



UNCONFIRMED MINUTES

SPECIAL COUNCIL MEETING

28 MAY 2020



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ATTENTION/DISCLAIMER

These minutes are subject to confirmation.

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. Persons should be aware that regulation 10 of the *Local Government (Administration) Regulations 1996* establishes procedures to revoke or change a Council decision. 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
VIA WEBEX VIDEO CONFERENCE**

1.0 OPENING PROCEDURES

The Presiding Person declared the meeting open at 6.35pm.

Acknowledgement of Country

Shire of Mundaring respectfully acknowledges the Whadjuk people of the Noongar Nation, who are the traditional custodians of this land. We acknowledge Elders past, present and emerging and respect their continuing culture and the contribution they make to the region.

Recording of Meeting

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

1.1 Record of Attendance

Elected Members	Cr John Daw (Shire President) (Presiding Person)	East Ward
	Cr Simon Cuthbert	East Ward
	Cr Toni Burbidge	Central Ward
	Cr Amy Collins	Central Ward
	Cr Doug Jeans	Central Ward
	Cr Darrell Jones	South Ward
	Cr David Lavell	South Ward
	Cr James Martin	South Ward
	Cr Jason Russell (Deputy President)	West Ward
	Cr Matthew Corica	West Ward
	Cr Ian Green	West Ward
Staff	Jonathan Throssell	Chief Executive Officer
	Garry Bird	Director Corporate Services
	Anna Italiano	Minute Secretary
Apologies	Cr Kate Driver	East Ward
Absent	Nil	
Leave of Absence	Nil	

2.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

2.1 National Reconciliation Week

Yesterday marked the start of National Reconciliation Week, with this year's theme being 'In this together'. The week runs through until 3 June. These dates are significant in that the 27 May marks the anniversary of the 1967 referendum in Australia, with 3 June marking the anniversary of High Court of Australia judgement on the Mabo v Queensland of 1992.

With COVID-19 restrictions in place the Shire is undertaking a digital campaign to mark National Reconciliation Week. The Week was launched by participating in an Australia wide Acknowledgement of Country which took place across social media platforms. Tomorrow we will post a video developed by KOYA Consulting as part of their cultural summit held in Midvale. The focus of this summit was to bring young people from diverse backgrounds together to share their stories.

Shire of Mundaring values the significant contributions Aboriginal people make to our community and looks forward to continuing our reconciliation journey.

3.0 DECLARATION OF INTEREST

3.1 Declaration of Financial Interest and Proximity Interests

Elected Members must disclose the nature of their interest in matters to be discussed at the meeting (*Part 5 Division 6 of the Local Government Act 1995*).

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (*Sections 5.70 and 5.71 of the Local Government Act 1995*).

Nil

3.2 Declaration of Interest Affecting Impartiality

An Elected Member or an employee who has an interest in a matter to be discussed at the meeting must disclose that interest (*Shire of Mundaring Code of Conduct, Local Government (Admin) Reg. 34C*).

Nil

4.0 PUBLIC QUESTION TIME

15 minutes (with a possible extension of two extra 15 minute periods) are set aside at the beginning of each Council meeting to allow members of the public to ask questions of Council.

Public Question Time is to be conducted in accordance with Shire of Mundaring Meeting Procedures Local Law 2015.

PLEASE NOTE:

Due to the COVID-19 public health emergency and until further notice Council meetings will be held via video conference without public attendance.

Members of the public must provide any questions in writing on the Public Question Time Submission Form by **12 noon on Thursday 28 May 2020** by emailing shire@mundaring.wa.gov.au . The name and address of the submitter must be clearly marked in the email.

Nil

COUNCIL DECISION RECOMMENDATION	SC1.05.20		
Moved by	Cr Collins	Seconded by	Cr Green

That for the duration of this electronic meeting the following clauses of the Shire of Mundaring Meeting Procedures Local Law be suspended and that these matters be determined at the discretion of the Presiding Member:

- Clauses 6.1, 6.4, 6.5 - to allow for Elected Members to attend from a suitable place as determined by the Shire President;
- Clause 10.3 - to enable voting by exception; and
- Clause 4.6 – to allow deputations to be provided in writing to each councillor before the start of the meeting.

