



City of Nedlands

Agenda

Council Committee Meeting

10 April 2012

Dear Council member

The next meeting of the Council Committee will be held on Tuesday 10 April 2012 in the Council Chambers at 71 Stirling Highway Nedlands commencing at 7 pm.

A handwritten signature in black ink that reads "Darla Blake".

Darla Blake
Acting Chief Executive Officer
3 April 2012

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City of Nedlands

Notice of a meeting of the Council Committee to be held in the Council Chambers, Nedlands on 10 April 2012 at 7 pm.

Council Committee Agenda

Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm, and will draw attention to the disclaimer below.

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

Present and Apologies and Leave Of Absence (Previously Approved)

Leave of Absence None.
(Previously Approved)

Apologies None as at distribution of this agenda.

Disclaimer

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1. Addresses By Members of the Public (only for items listed on the agenda)

Addresses by members of the public who have completed Public Address Session Forms will be invited to be made as each item relating to their address is discussed by the Committee.

2. Disclosures of Financial Interest

The Presiding Member to remind Councillors and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

3. Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Councillors and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Councillors and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x..... I disclose that I have an association with the applicant (or person seeking a decision). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

4. Declarations by Members That They Have Not Given Due Consideration to Papers

Members who have not read the business papers to make declarations at this point.

5. Confirmation of Minutes

5.1 Committee Meeting 13 March 2012

The minutes of the Council Committee held 13 March 2012 are to be confirmed.

6. Matters for Which the Meeting May Be Closed

In accordance with Standing Orders and for the convenience of the public, the Committee is to identify any matter which is to be discussed behind closed doors at this meeting and that matter is to be deferred for consideration as the last item of this meeting.

7. Divisional Reports

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

7.1 Development Services Report No's PD14.12 to PD16.12

Development Services Report No's PD14.12 to PD16.12 to be dealt with at this point (copy attached yellow cover sheet).

PD14.12 No. 22 (Lot 307) Adderley Street, Mt Claremont –
Retrospective Additions (Carport) to Single House

PD15.12 Amendment No. 195 to Town Planning Scheme No. 2
– Maximum building height of 12 metres at Lots 49, 50
and 51 Nidjalla Loop, Swanbourne

PD16.12 Fees and charges – Building Act 2011

7.2 Technical Services Report No's SI07.12 to SI08.12

Technical Services Report No' SI07.12 to T SI08.12 to be dealt with at this point (copy attached blue cover sheet).

SI07.12 City of Nedlands Carbon Inventory and Management Report Baseline Year 2010/2011

SI08.12 Inspiring a 10% Reduction in Energy Use

7.3 Corporate Services Report No's CP18.12 to CP20.12

Report No's CP18.12 to CP20.12 to be dealt with at this point (copy attached green cover sheet).

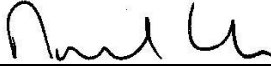
CP18.12 Monthly Financial Report – February 2012

CP19.12 Investment Report – February 2012

CP20.12 List of Accounts Paid – February 2012

8. Reports by the Chief Executive Officer

8.1 Financial Assistance with Legal Fees – Mayor M Hipkins

Committee	10 April 2012
Council	24 April 2012
Applicant	Mayor M Hipkins
Owner	City of Nedlands
Officer	N/A
Director	N/A
A/CEO	Michael Cole – A/Chief Executive Officer
A/CEOs Signature	
File ref	CRS/063
Previous Item No's	N/A
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Recommendation to Committee

Council approves financial assistance with legal fees of \$326.70 to enable Mayor Hipkins to respond to a request to be a witness in legal proceedings.

Purpose

This report is presented to Council for approval of financial assistance for Mayor Hipkins to respond to a request to be a witness in legal proceedings.

Strategic Plan

KFA 5: Governance
 5.6 Ensure compliance with statutory requirements and guidelines.

Background

On 28 October 2008, Council approved the policy - Legal Representation for Elected Members and Employees.

The policy sets out guidelines to assist the Council in determining when it is appropriate to pay legal representation costs for elected members or employees.

Proposal Detail

In accordance with the policy, Mayor Hipkins has sought financial assistance from the City of Nedlands in relation him being asked to be a witness in legal proceedings.

