



SPECIAL MEETING OF COUNCIL
MINUTES

23 OCTOBER 2017

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CITY OF GREATER GERALDTON
SPECIAL MEETING OF COUNCIL
HELD ON MONDAY, 23 OCTOBER 2017 AT 5.00PM
CHAMBERS, CATHEDRAL AVENUE

MINUTES

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 DECLARATION OF OPENING

The Presiding Member declared the meeting open at 5pm.

2 ACKNOWLEDGEMENT OF COUNTRY

I would like to respectfully acknowledge the Yamaji 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 the Yamaji people.

3 OATH OR AFFIRMATION OF ALLEGIANCE AND DECLARATION

The Mayor introduced 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 S.2.29 of the Local Government Act 1995 (as amended) of all new elected members.

4 MAKING OF DECLARATION BY NEW COUNCILLORS

Order of Swearing in:

David Caudwell declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Jerry Clune declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Natasha Colliver declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Jennifer Critch declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Steve Douglas declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Sally Elphick declared into office as a Councillor 4 Year term (expiring 16 October 2021)

Simon Keemink declared into office as a Councillor 2 Year term (expiring 19 October 2019)

Victor Tanti declared into office as a Councillor 4 Year term (expiring 16 October 2021)

5 SEATING ALLOCATION

The ballot for seating was conducted by the Mayor for seating of Councillors in Chambers.

Mayor asked Councillors to take their seats *after* their allocation.

6 ATTENDANCE

Present:

Mayor S Van Styn

Cr G Bylund

Cr D J Caudwell

Cr J Clune

Cr N Colliver

Cr J Critch

Cr S Douglas

Cr S Elphick

Cr L Freer

Cr S Keemink

Cr M Reymond

Cr N McIlwaine

Cr V Tanti

Cr T Thomas

Officers:

R McKim, Chief Executive Officer

P Melling, Director of Development & Community Services

B Davis, Director of Corporate and Commercial Services

C Lee, A/Director of Infrastructure Services

S Moulds, PA to the Chief Executive Officer

L Pegler, Executive Support Secretary
P Kingdon, Coordinator Communications

Distinguished Visitors:

Honorary Freeman of the City of Greater Geraldton and *former* Mayor of the City of Geraldton, Mr P Cooper JP

Others:

Members of Public: 7
Members of Press: 1

Apologies:

Nil.

Leave of Absence:

Cr R Hall

7 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Questions taken on Notice at the Ordinary meeting of Council held on 26 September 2017

Mark Reid – 10 Captains Crescent, Point Moore

DCS343 POINT MOORE LEASES – CROWN RESERVE 25459

Question

We were issued a building permit in 2015 by CGG to make improvements that didn't meet the current health requirements with regard to our sewerage system?

Shall this approval be valid for the duration of the proposed new lease?

Response

The City now has a better understanding of the current state of the waste water systems at Point Moore since the GHD Residential Onsite Effluent treatment and Disposal report was released in November 2016.

In relation to your site a reduced setback distance for the septic systems was approved under the Health Act 1911 and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974. This approval adequately addressed that footing/ foundation locations did not impact on the structural integrity of the septic tanks for the duration of the expected life. The current approval will remain in place until the system fails or any upgrades to the system are required.

It is noted that the building permit would have only assessed the requirement under the Building Act 2011 and Building Regulations 2012 and does not include the waste water system.

8 PUBLIC QUESTION TIME

Questions provided in writing prior to the meeting or at the meeting will receive a formal response. Please note that you cannot make statements in Public Question Time and such statements will not be recorded in the Minutes.

Our Local Laws and the Local Government Act require questions to be put to the presiding member and answered by the Council. No questions can be put to individual Councillors.

Nil.

9 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

Existing Approved Leave

Councillor	From	To (inclusive)	Date Approved
Cr R Hall	14 October 2017	1 December 2017	27/06/2017
Cr T Thomas	27 October 2017	1 December 2017	17/10/2017
Cr D Caudwell	6 November 2017	18 December 2017	17/10/2017
Cr S Douglas	20 November 2017	24 November 2017	17/10/2017
Cr J Critch	15 December 2017	1 January 2018	17/10/2017

10 ELECTION OF DEPUTY MAYOR

The Mayor conducted the Deputy Mayoral election.

Nominations received were:

- Cr Neil McIlwaine nominated himself.
- Cr Victor Tanti nominated Cr Neil McIlwaine

The Mayor called for any further nominations

There being no further nominations Cr Neil McIlwaine was declared the Deputy Mayor.

11 MAKING OF DECLARATION OF DEPUTY MAYOR

Mr P Cooper JP conducted the declaration of Deputy Mayor.

Cr Neil McIlwaine declared into office as Deputy Mayor 2 Year term (expiring 19 October 2019)

12 CORPORATE & COMMERCIAL SERVICES

CCS295 THE ELECTION OF THE DEPUTY MAYOR AND THE SWEARING IN OF THE NEW COUNCILLORS
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AGENDA REFERENCE:	D-17-76772
AUTHOR:	M Adam, Coordinator Governance, Corporate Services
EXECUTIVE:	B Davis, Director Corporate & Commercial Services
DATE OF REPORT:	3 October 2017
FILE REFERENCE:	GO/6/0012-05
ATTACHMENTS:	No

EXECUTIVE SUMMARY:

When the term of office of Mayor or Councillor expires, an election to fill the vacant office is to be held. Such an election is called an Ordinary election.

The Ordinary Elections for the City of Greater Geraldton were held on 21 October 2017 and the newly elected Councillors are required to take the oath or affirmation of allegiance and make a declaration in the prescribed form before acting in the office to which they have been elected.

The Deputy Mayor is required to be elected for a term of two years and is also required to make a declaration in the prescribed form before acting in the office of Deputy Mayor.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority, in relation to the Ordinary election, as carried out under Local Government Act 1995 Schedule 2.3 (When and How Mayors, Presidents, Deputy Mayors and Deputy Presidents are elected by the council) and Schedule 4.1 (How to count votes and ascertain the result of an election) 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. Champion Bay Ward – **Cr Steve Douglas** for 4 year term (Expiring 2021);
 - b. Chapman Ward - **Cr David Caudwell** for 4 year term (expiring 2021);
 - c. Hills Ward - **Cr Jerry Clune** for 4 year term (Expiring 2021);
 - d. Mullewa Ward - **Cr Jennifer Critch** for 4 year term (Expiring 2021);
 - e. Port Ward - **Cr Victor Tanti** for 4 year term (Expiring 2021);
 - f. Tarcoola Ward - **Cr Natasha Colliver** for 4 year term (Expiring 2021);
 - g. Willcock Ward - **Cr Sally Elphick** for 4 year term (Expiring 2021);

- h. Willcock Ward - **Cr Simon Keemink**
for 2 year term (Expiring 2019);
2. AFFIRM the election of the Deputy Mayor has been carried out in terms of Local Government Act 1995 Schedule 2.3 (When and How Mayors, Presidents, Deputy Mayors and Deputy Presidents are elected by the council) and Schedule 4.1 (How to count votes and ascertain the result of an election):
 - a. The Deputy Mayor Cr Neil McIlwaine for a period of (2) two years terminating on or before the 19 October 2019;
3. AFFIRM that the requirement set under s 2.29 (Oath or affirmation of allegiance and declaration) of the new office bearer Deputy Mayor has been done:
 - a. The Deputy Mayor Cr Neil McIlwaine; and
4. APPROVE the destruction of any and all ballot papers associated with the election by Council of the Deputy Mayor, in 4 years from date of election.

PROPONENT:

The proponent is the City of Greater Geraldton.

BACKGROUND:

This report outlines the statutory processes required for the swearing in of the Councillors and election of the Deputy Mayor.

Election of Deputy Mayor:

The CEO will conduct the election of the Deputy Mayor. 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 is more than one nomination the Mayor will conduct the election on the proportional preferential system as required by Schedule 4.1 of the Local Government Act 1995. The CEO will assist the Mayor if there is a need for an election.

If an election is necessary, the CEO is to be the returning officer and Director of Corporate and Commercial Services the scrutineer. The voting will be conducted in confidence. When the successful nominee is declared elected by the Mayor, approval of Council is required for the associated ballot papers to be destroyed in 4 years.

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

Electors exercise their democratic right to vote in ordinary elections of Council, conducted in accordance with the Local Government Act 1995, to appoint a Mayor and Councillors for a 4 year term. Ordinary elections are conducted every two years, with half of the elected Councillor positions open for election of Councillors and, when the 4 year term of the Mayor expires, election by the community of a Mayor.

Environment:

There are no environment impact.

Economy:

There are no economic impacts.

Governance:

The provisions of the *Local Government Act 1995* (the Act) s2.29 require that a person elected as a Councillor or Deputy Mayor has to make a declaration in the prescribed form before acting in the office. Schedule 2.3 of the Act requires that the election of Deputy Mayor must be conducted at the first meeting of Council after an Ordinary election day.

RELEVANT PRECEDENTS:

Ordinary elections of Council are conducted in accordance with the Local Government Act 1995, and newly elected representatives are required to undertake an oath or affirmation of allegiance, and make a declaration.

COMMUNITY/COUNCILLOR CONSULTATION:

The ordinary election has been filled through the electoral process run by the Electoral Commission of WA on the 21 October 2017.

LEGISLATIVE/POLICY IMPLICATIONS:

The Election of the Deputy Mayor is covered in the Local Government Act 1995 under Schedule 2.3 – *When and how Mayors, Presidents, Deputy Mayors and Deputy Presidents are elected by the Council:*

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.

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

In this Division —

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.*

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).]

The new councillors and incoming Mayor and Deputy Mayor are 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.]*

FINANCIAL AND RESOURCE IMPLICATIONS:

There are no financial or resource implications.

INTEGRATED PLANNING LINKS:

Title: Governance	Good Governance & Leadership
Strategy 4.5.1	Strengthening the governance role of Councillors by informing, resourcing, skilling and supporting their role
Strategy 4.5.2	Ensuring finance and governance policies, procedures and activities align with legislative requirements and best practice

REGIONAL OUTCOMES:

The Mayor and Councillors are required to work for the good of the region.

RISK MANAGEMENT:

It is a statutory requirement under section 2.29 Local Government Act 1995 for councillors to take the oath or affirmation of allegiance and make a declaration in the prescribed form before acting in the office. Election of the Deputy Mayor is prescribed under Schedule 2.3 of the Act.

ALTERNATIVE OPTIONS CONSIDERED BY CITY OFFICERS:

Ordinary elections must be conducted in accord with the Local Government Act 1995. There were no alternative options considered.

COUNCIL DECISION**MOVED CR MCILWAINE, SECONDED CR THOMAS**

That Council by Simple Majority, in relation to the Ordinary election, as carried out under Local Government Act 1995 Schedule 2.3 (When and How Mayors, Presidents, Deputy Mayors and Deputy Presidents are elected by the council) and Schedule 4.1 (How to count votes and ascertain the result of an election) **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. **Champion Bay Ward – Cr Steve Douglas**
for 4 year term (Expiring 2021);
 - b. **Chapman Ward - Cr David Caudwell**
for 4 year term (expiring 2021);
 - c. **Hills Ward - Cr Jerry Clune**
for 4 year term (Expiring 2021);
 - d. **Mullewa Ward - Cr Jennifer Critch**
for 4 year term (Expiring 2021);
 - e. **Port Ward - Cr Victor Tanti**
for 4 year term (Expiring 2021);
 - f. **Tarcoola Ward - Cr Natasha Colliver**
for 4 year term (Expiring 2021);
 - g. **Willcock Ward - Cr Sally Elphick**
for 4 year term (Expiring 2021);
 - h. **Willcock Ward - Cr Simon Keemink**
for 2 year term (Expiring 2019);

 2. **AFFIRM** the election of the Deputy Mayor has been carried out in terms of Local Government Act 1995 Schedule 2.3 (When and How Mayors, Presidents, Deputy Mayors and Deputy Presidents are elected by the council) and Schedule 4.1 (How to count votes and ascertain the result of an election):
 - a. **The Deputy Mayor Cr Neil McIlwaine for a period of (2) two years terminating on or before the 19 October 2019;**

 3. **AFFIRM** that the requirement set under s 2.29 (Oath or affirmation of allegiance and declaration) of the new office bearer Deputy Mayor has been done:
 - a. **The Deputy Mayor Cr Neil McIlwaine; and**

 4. **APPROVE** the destruction of any and all ballot papers associated with the election by Council of the Deputy Mayor, in 4 years from date of election.
-

CARRIED 14/0

Time: 5:23 PM

Name	Vote
Cr. Douglas	YES
Cr. Bylund	YES
Cr. Caudwell	YES
Cr. Colliver	YES
Cr. Clune	YES
Cr. Critch	YES
Cr. Freer	YES
Cr. Elphick	YES
Cr. Hall	NOT PRESENT
Cr. Keemink	YES
Cr. McIlwaine	YES
Cr. Reymond	YES
Cr. Tanti	YES
Cr. Thomas	YES
Mayor Van Styn	YES

13 CLOSURE

There being no further business the Presiding Member closed the Special Council meeting at 5.24pm