



SPECIAL MEETING OF COUNCIL
AGENDA

19 OCTOBER 2009

TABLE OF CONTENTS

1	DECLARATION OF OPENING.....	2
2	ATTENDANCE.....	2
3	MAKING OF DECLARATION BY NEW COUNCILLORS.....	2
4	ELECTION OF THE MAYOR	2
5	MAKING OF DECLARATION OF MAYOR.....	2
6	ELECTION OF DEPUTY MAYOR	2
7	MAKING OF DECLARATION OF DEPUTY MAYOR.....	2
8	CEO REPORT	3
	<i>CS208 ELECTION OF MAYOR, DEPUTY MAYOR AND INDUCTION OF NEW COUNCILLORS.....</i>	<i>3</i>
9	CLOSURE	11

CITY OF GERALDTON-GREENOUGH
SPECIAL MEETING OF COUNCIL
TO BE HELD ON MONDAY, 19 OCTOBER 2009 AT 5.30PM
AT CHAMBERS, EDWARD ROAD

A G E N D A

DISCLAIMER:

The City of Geraldton-Greenough advises that persons interested in any topics raised in this Agenda should wait for formal written advice from the City before taking any action on an application that is listed for consideration.

1 DECLARATION OF OPENING

2 ATTENDANCE

Present:

Officers:

Others:

Members of Public:

Members of Press:

Apologies:

Leave of Absence:

3 MAKING OF DECLARATION BY NEW COUNCILLORS

4 ELECTION OF THE MAYOR

5 MAKING OF DECLARATION OF MAYOR

6 ELECTION OF DEPUTY MAYOR

7 MAKING OF DECLARATION OF DEPUTY MAYOR

8 CEO REPORT

CS208 ELECTION OF MAYOR, DEPUTY MAYOR AND INDUCTION OF NEW COUNCILLORS
--

AGENDA REFERENCE:	09/018512
AUTHOR:	N Els, Manager Governance and Risk
EXECUTIVE:	H Eaton, Director Corporate Services
DATE OF REPORT:	14 October 2009
FILE REFERENCE:	-
APPLICANT / PROPONENT:	Chief Executive Officer
ATTACHMENTS:	No

SUMMARY:

Extraordinary vacancies have occurred following the resignation of two councillors and the further vacancies occurring in several wards. The new councillors are required to take the oath or affirmation of allegiance and make a declaration in the prescribed form before acting in the office.

Furthermore, the outgoing Mayor and Deputy Mayor are required to be elected after their terms of office have expired and would be required to make a declaration in the prescribed form before acting in the office.

BACKGROUND:

This report outlines the statutory processes required for election of the Mayor and Deputy Mayor and commentary and recommendations concerning Standing Committees, Establishment of Advisory Committees, the frequency of Council meetings and commencement time of those meetings and public briefing sessions.

Election of Mayor:

The CEO will conduct this election. Written nominations can be received by the CEO prior to the meeting or written nominations will be invited at the meeting. Once nominations are declared closed no further nominations will be received. If there are more than two nominations the CEO will conduct the election on the proportional preferential system as required under Sch 4.1 of the Local Government Act.

If an election is necessary the CEO will count the votes and will be assisted by one of the Directors. The voting will be conducted in confidence. When the successful nominee is declared elected by the CEO a request will be made for approval for the ballot papers to be destroyed.

The CEO will then conduct a ballot to allocate seating arrangements in the Chamber.

The Mayor will assume control of the meeting.

Election of Deputy Mayor:

The Mayor will conduct the election of the Deputy Mayor using the same process outlined for the election of the Mayor. The CEO will assist the Mayor if there is a need for an election.

COMMUNITY CONSULTATION:

The current vacancies that have occurred in the Council have been filled through the election process run by the Electoral Commission of WA on the 17 October 2009.

There has been extensive media coverage and communication with the public by the City.

COUNCILLOR/OFFICER CONSULTATION:

Internal communication has been extensive in setting up the election process and coordinating the process that has culminated in this council proposal.

STATUTORY IMPLICATIONS:

The Election of the Mayor and Deputy Mayor is covered under Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council

[Sections 2.11(1)(b) and 2.15]

Division 1 — Mayors and presidents

1. Terms used in this Division

In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1);

the office means the office of councillor mayor or president.

2. When the council elects the mayor or president

- (1) The office is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How the 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 the meeting 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.

[Clause 4 amended by No. 49 of 2004 s. 69(2)-(5); No. 66 of 2006 s. 14.]

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 is to be adjourned for not more than 7 days.
- (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 to vote again 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.

Division 2 — Deputy mayors and deputy presidents**6. Terms used in this Division**

In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1);

the office means the office of deputy mayor or deputy president.

7. When the council elects the deputy mayor or deputy president

(1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —

- (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
- (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.

(2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —

- (a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
- (b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.

(3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.

8. How the deputy mayor or deputy 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 the meeting 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.

[Clause 8 amended by No. 64 of 1998 s. 54(2)-(4); No. 49 of 2004 s. 69(6)-(9).]

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, under Schedule 4.1 as if those votes were votes cast at an election.

[Clause 9 amended by No. 49 of 2004 s. 69(10).]

Division 3 — Validity of elections

[Heading inserted by No. 49 of 2004 s. 69(11).]

10. Meaning of “election”

In this Division —

election means an election under this Schedule.

[Clause 10 inserted by No. 49 of 2004 s. 69(11).]

11. Complaints about the validity of an election

- (1) A councillor who is dissatisfied with the result of an election or with the way in which an election was conducted may make an invalidity complaint.
- (2) An *invalidity complaint* is a complaint that an election is invalid, or that another person should be declared elected.

[Clause 11 inserted by No. 49 of 2004 s. 69(11).]

12. Complaints to go to a Court of Disputed Returns

- (1) An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.
- (2) Regulations made under section 4.81(2) apply in respect of an invalidity complaint made under this Division in so far as they are capable of being so applied.

-
- (3) If the court declares the election to have been invalid —
- (a) the election is null and void;
 - (b) any office filled at the election is vacant;
 - (c) the court is to fix a day for holding any poll needed for a fresh election; and
 - (d) the CEO is to prepare for, conduct and ascertain and declare the result of the fresh election.
- (4) If the court declares that a person (“**candidate A**”) ought to have been elected to an office in place of another person (“**candidate B**”) —
- (a) candidate B is not to act in that office;
 - (b) candidate A is to be regarded as having been elected; and
 - (c) notice of candidate A’s election is to be published in accordance with regulations.

[Clause 12 inserted by No. 49 of 2004 s. 69(11).]

13. No appeal

There is no appeal from a decision of a Court of Disputed Returns.

[Clause 13 inserted by No. 49 of 2004 s. 69(11).]

14. Certain defects do not affect an election

An election is not invalid because of —

- (a) a failure to do something in connection with the election within the time, or for the period or before the date allowed or required under this Act, so long as the failure does not affect the result of the election; or
- (b) a formal omission, irregularity or defect in a document, declaration, publication or other thing that a person has made, issued or done in good faith.

[Clause 14 inserted by No. 49 of 2004 s. 69(11).]

15. Regulations about retention and availability of electoral papers

Regulations made under section 4.84 apply in respect of elections in so far as they are capable of being so applied.

[Clause 15 inserted by No. 49 of 2004 s. 69(11).]

The counting of votes is prescribed under Schedule 4.1 — How to count votes and ascertain the result of an election

[s. 4.74]

[Heading inserted by No. 15 of 2009 s. 5.]

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.

3. If the election is to fill one office of councillor, the candidate who receives the greater or greatest number of votes is elected.
4. If the election is to fill 2 or more offices of councillor, the candidates elected are —
 - (a) the candidate who receives the greatest number of votes; and
 - (b) the candidate who receives the next highest number of votes; and
 - (c) the candidate who receives the next highest number of votes, and so on up to the number of offices to be filled.
5. If 2 or more candidates receive the same number of votes so that clause 2, 3 or 4 cannot be applied, the returning officer is to draw lots in accordance with regulations to determine which candidate is elected.

[Schedule 4.1 inserted by No. 15 of 2009 s. 5.]

The new councillors and incoming Mayor and Deputy Mayor and required to make a declaration as prescribed by s2.29 Declaration

- (1) A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.
- (2) A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.
- (3) A declaration required by this section is to be taken or made before a prescribed person.
- (4) A person who acts in an office contrary to this section commits an offence.

Penalty: \$5 000 or imprisonment for one year.

[Section 2.29 amended by No. 24 of 2005 s. 57.]

POLICY IMPLICATIONS:

There are no policy implications.

FINANCIAL AND BUDGET IMPLICATIONS:

There are no financial or budget implications.

STRATEGIC & REGIONAL OUTCOMES:

Strategic & Plan for the Future Outcomes:

Provides support to the running of the City through the elected officers contribution to the running of the City.

Regional Outcomes:

Essential to provide regional support to the other Council's.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:**Economic:**

There are no economic issues.

Social:

It is important to show the electors that their say in local government and management of the City's affairs are been carried out by the nominated officials who represent them in the management and affairs of the City Council. This also gives effect and in compliance to Local Government Act 1995

Environmental:

There are no environmental issues.

Cultural & Heritage:

There are no cultural or heritage issues.

RELEVANT PRECEDENTS:

There are no relevant precedents.

DELEGATED AUTHORITY:

As per Schedule 2.3, 4.1 and section 2.29 of the Local Government Act 1995

VOTING REQUIREMENTS:

Simple majority is required, as prescribed under Schedule 2.3 of the Local Government Act 1995.

OPTIONS:

As this is a mandatory requirement in terms of the Local Government Act as prescribed by Schedule 2.1, there are no options available to the nomination of the Mayor and deputy mayor, and the taking of the declaration as prescribed by s2.29 of the Act by the councillors taking office.

CONCLUSION:

The inaugural meeting of the new councillors and election of the Mayor and Deputy Mayor is an auspicious event for the City. The Chief Executive Officer in fulfilling this first function of the new order establishes the working ethos for the Council and future management and running of the City.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority as already carried out under schedule 2.3 (When and How mayors, presidents, deputy mayors and deputy presidents are elected by the council) and 4.1 (How to count votes and ascertain the result of an election) of the Local Government Act RESOLVES to:

1. AFFIRM that the requirement set under S 2.29 (Oath or affirmation of allegiance and declaration) of all new councillors has been done:
 - a. Hills Ward Cr. _____
 - b. Hills Ward Cr. _____
 - c. Port Ward Cr. _____
 - d. Tarcoola Ward Cr. _____
 - e. Willcock Ward Cr. _____
 - f. Champion Bay Ward Cr. Zain Laudehr
 - g. Champion Bay Ward Cr. Vicki Petersen
 - h. Chapman Ward Cr. Desmond Brick

2. AFFIRM the election on the Mayor and Deputy mayor has been carried out in terms of Schedule 2.3 (When and How mayors, presidents, deputy mayors and deputy presidents are elected by the council) and 4.1 (How to count votes and ascertain the result of an election) of the Local Government Act:
 - a. The Mayor being Cr _____ for a period of (2) two years termination on or before the 19 October 2011.
 - b. The Deputy Mayor _____ for a period of (2) two years termination on or before the 19 October 2011.

3. AFFIRM that the requirement set under s 2.29 (Oath or affirmation of allegiance and declaration) of the new office bearers (Mayor and Deputy Mayor) has been done:
 - a. The Mayor Cr. _____
 - b. The Deputy Mayor Cr. _____

9 CLOSURE