In support of the request, Mayor Hipkins has provided the following details:

1. The matter for which legal representation is sought – proceedings between Burrige and Anderson, landowners at Adams Road, concerning unauthorised installation of ground anchors;
2. How that matter relates to the functions of the elected member or employee making the application – Mayor Hipkins has been asked to be a witness in proceedings;
3. The lawyer (or law firm) who is to be asked to provide the legal representation – Hardy Bowen, Barristers and Solicitors;
4. The nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc) – advice for the preparation of a response to the request to be a witness;
5. An estimated cost of the legal representation - \$326.70 to date, no further costs expected unless subpoenaed to appear in the Burrige-Anderson legal case; and
6. Why it is in the interests of the City of Nedlands – Mayor Hipkins has stated that he was only involved in this matter in an attempt to resolve the dispute between landowners, as part of his Council responsibilities. If in carrying out his responsibilities legal costs are incurred, he believes these should be reimbursed to demonstrate that Councillors cannot be intimidated. As the City of Nedlands is already involved in legal proceedings at Adams Road, he believed it is appropriate to have his own independent legal advice.

As required under the policy, Mayor Hipkins has declared he has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

In view of the need to address the complaint in a timely manner, financial assistance was approved by the former Chief Executive Officer under delegated authority. The request is now referred to Council for formal approval in accordance with the policy.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Legislation

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

Provision has been made in the operating Budget for legal expenses.

Risk Management

The policy determines the circumstances in which legal assistance can be provided to elected members and staff. While the CEO has delegated authority to approve, such approvals are still required to be submitted to Council for approval.

Discussion

The request for assistance was approved by the former CEO under delegated authority. Under the policy, Council has the same powers to approve, approve with conditions or refuse the request. Accordingly, the request is now submitted for consideration.

Conclusion


The request for financial assistance meets the requirements of Policy for Legal Representation for Elected Members and Employees and is recommended to Council for approval.

Attachments

Nil.

8.2 Recruitment of the Chief Executive Officer

Committee	10 April 2012
Council	24 April 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Shelley Mettam – Manager Human Resources and Organisational Development
Acting CEO	Darla Blake – Acting Chief Executive Officer
Acting CEOs Signature	
File ref.	N/A
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Recommendation to Committee**Council:**

Establishes and commences the process to recruit and select a suitable Chief Executive Officer (CEO) for the City of Nedlands comprising the following steps:

- 1. Council creates a CEO Recruitment and Selection Committee for the duration of the CEO Recruitment and Selection process comprising the Mayor and two Councillors who possess significant management and employment experience and have undergone WALGA CEO Recruitment and Selection training or equivalent;**
- 2. Council creates the CEO Recruitment and Selection Committee at Council meeting 22 May, 2012;**
- 3. Councillors eligible for appointment to the CEO Recruitment and Selection Committee who have not had recent senior level and CEO recruitment exposure to be provided with a WALGA Training Workshop as soon as can be practicably arranged and also provided with a kit of information on CEO recruiting guidelines;**
- 4. With the assistance of the Manager HR and Organisational Development, the CEO Recruitment and Selection Committee engages an Executive Search and Recruitment consultancy to assist the Committee with the recruitment and selection process; and**

5. **With the assistance of the Executive Search and Recruitment consultancy, the CEO Recruitment and Selection Committee coordinates the end to end CEO recruitment process comprising the following:**
 - a. **Maintain a confidential, professional process throughout;**
 - b. **Review requirements of the CEO role including review of the Position Description and required competencies;**
 - c. **Review of the CEO Employment Contract;**
 - d. **Advertise the CEO position in National, State and Local Government publications and on-line;**
 - e. **Review and discuss shortlisted applications;**
 - f. **Interview candidates including first and second round interviews;**
 - g. **Reviewing candidate information including psychometric testing reports, background screening, qualification verification and referee checks;**
 - h. **Meet and discuss preferred candidate;**
 - i. **Report back to Council;**
 - j. **Finalise Employment Contract with successful candidate; and**
 - k. **Appoint CEO.**

Purpose

With the resignation of the City of Nedlands Chief Executive Officer (CEO), Graham Foster on 6 February 2012, in accordance with management needs and in compliance with the WA Local Government Act 1995 (the Act), Council is required to appoint a suitable replacement CEO. Council has the overarching responsibility to recruit the CEO.

Strategic Plan

- KFA 5: Governance
- 5.1 Manage the City's resources in a sustainable and responsible manner.
 - 5.6 Ensure compliance with statutory requirements and guidelines.
 - 5.7 identify, manage and seek to minimise risk.

Background

With the departure of CEO, Graham Foster, there is a requirement to appoint a replacement CEO.

The WA Local Government Act 1995 requires Council to recruit and select a suitable CEO for the City.

Under the requirement of the Act, a rigorous CEO Recruitment and Selection process needs to occur.

