



CONFIRMED MINUTES

SPECIAL COUNCIL MEETING

23 OCTOBER 2017

I certify that the minutes of the meeting of the Special Council Meeting held 23 October 2017 Folios SC1 to SC15 (including Attachments 1 to 4) were confirmed on 14 November 2017.


Presiding Person



**CONFIRMED MINUTES
SPECIAL COUNCIL MEETING
23 OCTOBER 2017**

ATTENTION/DISCLAIMER

The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by an Elected Member or employee, or on the content of any discussion occurring during the course of the Meeting. No person should rely on the decisions made by Council until formal written advice of the Council decision is received by that person.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by an Elected Member or employee, or the content of any discussion occurring during the course of the Council Meeting.

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SPECIAL COUNCIL MEETING COUNCIL CHAMBER

1.0 OPENING PROCEDURES

In accordance with Schedule 2.3 (3) of the *Local Government Act 1995* the Chief Executive Officer is to preside at the meeting until the office of President is filled.

The Chief Executive Officer declared the meeting open at 6.09pm.

Acknowledgement of Country

Shire of Mundaring respectfully acknowledges Noongar elders past and present and their people (specifically the Whadjuk people who are from this area) who are the traditional custodians of this land.

Audio Recording of Proceedings

Members of Council and members of the gallery are advised that this meeting will be audio-recorded.

1.1 Record of Attendance/Apologies/Approved Leave of Absence

Councillors	Cr Toni Burbidge	Central Ward
	Cr Lynn Fisher	Central Ward
	Cr Doug Jeans	Central Ward
	Cr John Daw	East Ward
	Cr Kate Driver	East Ward
	Cr Stephen Fox	East Ward
	Cr Darrell Jones	South Ward
	Cr David Lavell	South Ward
	Cr James Martin	South Ward
	Cr Tony Brennan	West Ward
	Cr Ian Green	West Ward
	Cr Jason Russell	West Ward
Staff	Jonathan Throssell	Chief Executive Officer
	Megan Griffiths	Director Strategic & Community Services
	Mark Luzi	Director Statutory Services
	Shane Purdy	Director Infrastructure Services
	Paul O'Connor	Director Corporate Services
	Stan Kocian	Manager Finance & Governance
	Anna Italiano	Minute Secretary
Apologies	Nil	
Leave of Absence	Nil	
Guests & Members of the Public	51	

2.0 PUBLIC QUESTION TIME

Nil

3.0 PROCEDURES FOR CONDUCTING THE ELECTION OF PRESIDENT AND DEPUTY PRESIDENT BY COUNCIL

Schedule 2.3 of the *Local Government Act 1995* (“the Act”) details the procedures for the election of a councillor to hold the office of President or Deputy President:

“4. How mayor or president is elected

- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*
- (3) *Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.*

5. Votes may be cast a second time

- (1) *If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting adjourned for not more than 7 days. [Note: the meeting can resume on the same day or another day.]*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.*
- (3) *When the meeting resumes the councillors are again to vote on the matter by secret ballot as if they were electors voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

...

“8. How deputy mayor or president is elected

- (1) *The council is to elect a councillor (other than the mayor or president) to fill the office.*
- (2) *The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.*
- (3) *Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.*

- (3a) *Nominations close at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The council members are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 9(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.*

9. Votes may be cast a second time

- (1) *If when the votes cast under clause 8(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and not more than 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.”*

If a second tied vote occurs for either the office of president or deputy president, Schedule 4.1 of the Act applies, which states, in part:

“Schedule 4.1 – How to count votes and ascertain the result of an election

- 1. *The number of votes given for each candidate is to be ascertained.*
- 2. *If the election is to fill the office of mayor or president, the candidate who receives the greater or greatest number of votes is elected.*
- ...
- 5. *If 2 or more candidates receive the same number of votes so that clause 2 ... cannot be applied, the returning officer is to draw lots in accordance with the regulations to determine which candidate is elected.”*

The regulations referred to in clause (5) of Schedule 4.1 are the *Local Government (Elections) Regulations 1997*. Clause 77A details the procedure for the drawing of lots.

Please note that after nominations for the office of president have been closed, prior to the ballot candidates will be provided an opportunity of addressing council for no more than three minutes each.

4.0 ELECTION OF PRESIDENT

Refer to **ATTACHMENT 1** for a copy of the nomination form to be used when nominating for the office of president.

The Chief Executive Officer advised that he had received nominations in writing from Cr Darrell Jones and Cr John Daw for the Office of President.

The Chief Executive Officer then called for further nominations. No further nominations were received. As there were two nominations a ballot paper was prepared and provided to all Councillors. The Chief Executive Officer reminded Councillors that it was a secret ballot and advised the procedures to be followed for the election process.

The Chief Executive Officer advised the outcome of the ballot as follows:

- Cr Jones - 5 votes
- Cr Daw - 7 votes

Accordingly the Chief Executive Officer declared Cr John Daw elected as President of the Shire of Mundaring.

Cr John Daw made a declaration of office (using the prescribed form) before the Chief Executive Officer.

Cr Daw assumed the Chair.

4.1 Declaration by the President

A councillor elected to the office of president is required to make a declaration in the prescribed form before he or she can act in that office (refer **ATTACHMENT 2**).

Regulation 13 of the *Local Government (Constitution) Regulations 1996* refers:

“13. Oaths, affirmations and declarations (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.”

The CEO is an authorised person for the purposes of this section.

5.0 ELECTION OF DEPUTY PRESIDENT

Refer to **ATTACHMENT 3** for a copy of the nomination form to be used when nominating for the office of deputy president.

The Chief Executive Officer advised that he had received a nomination from Cr Stephen Fox and Cr John Daw had nominated Cr Lynn Fisher. Cr Fisher advised that she accepted the nomination.

The Chief Executive Officer then called for further nominations. No further nominations were received. As there were two nominations a ballot paper was prepared and provided to all Councillors. The Chief Executive Officer reminded Councillors that it was a secret ballot and advised the procedures to be followed for the election process.

The Chief Executive Officer advised the outcome of the ballot as follows:

- Cr Stephen Fox - 5 votes
- Cr Lynn Fisher - 7 votes

Cr Fisher made a declaration of office (using the prescribed form) before the Chief Executive Officer.

5.1 Declaration by the Deputy President

A councillor elected to the office of deputy president is required to make a declaration in the prescribed form before he or she can act in that office (refer **ATTACHMENT 4**).

Regulation 13 of the *Local Government (Constitution) Regulations 1996* refers:

“13. Oaths, affirmations and declarations (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.”

6.0 CLOSING PROCEDURES

6.1 Date, Time and Place of the Next Meeting

The next meeting of Council will be a Special Meeting to be held on Wednesday, 25 October 2017, commencing at 6.30pm in the Council Chamber.

6.2 Closure of the Meeting

The President declared the meeting closed at 6.46pm.

Attachment 1

Item 4.0

1 Page



NOMINATION FOR OFFICE OF PRESIDENT, SHIRE OF MUNDARING

Please select one option.

I nominate myself for the office of **PRESIDENT**.

Name _____ Signed _____

Date _____

I nominate Cr _____ for the office of **PRESIDENT**.

Name _____ Signed _____

Date _____

I accept the nomination for the office of **PRESIDENT**.

Name _____ Signed _____

Date _____

Attachment 2

Item 4.0

1 Page

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,

of

having been elected to the office of **President** of the Shire of Mundaring 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 Mundaring on 23 October 2017

by

Before me:

Jonathan Throssell
Chief Executive Officer

Attachment 3

Item 5.0

1 Page



NOMINATION FOR OFFICE OF DEPUTY PRESIDENT, SHIRE OF MUNDARING

Please select one option.

I nominate myself for the office of **DEPUTY PRESIDENT**.

Name _____ Signed _____

Date _____

I nominate Cr _____ for the office of **DEPUTY PRESIDENT**.

Name _____ Signed _____

Date _____

I accept the nomination for the office of **DEPUTY PRESIDENT**.

Name _____ Signed _____

Date _____

Attachment 4

Item 5.0

1 Page

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,,

of

having been elected to the office of **Deputy President** of the Shire of Mundaring 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 Mundaring on 23 October 2017

by

Before me:

Jonathan Throssell
Chief Executive Officer