

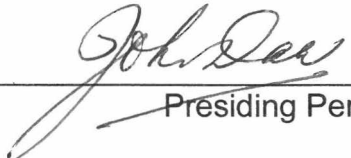


**CONFIRMED MINUTES**

**SPECIAL COUNCIL MEETING**

**21 OCTOBER 2019**

I certify that the minutes of the meeting of the Special Council held on Monday, 21 October 2019 were confirmed on Tuesday, 12 November 2019.

  
Presiding Person



**CONFIRMED MINUTES  
SPECIAL COUNCIL MEETING  
21 OCTOBER 2019**

**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

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### 1.0 OPENING PROCEDURES

The Acting CEO declared the meeting open at 6.10pm.

#### 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.

#### 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

<b>Councillors</b>	Cr Toni Burbidge	Central Ward
	Cr Amy Collins	Central Ward
	Cr Doug Jeans	Central Ward
	Cr Simon Cuthbert	East Ward
	Cr John Daw	East Ward
	Cr Kate Driver	East Ward
	Cr Darrell Jones	South Ward
	Cr James Martin	South Ward
	Cr Matthew Corica	West Ward
	Cr Ian Green	West Ward
	Cr Jason Russell	West Ward
<b>Staff</b>	Garry Bird	Acting Chief Executive Officer
	Shane Purdy	Director Infrastructure Services
	Stan Kocian	Manager Finance & Governance
	Anna Italiano	Minute Secretary
<b>Apologies</b>	Cr David Lavell	South Ward
	Jonathan Throssell	Chief Executive Officer
	Megan Griffiths	Director Strategic & Community Services
	Mark Luzi	Director Statutory Services
<b>Leave of Absence</b>	Nil	
<b>Members of the Public</b>	51	
<b>Members of the Press</b>	Claire Ottaviano	Echo Newspaper

## 2.0 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.

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 Acting Chief Executive Officer advised that he had received nominations in writing from Cr Burbidge and Cr Daw for the Office of President.

The Acting 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 Acting Chief Executive Officer reminded Councillors that it was a secret ballot and advised the procedures to be followed for the election process.

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

- Cr Daw - 7 votes
- Cr Burbidge - 4 votes

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

Cr Daw made a declaration of office (using the prescribed form) before the Acting 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 Acting 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 Acting Chief Executive Officer advised that he had received nominations from Cr Jeans, Cr Russell and Cr Martin.

Cr Jeans advised that he withdrew his nomination.

The Acting 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 Acting Chief Executive Officer reminded Councillors that it was a secret ballot and advised the procedures to be followed for the election process.

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

- Cr Russell - 6 votes
- Cr Martin - 5 votes

Cr Russell made a declaration of office (using the prescribed form) before the Acting 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.”*

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



## **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 Monday, 28 October 2019, commencing at 6.30pm in the Council Chamber.

### **6.2 Closure of the Meeting**

The meeting closed at 6.44pm.

## **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 \_\_\_\_\_

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## **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 21 October 2019

by .....

Before me: .....

## **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 \_\_\_\_\_

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## **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 21 October 2019

by .....

Before me: .....