

Shire of Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

Minutes

**Special Meeting of Council held on
Wednesday, 11 May 2022, 12:00pm**

Shire Administration Office, West Island

OUR VALUES

Service

Provide the best service we can.

We serve the community and each other.

Accountability

We take responsibility for our own actions.

We do what we say we will do.

Mistakes are an opportunity to learn.

Support

We support our team and our community.

Look for opportunities to help each other.

Respect

We respect and value others.

Our interactions are always respectful towards others.

Integrity

We will be honest and transparent with all our dealings.

Maintain confidentiality.

Trust each other.

Achievement

Being proactive and enabling the outcomes.

Be creative and think outside the square.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

The Presiding member declare the meeting opened at 12.02pm and welcomed Councillors staff and Mr John Phillips to the meeting.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Shire President: Cr A Minkom

Deputy President: Cr S Iku

Councillors: Cr T Lacy
Cr H Liu
Cr J Young

Officers: Kelli Small, Chief Executive Officer

Recruitment Consultant: Mr John Phillips, JCP Consulting (Via Video Link)

Public: Nil

Visitors: Nil

Apologies: Cr M Hamiril

Approved Leave of Absence: Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4. PUBLIC QUESTION TIME

Nil

5. LEAVE OF ABSENCE

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
Nil		

5.2 APPLICATION FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING(S)**OFFICER RECOMMENDATION**

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 27 APRIL 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

COUNCIL RESOLUTION

MOVED CR IKU

SECONDED CR YOUNG

THAT COUNCIL BY SIMPLE MAJORITY, PURSUANT TO *SECTIONS 5.22(2) AND 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)*, RESOLVES THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 27 APRIL 2022, AS PRESENTED IN ATTACHMENT 7.1 BE CONFIRMED AS A TRUE AND CORRECT RECORD OF PROCEEDINGS.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: IKU, LACY, LIU, MINKOM, YOUNG

AGAINST: NIL

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

Nil

9. DECLARATION OF INTERESTS

Nil

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

Nil

10.2 LEASES

Nil

10.3 PLANNING/BUILDING

Nil

10.4 ADMINISTRATION

Nil

11. MINUTES TO BE RECEIVED

11.1 MINUTES FROM CEO RECRUITMENT AND SELECTION COMMITTEE MEETING TO BE RECEIVED

Report Information

Date: 6 May 2022
Applicant: Shire of Cocos (Keeling) Islands
File Ref:
Location: N/A
Disclosure of Interest: Nil
Reporting Officer: Chief Executive Officer
Island: Shire Wide
Attachments: 11.1.1 – CEO Recruitment and Selection Committee Meeting
Minutes 28 April 2022
11.1.2 – CEO Recruitment and Selection Committee Meeting 4 May
2022

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

Summary

The report formally presents the minutes of CEO Recruitment and Selection Committee of Council from the previous meetings.

Background

The Shire has established the CEO Recruitment and Selection Committee as a Committee of Council. The CEO Recruitment and Selection Committee does not have any delegated authority; therefore, any recommendations requiring a Council decision that result from this Committee meeting must be brought before Council. This will be done via agenda items to Council.

Comment

The attached minutes are the confirmed minutes of the meetings of CEO Recruitment and Selection Committee of Council held on the following dates:

- 28 April 2022; and
- 4 May 2022

Financial Implications

The Officer's recommendation for Council to receive the minutes of Committee meetings carries no financial commitment for Council. Should any recommendation require a financial commitment or have any implication outside the CEO's delegated authority, the matter will be referred to Council as a specific agenda item.

Risk Implications

Nil

Policy Implications

Nil

Statutory Implications

Administration regulation 11 sets out the content that the minutes of council or committee meetings must contain, including:

- the names of members present at the meeting;
- details of each motion moved, the mover and the outcome of the motion;
- details of each decision made at the meeting; and
 - written reasons for each decision made at a meeting that is significantly different from the committee's or council employee's recommendation.

Section 5.22(2) and (3) of the Act requires that the minutes of a council or committee meeting are to go to the next meeting of the council or committee for confirmation and signing by the person presiding to certify the confirmation.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2013 – *Outcome 4.1.2 Continue to improve organisational planning.*

Voting Requirements

Simple majority

Conclusion

That the minutes of the CEO Recruitment and Selection Committee meetings held on:

- 28 April 2022; and
- 4 May 2022

be received.

OFFICER RECOMMENDATION – ITEM NO 11.1

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* RESOLVES TO RECEIVE THE MINUTES OF THE CEO RECRUITMENT AND SELECTION COMMITTEE MEETINGS HELD ON 28 APRIL 2022 AND 4 MAY 2022.

COUNCIL RESOLUTION – ITEM NO 11.1

MOVED CR LACY

SECONDED CR YOUNG

THAT COUNCIL, BY SIMPLE MAJORITY PURSUANT TO *SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI)* RESOLVES TO RECEIVE THE MINUTES OF THE CEO RECRUITMENT AND SELECTION COMMITTEE MEETINGS HELD ON 28 APRIL 2022 AND 4 MAY 2022.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: MINKOM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

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

Nil

13. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

Nil

14. MATTERS BEHIND CLOSED DOORS

14.1 APPOINTMENT OF NEW CHIEF EXECUTIVE OFFICER

Report Information

Date: 6 May 2022
 Location: N/A
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: N/A
 Attachments: Nil

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>

<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>
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Report Information

This matter will be considered behind closed doors in accordance with *Section 5.23(2) (b) and (e) of the Local Government Act* as it related to the personal affair of a person and a contract that may be entered into.

