



CEO Performance Review

Minutes

Wednesday 29 May 2024

MINUTES

Minutes of a meeting of the CEO Performance Review Committee held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 29 May 2024 at 9:30 am.

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1 OFFICIAL OPENING

The meeting opened at 9:30am.

The Presiding Member welcomed elected members, staff, guests and members of the public to the CEO Performance Review Committee meeting of 29 May 2024.

The Presiding Member acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and paid respects to Elders past and present.

This meeting was audio recorded for minute taking purposes.

2 ATTENDANCE

PRESIDING MEMBER	MEMBERS
Cr Kate Cox	Mayor Phill Cronin (via remote attendance)
	Cr Jodie Richards
	Cr Val Kaigg

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Ms Sarah Pierson	Director Corporate Strategy and Performance
Mrs Shannon Pettengell	Manager People, Culture and Strategy
Ms Jo Barrett-Lennard	Governance Officer

APOLOGIES
Nil

3 DISCLOSURES OF INTEREST

DISCLOSURES OF FINANCIAL INTEREST

The Presiding Member noted a disclosure of financial interest had been received from Mr Tony Nottle, Chief Executive Officer in relation to item 6.1 'CEO Performance Review 2024'.

The Presiding Member advised that, in accordance with regulation 22(2) of the *Local Government (Model Code of Conduct) Regulations 2021*, this disclosure would be read out immediately before this item was discussed.

DISCLOSURES OF IMPARTIALITY INTEREST

Nil

4 PUBLIC QUESTION TIME

4.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

4.2 QUESTION TIME FOR PUBLIC

Mr Andrew Macnish

I am asking these questions given as far as I can ascertain, this will be my only opportunity I have to source this information from this committee given my duties in participating in the CEO annual review process.

Question

Why, when this CEO review process occurs each year was the meeting of this committee supplied with an agenda (containing the annual review report prepared by the consultant) with only 2 clear business days notice?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

The Terms of Reference for the CEO Performance Review Committee requires the agenda be released not less than 72 hours prior to the meeting. The agenda for this meeting was published in that timeframe.

Question

Why was a Special Council Meeting scheduled in a week's time to consider the outcomes of this committee meeting before this committee has even met and its minutes prepared and published thus forming the agenda of advice to that Special Council Meeting on such an important matter? Will the agenda for the Special Council Meeting be published with more than two business days' notice?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

The Mayor requested a Special Council Meeting to be scheduled for a weeks' time, knowing there would be outcomes from this committee meeting requiring consideration in a timely manner. The intent is to release the agenda for the Special Council Meeting as soon as practicable after the minutes from this meeting have been published.

Question

When were Councillors asked for their suggestions for future Key Performance Indicators (KPIs) and these all collated for consideration in a suitable forum, comprising all elected members, to be discussed/prioritised prior to their being presented to this committee for recommendation to the Council?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

My understanding is that elected members were asked to contribute to the KPIs through individual discussions with the facilitator.

(Cr Kate Cox)

In my experience in this process, elected members were asked to look at a list of suggested KPIs, and discuss other suggestions or changes with the facilitator.

(Cr Val Kaigg)

Elected members were asked to comment, and if we [as elected members] had other KPIs that we wanted added or removed, we were asked to comment at that time and put forward suggestions.

(Tony Nottle, Chief Executive Officer)

That was the process that was communicated to me.

(Mayor Phill Cronin)

I can confirm this process occurred.

Question

Why is the consultant's final stage of the review process not occurring after the outcome of the penultimate stage? That is, the committee has on its agenda a recommendation for future KPIs prior to the Council having even considered the review into the attainment of the last year's KPIs?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

The Council resolved on the process presented by the consultant which also included the setting of future KPIs [note: C2405/122 resolved at Special Council Meeting on 8 May 2024]. The intent was that the process was all done at once.

Question

Why has this committee scheduled only 30 minutes to assess the review of the CEO's performance for the past year plus develop a full and comprehensive suite of measurable, outcome-based KPIs for contractual assessment for the next 12 months plus assess all the requests of the CEO for changes to his employment contract including various sources/justifications for remuneration negotiation?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

The understanding of officers is that the Performance Review process had been carried out with all elected members by the consultant, and all of that information collated for the CEO Performance Review Committee to consider in the consultant's report being presented.

If the committee require longer than half an hour, then the committee can take more time as required.

(Cr Kate Cox)

The facilitator had communicated to the committee members the contents of the report, who were satisfied with the outcome. As such, it was considered that the report was ready to come to the committee. There have not been any significant issues that the members believe need to be resolved.

Question

Who or what will be the negotiation entity/vehicle for submitting to the CEO the Council's desired contractual negotiation items?

Response

(Sarah Pierson, Director Corporate Strategy and Performance)

The recommendation before the committee is that the Director of Corporate Strategy and Performance presents the contractual recommendations or amendments to the Council, and the Council can choose whether that is undertaken by this role, or through the authorisation of the mayor, or some other way.

The Council will be negotiating with the CEO, and the Director of Corporate Strategy and Performance will undertake the contractual discussions, then that contract will come to Council for final endorsement.

Question

Will this committee, in recognition of the administrative error of committee membership, cease its meeting/consideration pending further advice from the Council as to its Terms of Reference and membership?

Response

(Cr Kate Cox)

This will be for the committee to consider.

5 CONFIRMATION AND RECEIPT OF MINUTES

5.1 CEO Performance Review Committee 6 May 2024

COMMITTEE DECISION

PR2405/8 Moved Cr Val Kaigg, seconded Mayor Phill Cronin

That the minutes of the CEO Performance Review Committee meeting held 6 May 2024 be confirmed as a true and correct record (as published at 24 May 2024 on the [City of Busselton's website](#), inclusive of any confidential material published on the restricted internal Docs on Tap application)

CARRIED 4 / 0

FOR: Mayor Phill Cronin, Cr Kate Cox, Cr Jodie Richards and Cr Val Kaigg

AGAINST: Nil

6 REPORTS

6.1 CEO Performance Review 2024

Strategic Theme:	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager People, Culture and Strategy – Shannon Pettengell
Authorised By:	Director Corporate Strategy and Performance – Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	CONFIDENTIAL Attachment 1 Published under separate cover This attachment contains information relating to a matter affecting an employee or employees.

DISCLOSURE OF INTEREST	
Date	29 May 2024
Meeting	CEO Performance Review Committee
Name/ Position	Mr Tony Nottle, Chief Executive Officer
Item No./ Subject	6.1 'CEO Performance Review 2024'
Type of Interest	Financial Interest
Nature of Interest	This item pertains to the performance of my contract, and my performance associated with any potential changes with my contract.

9:50am: At this time, Mr Nottle left the meeting.

The Presiding Member called on a committee member to move a motion to close the meeting to the public.

The motion was moved and carried.

COMMITTEE DECISION

PR2405/9 Moved Cr Val Kaigg, seconded Cr Jodie Richards

That the Committee close the meeting to the public to discuss an item which is confidential under section 5.23(2)(a) of the *Local Government Act 1995*.

CARRIED 4 / 0

FOR: Mayor Phill Cronin, Cr Jodie Richards, Cr Val Kaigg and Cr Kate Cox

AGAINST: Nil

9:50am: At this time, the meeting was closed to the public.

The officer recommendation was moved, there was opposition and debate ensued.

Cr Jodie Richards foreshadowed an alternative that was different to the officer recommendation.

The officer recommendation was lost.

COMMITTEE DECISION

PR2405/10 Moved Cr Val Kaigg, seconded Mayor Phill Cronin

That the Council:

- 1. Endorse the recommendations contained in section 8 of confidential Attachment 1 inclusive of a variation to the CEO's total remuneration package as per option ____, and authorise the Mayor to sign a contract variation with respect to Section 5.9 Remuneration Package of the Employment Contract.**
- 2. Request the Director Corporate Strategy and Performance to coordinate the review of Employment Contract conditions.**
- 3. Publish to the City's website the performance criteria for the 2024-2025 performance period.**

LOST 0 / 4

FOR: Nil

AGAINST: Mayor Phill Cronin, Cr Jodie Richards, Cr Val Kaigg and Cr Kate Cox

With the officer recommendation being lost, Cr Jodie Richards moved an alternative motion.

Pursuant to clause 10.5 of the City of Busselton *Standing Orders Local Law 2018* the Presiding Member required the alternative motion be put in the form of more than one motion, each of which was to be put in sequence.

Part 1 was carried.

COMMITTEE RECOMMENDATION Part 1

PR2405/11 Moved Cr Jodie Richards, seconded Cr Val Kaigg

That the Council:

- 1. Endorse the following recommendations contained in section 8 of confidential Attachment 1:**
 - a. point 1 acknowledging the Salaries and Allowances Tribunal Determination of 5 April 2024;**
 - b. point 2 acknowledging Superannuation Guarantee Levy;**

- c. point 3 acknowledging the outcomes of the Elected Member Performance Survey undertaken in March 2024;
 - d. point 5 acknowledging the timing of the last CEO salary increase;
 - e. point 6 approving a variation to the CEO's total remuneration package as per confidential attachment 2, and authorise the Mayor to sign a contract variation with respect to Section 5.6 Remuneration Package of the Employment Contract;
 - f. point 7 authorising Chief Executive Officer professional development requests;
 - g. point 8 to further review and negotiate the employment contract;
 - h. point 9 regarding the scheduling of the next review of the Chief Executive Officer's performance and total remuneration package;
 - i. point 10 to endorse the review by an absolute majority, in compliance with Division 3 of the *Local Government (Administration) Regulations 1996*;
 - j. point 11 to notify the CEO of the results of the review in compliance with Division 3 of the *Local Government (Administration) Regulations 1996*.
2. Request the Director Corporate Strategy and Performance to coordinate the review of Employment Contract conditions.
 3. Publish to the City's website the performance criteria for the 2024-2025 performance period.

CARRIED 4 / 0

FOR: Mayor Phill Cronin, Cr Kate Cox, Cr Jodie Richards and Cr Val Kaigg

AGAINST: Nil

Part 2 of the alternative recommendation was moved and carried.

COMMITTEE RECOMMENDATION Part 2

PR2405/12 Moved Cr Val Kaigg, seconded Mayor Phill Cronin

That the Council endorse the following recommendations contained in section 8 of confidential Attachment 1:

- a. point 4 in relation to the modified performance criteria metrics for the 2024-2025 performance period.

CARRIED 3 / 1

FOR: Mayor Phill Cronin, Cr Val Kaigg and Cr Kate Cox

AGAINST: Cr Jodie Richards

OFFICER RECOMMENDATION

That the Council:

1. Endorse the recommendations contained in section 8 of confidential Attachment 1 inclusive of a variation to the CEO's total remuneration package as per option ____, and authorise the Mayor to sign a contract variation with respect to Section 5.9 Remuneration Package of the Employment Contract.
2. Request the Director Corporate Strategy and Performance to coordinate the review of Employment Contract conditions.
3. Publish to the City's website the performance criteria for the 2024-2025 performance period.

EXECUTIVE SUMMARY

Tony Nottle was appointed as the City of Busselton (City) Chief Executive Officer (CEO) on the 5th of December 2022 for a 5-year term, expiring on the 4th of December 2027. The CEO is now due for his annual performance review, as per the requirements of the Local Government Act 1995 (Act), and the Common Law Employment Contract with the City.

To assist the CEO Performance Review Committee and the Council with the performance review process, the Council endorsed (C2404/119) the engagement of Strategic Leadership Consulting as an independent facilitator. Attachment 1 is the confidential report of the outcome of the review processes which is presented to Council for endorsement.

STRATEGIC CONTEXT

An effective CEO performance review process is necessary for the good governance of the organisation.

BACKGROUND

In accordance with the Act, the City is required to undertake an annual review of the CEO's performance. The City's CEO Recruitment, Performance Review and Termination Standards (CEO Standards) sets out requirements for this review which includes reviewing the CEO performance against agreed contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner.

On 13 March 2024 the Committee resolved (PR2403/2) in accordance with the CEO Performance Review Policy to give notice to the CEO of the commencement of the performance review process. The performance review of the CEO is for 2023-2024 review period.

OFFICER COMMENT

Review Process

The CEO performance review process facilitated by the appointed consultant is consistent with the requirements of the *Local Government Act 1995* and the City of Busselton's CEO Standards and CEO Performance Review Policy. The process is summarised below.

Phase 1

- Review current year performance criteria and the CEO’s acquittal against the performance criteria.
- Develop a performance survey instrument for elected members and CEO to complete.
- Analyse results and identify objective performance.

Phase 2

- Develop interview questionnaire for elected members and CEO and undertake individual interviews, including but not limited to gaining information on how the CEO met their responsibilities; how they role modelled the City’s values; the organisation’s performance during the review period; and identifying suggested performance criteria for the upcoming review period.
- Seek from CEO professional development requests, identification of any performance constraints during the review period, next period suggested performance criteria, and any contract amendments for Council consideration.

Phase 3

- Undertake contract compliance with the Act and Regulations and identify potential changes/variations, if necessary.
- Undertake marketplace review of CEO remuneration and develop options for Committee/Council consideration.
- Identify next period performance criteria for Committee/CEO consideration.

Phase 4

- Prepare draft report and submit to CEO for comment under procedural fairness provisions.
- Consider procedural fairness submissions from CEO and amend report as required.
- Submit final report to Committee.

Performance Assessment

The review process concluded the CEO is operating at the appropriate standard and has met performance expectations. The table below summarises key performance outcomes, with further detail available in the confidential report.

	Average Overall Score	Met Expectations
Additional Performance Criteria	75%	Yes
Contractual Performance Criteria	N/A	Yes
Employment Contract Conditions	79%	Yes
<i>Made up of:</i>		
<i>Position Objectives</i>	75%	
<i>Roles and Responsibilities</i>	76%	
<i>Values, Code of Conduct and Ethics</i>	86%	

2024/2025 Performance Criteria

With respect to performance criteria for the 2024/2025 period, 6 Key Result Areas (KRA) are recommended for actioning through 18 Key Performance Indicators (KPIs). It is important to align the CEO’s performance criteria to the goals contained in the Council’s Strategic Community Plan and Corporate Business Plan – currently under review through the development of a new Council Plan.

Accordingly, the CEO's performance criteria may require updating to reflect the finalisation of that plan and any changes on goals and objectives.

Employment Contract

The report recommends that the Council select from a range of options with respect to a review of the CEO's total remuneration package and that the CEO and the Council negotiate and review the Employment Contract with respect to a number of contract conditions. It is recommended that the Director Corporate Strategy and Performance coordinate this review and present a revised Employment Contract to the Council.

Statutory Environment

Section 5.38 of the *Local Government Act 1995* requires a local government to review the performance of the CEO annually.

Section 5.39B(2), (3), (5) and (6) of the *Local Government Act 1995* relate to adoption of model standards, as contained within Schedule 2 of the Regulations. The City's CEO Standards reflect these model standards.

Further, the Council has established a CEO Performance Review Committee and Terms of Reference (C2310/147), and a CEO Performance Review Policy (C2301/010).

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

[Chief Executive Officer Performance Review](#)

Additionally, the CEO Standards and Performance Review Committee Terms of Reference are applicable.

Financial Implications

Any associated financial implications are subject to the final endorsed total remuneration package, which will be incorporated into the City's 2024/2025 budget.

External Stakeholder Consultation

Not applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose not to resolve as per the recommendations contained within the report, for instance the Council could choose to adjust the performance criteria for the 2024/2025 period.

CONCLUSION

The CEO performance review process for the period March 2023 to February 2024 was facilitated by independent consultant, Dr Shayne Silcox from Strategic Leadership Consulting, with the independent consultant engaged to coordinate the analysis of the information collected and to ensure a compliant and robust review process. This report presents the outcomes of the process in Confidential Attachment 1 and seeks the Council's endorsement of the recommendations contained within Section 8.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Communicate the outcomes of the performance review process to the CEO.	7 June 2024
Contract Review	31 July 2024

The Presiding Member called on a Committee Member to move a motion to re-open the meeting to the public.

The motion was moved and carried.

COMMITTEE DECISION

PR2405/13 Moved Mayor Phill Cronin, seconded Cr Jodie Richards

That the meeting be reopened to the public.

CARRIED 4 / 0

FOR: Mayor Phill Cronin, Cr Kate Cox, Cr Jodie Richards and Cr Val Kaigg

AGAINST: Nil

10:31am: At this time the meeting was reopened to the public. The Presiding Member read out the committee recommendation to the gallery.

7 CONFIDENTIAL MATTERS

Nil

8 NEXT MEETING DATE

Wednesday 31 July 2024

9 CLOSURE

The meeting closed at 10:33am.

The minutes of the CEO Performance Review Committee were confirmed as a true and correct record on:

Date:

Presiding Member: