



CONFIRMED MINUTES

SPECIAL COUNCIL MEETING

19 OCTOBER 2021

I certify that the minutes of the meeting of the Special Council held on Tuesday, 19 October 2021 were confirmed on Tuesday, 9 November 2021.



Presiding Person



**CONFIRMED MINUTES
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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

The Chief Executive Officer declared the meeting open at 6.13pm.

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 livestreamed and audio-recorded.

1.1 Record of Attendance

| | | |
|-----------------------------|--------------------|---|
| Councillors | Cr Amy Collins | Central Ward |
| | Cr Doug Jeans | Central Ward |
| | Cr John Daw | East Ward |
| | Cr Simon Cuthbert | East Ward |
| | Cr James Martin | South Ward |
| | Cr Matthew Corica | West Ward |
| Councillors - Elect | Cr Paige McNeil | Central Ward |
| | Cr Neridah Zlatnik | East Ward |
| | Cr Trish Cook | South Ward |
| | Cr Luke Ellery | South Ward |
| | Cr Karen Beale | West Ward |
| | Cr Jo Cicchini | West Ward |
| Staff | Jonathan Throssell | Chief Executive Officer |
| | Megan Griffiths | Director Strategic & Community Services |
| | Mark Luzi | Director Statutory Services |
| | Shane Purdy | Director Infrastructure Services |
| | Stan Kocian | Manager Finance & Governance |
| | Nadia O'Malley | Communications Coordinator |
| | Ana Fernandez | Executive Assistant to Chief Executive Officer |
| | Anna Italiano | Minute Secretary |
| Apologies | Nil | |
| Guests | | Honorary Freeman Ron Dullard Honorary Freeman Max Williams OAM |
| Members of the Press | Rebecca Peppiatt | Echo Newspaper |

2.0 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.

3.0 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 Daw, Cr Collins and Cr Martin for the Office of President.

The Chief Executive Officer then called for further nominations. No further nominations were received. As there were three 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 Martin - 7 votes
- Cr Daw - 4 votes
- Cr Collins - 1 vote

Accordingly the Chief Executive Officer declared Cr Martin as President of the Shire of Mundaring.

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

Cr Martin assumed the Chair.

3.1 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.”

4.0 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 Shire President requested the Chief Executive Officer preside over the process for election of the Deputy President

The Chief Executive Officer advised that he had received nominations from Cr McNeil, Cr Jeans and Cr Cuthbert.

Cr Jeans advised that he withdrew his 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 McNeil - 10 votes
- Cr Cuthbert - 2 votes

Accordingly the Chief Executive Officer declared Cr McNeil Deputy President of the Shire of Mundaring.

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

4.1 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.”

5.0 CLOSING PROCEDURES

5.1 Date, Time and Place of the Next Meeting

The next meeting of Council will be a Special Meeting to be held on Tuesday, 26 October 2021, commencing at 6.30pm in the Council Chamber.

5.2 Closure of the Meeting

Cr Martin declared the meeting closed at 7.03pm.

Attachment 1

Item 3.0

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 3.0

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 code of conduct adopted by the Shire of Mundaring under section 5.104 of the *Local Government Act 1995*.

Declared at Mundaring 19 October 2021

by

Before me:

Attachment 3

Item 4.0

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 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 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 code of conduct adopted by the Shire of Mundaring under section 5.104 of the *Local Government Act 1995*.

Declared at Mundaring on 19 October 2021

by

Before me: