF ABSENCE

Members

Cr SR Crosby	Shire President
Cr KV Johnston	Deputy Shire President
Cr JN Germain	Member
Cr RA Jury	Member
Cr AL Smith	Member
Cr KR Stephens	Member
Cr TD Borgward	Member

Staff

R Miller	Chief Executive Officer
GD Mathewson	Works Manager
CJ Smith	Executive Support/Project Officer

Members of the Public

Nil

Apologies

M Bamess	Deputy Chief Executive Officer
Cr BC Bamess	Member

3 DECLARATION OF INTERESTS:

• **Financial Interest:**

Nil

• **Members Impartiality Interest**

Nil

• **Proximity Interest:**

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATION FOR MEMBERS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION AND RECEIVING OF MINUTES/BUSINESS ARISING

6.1 Ordinary Meeting of Council held on Wednesday 12 February, 2020

That the minutes of the Ordinary Meeting of the Shire of Kent held on Wednesday 12 February, 2020 in the Shire of Kent Council Chambers be confirmed as a true and accurate record of proceedings and duly signed.

OCM1920/ 128 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr T D Borgward/ Cr K V Johnston

That the minutes of the Ordinary Meeting of the Shire of Kent held on Wednesday 12 February, 2020 in the Shire of Kent Council Chambers be confirmed as a true and accurate record of proceedings and duly signed.

**CARRIED 7/0
By Simple Majority**

7 ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

Nil

8 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

9 OFFICERS REPORTS

9.1.1 MONTHLY FINANCIAL REPORTS TO 29 FEBRUARY 2020

PROPOSED MEETING DATE:	18 March 2020
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Michelle Bamess –Deputy Chief Executive Officer
REPORTING OFFICER:	Michelle Bamess –Deputy Chief Executive Officer
FILE NO:	FIN30.20
ASSESSMENT NO:	N/A
ATTACHMENTS:	<ul style="list-style-type: none"> Monthly Financial Reports to 29 February 2020

PURPOSE

In accordance with the Local Government (Financial Management) Regulations 1996, to follow is the presentation of the Monthly Financial Reports to Council.

BACKGROUND

Monthly Financial Reports are to be presented to Council and are to be received by Council resolution.

COMMENT

The Monthly Financial Reports as presented indicate that Council continues to be in a sound financial position.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Clause 34 and 35

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.
To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council receive the following Monthly Financial Reports as presented:

- Monthly Financial Reports to 29 February 2020

OCM1920/ 129- COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr J N Germain/ Cr K V Johnston

That Council receive the following Monthly Financial Reports as presented:

- **Monthly Financial Reports to 29 February 2020**

**CARRIED 7/0
By Simple Majority**

9.1.2 SCHEDULE OF ACCOUNTS PAID TO 29 FEBRUARY 2020

PROPOSED MEETING DATE:	18 March 2020
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Michelle Bamess –Deputy Chief Executive Officer
REPORTING OFFICER:	Michelle Bamess –Deputy Chief Executive Officer
FILE NO:	N/A
ASSESSMENT NO:	N/A
ATTACHMENTS:	Schedule of Accounts as at 29 February 2020

PURPOSE

Council endorsement of payment to Creditors under CEO Delegated Authority 2.1.2.

BACKGROUND

Details payments made to creditors since last Council Meeting.

COMMENT

The Schedule of Accounts Reports as presented, indicate that Council continues to be in a sound financial position.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Section 6.4

Local Government (Financial Management) Regulations 1996 – Part 2 – Regulation 11 & 12

POLICY IMPLICATIONS

Policy 4.1 Accounting Policies

Objective: To provide the basis for Council's accounting concepts and reporting guidelines.

To maintain accounting reporting procedures which comply with Statutory Requirements and to demonstrate Council's financial position.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council endorse the payments from the Municipal Fund and Trust Fund:

Municipal Fund	\$594,317.59
Trust Fund	\$ 7,673.29
Direct Debits	<u>\$151,332.09</u>
TOTAL	<u>\$753,322.97</u>

OCM1920/ 130- COUNCIL RESOLUTION (Officer Recommendation)
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MOVED Cr J N Germain / Cr R A Jury

That Council endorse the payments from the Municipal Fund and Trust Fund:

Municipal Fund	594,317.59
Trust Fund	\$ 7,673.29
Direct Debits	<u>\$151,332.09</u>
TOTAL	<u>\$753,322.97</u>

**CARRIED 7/0
By Simple Majority**

9.1.3 STATUS OF COUNCIL DECISIONS – FEBRUARY 2020

PROPOSED MEETING DATE:	18 March 2020
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Rick Miller – Chief Executive Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	041.1.1
ASSESSMENT NO:	N/A
ATTACHMENTS:	1. Council Resolution Register

PURPOSE

To inform Council of the actions taken in relation to Council decisions.

BACKGROUND

By providing this report to Council as an agenda item on a monthly basis will keep Council informed on the progress of decisions made.

COMMENT

The status of Council decisions/resolutions is included as an attachment and updated monthly.

It is requested that action items be reviewed at each Council meeting.

STATUTORY IMPLICATIONS

Local Government Act (1995), Section 5.41

The CEO's functions are to:-

c) Cause Council decisions to be implemented

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS**Community Strategic Plan 2017-2027**

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

- 4.1.1 Continually improve operational efficiencies and provide effective services.
4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council receive the Council Resolutions Register for the month of February 2020.

OCM1920/131 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr T D Borgward/ Cr R A Jury

That Council receive the Council Resolutions Register for the month of February 2020.

**CARRIED 7/0
By Simple Majority**

9.1.4 LOCAL GOVERNMENT HOUSE TRUST – DEED OF VARIATION

PROPOSED MEETING DATE: PROPONENT: LOCATION: AUTHOR: REPORTING OFFICER: FILE NO: ASSESSMENT NO: ATTACHMENTS:	18 March 2020 Shire of Kent Michelle Bamess, Deputy Chief Executive Officer Rick Miller, Chief Executive Officer N/A 1. Email from WALGA CEO Nick Sloan 2. Deed of Variation (Draft) 3. Clause 12 of Trust Deed 1994
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PURPOSE

Council's consent is sought, to a variation to the Trust Deed for the Local Government House Trust (The Trust) as the Shire of Kent is a unit holder and beneficiary to the Local Government House Trust, holding 6 unit/s as advised in WALGA's recent Quarterly Report Q4 2019.

The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.

As a beneficiary, the Shire of Kent is requested to consent to the enclosed Deed of Variation supported by a resolution of Council; and to communicate this consent in writing, to consent for the Trustee to formally execute the Deed of Variation.

BACKGROUND

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to Division 1AB of the Income Tax Assessment Act 1936.

Trust Deed Variation

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:

22.1 Any Trustee of the Trust may retire as Trustee of the Trust. ~~The~~ **Subject to clause 22.3, the** right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.

2. Variation 2.2 inserts two new clauses:

22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:

- (a) remove a Trustee from the office as Trustee of the Trust; and
- (b) appoint such new or additional Trustee.

3. Variation 2.3 insert a new clause 13A

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

COMMENT

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no relevant financial implications upon the Council's Budget or Long Term Financial Plan.

One Seventy (170) Railway Parade, (local government house), where WALGA is located, is owned by the Association. The Shire of Kent owns four (4) units in the Trust that owns the 'local government house', which were valued at \$17,517.11 each (as at 30/6/18 as advised by WALGA).

Supporting the Deed of Variation will only strengthen WALGA's financial position, of which the Shire of Kent is a financial member.

STRATEGIC IMPLICATIONS

Community Strategic Plan 2017-2027

Civil Leadership – Continually enhance the shire's organisational capacity to service the needs of our community.

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

4.1.2 Continue to enhance communication and transparency.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council advise the Western Australia Local Government Association (WALGA) that the Shire of Kent gives formal consent to execute the variation to the Trust Deed for the Local Government House Trust as detailed in subject letter from WALGA dated 19 February 2020.

OCM1920/ 132- COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr K V Johnston/ Cr R A Jury

That Council advise the Western Australia Local Government Association (WALGA) that the Shire of Kent gives formal consent to execute the variation to the Trust Deed for the Local Government House Trust as detailed in subject letter from WALGA dated 19 February 2020.

