



SPECIAL MEETING OF COUNCIL

AGENDA

18 OCTOBER 2021

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CITY OF GREATER GERALDTON
SPECIAL MEETING OF COUNCIL
TO BE HELD ON MONDAY, 18 OCTOBER 2021 AT 5.00PM
CHAMBERS, CATHEDRAL AVENUE

A G E N D A

DISCLAIMER:

The Chairman advises that 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 a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25(e)) and Council's Standing Orders Local Laws establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The City of Greater Geraldton 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 a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

1 ACKNOWLEDGEMENT OF COUNTRY

I would like to respectfully acknowledge the Yamatji people who are the Traditional Owners and First People of the land on which we meet/stand. I would like to pay my respects to the Elders past, present and future for they hold the memories, the traditions, the culture and hopes of Yamatji people.

2 OATH OR AFFIRMATION OF ALLEGIANCE AND DECLARATION

Mayor S Van Styn to introduce Honorary Freeman of the City of Greater Geraldton and *former* Mayor of the City of Geraldton, Mr P Cooper JP, to undertake the Oath or Affirmation of Allegiance and Declarations pursuant to section 2.29 of the Local Government Act 1995 of all new Council Members.

3 MAKING OF DECLARATION BY NEW COUNCILLORS

Six Council Members will be declared into Office for four (4) year terms, with one Council Member being declared into Office for a two (2) year term.

Order of Swearing in:

Newly elected Council Members will be listed in alphabetical order.

_____ declared into office as a Councillor for a four (4) Year term expiring 18 October 2025.

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_____ declared into office as a Councillor for a four (4) Year term expiring 18 October 2025.

_____ declared into office as a Councillor for a two (2) Year term expiring 21 October 2023.

4 BALLOT FOR SEATING

A ballot will be conducted by the Chief Executive Officer for seating of Councillors in Chambers.

Mayor will ask Councillors to take their seats *after* the ballot.

5 DECLARATION OF OPENING

6 ATTENDANCE

Present:

Officers:

Distinguished Visitors:

Others:

Members of Public:

Members of Press:

Apologies:

Leave of Absence:

7 APPLICATIONS FOR LEAVE OF ABSENCE

Existing Approved Leave

Councillor	From	To (inclusive)	Date Approved
Cr T Thomas	1 November 2021	31 December 2021	28/9/2021

**Note: If Elected Members' application for leave of absence is for the meeting that the request is submitted, they will be noted as an apology until Council consider the request. The granting of the leave, or refusal to grant the leave and reasons for that refusal, will be recorded in the minutes of the meeting*

If an Elected Member on Approved Leave subsequently attends the meeting, this will be noted in the Minutes.

8 ELECTION OF DEPUTY MAYOR

In accordance with the provisions of the Local Government Act 1995 schedule 2.3 and schedule 4.1 and the Local Government (Constitution) Regulations 1998 11A- 11F, Council will elect a Deputy Mayor for a period of two (2) years and hold a ballot if more than one Candidate.

Nominations are to be provided in writing *before* the meeting or during the meeting, before the close of nominations.

The Mayor will call for nominations.

The Mayor declares nominations closed once all received in writing.

Mayor to call for a ballot, if more than one candidate, as per Local Government (Constitution) Regulations 1998 S.11A.

Prior to a ballot, the Mayor to call nominees in alphabetical order to present on their nomination. Presentations are limited to a maximum of 5 minutes.

9 MAKING OF DECLARATION OF DEPUTY MAYOR

The Mayor announces that following a secret ballot Cr _____ was elected as Deputy Mayor for the ensuing two-year period.

Mr P Cooper JP to conduct the declaration of Deputy Mayor

Cr _____ declared into office as Deputy Mayor for a two (2) year term expiring 21 October 2023.

10 CORPORATE & COMMERCIAL SERVICES

CCS639 THE ELECTION OF THE DEPUTY MAYOR AND THE SWEARING IN OF THE DEPUTY MAYOR AND COUNCILLORS

AGENDA REFERENCE:	D-21-109864
AUTHOR:	M Adam, Coordinator Governance
EXECUTIVE:	P Radalj, Director Corporate and Commercial Services
DATE OF REPORT:	5 October 2021
FILE REFERENCE:	GO/7/0013
ATTACHMENTS:	No

EXECUTIVE SUMMARY:

The report seeks council confirmation that the declarations of office for councillors elected at the ordinary election on 16 October 2021, and the deputy mayor elected on 18 October 2021, have been made in accordance with the provisions of the *Local Government Act 1995* (the Act). Confirmation is also sought that the election of deputy mayor has been completed in accordance with the provisions of the Act and the *Local Government (Constitution) Regulations 1998*.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to the Local Government Act 1995 section 2.28, 2.29, Schedule 2.3 and Schedule 4.1 RESOLVES to:

1. AFFIRM that a declaration under the provisions of section 2.29 of the *Local Government Act 1995 (Declaration)* by a councillor, before acting in the office, has been made:
 - a. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - b. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - c. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - d. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - e. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - f. City of Greater Geraldton District – Cr _____ for a four (4) year term (Expiring 18 October 2025);
 - g. City of Greater Geraldton District – Cr _____ for a two (2) year term (Expiring 21 October 2023).
2. AFFIRM the election of the deputy mayor has been carried out in accordance with the provisions of the *Local Government Act 1995* schedule 2.3 and schedule 4.1 and the *Local Government (Constitution) Regulations 1998* 11A- 11F:
 - a. Deputy Mayor Cr _____ for a period of two (2) years ending at this start of the first meeting of the council after the local governments next ordinary election on 21 October 2023.

3. AFFIRM that a declaration under the provisions of section 2.29 (*Declaration*) of the *Local Government Act 1995* by the Deputy Mayor Cr _____ before acting in the office, has been made; and
4. APPROVE the destruction of any and all ballot papers associated with the election by the council of the deputy mayor in four (4) years from the date of election.

PROPONENT:

The proponent is the City of Greater Geraldton.

BACKGROUND:

A local government is required by the provisions of the *Local Government Act 1995* (the Act), s 4.5, to hold an ordinary election every two years. The term of office of a councillor begins on the day after the election (s 2.28) and a person elected as a councillor has to make a declaration of office before acting in the office(s 2.29). The term of office of a person elected by the council as a deputy mayor begins when the person is elected (s 2.28). A deputy mayor must make a declaration of office before acting in the office (s 2.29).

Schedule 2.3 division 2 clause 8 of the Act make provision for how a deputy mayor is elected, and regulation 11A to 11F in the *Local Government (Constitution) Regulations 1998* describe the mandatory process for the election of a deputy mayor. Schedule 4.1 of the Act provides how to count the votes and ascertain the election.

Local Government Act 1995***s 4.5 Frequency of ordinary elections***

A local government is to hold ordinary elections every 2 years.

s 2.28 Terms of Office on the council and vacation of office

<i>Item</i>	<i>Kind of office</i>	<i>How elected</i>	<i>Term begins</i>	<i>Term ends</i>
4.	<i>'...councillor</i>	<i>Elected at an ordinary election</i>	<i>On the day after the ordinary elections day</i>	<i>'On the third Saturday in October in the fourth year after the year in which the term began...'</i>
12.	<i>Deputy mayor...'</i>	<i>Elected at any election</i>	<i>When the person is elected</i>	<i>At the start of the first meeting of the council after the local government's next ordinary elections</i>

s 2.29 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

Schedule 2.3 Division 2

8. How 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.*

Local Government (Constitution) Regulations 1998

11A. Election of mayor, president, deputy mayor or deputy president by council (Sch. 2.3)

- (1) *The CEO is to cause sufficient numbers of ballot papers to be printed for the purposes of the election.*
 - (2) *The CEO is to cause the ballot papers to be printed so that the names of the candidates appear on the ballot paper —*
 - (a) *in alphabetical order; or*
 - (b) *in such order as is determined using a method selected by the CEO which is fair to all of the candidates.*
 - (3) *The ballot papers are to be in the form of Form 10 of the Local Government (Elections) Regulations 1997, modified as is necessary for the purposes of the election.*
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- (4) *A council member is to cast his or her vote by marking the ballot paper by placing a tick in the box opposite the name of the candidate whom the council member wishes to be elected.*

11B. Ballot papers to be authentic (Sch. 2.3 cl. 4 and 8)

Before giving a person a ballot paper under this Part the CEO is to initial the back of it or make sure that it is authenticated in some other way.

11D. Marking and dealing with the ballot paper (Sch. 2.3 cl. 4 and 8)

- (2) *The council members are to return the marked ballot paper to the CEO.*

11EA. Counting of votes in accordance with Schedule 4.1 (Sch. 2.3 cl. 4, 5, 8 and 9)

Regulations made under Schedule 4.1 to the Act regarding the drawing of lots apply in respect of the election in so far as they are capable of being so applied.

11F. Declaration and notice of result of election — (Sch. 2.3 cl. 4 and 8)

- (1) *The person conducting the election is to declare the result of the election to the council members at the meeting at which the election was held.*
- (2) *The declaration is to include —*
- (a) *the names of the candidates; and*
 - (b) *the name and term of office of the candidate declared elected.*
- (3) *The declaration may include the number of votes received by each candidate.*
- (4) *The person conducting the election is also to give local public notice of the result of the election in the form of Form 19 of the Local Government (Elections) Regulations 1997, modified as is necessary for the purposes of this regulation.*

Local Government Act 1995

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.*
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.*

COMMUNITY, ECONOMY, ENVIRONMENT AND LEADERSHIP ISSUES:**Community:**

The role of a councillor is to represent the interests of the elector's, ratepayers and residents of the district, provide leadership and guidance to the community, and facilitate communication between the community and the council. The role of deputy mayor is to perform the functions of the mayor or president when authorised to do so. Councillors and the deputy mayor must make a declaration of office before acting in the office.

Economy:

There are no adverse economic impacts.

Environment:

There are no adverse environmental impacts.

Leadership:

The elected council are the governing body of the City of Greater Geraldton and as such are required to use their best endeavours to meet the needs of the community, current and future generations, through an integration of environmental protection, social advancement and economic prosperity. The Council are responsible for the performance of the City's functions and oversight of finances and resources.

Disclosure of Interest:

No Officer involved in the preparation of this report has a declarable interest in this matter.

RELEVANT PRECEDENTS:

Council Report CCS449 - The election of Deputy Mayor and the swearing in of the new Mayor, Deputy Mayor and Councillors was endorsed by the council on the 21 October 2019.

COMMUNITY/COUNCILLOR CONSULTATION:

There has been no community/councillor consultation.

LEGISLATIVE/POLICY IMPLICATIONS:

Local Government Act 1995 section 2.28, 2.29, schedule 2.3, schedule 4.1.

Local Government (Constitution) Regulations 1998 regulation 11A, 11B, 11D, 11EA, 11F

Local Government (Election) Regulations 1997 schedule 1, form 10 Ballot Paper, Form 19 Result of Election

FINANCIAL AND RESOURCE IMPLICATIONS:

There are no financial or resource implications.

INTEGRATED PLANNING LINKS:

Strategic Direction: Leadership	Aspiration: A strong local democracy with an engaged community, effective partnerships, visionary leadership and well informed decision-making.
Outcome 4.2	Decision making is ethical, informed and inclusive.
Outcome 4.6	A community that is genuinely engaged and informed in a timely and appropriate manner.
Outcome 4.7	Council understands its roles and responsibilities and leads by example.

REGIONAL OUTCOMES:

The ordinary election of council to fill the vacant offices of councillor and deputy mayor, and the making of declarations of office will ensure that the Council is adequately resourced to achieve positive regional outcomes, in its role as the governing body of the local government.

RISK MANAGEMENT:

It is a statutory requirement under section 2.29 of the Act for councillors and a deputy mayor to make a declaration of office before acting in the office. A person who acts in an office contrary to section 2.29 commits an offence under the provisions of the *Local Government Act 1995*.

The provisions for an election of the deputy mayor are incorporated in schedule 2.3 and 4.1 of the Act and Section 11A – 11AE of the *Local Government (Constitution) Regulations 1998*.

Compliance with these legislative provisions reduces the City's risk of regulatory non-compliance and reputational damage.

ALTERNATIVE OPTIONS CONSIDERED BY CITY OFFICERS:

Ordinary elections must be conducted in accordance with the provisions of the *Local Government Act 1995*. There were no alternative options considered.

11 CLOSURE