25 September 2017

Dear Councillors,

You are cordially advised and invited to attend a Special Council Meeting, which will be held in the Council Chamber, Shire Hall, Barkly Street, Ararat on **Tuesday 26 September 2017** commencing at 6.00pm.

**BUSINESS:**

1. Traditional Acknowledgement/Opening Prayer/Oath
2. Apologies
3. Disclosure of Interests
4. Officer's Reports

Your attendance is respectfully requested.

Yours sincerely,

**COLLEEN WHITE**  
**INTERIM CHIEF EXECUTIVE OFFICER**
An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the Council Meeting, Special Council Meeting or Assembly of Councillors. Recordings of Council Meetings and Special Council Meetings (excluding closed sessions) will be made available on Council's website.
TRADITIONAL ACKNOWLEDGEMENT

WE ACKNOWLEDGE THE TRADITIONAL OWNERS OF THE LAND ON WHICH WE MEET TODAY, AND PAY OUR RESPECTS TO THEIR ELDERS, PAST AND PRESENT.

OPENING PRAYER

ALMIGHTY GOD, WE HUMBLY ASK YOU TO HELP US, AS ELECTED COUNCILLORS OF THE ARARAT RURAL CITY COUNCIL. GUIDE OUR DELIBERATIONS. PROSPER WHAT IS YOUR WILL FOR US, TO YOUR HONOUR AND GLORY AND FOR THE WELFARE AND BENEFIT OF THE PEOPLE WHOM WE SERVE IN THE ARARAT RURAL CITY.

COUNCILLORS OATH

2 – APOLOGIES

MOTION (if required)

That the apology of (Name) be accepted.
Disclosure of Interests are to be made immediately prior to any relevant item being discussed.

Local Government Act 1989 Section 79 (2)
A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest -

(a) by either -
   (i) advising the Council or special committee at the meeting of the details required under paragraph (b) and (c) immediately before the matter is considered at the meeting; or
   (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and

(b) classifying the type of interest that has given rise to the conflict as either -
   (i) a direct interest; or
   (ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and

(c) describing the nature of the interest; and

(d) if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a) (ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.

Local Government Act 1989 Section 80C)
A person who is providing advice or a report to a meeting of the Council or a special committee, and who has a conflict of interest in a matter to which the advice or report relates, must disclose the constituting the conflict of interest when providing the advice or report and before the advice or report is considered by the Council or the committee.
4 - OFFICERS REPORTS

ITEM 4.1 APPOINTMENT OF CHIEF EXECUTIVE OFFICER

13039317

AUTHOR:
PRESENTER BY EXECUTIVE SERVICES ON BEHALF OF THE MUNICIPAL ASSOCIATION OF VICTORIA

Introduction
A report and associated documentation has been prepared by the Municipal Association of Victoria (MAV) in relation to the appointment of a Chief Executive Officer.

Discussion
The Minister for Local Government presented the Mayor and Interim Chief Executive Officer with correspondence regarding the Commission of Inquiry into Ararat Rural City Council on 9 August 2017.

The correspondence contained 6 recommendations to the Mayor for action by the Ararat Rural City Council with the first one being:

1. **External Interim Chief Executive Officer**
   a. Appoint an external interim Chief Executive Officer to the Council for a fixed period of 12 months to undertake an organisational restructure of responsibilities and reporting lines, with a capacity to extend the term.
   b. Ensure the Interim Chief Executive Officer works with any municipal monitor to the Council to achieve contemporary good governance practices within the Council senior staff.

At a Special Council Meeting held on 22 August 2017 Council accepted and endorsed the ‘Ararat Rural City Council Response to Recommendations Work Plan/Action Plan’ which included the recruitment of an External Chief Executive Officer.

Council, with the assistance of the Chief Executive Officer of the MAV conducted interviews on Wednesday 13 September 2017 with the preferred candidate being Mr Allan Bawden.

Sections 94(4A) and (5) of the Local Government Act state that a Council can appoint a person to act as its Chief Executive Officer for a period of not more than 12 Months.

Options
Council could:

Endorse the appointment of Mr Allan Bawden to the role of Chief Executive Officer of Ararat Rural City Council for the fixed term period of 2 October 2017 to 30 September 2018.

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<th>POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE</th>
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<tr>
<td>Council plan reference</td>
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<td>5.1 Good Governance through leadership</td>
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<td>5.3 Organisational Risk</td>
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<td>5.4 Professional and skill staff in a safe and supportive environment</td>
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<td>5.5 Sustainable, long term financial management</td>
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Officer's Declaration of Interest
Under Section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

Financial and resource implications
The 2017/2018 budget includes an amount for the Chief Executive Officer role and budgetary savings have been made in the months since the retirement of the previous Chief Executive Officer.