**CARRIED 7/0
By Simple Majority**

9.1.5 ADOPTION OF THE 2019/2020 BUDGET REVIEW

PROPOSED MEETING DATE:	5 March 2020
PROPONENT:	N/A
LOCATION:	Shire of Kent
AUTHOR:	Christie Smith – Executive Support/Project Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	042.6.3
ASSESSMENT NO:	N/A
ATTACHMENTS:	Budget Review 2019/2020

PURPOSE

To consider and adopt the Budget Review as presented in the Statement of Financial Activity for the period 1 July 2019 to 29 February 2020.

BACKGROUND

A Statement of Financial Activity incorporating year to date budget variations and forecasts to 30 June 2020 for the period ending 28 February 2020 is presented for Council to consider.

The *Local Government (Financial Management) Regulations 1996*, regulation 33A, requires that local governments conduct a budget review between 1 January and 31 March in each financial year.

A copy of the review and determination is to be provided to the Department of Local Government within 30 days of the adoption of the review.

COMMENT

The budget has been reviewed to continue to deliver on other strategies adopted by the council and maintains a high level of service across all programs.

Budget review as presented is a balanced budget with a nil surplus/deficit. There is a reduction in the bought forward balance of \$264,025, this is due to estimating the bought forward figure at budget preparation. There were no major variations within the operating. Most variations are due to administration allocated, plant operating costs and public works overhead allocations, which is due to indirect costs allocating.

GENERAL PURPOSE FUNDING

Due to error when the rates were raised in the system, it was required to show the extra income and offset by implementing a 'discount'. As you can see this basically balances itself apart from a little extra related to interim rating.

At the time of the budget, the Federal Assistance Grants (FAGS) are estimated as the correct amounts had not been released. Once the amounts were notified the Shire of Kent was due to receive \$77,453 less than anticipated.

The muni account has already received the interest that was budget, so this amount has been increased.

GOVERNANCE

No major adjustments in this program. Savings are from conference, travel and accommodation expenses related to members of council as no one attended the Roads Congress and not all councillors attended Local Government Week.

HEALTH

A saving of \$8,000 was due to chemicals for mosquito control that had been purchased in the previous financial year.

HOUSING

There has been some considerable savings in the painting program.

COMMUNITY AMENITIES

Noticeably an amount of \$225,000 extra income has been included. This is due to income to be received from the Regional and Strategic Waste Management Approach. The expenditure is offset with \$40,000 in operational and the remainder as capital works.

OTHER PROPERTY AND SERVICES

The plant repairs and maintenance budget has been reduced by \$55,000 as actuals are currently well under budget.

There is an increase in expenditure related to the Nyabing General Store due to the decommissioning of the fuel tanks.

CAPITAL – ROAD PROGRAM

Some gravel sheeting own source jobs have been completed with savings. With the declaration of water deficiency and increased usage of Range Road we have added this into the program for some gravel sheeting to be done prior to the end of the financial year.

CAPITAL – PLANT REPLACEMENT PROGRAM

Although the tree grab/rotating head & mulcher for the excavator was budgeted, only the mulcher component was able to be purchased with the budgeted amount. With savings of \$84,112 on purchase of new vehicles/plant, an additional \$75,000 has been included to purchase the tree grab/rotating head.

CAPITAL – OTHER

Works at the Nyabing Pavilion/Grounds such as the concreting, fencing and caravan park grounds has been reduced. With the finalization of campers kitchen and the future proposal for CBH to provide accommodation units for this area it was thought to not go ahead with major developments of this area until designs/drawings are done and approved.

STATUTORY IMPLICATIONS

Local Government Act (1995)

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires:

- (1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.
- (2) Consideration and review is to be given to a local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year.
- (3) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the Council.
- (4) A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.

**Absolute Majority required.*

- (5) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no financial implications as all financial variations will be within the existing Adopted Budget.

STRATEGIC IMPLICATIONS

The Budget Review has been developed based on existing strategic planning documents adopted by Council in its entirety.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Absolute Majority

RECOMMENDATION

That Council:

Adopt the budget review with all variations for the period 1 July 2019 to 29 February 2020 and amend the budget accordingly:

OCM1920/ 133 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr K V Johnston/ Cr J N Germain

That Council:

Adopt the budget review with all variations for the period 1 July 2019 to 29 February 2020 and amend the budget accordingly:

**CARRIED 7/0
By Absolute Majority**

9.1.6 MINUTES OF AUDIT COMMITTEE - COMPLIANCE AUDIT RETURN 2019

PROPOSED MEETING DATE:	18 March 2020
PROPONENT:	N/A
LOCATION:	N/A
AUTHOR:	Rick Miller – Chief Executive Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	041.3.3
ASSESSMENT NO:	N/A
ATTACHMENTS:	Minutes Audit Committee and Compliance Audit Return 2019 (to be tabled)

PURPOSE

Council to consider and endorse recommendation from the Audit Committee for the Compliance Audit Return 2019.

BACKGROUND

Under the Local Government Audit Regulations 1996, Local Government is required to carry out a Compliance Audit for the period 1 January 2019 to 31 December 2019. The certified return must be submitted to the Director General, Department of Local Government, Sport and Cultural Industries by 31 March 2020.

COMMENT

Annual Compliance Audit Return 2019 was submitted for consideration of review by the Audit Committee and is now presented to Council for adoption. In carrying out the compliance return for 2019 there were no areas of non-compliance identified.

STATUTORY IMPLICATIONS**Regulation 14 of the Local Government (Audit) Regulations 1996 provides:**

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.
- (3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —
 - (a) presented to the council at a meeting of the council; and
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

Regulation 15 provides that:

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
 - (b) any additional information explaining or qualifying the compliance audit,
 - (c) is to be submitted to the Executive Director by 31 March next following the period to which the return relates.
- (2) In this regulation —

certified in relation to a compliance audit return means signed by —

 - (a) the mayor or president; and
 - (b) the CEO.

POLICY IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

STRATEGIC IMPLICATIONS**Community Strategic Plan 2017-2027**

Civic Leadership Objective - Continually enhance the Shire's organisational capacity to service the needs our community

Outcome 4.1 An efficient and effective organisation

4.1.1 Continually improve operational efficiencies and provide effective services.

RISK IMPLICATIONS

N/A

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council:

1. Receives the minutes of the Audit Committee dated 18 March 2020.
2. Adopts the Compliance Audit Return 2019, as presented;
3. The Chief Executive Officer and the Shire President be authorised to sign the Compliance Audit Return 2019;
4. The Compliance Audit Return be submitted to the Department of Local Government, Sport and Cultural Industries by the 31 March 2020 deadline.

OCM1920/ 134 - COUNCIL RESOLUTION (Officer Recommendation)

MOVED Cr K R Stephens/ Cr J N Germain

That Council:

- 1. Receives the minutes of the Audit Committee dated 18 March 2020.**
- 2. Adopts the Compliance Audit Return 2019, as presented;**
- 3. The Chief Executive Officer and the Shire President be authorised to sign the Compliance Audit Return 2019;**
- 4. The Compliance Audit Return be submitted to the Department of Local Government, Sport and Cultural Industries by the 31 March 2020 deadline.**

**CARRIED 7/0
By Simple Majority**

9.1.7 PINGRUP RACE CLUB DONATION ACCOMMODATION REQUEST

PROPOSED MEETING DATE:	18 March 2020
PROPONENT:	Pingrup Race Club Inc
LOCATION:	Pingrup
AUTHOR:	Rick Miller – Chief Executive Officer
REPORTING OFFICER:	Rick Miller – Chief Executive Officer
FILE NO:	041.6.2
ASSESSMENT NO:	N/A
ATTACHMENTS:	Promotional Brochure, Sponsor Advert, Policy 3.1.8

Due to COVID-19 and the direction from the government to cancel large events, item 9.1.7 was withdrawn from the agenda as the request is no longer relevant due to the cancellation of the 2020 Pingrup Races.

10. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

11. NEW BUSINESS OF AN URGENT NATURE AGREED TO BY RESOLUTION OF COUNCIL

Nil

12. MATTERS BEHIND CLOSED DOORS

Nil

13. MEETING CLOSED

There being no further business the Shire President Cr Scott Crosby, closed the meeting at 5:55pm.