Commonly in local government, a suitable Executive Search and Selection company is selected to assist with the CEO Recruitment process as follows:

An Executive Search and Recruitment company with the capacity to perform the task of Executive Search and Selection demonstrated by its capacity (relevant experience and understanding of both Executive recruitment assignments and understanding of the requirements associated with selecting a local government CEO in particular) is to be selected. Capacity would be indicated by quality control measures in the selection of the company.

Executive Search firms typically price their work based on a percentage fee (percentage of the total package of the position being recruited) plus advertising costs. A number of Executive Search firms that assist WA Local Government authorities indicate that they recognise the budgetary constraints that apply in local government and typically will charge a flat fee that ranges between approximately \$17,000 - \$30,000 (plus advertising, travel and psychometric testing costs) for a like position in the context of the City of Nedlands CEO remuneration package.

The selected Executive Search and Recruitment consultancy will work with the CEO Selection Committee to perform a rigorous selection process. The company will be asked to source and assess candidates through appropriate methods including searching, screening, short listing, interviewing, psychometric testing, performing background checks (including referee checking and qualification verification) and facilitating and coordinating discussions with the Committee throughout the end to end process.

In accordance with Section 5.36 of the Act, on selection of a suitable person, a Contract of Employment between the parties of the City of Nedlands and the selected CEO will need to be entered into.

Discussion of options in coordinating the CEO Recruitment and Selection process:

Handling of the Matter

Council is required to decide how it will manage the CEO Recruitment and Selection process.

Options include:

Option 1 – arrange the CEO Recruitment with “in-house” assistance; or

Option 2 – outsource assistance with the CEO Recruitment process to an Executive Search and Recruitment consultancy.

Discussion

Option 2 is the recommended option for the following reasons:

1. The process will be and will be seen to be independent from the City Administration;
2. Professional Executive Search and Selection companies have access to databases of potential suitable candidates and can “enrich” a field of suitable candidates;
3. A CEO Recruitment process is at least a 3-4 month process and the City’s HR and Organisational Development department does not have the resources to assist Council in the process without putting aside other critical work;
4. An appropriate Executive Search and Recruitment consultancy will assist Council and a CEO Recruitment and Selection Committee in all phases and aspects of the Recruitment process in a professional manner.

Option Recommendation

Council engages a suitable Executive Search and Recruitment consultancy to assist with the recruitment exercise of recruiting and selecting a new CEO.

Supervision of the Work

Council or a sub-committee of Council needs to manage the CEO Recruitment process.

Identified options include:

Option 1 – The recruitment process to be conducted by the entire Council; or

Option 2 – a Committee of the Mayor plus one Councillor from each ward is formed for the life of the CEO Recruitment process –this would be the existing CEO Performance Review Committee that is currently in place; or

Option 3 – a Committee of the Mayor plus 2 other Councillors is formed for the life of the CEO Recruitment process.

Discussion

A CEO Recruitment process is lengthy. Efficient turnaround times are required for each step. Recruitment panels usually constitute approximately three people. A large recruitment panel would be unwieldy and difficult to coordinate.

A feedback loop to Council can occur at appropriate junctures – for example, to advise on number of applicants, shortlisted candidates and to allow Council to meet the recommended candidate.

Option Recommendation

Council creates a CEO Selection Committee comprising the Mayor and two Councillors for the life of the CEO Recruitment and Selection process.

The CEO Selection Committee is to report back to Council at important points in the process and enable Council to endorse the final decision regarding the selection of the CEO.

Employment Knowledge/Experience

It is advisable that CEO Recruitment panel members have exposure to and understanding of contemporary recruitment, particularly for senior level positions.

Options include:

Option 1 – Requirement that all members of the CEO Recruitment Committee have undertaken the WALGA CEO Employment module;

Option 2 – Requirement that all members of the CEO Recruitment Committee have held positions where they have employed a significant number of people;

Option 3 – Ideally that the CEO Recruitment Committee members possess both 1 and 2.

Discussion

Recruitment of the CEO is a professional process. It is essential a competitive and suitable candidate is selected. Professional recruitment is a developed skill.

High level candidates for CEO positions assess the professionalism of the selection process. Judgments are made about the prospective employer. Senior level candidates assess the employer concurrently with their own evaluation. It is a two-way process.

Option Recommendation

Council creates a CEO Recruitment panel comprising members that possess significant employment experience and have undergone WALGA CEO Selection training.

Suggested Terms of Reference - CEO Recruitment & Selection Committee or Panel

1. Council to identify membership to form a CEO Recruitment and Selection Committee to conduct the recruitment exercise. Composition of the CEO Recruitment and Selection Committee, for example, to comprise the Mayor and two other Councillors (or the current CEO Performance Review Committee operating as the CEO Recruitment Committee for the duration of the process);
2. The CEO Recruitment and Selection Committee to be an interim Committee for the life of the CEO recruitment process;
3. The CEO Recruitment Committee to select an Executive Search and Recruitment consultancy to conduct the CEO Recruitment process for the City;
4. The CEO Recruitment Committee to coordinate the end to end recruitment process, including working with the selected consultancy to Search and Select appropriate candidates;
5. The CEO Recruitment Committee with the assistance of the CEO Executive Recruitment consultancy coordinate the advertising, search for candidates, short listing, drafting documents, conducting interviews, compiling questions, coordinating timeframes, screening, psychometric testing, assessing, conducting second round interviews, conducting referee checks and writing reports

6. The CEO Recruitment Committee to report back to Council at important points in the process and enable Council to make the final decision regarding the final selection and appointment of the CEO.

Consultation

- Required by legislation: Yes No
- Required by City of Nedlands policy: Yes No

Legislation

The *WA Local Government Act 1995* states:

Section 5.36 - Local government employees

- (1) A local government is to employ:
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council:
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

**Absolute majority required.*

CEO Contract

Contracts for CEO and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section;
- (2) A contract under this section;
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year; and

- (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless:
 - (a) the expiry date is specified in the contract;
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5) may be varied;
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section;
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract; and
- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975 , containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

Funds are provided in the budget for recruitment. Additional funding has been included in the Mid Year Budget Review.

Risk Management

The WA Local Government Act provisions and risk management parameters need to be observed in sourcing a CEO who is appropriate for the role and who can lead the City's administration in an appropriate and effective manner for the benefit of the City of Nedlands.

A rigorous and effective executive search, screening, recruitment and selection process will enhance the selection of an appropriate candidate to fill the CEO role.

Conclusion

In accordance with administration needs, the City of Nedlands is to embark on recruitment of a new CEO through a process consistent with the Act and Local Government Operational Guidelines.

On selection of a suitable CEO, a contract of employment between the City of the Nedlands and the CEO is to be entered into.

Attachments

1. Report on Recruitment of Chief Executive Officer.
2. Appointing a CEO – Local Government Operational Guidelines.

9. Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

10. Confidential Items

Any confidential items to be considered at this point.

Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.

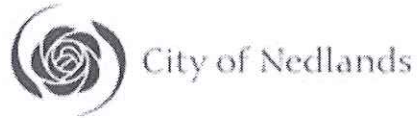


Darla Blake
Acting Chief Executive Officer

Attachment to Item 8.2

**Committee 10 April 2012
Council 24 April 2012**

Recruitment of the Chief Executive Officer



RECRUITMENT OF CHIEF EXECUTIVE OFFICER

**Prepared by:
Shelley Mettam
Manager Human Resources and Organisational Development
March, 2012**

1. Recruitment of Chief Executive Officer (CEO) for the City of Nedlands

With the resignation of the City of Nedlands Chief Executive Officer (CEO) Graham Foster on 6 February 2012, the City of Nedlands requires a suitable replacement CEO.

2. Local Government Legislation and the Recruitment of a CEO

The *WA Local Government Act 1995* (the Act) requires Council to appoint a suitable CEO.

The Act states:

Section 5.36 - Local government employees

- (1) A local government is to employ:
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council:
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

** Absolute majority required.*

3. Guidelines for appointing a CEO

Guidelines for appointing a CEO to a WA local government (copy attached) include the following key points:

- (1) It is essential to recruit the right CEO.
- (2) Legislative requirements
 - A local government must employ a “suitably qualified person” (section 5.36);
 - The employment of a CEO is to be governed by a written contract for a term not exceeding 5 years (section 5.39);

- The CEO must be selected in accordance with the principles of merit and equity(and) without nepotism, patronage or bias (section 5.40).

(3) Principles of merit and equity

There must be thorough assessment of the candidate's skills, knowledge and abilities against the work related requirements of the vacancy.

The selection process must be open, competitive, unbiased and non-discriminatory.

(4) Suitably qualified for the CEO role

A "suitably qualified" person is not defined in the legislation but the intention is not to limit it to academic qualifications.

Through the position description and selection criteria, the City needs to ensure that processes are in place to appoint the person that best meets the qualities required in terms of academic qualifications, experience, skills and knowledge.

(5) Outsourcing the selection process

Outsourcing the selection process to a suitable consultancy to work with the City to facilitate the recruitment process is a valid option.

A competitively selected consultancy that works in Executive Search and Selection for senior employees including CEOs in local government is an appropriate option.

An Executive Search and Selection firm can provide the following end to end recruitment function:

- develop or review the position description
- develop selection criteria
- draft the advertisement
- use their data base and contacts in a search function to enrich the field
- preliminary assessment of applications
- perform screening processes (background checks, referee checks and verifying qualifications)
- final shortlisting
- draft questions for interview
- coordinate interviews
- write reports on the candidates
- finalise contracts

(6) **Selecting a consultancy to assist with the selection process**

There are numerous consultancy firms that can assist with an executive recruitment process.

In selecting a consultancy to assist with the important assignment of recruiting a CEO, the following characteristics of a consultancy should be considered:

- Ability to provide a professional and thorough end to end CEO Search, Recruitment and Selection process through to its conclusion of appointment of the CEO;
- Ability to enrich the field of candidates through data-bases and executive search processes;
- Available consultants that have the capacity to deliver the end to end recruitment process from advertising through to appointment in a timely manner;
- Qualified consultants that will work closely with the Council to ascertain the City's needs; and
- Consultants who will work within the local government recruitment guidelines.

4. Performance Criteria

Performance criteria for the position should be identified prior to advertising the position. When a role is vacated, it is timely to review the key requirements of the role and the required competencies of a person filling the role.

The City may set on-going permanent performance criteria that will be include in the contract. The successful applicant will need to be advised that annual Key Performance Indicators will be set and may vary on an annual basis.

5. Review of the Position Description

As above, prior to embarking on the recruitment exercise, it is timely to review the position description and make any changes prior to the position proceeding to advertising.

6. Review of Competencies required of the CEO and for inclusion in the Contract of Employment

A CEO is required to deliver a high level of competency in order to meet the requirements of the Community, the Council and Administration – all delivered within the parameters of the Act and other applicable legislation.

Core competencies of a CEO in any field can include competency against the following areas:

- Shapes strategic thinking
- Achieves results
- Cultivates productive relationships
- Exemplifies personal drive and integrity
- Communicates with intelligence

More specific key competencies and selection criteria for a local government position could include:

- Manages and leads change
- Creates Vision and Gives Direction
- Develops People
- Manages Resources and Risks
- Promotes and Achieves Quality Outcomes
- Self Awareness and Self Management

An example of Selection Criteria would be:

- Leadership
- Policy Implementation
- Governance and Compliance
- Financial Results
- Community Development.
- General Management Competencies
- Qualifications and/or Experience

7. CEO Contract of Employment

The City should amend, where necessary, the existing terms and conditions of the CEO contract before advertising the position.

A local government is to take into account the Salaries and Allowances Tribunal in terms of salary (section 5.39 (7) of the Act).

It is also recommended that the City obtains advice on the contract where alterations or amendments are proposed and there is “the slightest doubt as to the meaning of the alterations or amendments”. In this case, appropriate legal advice may need to be sought.

There is a model CEO contract (prepared by the Department of Local Government and WALGA) that can be used as a basis for the contract of employment with the CEO.

8. Selecting an Executive Search and Recruitment Consultancy

There are numerous Executive Search and Recruitment companies that provide services in this area.

A sample of companies and their service is as follows:

Executive Search and Consultancy			
Company	Service	Indicative/approximate cost	Comments
Consultancy 1 – WA Local Government supplier	End to end Executive Search & Recruitment	\$17,000 plus advertising – will set flat fee up front	Experience with local govt environment and recruiting CEO and Executive positions
Consultancy 2 – private partnership	End to end Executive Search & Recruitment	\$18,000 plus advertising – prepared to negotiate flat fee up front	Experience in government and private sector Executive recruiting
Consultancy 3 – private organisation	End to end Executive Search & Recruitment	\$23,000 - \$25,000 plus advertising – usually charge a percentage but may be prepared to negotiate flat fee	Private and public sector recruiters
Consultancy 4 – private organisation	End to end Executive Search & Recruitment	\$35,000 – \$45,000 (minimum) percentage of package plus advertising	International company that operates at high end – will perform a true “Executive Search” and matching exercise. Doesn’t rely solely on database and advertising.

*Where consultancies are asked to provide input to a position description and drafting a contract, additional fees may be charged.

9. Conclusion

The Manager HR and Organisational Development, Shelley Mettam can assist the CEO Recruitment Committee/Council in supplying appropriate documents and templates (position description; former contract; new contract template) and information on Executive Search and Recruitment consultancy companies as required.

Appointing a CEO

Local Government Operational Guidelines - **Number 10** August 2005



Department of Local Government
and Regional Development
Government of Western Australia

www.dlgrd.wa.gov.au

Appointing a CEO

1. Introduction

1 Selecting and appointing a CEO is one of the most important tasks elected members may undertake during their term of office. Choosing the right person is critical to the success of the council and the local government.

2 It is essential that correct processes are followed so that every opportunity is given to the candidates to put the appropriate information forward so the council can choose the person most suited to the position. It is important that elected members understand that when they appoint a CEO they are entering into a contractual relationship with the CEO. A commitment to trust and good faith by both parties will lead to an effective relationship between the council and the CEO. This guideline has been developed to assist councils to conduct an effective process when selecting their new CEO.

2. Legislation

3 There are three sections of the *Local Government Act 1995* (the Act) that have direct application to the appointment of a CEO. Section 5.36 of the Act requires a local government to employ a "suitably qualified" person to fill the position of CEO. Section 5.39 contains provisions for the contracts of CEOs. Section 5.40 requires that all employees are to be selected in accordance with the principles of merit and equity.

4 The principles of merit and equity refer to the process of filling vacancies whereby a thorough assessment is made of the candidates' skills, knowledge and abilities against the work related requirements of the vacancy. The process must be open, competitive and free from bias, unlawful discrimination, nepotism or patronage.

5 "Suitably qualified" is not defined in the legislation but the intention is not limited to academic qualifications. Through the position description and selection criteria the council needs to ensure that processes are in place to appoint the person that best meets the qualities required in terms of academic qualifications, experience, skills and knowledge.

3. Outsourcing the Recruitment Process

6 Depending on the size of the local government and the availability and skills of staff, outsourcing the recruitment process may be the best option.

7 Generally recruitment consultants provide a professional service and possess a wide range of knowledge and skills in staff recruitment. It is recommended that rigorous checks be

conducted on any recruitment consultants before they are appointed to ensure they have the necessary skills and experience (local government recruitment experience would be beneficial) to effectively assist the council in its selection of a CEO.

8 An early decision needs to be made by council on whether it will handle the recruitment in-house or appoint a consultant to coordinate the appointment process. If a recruitment consultant is chosen, council should provide the consultant with a copy of these guidelines as part of the appointment process.

9 A recruitment consultant may be involved in the following aspects of the selection process –

- development or review of the position description;
- development of selection criteria;
- drafting of the advertisement;
- preliminary assessment of the applications;
- final shortlisting;
- drafting of the questions for interview;
- coordinating interviews; and
- finalising the contract.

10 If a decision is made to outsource the recruitment process it is imperative that the council maintains a high level of involvement in the process and enters into a formal agreement (contract) with the consultant. In order to manage the contract efficiently and ensure an effective outcome, regular contact with the consultant is required during the process.

4. Reviewing Necessary Documentation

11 There are two very important documents that need to be reviewed and approved by council prior to advertising the position. These are the Position Description Form and the Contract of Employment.

Position Description Form

12 The Position Description Form, particularly the selection criteria and performance criteria (where it is included in the Position Description Form) should be reviewed prior to advertising. The council, a committee of council or the consultant (if one is used) should undertake this task.

13 Council needs to determine what they want their CEO to do and whether the selection criteria will facilitate the appointment of a person with the appropriate set of skills. For example, it may be very important that a CEO work with diverse elements of the community such as developers,

mine operators, Indigenous communities or other specific interest groups. Therefore, a selection criterion might be "Proven ability to work and negotiate with diverse groups in the community". If such a criteria is not included an assessment of the applicants' abilities in this area may be overlooked. This is why councils must decide when commencing the task of appointing a new CEO that the skills and qualities required are well understood and documented.

14 Selection criteria are generally classified as "essential" and "desirable". Applicants who are able to satisfy all the essential criteria should be considered for interview. If an application does not fully address the essential selection criteria the applicant should not be considered for interview. However, on occasions an application may be received where the applicant has the skills and experience which indicate a capacity to satisfy the essential selection criteria even though it is not clearly elaborated in the application. In these circumstances the application may warrant further consideration. Desirable criteria are not an essential requirement of the position. They are normally identified to attract applicants who may have a wider range of skills and experience which an employer would consider desirable.

15 Council may decide that it would be more appropriate to attract applicants with a wider range of knowledge, experience and management skills than just local government. If this is the case the selection criteria should accommodate this.

Performance Criteria

16 Performance criteria are quantitative and/or qualitative measures of performance. There are two broad categories of performance criteria. Those that have general application and apply at all times and specific criteria that apply for a limited period of time. An example of the first type would be, "Advice to council is relevant, accurate and timely." An example of the second type of performance criteria would be, "Calling of tenders for the new recreation centre is undertaken on time and in compliance with the law." It is obvious that the first is always going to be required, whereas at other times the local government will not be building a new recreation centre.

17 Council may set ongoing permanent performance criteria that will be included in the contract. The successful applicant needs to be informed that performance criteria relevant to a specific project/s will also be subject to annual negotiation. These will be assessed at least once during each year.

18 In setting performance criteria, council will need to determine what it is they want their CEO to do over and above legislative requirements. Councils need to be realistic in terms of their expectations and provide appropriate resources to facilitate achievement of performance criteria. The performance criteria must be consistent with the position description and the selection criteria.

19 It is not essential that performance criteria relating to a specific project/s are identified prior to the appointment but, if not, they must be identified very soon after so that the new CEO is aware of what is required of him or her in the coming year or years.

Contract of Employment

20 The council should review and amend, where necessary, the existing terms and conditions of the CEO contract before proceeding to advertise the position. In accordance with section 5.39(7) of the Act, a local government is to take into account the recommendations contained in the report of the Salaries and Allowances Tribunal as to the remuneration to be paid to a CEO.

21 It is also recommended that council obtains advice on the contract where alterations or amendments are proposed and there is the slightest doubt as to the meaning of those alterations or amendments.

22 The Department has worked with the Western Australian Local Government Association and Local Government Managers Australia to prepare a model contract. It is recommended that this model be used as the basis for the contract of employment with the new CEO. The model contract can be downloaded from the Department's website at www.dlgrd.wa.gov.au.

5. Advertising the Vacancy

23 Ideally, the position should be advertised as widely as possible to attract the best possible field. The minimum requirement for advertising under *Local Government (Administration) Regulation 18A(1)* is for the position to be advertised in a newspaper circulating generally throughout the State.

24 Regulation 18A(2) prescribes the minimum requirements to be included in an advertisement for the position of CEO.

25 The content and context of advertisements should be carefully considered. An attractive and well constructed advertisement is more likely to attract the interest of potential candidates.

26 A comprehensive application kit comprising documentation relevant to the vacant position should be developed and provided to potential applicants on request. Reference to, and instructions on how to access the kit should be included in the advertisement.

27 Allow sufficient time within the advertisement for potential applicants to prepare and forward applications. It is recommended that the position be open for a minimum of two weeks with a definite date and time after which applications will not be considered.

6. Confidentiality

28 From the beginning to the conclusion of the process, absolute confidentiality must be maintained by every person involved in the selection process. This cannot be emphasised enough, as any information which finds its way into the public domain before a recommendation is made to council may well compromise the selection process.

29 Council should consider the use of a confidentiality agreement, which requires all persons involved in the selection process to agree to appropriate levels of confidentiality.

7. Selection and Appointment Process

30 The selection and appointment process to be applied to a CEO position must be approved by council prior to advertising as prescribed under *Local Government (Administration) Regulation 18C*.

31 Extensive consideration should be given to the overall process, especially the shortlisting, whether preliminary interviews will be conducted and whether final interviews will be with full council. Council must be very clear about the methods, techniques and questions used during the selection process.

32 It is essential that the council manages the process professionally and members involved in the process have a thorough understanding of their roles and responsibilities.

33 Council may decide to establish a committee to coordinate the preliminaries of the selection process. This committee should liaise with the employment consultant if one is appointed.

34 The respective roles of a consultant, council committee, full council and an individual elected member must be clear.

35 Applicants should be shortlisted according to their capacity to address the relevant selection criteria. Where there is a large pool of applicants, the most competitive should be shortlisted for interview. It is the responsibility of the

interview panel/selection committee to determine how many applicants it will interview. Their assessment must involve detailed consideration of the applications and may involve a preliminary interview. The interview panel/selection committee should be provided with the full list of applicants, not just those recommended for short listing and interviews.

36 Elected members may act as referees for applicants. This most often occurs when a person already employed by the local government applies for the CEO position. When this occurs it is recommended that the member provide a written referee report prior to interview (assuming the applicant is granted an interview).

37 Elected members should declare any previous association with a potential applicant at the time of shortlisting if they are part of the interview panel/selection committee established for the purpose. Similarly, if the interviews involve the full council, the elected member should make an appropriate declaration before the interviews commence. If a member's relationship with an applicant is significant and may result in claims of nepotism, patronage or bias the member should exclude themselves from the selection process.

38 Where rating scales and other scoring tools are used to assess the relative performance of applicants, it is important that all elected members and other members involved in the interview understand how these are applied so they produce meaningful results. The interview panel/selection committee may also consider using psychological or other testing as part of the selection process.

8. Conducting the Interview

39 The interview process can be challenging for both panel members and applicants.

40 It is a practice in local government that the full council be involved with the final interview and selection. This is perfectly understandable, as all members of council have to work closely with this person and trust them. Often, all elected members feel they need to be involved in the assessment and final selection. If this does not occur it is desirable that at the very least, all members of council have the opportunity to meet the recommended applicant prior to the appointment being considered by council.

41 Applicants should be provided with at least five working days notice of the impending interview wherever possible to allow them to adequately prepare for the interview. Obviously, if you are a council in regional Western

Australia and are expecting an applicant to travel, then sufficient time needs to be allowed. Interviewing over a weekend may be an option.

42 It is important to provide an environment that puts the interviewee at ease and allows them to perform at the highest possible level. In this regard, consideration should be given to environmental factors such as location and lighting etc. A well organised process will ensure that everything runs smoothly.

43 The importance of the chairperson in managing the interview process cannot be overstated. The chairperson is responsible for ensuring that the interview is managed efficiently and effectively.

44 Ideally, all elected members who are to be in attendance at the final interview should be involved in planning the interview process. Each applicant must be subject to the same assessment method, ie interview questions, tests etc. It is quite acceptable for the panel to ask additional questions to clarify a point or tease out further information during the interview.

45 It is not necessary for all elected members to have the opportunity to ask a question. Often, it is best to allocate the questions to a small group of elected members (maximum 3) which ensures consistency of approach.

46 At the conclusion of the interview it is appropriate to provide the applicant with an opportunity to clarify any issues with the panel/ selection committee.

9. Making a Decision

47 The council should not make a decision to appoint an applicant until all available information has been considered. This includes, but is not limited to, assessment of interview performance, quality of application, referee reports, copies of reports written by the applicant and the results of any psychological or other tests (if used).

48 The council must be satisfied regarding the claims by the applicant about their relative experience and qualifications. *Local Government (Administration) Regulation 18E* makes it an offence for a person to provide false information relating to their academic qualifications.

49 Given the importance of the position of CEO, a police clearance should be sought.

50 Referee reports are an important part of the process and should be in writing and address the relevant selection criteria for the position.

51 The council may source a referee who is not one nominated by an applicant, providing they advise the applicant of their intention to do so.

52 In the event that a referee who was not nominated by the applicant provides a report that contains negative comments, the applicant should be given the opportunity to respond to any such comments.

10. Finalising the Appointment

53 Eventually, after considering all the information available to it, the interview panel/selection committee then has to make a decision on which applicant is the most suitable for appointment.

54 A selection report should be prepared for consideration by council which documents the assessment of each applicant interviewed. The report should identify the most suitable applicant and include a recommendation for appointment.

55 Following decision of council to approve the appointment and the contract finalised, the successful applicant should be offered the position. It is strongly recommended that the successful candidate not commence duties with the local government until the contract is signed.

56 The unsuccessful applicants (including those not interviewed) should be notified of the decision and offered the opportunity to seek feedback on their application or interview performance if they were granted an interview.

57 Should an unsuccessful applicant request feedback, it is recommended that the chairperson of the interview panel/selection committee provide this. If a recruitment consultant is used they can undertake this task.

58 *Local Government (Administration) Regulation 18F* does not allow a local government to increase the value of a CEO's remuneration and benefits in excess of those advertised when finalising the appointment. If the remuneration and benefits are to be increased prior to finalising the appointment, the position must be readvertised.

59 It is intended that this Guideline be read in conjunction with the companion document, "Gender Diversity and the Selection of CEOs and Senior Staff in Local Governments", developed by the Advisory Committee on Women in Local Government.



Department of Local Government
and Regional Development
Government of Western Australia

www.dlgrd.wa.gov.au

FURTHER INFORMATION

For more information about this and other guidelines, contact the Local Government Support and Development Branch of the Department of Local Government and Regional Development on:

Tel: (08) 9217 1500

Fax: (08) 9217 1555

Freecall: 1800 620 511 (Country Only)

These guidelines are also available on the Department's website at www.dlgrd.wa.gov.au

ABOUT THE GUIDELINE SERIES

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Departmental officers' knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.