



18 OCTOBER 2021

SPECIAL MEETING of COUNCIL

MINUTES

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1. OPENING

Meeting held in Council Chambers.

The Chief Executive Officer declared the meeting open at 9:09am

2. ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

2.1 Members Present

Cr DW Davis

Cr PJ Gogol

Cr CJ Lawlor

Cr SW Martin

Cr JR Maxwell

Cr AFC Sattler

Cr TWT Seed

Cr DC White

2.2 Staff In Attendance

Mr SP Gollan Chief Executive Officer

Mr SK Marshall Deputy Chief Executive Officer

Mrs A Lewis Executive Assistant

Mrs A Fleay Project Officer

2.3 Observers And Visitors

Mr Fred Bremner J.P

Mrs Jo Sattler

Mr Chris Pepper

2.4 Apologies and Approved Leave of Absence

Nil

3. DECLARATION OF OFFICE OF COUNCILLOR

The successful candidates, Cr's Davis, Martin, Maxwell, Sattler, Seed and White made and subscribed the Declaration of Office of Councillor before Mr Fred Bremner, J.P.

4. ELECTION OF PRESIDENT

Council is required to elect the Shire President from among the Councillors, as required in Section 2.15 of the *Local Government Act 1995* and as detailed in Schedule 2.3 of Division 2 of the Act.

(Nominations for the Office of Shire President must be in writing and presented to the Chief Executive Officer at the commencement of the meeting.)

The Chief Executive Officer advised that Cr White had been nominated for the position of President. The Chief Executive Officer received three written nominations:

Cr Seed nominated Cr White

Cr Gogol nominated Cr White

Cr Davis nominated Cr White

Cr White accepted the nomination.

There being no further nominations received Cr White was declared elected as President for the Shire of Beverley for the ensuing two (2) year term.

Cr White then made the Declaration of Office of President before Mr Fred Bremner, J.P.

5. ELECTION OF DEPUTY PRESIDENT

The Chief Executive Officer advised that Cr Lawlor and Cr Seed had been nominated for the position of Deputy President.

The Chief Executive Officer received four written nominations:

Cr Seed self-nominated.
Cr Seed accepted the nomination

Cr Gogol nominated Cr Lawlor
Cr Davis nominated Cr Lawlor
Cr White nominated Cr Lawlor
Cr Lawlor accepted the nomination

The Chief Executive Officer declared a ballot would be held.

At the completion of the ballot, Cr Lawlor was declared elected as Deputy President for the Shire of Beverley for the ensuing two (2) year term.

Cr Lawlor then made the Declaration of Office of Deputy President before Mr Fred Bremner, J.P.

6. APPRECIATION

The Chief Executive Officer welcomed Cr's Sattler and Maxwell to Council. He then congratulated the returning Cr's Davis, Martin, Seed and White. The CEO wished the whole of Council all the best for the ensuing two years and in particular he hoped they would enjoy working together on the Vincent Street Streetscape Project.

Finally, the CEO thanked Mr Fred Bremner J.P for attending the meeting and witnessing the Declaration of Offices.

Mr Fred Bremner thanked the Council for inviting him and in particular welcomed Cr Maxwell and Cr Sattler. He hopes they enjoy their journey as a Councillor and as a Council. Mr Bremner finished by wishing the whole of Council well.

9:29am - The Shire President, Cr David White resumed the Chair.

The President welcomed the New Councillors, returning Councillors, current Councillors, Staff and visitors. He thanked everyone for their attendance and wished Council well. The Shire President then proceeded to the late item.

7. LATE ITEM

The following report was distributed to Councillors and Councillor-elect on Wednesday 13 October 2021 for their consideration. The report was accepted as a late item by Council.

7.1 Late Item: Councillor Resignation and Extraordinary Election

| | |
|-----------------------------------|---|
| Submission To: | Special Meeting of Council 18 October 2021 |
| Report Date: | 13 October 2021 |
| Applicant: | Administration |
| File Reference: | ADM 0572 & ADM 0597 |
| Author and Position: | Stephen Gollan, Chief Executive Officer |
| Previously Before Council: | No |
| Disclosure(s) Of Interest: | Nil |
| Attachments: | Nil |

SUMMARY

Council to acknowledge the resignation of Terry McLaughlin and set a date for an extraordinary election.

BACKGROUND

Cr McLaughlin resigned from Council on 1 October 2021 by handing his letter of resignation to the Chief Executive Officer in person as per the *Local Government Act 1995* requirements.

COMMENT

The resignation of Cr McLaughlin now creates a vacancy on Council which is required to be filled. The Shire President or Council is required to set the election no later than four months from the date of resignation, being 1 February 2022.

This is slightly unfortunate timing due to the required election timetable process running in to the proposed Christmas/New Year closure and the general 'quietness' of Beverley in January with many electors choosing to holiday away.

An electoral roll is also to be prepared for each election except for some extraordinary elections. A new roll need not be prepared for an extraordinary election if the Election Day is less than 100 days after the original Election Day (16 October 2021) for another election for the local government, i.e. is held before the 24 January 2022. This is subject to the CEO and the Electoral Commissioner agreeing that the earlier roll is suitable for use for the extraordinary election.

Therefore, if Council wishes to have the extraordinary election before 24 January 2022 it can use the existing roll with the approval of the Electoral Commissioner. The election day chosen by Management in this instance would be Friday 21 January 2022, with the Nominations Open date being Wednesday 8 December 2021 and Close of Nominations Wednesday 15 December 2021. A Friday has been chosen over the traditional Saturday to save on unnecessary expenses associated with opening the office on a Saturday. Previous elections show most community members early vote rather than on the actual Saturday election date.

Council may choose a date further into the New Year. However, moving the election date out may be a problematic as the nomination week would be in either late December when the office is possibly closed or in early January when potential candidates may be away.

After careful consideration it is managements preference that the matter be dealt with as soon as possible, therefore allowing Council to begin the new year meetings with a full Council.

Staff have spoken to WA Electoral Commission to discuss the various issues and they have indicated that they would support an election date of Friday 21 January 2022.

STATUTORY ENVIRONMENT

Local Government Act 1995

2.31. Resignation

- (1) An elector mayor or president may resign from the office of mayor or president.
- (2) A councillor may —
 - (a) resign from the office of councillor;
 - (b) resign from the office of councillor mayor or president, deputy mayor or deputy president.
- (3) Written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.
- (4) The resignation takes effect from the date of delivery of the notice or from a later day specified in the notice.

2.32. How extraordinary vacancies occur in offices elected by electors

The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —

- (a) dies; or
- (b) resigns from the office; or
- (c) does not make the declaration required by section 2.29(1) within 2 months after being declared elected to the office; or
- (d) advises or accepts under section 2.27 that he or she is disqualified, or is declared to be disqualified by the State Administrative Tribunal acting on an application under section 2.27; or
- (da) is disqualified by an order under section 5.113, 5.117 or 5.119 from holding office as a member of a council; or
- (db) is dismissed under section 8.15L or 8.25(2); or
- (e) becomes the holder of any office or position in the employment of the local government; or

- (f) having been elected to an office of councillor, is elected by the electors to the office of mayor or president of the council.

Division 4 — Extraordinary elections

4.8. Extraordinary elections

- (1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.
- (2) An election is also to be held under this section if section 4.57 or 4.58 so requires.
- (3) An election under this section is called an **extraordinary election**.

[Section 4.8 amended: No. 2 of 2012 s. 10.]

4.9. Election day for extraordinary election

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed —
 - (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or
 - (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).
- (2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —
 - (a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and
 - (b) advise the CEO of the day fixed.

CONSULTATION

Council and WA Electoral Commission

FINANCIAL IMPLICATIONS

Administration costs of Extraordinary Election

STRATEGIC IMPLICATIONS

Goal 12 - Council leads the organisation and engages with the community in an accountable and professional manner.

POLICY IMPLICATIONS

N/A

RISK IMPLICATIONS

Medium (9) – Procedural and reputational. It is considered that the setting of an extraordinary election date is adequate to mitigate any risk.

| Consequence Likelihood | Insignificant | Minor | Moderate | Major | Catastrophic |
|------------------------|---------------|------------|------------|-------------|--------------|
| Almost Certain | Medium (5) | High (10) | High (15) | Severe (20) | Severe (25) |
| Likely | Low (4) | Medium (8) | High (12) | High (16) | Severe (20) |
| Possible | Low (3) | Medium (6) | Medium (9) | High (12) | High (15) |
| Unlikely | Low (2) | Low (4) | Medium (6) | Medium (8) | High (10) |
| Rare | Low (1) | Low (2) | Low (3) | Low (4) | Medium (5) |

| Risk Rating | Action |
|-------------|--|
| Low | Monitor for ongoing improvement. |
| Medium | Comply with risk reduction measures to keep risk as low as reasonably practical. |
| High | Review the risk and take additional measures to ensure risk is low as reasonably achievable. |
| Severe | Unacceptable risk level, reduction measures must be introduced before proceeding. |

VOTING REQUIREMENTS

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

MSM1/1021

Moved Cr Davis

Seconded Cr Martin

That Council accept Terry McLaughlin's resignation with regret.

CARRIED 8/0

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

MSM2/1021

Moved Cr Davis

Seconded Cr Sattler

That Council set the Extraordinary Election date as Friday 21 January 2022 and authorise the Chief Executive Officer to request approval from the WA Electoral Commissioner to use the current Electoral Roll.

CARRIED 8/0

8. CLOSURE

The Chairman declared the meeting closed 9:34am.

I hereby certify these Minutes as being confirmed in accordance with Section 5.22 of the Local Government Act 1995.

PRESIDING MEMBER:

DATE: