



SHIRE OF BODDINGTON

'The Council and Staff of the Shire of Boddington, in partnership with the community, are committed to operating effectively and efficiently to provide quality lifestyle opportunities that encourage population growth and development'

MINUTES

For The Special Meeting
To Consider

The Swearing In
Of a Councillor
&
To consider Differential Rates
&
To Discuss a Staff Matter

Held At
6:30pm

THURSDAY 21ST MAY 2020

At The
Council Chambers
39 Bannister Road Boddington

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Minutes

1.	DECLARATION OF OPENING:	4
2.	SWEARING IN OF NEW COUNCILLORS	4
2.1.1	Swearing in of a New Councillor	4
4.	ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:	6
4.1.1	Attendance.....	6
4.1.2	Apologies	6
4.1.3	Leave of Absence	6
5.	DISCLOSURE OF FINANCIAL INTEREST:	6
6.	PUBLIC QUESTION TIME:	7
6.1	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:	7
6.2	WRITTEN QUESTIONS PROVIDED IN ADVANCE:	7
6.3	PUBLIC QUESTIONS FROM THE GALLERY:	7
7.	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS:	9
8.1	CHIEF EXECUTIVE OFFICER:	9
8.1.1	Differential Rating	9
9.	ELECTED MEMBERS’ MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:	14
10.	URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:	14
11.	CONFIDENTIAL ITEM:	15
11.1.1	Consideration of a Staff Matter	15
12.	CLOSURE OF MEETING:	15

1. DECLARATION OF OPENING:

The Shire President, Rod McSwain declared the meeting open at 6:35pm.

'I acknowledge that this meeting is being held on the traditional lands of the Noongar people'.

2. SWEARING IN OF NEW COUNCILLORS

2.1.1 Swearing in of a New Councillor

Summary

It is necessary for a Councillor elect to be sworn in prior to the commencement of duties as Councillor.

Comment

In accordance with 2.29 of the *Local Government Act 1995* and Regulation 13 of the *Local Government (Constitution) Regulations 1996* a person elected to the position of a Council member must make a declaration of office prior to being able to act in that office (refer attachment 1).

"13. Oaths, affirmations and declarations by Elected Members (s. 2.29)

(1) For the purposes of sections 2.29

[(a), (b) deleted]

(c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7;

(2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —

(a) the immediate predecessor of the person in the office of mayor or president; or

(b) an authorised person.

(3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person."

The Newly Elected Councillor shall be invited to make their Declaration of Office, in accordance with section 13(1) and (3) above.

The Shire President invited Mr Wayne English, JP, to swear-in the Councillor-elect. Mr Wayne English, JP requested the newly Elected Member of Council to individually take the DECLARATION OF OFFICE in accordance with Section 2.29 of the Local Government Act 1995, after which the Declaration documents were signed. .

The following Member was sworn in as Councillor for the period 2020 to 2023 by Mr Wayne English, J.P.

Cr Eugene Smalberger



Form 7. Declaration by elected member of council

[r. 13(1)(c)]

Local Government Act 1995
Local Government (Constitution) Regulations 1998
Declaration by elected member

I, Eugene Desnie Smalberger

Of 139 Castlerock Way, Boddington WA 6390

having been elected to the office of: Councillor

declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the Local Government (Rules of Conduct) Regulations 2007.

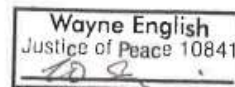
Declared at: 39 Bannister Street, Shire of Boddington Chambers

on: 21ST MAY 21 May 2020

By: [Signature] Eugene D Smalberger

Before me: [Signature]

Wayne English, Justice of the Peace



[Form 7 inserted in Gazette 21 Aug 2007 p. 4187.]

4. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

4.1.1 Attendance

Cr R McSwain Shire President
Cr G Ventris Deputy Shire President
Cr C Erasmus
Cr J Hoffman
Cr W McGrath
Cr E Schreiber
Cr E Smalberger

Mr C Littlemore Chief Executive Officer
Mr G Stanley Director of Corporate & Community Services
Mr J Rendell Manager Financial Services
Mr P Haas Principal Environmental Health Officer/Building Surveyor
Ms T Hodder Executive Officer (Minutes)

Guest: Mr Wayne English, J.P.

Visitors: 6

4.1.2 Apologies

Nil at this time.

4.1.3 Leave of Absence

Nil at this time.

5. DISCLOSURE OF FINANCIAL INTEREST:

8.1.1 Declaration of financial interest (section 5.60A): Cr McSwain as I am a service provider – I provide accommodation to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Ventris as one son works for a contractor for South 32 and one son works as a contractor for Newmont Gold

8.1.1 Declaration of financial interest (section 5.60A): Cr Schreiber as I am a service provider – provide postal services to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Smalberger as I am a registered supplier of Newmont Boddington Gold Mine (catering for company functions) and my husband is an employee of Newmont Boddington Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Erasmus as I provide medical service to Newmont.

8.1.1 Declaration of financial interest (section 5.60A): Cr McGrath as my partner Racquel Bird is employed by Newmont Gold; and my partner's son, who lives with us, works at Newmont Gold.

6. PUBLIC QUESTION TIME:

Nil.

6.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil.

6.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil.

6.3 PUBLIC QUESTIONS FROM THE GALLERY:

Shire President: The only questions that can be asked are regarding this agenda - Differential Rates.

Gabe Roberts: Do we want to be perceived as a council who will proceed with this without a face to face meeting with Newmont?
How will this impact the community without discussing it as a community?

Shire President Cr McSwain: I will hand over the financial side to the Manager of Finance.

CEO: I prefer to answer that question.

Shire President Cr McSwain: Two years ago, residents used to get a discount if paying rates on time. Newmont was successful in an appeal and their rates were reduced by \$150k. Best way to solve this was to forgo the discount to all ratepayers in town in order to balance the budget.

Cr McSwain then read out his item for tabling:

Newmont's 2018 annual report stated that "Our long-term success also rests on the standards we set and the values we uphold"one we noted was ... Sustainability ... It goes on to say that "We serve as a catalyst for local economic development through transparent and respectful stakeholder engagement"

The current Council's vision is and firmly believes that the Boddington can become a sustainable Shire especially with the assistance of Newmont, and can be developed to a point where Newmont can depart the region at end of mine life on good terms, knowing that is has not only been socially, environmentally and economically responsible, but has made the region a better place to live.

All Newmont workers, including those based at the camp are able to participate in community sporting and social groups, but currently there is pressure on some community

services to the detriment of locals. For example, with 1 doctor in town, the next available appointment can often be a week or more away.

The question of a legacy has been raised on numerous occasions with past Newmont management, with no commitment to date forthcoming. We suggest there needs to be a shift from a reactive and compensation model of social investment to one that is far more strategic and collaborative. We are aware that Newmont deferred investment in a US\$5b copper-gold Conga project in Peru in 2016 due to community opposition. We conclude a social license to operate has to be earned and continued to be earned.

Proposal:

The Shire's budget is to be brought down later next month when Council's proposal is to increase Newmont's active mining rate to the next level, having an annual impact of in the vicinity over \$700,000 with the funds to be specifically put towards infrastructure, in conjunction with State and Federal grants.

The Shire President then asked the CEO to respond.

CEO: Gabe your question is about the right of the council to do this. Legislation allows Council to do this; however in the body of the report and in the resolution, the council going beyond the legislation and allowing Newmont to make a submission; this will take 20 days or so and if the resolution is passed tonight, we will consider any submissions Newmont makes. We do want to engage with Newmont. We have also offered electronic communication and Newmont can put their case.

Cr McGrath: What could we lose from Newmont:

Cr McGrath left the room.

CEO: Council would have contemplated a similar situation when we introduced differential rating as it had an impact on South 32's rates. This is the third year and the response from South 32 has been business as usual in terms of assisting council with projects. All councillors has business associations with Newmont. They are aware they could be impacted.

Cr Hoffman: Council and the community have always asked the mines for assistance. No other organisation comes into the community and removes a valuable resource and give so little back. Mining companies therefore devalue the resources of the community. We should not just accept what they give us.

Gabe Roberts: Can council keep in mind that small businesses may be impacted?

Cr Hoffman: I agree however Newmont will carry on as normal regardless.

7. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS:

Nil.

8.1.1 Declaration of financial interest (section 5.60A): Cr McSwain as I am a service provider – I provide accommodation to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Ventris as one son works for a contractor for South 32 and one son works as a contractor for Newmont Gold

8.1.1 Declaration of financial interest (section 5.60A): Cr Schreiber as I am a service provider – provide postal services to Newmont Gold.

8.1.1 Declaration of financial interest (section 5.60A) and declaration of interest affecting impartiality (Regulation 11): Cr Smalberger as I am a registered supplier of Newmont Boddington Gold Mine (catering for company functions) and my husband is an employee of Newmont Boddington Gold.

8.1.1 Declaration of financial interest (section 5.60A): Cr Erasmus as I provide medical service to Newmont.

8.1.1 Declaration of financial interest (section 5.60A): Cr McGrath as my partner Racquel Bird is employed by Newmont Gold; and my partner's son, who lives with us, works at Newmont Gold.

8.1 CHIEF EXECUTIVE OFFICER:

8.1.1 Differential Rating

File Ref. No:	ADM 0727
Disclosure of Interest:	Nil
Date:	12/05/2020
Author:	Chris Littlemore

Summary

Council to consider the continued operation of differential rating.

Background

Council first adopted differential rating in June 2017.

Council resolved on 16 April 2020 that for the purposes of the 2020/21 Budget, Council endorsed a nil rate increase for residential properties.

Comment

Under normal circumstances, Council is required to undertake certain steps before it can levy Differential General Rates. Section 6.36 of the Local Government Act 1995 requires

Council to give public notice of its intention to impose Differential General Rates, inviting submissions within 21 days.

The intention of section 6.36 is to ensure a fair and transparent process for ratepayers who may be affected by the imposition (or alteration) of a differential general rate or a minimum payment applicable to a Differential General Rate category.

If Council complies with Local Government (COVID-19 Response) Order 2020, it is relieved of the requirement to invite and consider submissions following its resolution to impose Differential General Rates. It is also relieved of the requirement to consider and publish its Objects and Reasons for the levying of Differential General Rates.

However, Council is always receptive to submissions put to it throughout the year in relation to forthcoming budgets, an example being Council's response to a submission by Suez during the 2019/20 Differential General Rate setting process.

While Council has not received any written submissions, due to Council's close relationship with both the major mines in the district, Council has become aware of challenges that Newmont Australia have voiced in relation to the GRV Mining Rate. This rate is discounted from the GRV Rate. The challenge relates to the fact that the community considers that Newmont Australia is receiving some concession from Council in respect of their rates.

It is therefore proposed to discontinue this Differential General Rate.

Section 6.32 of the Act provides Council the authority to levy General Rates and Differential General Rates. General rates are either GRV rates or UV rates. These general categories of rates are not Differential General Rates.

1. Differential General Rates and Minimum Payments Proposal

The proposal for the charging of Differential General Rates (as defined in The Local Government Act 1995 section 6.1) for the purposes of section 6.33 which will apply for 2020/21 is as follows:

UV Mining

This rating category covers all Mining Leases, Exploration Licenses, Prospecting Licences, Retention Licenses, General Purpose Leases, Special Prospecting Licences for Gold and Miscellaneous Licenses as defined under the Mining Act with a UV valuation. It also includes properties with a UV valuation that are held by or leased by a company whose primary activities involve mining.

The proposed rate is unchanged from the previous year.

UV Mining Minimum Payment

The proposed minimum payment is unchanged from the previous year.

UV Non-Rural

This rating category covers all properties with a UV valuation with any intensive usage which is significantly different from agricultural or horticultural production. Examples could be landfill or other industrial activities.

The proposed rate is unchanged from the previous year.

UV Non-Rural Minimum Payment

There are no properties in this category which attract a minimum payment.

2. General Rates and Minimum Payments Proposal

The proposal for the charging of General Rates (as defined in The Local Government Act 1995 section 6.1) for the purposes of section 6.32(1)(a) which will apply for 2020/21 is as follows:

GRV (gross rental value)

The proposed rate is unchanged from the previous year.

UV (unimproved Value)

The proposed rate is unchanged from the previous year.

The proposal for the charging of minimum payments for the purposes of section 6.35 which will apply for 2020/21 is as follows:

GRV Minimum Payment

The proposed minimum payment is unchanged from the previous year.

UV Minimum Payment

The proposed minimum payment is unchanged from the previous year.

Conclusion

Council is endeavouring to ensure that there will be no increase in residential rates. However no Council can guarantee that property valuations do not change. Whenever a valuation changes, there is a change in the rates which will be levied in the following year.

The proposal is that Council freeze the rate in the dollar for all categories of Differential General Rates and General Rates. Apart from properties with valuation changes, the only other properties which will see a significant change to their rating will be the two properties which were categorised as GRV Mining. These two properties can expect a total increase of \$708,500 over the prior year. One property is owned by Newmont Australia and the other is leased by them for the mining camp and it is believed that they are responsible for payment of the rates.

Council's proposed rating strategy will have an impact on Council's largest ratepayer.

Despite being exempt from the provisions of section 6.36 Council could, in the interests of openness and transparency, resolve to advertise an invitation for submissions to be made by an elector or a ratepayer in respect to the Differential General Rates proposed.

Council could go still further and invite submissions for its strategy on General Rates (as defined in The Local Government Act 1995 section 6.1)

Strategic Implications: The adoption of differential rating for 2020/21 will enable Council to achieve the essential elements of its Strategic Community Plan. The current plan was adopted in 2019 after a complete review, despite the fact that Council was only obliged to complete a desk top review as only 2 years had passed since the previous complete review.

Statutory Environment.

The following sections in Local Government Act 1995 apply:

- Section 6.32 of the Local Government Act 1995 provides Council with the power to apply rates to property;
- Section 6.33 of the Local Government Act 1995 provides Council with the power to apply differential general rates although Ministerial approval is required where a Differential General Rate is more than twice the lowest Differential General Rate to be imposed;
- Section 6.35 of the Local Government Act 1995 provides Council with the power to apply a minimum payment which is greater than the general rate which would otherwise be payable on that land;
- Section 6.36 of the Local Government Act 1995 requires Council to give public notice of its intention to impose Differential General Rates, inviting submissions within 21 days. *(Note that on this occasion, 21 days notice is not required.)*

The following clause of the Local Government (COVID-19 Response) Order 2020 applies:

- Clause 12. Section 6.36 modified (local government to give notice of certain rates)
(1) Section 6.36 is modified as set out in this clause in relation to a local government if, as a consequence of the COVID-19 pandemic, the local government resolves (whether before or after commencement day) that –
 - (a) no proposed differential general rate of the local government will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
 - (b) no proposed minimum payment of the local government of the kind referred to in section 6.36(1) will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year.

(2) The requirements in section 6.36(1) to (4) do not apply to the local government and are replaced with the requirements in subclauses (3) and (4).

(3) The local government must publish on the local government's official website details of each proposed differential general rate and each proposed minimum payment of the local government.

(4) The details referred to in subclause (3) must be published by the local government within 10 days after the later of the following –
 - (a) the day on which the local government makes the resolution referred to in subclause (1);

Policy Implications – Nil

Financial Implications – Council's rating strategy will underpin its ability to provide services and facilities for the 2020/21 Financial Year and into the future.

Economic Implications - Nil

Social Implications – Nil

Environmental Considerations - Nil

Consultation –

Legal opinion provided by Civic Legal.

Council has attempted to meet with the management of Newmont Boddington to discuss Council's plans as outlined in the Strategic Community Plan but due to timing challenges has not been successful.

Counsel was also sought from Dr Shayne Silcox, former CEO of Melville City Council.

Options

Council can:

1. Accept the Officer's Recommendation;
2. Amend the Officer's Recommendation; or
3. Not accept the Officer's Recommendation.

Voting Requirements – Absolute Majority

OFFICER RECOMMENDATION – ITEM 8.1.1

COUNCIL RESOLUTION: 38/20 Moved: Cr Hoffman

That as a consequence of the COVID-19 pandemic, Boddington Shire Council resolves that

1. no proposed differential general rate will exceed the corresponding differential general rate that was imposed by the local government in the 2019/20 financial year; and
2. no proposed minimum payment of the kind referred to in section 6.36(1) will exceed the corresponding minimum payment that was imposed by the local government in the 2019/20 financial year.
3. The following Differential General Rate categories and Minimum Payments apply for the 2020/21 financial year:

Category	Rate	Minimum Payment
UV Mining	0.031850	\$960
UV Non Rural	0.024812	N/A

4. The following General Rates and Minimum Payments apply for the 2020/21 financial year:

Category	Rate	Minimum Payment
GRV	0.108500	\$960
UV	0.006716	\$825

5. That Council invite submissions on both the proposed general rates and differential general rates closing 5pm, Thursday 11 June 2020.

Seconded:
4/2

Cr Ventris

Carried:

Cr Ventris requested that his vote against the motion be recorded.

Cr McGrath returned to the room at 7:09pm

9. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS MOTION HAS BEEN GIVEN:

Nil

10. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

Nil.

Item 11.1.1

COUNCIL RESOLUTION:

39/20

Moved: Cr McSwain

Move that pursuant to S5.23 (2) (a) as Council is about to discuss a matter affecting an employee that the meeting be closed to members of the public.

Seconded:

Cr Hoffman

Carried: 7/0

Visitors left the room.

11. CONFIDENTIAL ITEM:

11.1.1 Consideration of a Staff Matter

COUNCIL RESOLUTION: 41/20 Moved: Cr McSwain

That Council adopt confidential schedule of recommendations of the closed committee.

Seconded: Cr Schreiber Carried: 4/3

COUNCIL RESOLUTION: 42/20 Moved: Cr McGrath

Move that the meeting be re-opened to the public.

Seconded: Cr Ventris Carried: 7/0

12. CLOSURE OF MEETING:

Cr McSwain declared the meeting closed at 10:17pm.

These minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on Thursday 28 May 2020.

.....
R. MCSWAIN
(President)