CARRIED 11/0

For: Cr Daw, Cr Burbidge, Cr Jeans, Cr Jones, Cr Lavell, Cr Martin, Cr Green, Cr Russell, Cr Corica, Cr Cuthbert and Cr Collins

Against: Nil

5.0 PRESENTATIONS

5.1 Deputations

Nil

5.2 Petitions

Nil

5.3 Presentations

Nil

6.0 REPORTS OF EMPLOYEES

6.1 Live Streaming of Council and Committee Meetings

File Code	GV.MTG 5
Author	Garry Bird, Director Corporate Services
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Nil
Attachments	1. Policy OR-27 - Live Streaming and Recording of Meetings ↓

SUMMARY

Council is requested to consider a live streaming solution for providing public access to Council and Committee meetings (when open to the public) as a result of the need to conduct such meetings in a manner that meets the new physical distancing requirements.

In order to implement live streaming as soon as possible, an amendment to the 2019-20 Budget is required to authorise the expenditure of funds for this purpose.

BACKGROUND

The live streaming of Council Meetings is increasingly used by Western Australian local governments to promote access and participation in Council meetings. Live streaming has the advantage of allowing members of the public to view the proceedings of Council meetings either live or at a time of their choosing.

An upgrade of the audio visual and meeting equipment in the Council Chamber was undertaken in 2018/19. This upgrade made provision for the future installation of cameras and other infrastructure required for live streaming. This additional cost is estimated to be \$51,775.70 (ex GST), including installation and training.

In addition to this capital cost, there will be a cost of \$1140 per annum for the hosting of the service and archiving of previous meetings.

A request for the Shire to livestream Council meetings was raised at the December 2018 Annual Electors' Meeting (AEM).

In response, Council requested a business case be developed for consideration during the 2019/20 Integrated Planning and Reporting Framework workshops.

Subsequently Council has considered this matter on several occasions, most recently at the 14 April 2020 ordinary meeting of Council, where the following resolution was adopted:

“That Council, in recognition of the impacts of the Coronavirus (COVID-19) and the need to ensure Council and Committee meetings remain open and transparent as possible:

- 1. Endorses the principle of live streaming of Council and Committee meetings (where open to the public);*
 - 2. Adopts the Draft Policy Live Streaming and Recording of Meetings (Attachment 1);*
-

3. *Whilst under physical isolation conditions due to COVID-19, endorses live-streaming and video capture via the WebEx video conferencing platform (or similar such platforms / applications as recommended by the Shire Administration) and instructs the CEO to prepare a budget item for the next Council meeting in support of this initiative; and*
4. *Defers any decision on capital expenditure as outlined in the original Officer Recommendation 12.2 to further upgrade the audio visual and meeting equipment (cameras and other infrastructure required for live streaming from Council Chambers and other committee meeting rooms, estimate of \$51,775.70 excl. GST) implement live streaming until the 2020-2021 mid-year budget review.”*

One of the reasons for deciding to defer capital expenditure (as detailed in point four of the resolution) was because of the prevailing State Government Public Health Directive at the time of the Council meeting which restricted the number of people allowed in public gatherings, including Council meetings. This restriction meant the most appropriate solution was for Council meetings to take place as an “eMeeting” – that is, by videoconference (using Cisco Webex) - with the recording of the meeting being made available shortly after the meeting. As such it was argued that there was no urgent need to expend funds for the installation of cameras and associated equipment in the Council Chamber which would be used to broadcast (livestream) the council meetings, given the Chambers would not be used for council meetings for the foreseeable future. At the time of the decision it was anticipated that eMeetings would be required for several months, therefore consideration of the budget allocation for capital expenditure could wait for the budget process, which is usually finalised in June each year.

However, since 18 May 2020 there has been a relaxation of restrictions about public gatherings, with an updated Public Health Directive (as at the time of writing this report) allowing for public gatherings of up to 20 people in community facilities, subject to physical distancing restrictions being maintained. This enables Council to reconvene ‘in-person’ council meetings if it chooses, although there is insufficient space in Council Chambers to provide for the attendance of members of the public while such restrictions apply.

Feedback from Councillors indicates a preference to return to ‘in person’ meetings as soon as possible. Given the current restriction on allowing members of the public to attend council meetings in person, the option of live streaming the meetings to encourage public access to the meetings is considered a desirable alternative to attending meetings in person.

Accordingly this report seeks Council approval to re-consider the matter in advance of budget deliberations, which would enable sufficient time to order and install the equipment needed for live-streaming in time for the July Council meeting, noting that this is a tight time frame and any delays may not make this possible.

STATUTORY / LEGAL IMPLICATIONS

Local Government (Administration) Regulations 1996

Regulations 14C, D and E provide for Council Meetings to be held by electronic means in the event of a public emergency and allow elected members to participate in a meeting in the Council Chamber by electronic means if authorised by the Shire President.

Shire of Mundaring Meeting Procedures Local Law 2015

The *Shire of Mundaring Meeting Procedures Local Law 2015*, Part 5, Clause 5.1 states;

“5.1 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the presiding member.*
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.”*

The audio of Council meetings is currently recorded for the purpose of assisting with the preparation of the minutes, with the two most recent meetings available on the Shire’s website.

If live streaming was introduced an amendment to this local law would be required. It is proposed that this will occur when a full review of all local laws is undertaken in 2021, as required by the *Local Government Act 1995*.

POLICY IMPLICATIONS

A new Policy to provide for live streaming of meetings was adopted by Council at the April 2020 Council Meeting (**Attachment 1**).

FINANCIAL IMPLICATIONS

The expected cost of introducing live streaming is \$52,315 including \$51,175 in capital costs and \$1140 in ongoing operating expenditure.

It is proposed that the capital cost be funded by a transfer from the Information Technology Reserve, which will require an absolute majority decision of Council.

The annual operating cost of the system will be funded from within the existing allocation for Information Technology operating budgets.

While there is a cheaper option to livestream the audio of the meeting only for a capital cost of \$30,490, this is not recommended. It is argued that a reasonable community expectation is for livestreaming of video. It would also be more expensive if the Shire was to seek to retrofit the video component to an audio component at a later date.

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 4 - Governance

Objective 4.3 – A well engaged and informed community and a high standard of customer service

Strategy 4.3.2 – The community is engaged in planning for the future and other matters that affect them

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: Members of the public who are not able to attend Council Meetings in person for the foreseeable future due to the COVID-19 pandemic perceive a lack of transparency in decision making processes without access to livestreaming.		
Likelihood	Consequence	Rating
Likely	Moderate	High
Action / Strategy		
<ol style="list-style-type: none"> 1. Approve budget expenditure to allow implementation of live streaming of Council meetings; or 2. Investigate alternative solutions to allow members of the public to attend Council meetings 'in-person', such as limiting number and time of attendance in line with prevailing Public Health advice and COVID19 Safe Workplans. 		

Risk: Technical issues with the video and audio quality of any broadcast make it difficult for meeting participants and other viewers to follow the meeting.		
Likelihood	Consequence	Rating
Almost Certain	Moderate	High
Action / Strategy		
<p>Specifications for livestreaming equipment will be developed to identify the most suitable solution for a robust and reliable service. Despite best efforts, it is likely that technical issues will arise from time to time.</p> <p>The quality of livestreaming experienced by members of the public will likely vary, depending on individual home internet connections and equipment.</p>		

Risk: Council is perceived to be seen as not responding favourably to community requests for the introduction of live streaming of council meetings.		
Likelihood	Consequence	Rating
Almost Certain	Moderate	High
Action / Strategy		
<ol style="list-style-type: none"> 1. Approve budget expenditure to allow implementation of live streaming of Council meetings; or 2. Clearly communicate Council's reasons should livestreaming not be supported. 		

EXTERNAL CONSULTATION

Staff have consulted with several other local governments that have introduced live streaming.

COMMENT

If Council decides to proceed with live streaming, a procedure will be developed to outline the expectations for public behaviour, how it will be managed by the Presiding Person and issues surrounding privacy.

Recent amendments to the *Local Government Act 1995* have removed the potential for a local government to be a party to a defamation claim by publishing defamatory material with a specific protection where such remarks or comments are made at a Council or Committee meeting. Notwithstanding this provision, the Shire's *Meeting Procedure Local Law* provides for the Presiding Person to manage the meeting and intervene in an effort to avoid defamatory and offensive words or expressions being made to enable the orderly conduct of council meetings to take place.

If Council chooses to proceed with the live streaming equipment fit out of the Council Chamber, it could be implemented in time for the July 2020 ordinary meeting of Council, subject to contractor and equipment availability.

Until the installation of the necessary equipment which would enable livestreaming of the in person Council meetings, the June 2020 ordinary meeting of Council will be live streamed using the WebEx and Vimeo platforms, as a temporary solution.

Assuming livestreaming is introduced, it is recommended that it becomes a permanent arrangement and is not used just for the duration of COVID-19 crisis and the need to conduct what should be public meetings in an isolated environment. This would have the long term advantage of making access to, and the viewing of, Council and Committee meetings more accessible to interested persons.

VOTING REQUIREMENT

Absolute Majority – *Local Government Act 1995* section 6.8.

<h2>RECOMMENDATION</h2>

That Council:

1. By absolute majority, amends the 2020-21 Budget by increasing capital expenditure on Information Technology hardware by \$51,775, with a corresponding transfer from the Information Technology Reserve to install live streaming equipment and software in the Council Chamber; and
2. Recognises the impacts of the Coronavirus (COVID-19) and the need to ensure Council and Committee meetings remain as open and transparent as possible.

COUNCIL DECISION MOTION	SC2.05.20		
Moved by	Cr Jeans	Seconded by	Cr Russell

That Council requests the CEO to investigate other broadcasting options, including an audio only service and provide advice to Council at the earliest opportunity.

CARRIED 7/4

For: Cr Daw, Cr Jeans, Cr Martin, Cr Russell, Cr Corica, Cr Cuthbert and Cr Collins

Against: Cr Burbidge, Cr Jones, Cr Lavell and Cr Green

Reason for the Change

The cost of the current live streaming proposal is difficult to justify.

Shire of Mundaring

POLICY

LIVE STREAMING AND RECORDING OF MEETINGS

Policy Ref:	OR-27		
Committee Rec:		Date:	
Adopted:	C15.04.20	Date:	14 April 2020
Amended:		Date:	
Reviewed:		Date:	
Procedure Ref:		Delegation Ref:	
Statute Ref:			
Local Law Ref:	Meeting Procedures Local Law 2015		

PURPOSE

To enhance Council's commitment to engage with its community through the live streaming of its meetings.

SCOPE

This Policy applies to –

- Ordinary and Special Council meetings held in the Council Chambers and any other meetings in Council Chambers authorised by the Chief Executive Officer (CEO);
- Elected Members and employees of Shire of Mundaring; and
- Members of the public attending Council meetings.

This Policy does not apply to any parts of a Council meeting closed to the public under section 5.23 of the *Local Government Act 1995* (the Act).

POLICY

1. Meetings to be streamed live and recorded

- 1.1 Ordinary and Special Council meetings will be video recorded and streamed live on the Shire's website. The recordings will be published on the Shire's website within 24 hours of the Ordinary or Special meeting.
- 1.2 Council can resolve to close part of the meeting to the public in accordance with section 5.23 of the Act. The livestream will cease for that part of the meeting and the recording will not be made available for viewing on the Shire's website or as a recording upon request.
- 1.3 Recordings of Ordinary and Special Council meetings will be accessible on the Shire's website for a period of one year. The Shire will retain recordings of

meetings for at least one year after confirmation of the minutes, in accordance with the General Disposal Authority for Local Government Records.

1.4 The Presiding Person has the authority at any time to direct the termination or interruption of live streaming, if they believe it is advisable to do so. Such direction will only be given in exceptional circumstances, where the debate in progress is considered misleading, defamatory or potentially inappropriate to be published.

1.5 Members of the public invited to speak during the meeting (public question time, deputations), will be invited to the lectern, from where they will be audio recorded but not seen on the live stream footage. At the commencement of each Council meeting the Presiding Person will publicly announce that the meeting will be streamed live via the website, where the recording will be publicly available. By participating in a public meeting, members of the public agree to them being audio recorded.

2. Positioning of cameras during the live streaming of a Council meeting

2.1 It is not intended that public speakers or members of the public in the gallery are visible in the live stream or visual recording of the meeting. Cameras are positioned so that members of the public are not visible.

2.2 It is intended that the standard camera positions will provide live and recorded vision of all Elected Members who are present at the meeting. There will be live and recorded audio of Elected Members when they speak for the duration of the meeting, other than for confidential items. Shire employees who address Council may be seen and heard on the live stream.

3. Opinions or statements made by Elected Members during a meeting

3.1 The opinions or statements made during an Ordinary or Special Council meeting are those of the individuals, and not necessarily the opinions or statements of Council. Council does not necessarily endorse or support the views, opinions, standards or information contained in the live streaming and recording of meetings.

3.2 Shire of Mundaring does not accept any responsibility or liability for any loss, damage, cost or expense incurred as a result of the viewing, use or reliance on information or statements provided in the live streaming of meetings. Confirmed Council minutes provide the only definitive record of Council's decisions.

3.3 Section 9.57A of the Act protects a local government from liability for defamation in relation to a matter published on its official website as part of a broadcast, audio recording or video recording of Council proceedings.

4. Technical disclaimer

4.1 There may be occasions where, due to technical difficulties, a live stream may not be available. Whilst every effort will be made to ensure the live stream and website are running smoothly, Shire of Mundaring takes no responsibility for and cannot be held liable for the live streaming or website being temporarily unavailable due to technical issues beyond its control.

4.2 Technical issues may include, but are not limited to, the availability of the internet connection, device failure or malfunction, power outages etc.

5. Copyright terms

- 5.1 Copyright in the recording of proceedings is owned by Shire of Mundaring. Permission must be sought to copy, communicate or transmit a recording or part of a recording of the proceedings.
- 5.2 The following conditions apply to the use of recordings of Council meetings and will be placed on the Shire website:
 - The user acknowledges that Shire of Mundaring is the owner of the copyright in the recording of a Council meeting or any other meeting and that the Shire has reserved all of its legal rights;
 - Users must not make or copy single images from the recordings; and
 - Any other copying or use of recordings of Council meetings is expressly prohibited unless specifically authorised in writing by the CEO.

6. Roles and responsibilities

- 6.1 Elected Members, Shire employees and members of the public, both as visitors in the public gallery and as contributors to any public meeting held in the Council Chambers, are responsible for ensuring that they are familiar with the terms of this Policy and are accountable for managing their own compliance.
- 6.2 Clarification or advice about the interpretation of this Policy may be sought from the CEO.
- 6.3 For Elected Members and employees, failure to comply with this Policy may constitute a breach of the Code of Conduct.

7.0 CLOSING PROCEDURES

7.1 Date, Time and Place of the Next Meeting

The next Ordinary Council meeting will be held on Tuesday, 9 June 2020 at 6.30pm Via Webex Video Conference.

7.2 Closure of the Meeting

The Presiding Person declared the meeting closed at 7.25pm.