Voting Requirement

Simple Majority

OFFICER RECOMMENDATION

THAT COUNCIL GO BEHIND CLOSED DOORS IN ACCORDANCE WITH *SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI)*.

COUNCIL RESOLUTION

MOVED CR IKU

SECONDED CR LACY

THAT COUNCIL GO BEHIND CLOSED DOORS IN ACCORDANCE WITH *SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AT 12:06PM.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: MINKOM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

COUNCIL RESOLUTION

MOVED CR YOUNG

SECONDED CR LIU

THAT COUNCIL COME OUT FROM BEHIND CLOSED DOORS AND PROCEED THE MEETING WITH OPEN DOORS IN ACCORDANCE WITH *SECTION 5.23(2)(B) AND (E) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* AT 12:17PM.

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: MINKOM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

COUNCIL RESOLUTION – ITEM NO 14.1

MOVED CR LIU

SECONDED CR IKU

THAT COUNCIL BY ABSOLUTE MAJORITY UNDER SECTION 5.36 (2)(B) OF THE LOCAL GOVERNMENT ACT 1995 (WA)(CKI):

- 1. APPOINTS MR FRANCIS JOSEPH ‘FRANK’ MILLS TO THE POSITION OF CHIEF EXECUTIVE OFFICER WITH THE SHIRE OF COCOS (KEELING) ISLANDS FOR A PERIOD OF THREE (3) YEARS COMMENCING NO EARLIER THAN 20 JUNE 2022, WITH A COMMENCEMENT DATE TO BE CONFIRMED BETWEEN THE SHIRE PRESIDENT AND MR MILLS;**
- 2. IS OF THE BELIEF THAT MR FRANCIS JOSEPH ‘FRANK’ MILLS IS SUITABLY QUALIFIED FOR THE POSITION OF CHIEF EXECUTIVE OFFICER;**
- 3. IS SATISFIED WITH THE PROVISIONS OF THE PROPOSED EMPLOYMENT CONTRACT AS CONTAINED IN CONFIDENTIAL ATTACHMENT 14.1.1, TO BE ENTERED INTO WITH MR FRANCIS JOSEPH ‘FRANK’ MILLS WITH A TOTAL REWARD PACKAGE OF \$187,950 IN ACCORDANCE WITH THE SALARIES AND ALLOWANCES BAND 4;**
- 4. AUTHORISES THE SHIRE PRESIDENT TO EXECUTE THE CONTRACT OF EMPLOYMENT UNDER THE COMMON SEAL OF THE SHIRE OF COCOS (KEELING) ISLANDS; AND**
- 5. THAT COUNCIL CERTIFIES THE CEO RECRUITMENT PROCESS OF THE CHIEF EXECUTIVE OFFICER WAS CONDUCTED IN ACCORDANCE WITH THE SHIRE OF COCOS (KEELING) ISLANDS ADOPTED STANDARDS FOR CEO RECRUITMENT.**

THE MOTION WAS PUT AND DECLARED CARRIED (5/0)

FOR: MINKOM, IKU, LACY, LIU, YOUNG

AGAINST: NIL

15. MATTERS RELATING TO THE LAND TRUSTS



MATTERS RELATING TO THE LAND TRUST 1979 AND LAND TRUST 1984

The Australian Government transferred ownership of portions of land on the Cocos (Keeling) Islands, under two separate deeds, to the Territory's local government being the Cocos (Keeling) Islands Council. On 1 July 1992 the Territories Law Reform Act came into effect by which the Commonwealth Government applied Western Australian laws to the Cocos (Keeling) Islands. The Local Government (Transition) Ordinance 1992 established the Shire of the Cocos (Keeling) Islands by absorbing the Cocos (Keeling) Islands Council. By this arrangement, the body corporate called the Shire of Cocos (Keeling) Islands became the Trustee for both Land Trusts. Decisions relating to the Trust are made by Council as the decision-making arm of the body corporate.

The 1979 Deed: The 1979 Trust Deed applies to all of the land above the high-water mark on Home Island, except Lot 13, Lot 14 and Pulu Gangsa (Cemetery Island). The Deed states that the land is to be held 'upon trust for the benefit, advancement and wellbeing of the community formed by the Kampong residents.' No other terms were expressed in the Deed. 'Kampong residents' were described in the 1979 Trust Deed as 'the residents from time to time of the Kampong area'.

The 1984 Deed: The 1984 Trust Deed applies to all parcels of land situated and being above high-water mark within the Cocos (Keeling) Islands, including North Keeling Island, but not including parcels of land as described in the First Schedule of the 1984 Trust Deed. This transferred land was to be held by the Council (and later, by its successor, the Shire) 'upon trust for the benefit, advancement and wellbeing of the Cocos (Keeling) Islanders resident in the Territory on land owned by the Council.'