Risk implications
Reputational risk to Council if the matter is not resolved in a timely manner and risk of non-compliance to the Local Government Act 1989.

The process for appointment of an Interim Chief Executive Officer is in accordance with the provisions of the Local Government Act 1989, in as much as clause 94(4A) of the Act waives the public notice requirements for a permanent appointment of a Chief Executive Officer “where Council appoints a person to act as its Chief Executive Officer for a period of not more than 12 months”.

Statutory Implications
Potential non-compliance with Section 94 – The Chief Executive Officer of the Local Government Act 1989 if Council do not appoint a Chief Executive Officer.

The Chief Executive Officer will undertake the role, including all required functions and delegations of the Chief Executive Officer position from 2 October 2017 until 30 September 2018.

Community Implications
Reputational and organisational stability to be ensured and communicated.

Environmental Implications
None identified.

Internal/external consultation
Minister for Local Government
Commission of Inquiry into Ararat Rural City Council Report
Local Government Victoria
Municipal Monitor
Municipal Association of Victoria
Interim Chief Executive Officer

Attachments
There are no attachments relating to this item.

Conclusion
As per the Ministerial recommendation from the Commission of Inquiry into Ararat Rural City Council a recruitment process has been undertaken for the role of Chief Executive Officer for a period of 12 months.
Recommendation
That:
1 Council appoint Mr Allan Bawden to the role of Chief Executive Officer on a Fixed Term Contract to commence on 2 October 2017 and end on 30 September 2018;
2 Total Remuneration to apply in accordance with the terms and conditions as contained in the agreed Contract of Employment;
3 Council authorises the Mayor and Chief Executive Officer to sign and seal the Contract of Employment; and
4 Council distributes a media release regarding the appointment of Mr Allan Bawden to the role of Chief Executive Officer.
At the 19 September 2017 Council Meeting the following resolution was passed:

<table>
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<th>Moved</th>
<th>Seconded</th>
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<td>MOVED CR ARMSTRONG</td>
<td>SECONDED CR BEALES</td>
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That:

1. Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council I wish to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
2. As I am the applicant it is appropriate for Council to resolve to appoint Cr Peter Beales to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
3. The initial Complaint Resolution meeting be scheduled to take place on 21 September 2017; and
4. The Ministerial Monitor, Ms Janet Dore be included in the complaint resolution process.

CARRIED 3635/17

**Discussion**

The details of the complaint shall remain confidential to those associated with the matter.

Due to Disclosure of Interest legislation that impacts on this matter, the applicant and respondent will be required to leave the Council Chamber whilst discussion is being held regarding clause 8 of the aforementioned Policy.

The Councillor Code of Conduct Policy, Clause 8.3 states that “In the event that the Mayor is either the Applicant or the Respondent, a Councillor appointed by the Council shall perform the role of the Mayor for this purpose.”

Due to Cr McLean being unavailable on 21 September 2017 and Cr Beales taking Leave of Absence from 22 September 2017 to 21 October 2017 the initial Complaint Resolution meeting was unable to proceed.

**Options**

Council need to determine who shall assume the role of the Mayor for the purposes of this matter.

**POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE**

**Council plan reference**

5.1 Good governance through leadership
4 - OFFICERS REPORTS

**Financial and resource implications**
Potential budget implications if the matter cannot be resolved internally.

**Risk implications**
High if the matter cannot be resolved in a timely manner.

**Statutory Implications**
Potential breach of the Councillor Code of Conduct and the Ararat Rural City Response to Recommendations Work Plan/Action Plan if the matter is not dealt with in a timely manner.

**Community Implications**
None identified.

**Environmental Implications**
None identified.

**Internal/external consultation**
Municipal Monitor
Local Government Victoria
Independent legal advice

**Attachments**
There are no attachments relating to this item.

**Conclusion**
Determining who shall assume the role of the Mayor for this matter is the initial step to achieve a resolution.

**Recommendation**
That:
1. Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council Cr Hooper wishes to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
2. As Cr Hooper is the applicant it is appropriate for Council to resolve to appoint another Councillor to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
3. The initial Complaint Resolution meeting be scheduled to take place as soon as is practicable; and
4. The Ministerial Monitor, Ms Janet Dore be included in the complaint resolution process.