



Special Council Meeting

AGENDA

Tuesday 24 October 2023

NOTICE OF MEETING SPECIAL COUNCIL MEETING

Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers, Administration Centre, 2 Railway Road, Kalamunda on **Tuesday 24 October 2023 at 6.30pm.**

Gary Ticehurst
A/Chief Executive Officer
20 October 2023



Our Vision

Connected Communities, Valuing Nature and Creating our Future Together

Core Values

Service: We demonstrate a 'can do' attitude, we listen, we understand, and we go above and beyond when we serve others.

Professionalism: We look, speak, act & do what it takes to show others we are reliable, respectful and competent.

Quality: We think clearly, plan mindfully, act decisively, measure carefully and review regularly everything we do.

Aspirational Values

Courage: We make brave decisions and take calculated risks to lead us to a bold and bright future. We show courage in our pursuit for the protection of the environment, for the well being of our people and to support the economy.

Diversity: We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities.

Innovation: We believe in a workplace where you're safe to try new things—where we can push the boundaries of the norm and learn from things that don't always go according to plan. We strive for a just and blameless culture that respects people as individuals and paves the way to genuine learning and improvement.

Our simple guiding principle will be to ensure everything we do will make the City of Kalamunda socially, environmentally and economically sustainable.

kalamunda.wa.gov.au



INFORMATION FOR THE PUBLIC ATTENDING COUNCIL MEETINGS

Welcome to this evening's meeting. The following information is provided on the meeting and matters which may affect members of the public.

If you have any queries related to procedural matters, please contact a member of staff.

Special Council Meetings – Procedures

1. Council Meetings are open to the public, except for Confidential Items listed on the Agenda.
2. Members of the public who are unfamiliar with meeting proceedings are invited to seek advice prior to the meeting from a City Staff Member.
3. Members of the public are able to ask questions at a Special Council Meeting during Public Question Time on matters relating to the functions of this meeting.
4. To facilitate the smooth running of the meeting, silence is to be observed in the public gallery at all times except for Public Question Time.
5. All other arrangements are in general accordance with Council's Standing Orders, the Policies and decision of the City or Council.

Acknowledgement of Traditional Owners

We wish to acknowledge the traditional custodians of the land we are meeting on, the Whadjuk Noongar people. We wish to acknowledge their Elders' past, present and future and respect their continuing culture and the contribution they make to the life of this City and this Region.

Emergency Procedures

Please view the position of the Exits, Fire Extinguishers and Outdoor Assembly Area as displayed on the wall of Council Chambers.

In case of an emergency follow the instructions given by City Personnel.

We ask that you do not move your vehicle as this could potentially block access for emergency services vehicles.

Please remain at the assembly point until advised it is safe to leave.

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1. Official Opening

Welcome by the A/Chief Executive Officer, Gary Ticehurst, and introduction of Mr Stephen Price MLA, Member for Forrestfield, attending for the swearing in of the Mayor, Councillors elect and the Councillor elected to the office of Deputy Mayor.

The Chief Executive Officer is to preside until the Mayor is sworn into the Office.

2. Attendance, Apologies and Leave of Absence Previously Approved

3. Elected Members

3.1. Swearing in of Mayor

Section 2.29 (Attachment 1) of the *Local Government Act 1995* requires a person who has been elected as a Councillor to make a declaration in the prescribed form before acting in the office. The declaration is to be made before a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*. Mr Stephen Price MLA officiates for this purpose.

3.2. Swearing in of Newly Elected Councillors

Section 2.29 (Attachment 1) of the *Local Government Act 1995* requires a person who has been elected as a Councillor to make a declaration in the prescribed form before acting in the office. The declaration is to be made before a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*. Mr Stephen Price MLA officiates for this purpose.

3.3. Election of Deputy Mayor

The election is to be conducted in accordance with the procedure prescribed by the mayor. The procedure for electing a Deputy Mayor is set out in Schedule 2.3, Division 2, of the *Local Government Act 1995* (Attachment 2). The election is to be conducted at the first meeting of the Council following an ordinary election.

The Chief Executive Officer will act as the Returning Officer for this election. Nominations for the office are to be received in writing to the Chief Executive Officer before the meeting, or during the meeting before the close of nominations. Nominations close at the meeting at a time announced by the Chief Executive Officer.

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Councillors are to vote on the matter by secret ballot as if they were electors voting at an election. The votes cast are to be counted, and the successful candidate determined in accordance with Schedule 4.1 (Attachment 3).

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.

The Chief Executive Officer is to declare and give notice of the result in accordance with regulation 11F of the *Local Government (Constitution) Regulations 1998* (Attachment 3).

3.4. Swearing in of Deputy Mayor

Section 2.29 (Attachment 1) of the *Local Government Act 1995* requires a person who has been elected as the Deputy Mayor to make a declaration in the prescribed form before acting in the office. The declaration is to be made before a person before whom a statutory declaration can be made under the *Oaths, Affidavits and Statutory Declarations Act 2005*. Mr Stephen Price MLA officiates for this purpose.

4. Public Question Time

5. Announcements by the Member Presiding Without Discussion

6. Matters for Which the Meeting may be Closed

7. Disclosure of Interest

7.1. Disclosure of Financial and Proximity Interests

- a. Members must disclose the nature of their interest in matter to be discussed at the meeting. (Section 5.56 of the *Local Government Act 1995*.)
- b. Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Section 5.70 of the *Local Government Act 1995*.)

7.2. Disclosure of Interest Affecting Impartiality

- a. Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee had given or will give advice.

8. Petitions/Deputations

9. Attachments

9.1.1. Attachments

Local Government Act 1995
 Constitution of local government **Part 2**
 Terms of office on the council and vacation of office **Division 6**
s. 2.29

Item	Kind of office	How elected	Term begins	Term ends
14.	Councillor	Elected under Schedule 4.1B	On the day after the day on which the poll for the concurrent election is held	On the day on which the former member's term of office would have ended had the office not become vacant

[Section 2.28 amended: No. 66 of 2006 s. 4; No. 2 of 2012 s. 7; No. 11 of 2023 s. 19.]

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.

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

	Local Government Act 1995
When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council	Schedule 2.3
Deputy mayors and deputy presidents	Division 2
	cl. 6

Division 2 — Deputy mayors and deputy presidents

6. Terms used

In this Division —

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

office means the office of deputy mayor or deputy president.

7. When council elects 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 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.

Local Government Act 1995

Schedule 2.3 When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council

Division 2 Deputy mayors and deputy presidents

cl. 9

- (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: 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.

Local Government Act 1995

When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council	Schedule 2.3
Validity of elections	Division 3 cl. 10

- (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: No. 49 of 2004 s. 69(10).]

Local Government Act 1995
 How to count votes and ascertain the result of an election **Schedule 4.1**
 Preliminary **Division 1**
cl. 1

Schedule 4.1 — How to count votes and ascertain the result of an election

[s. 4.74]

[Heading inserted: No. 11 of 2023 s. 92.]

Division 1 — Preliminary

[Heading inserted: No. 11 of 2023 s. 92.]

1. Terms used

In this Schedule —

first-preference vote —

- (a) means a vote cast under section 4.69(2); and
- (b) includes a vote accepted by the returning officer as a first-preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a);

one office election means an election to fill the office of mayor or president or to fill 1 office of councillor;

preference vote —

- (a) means a vote cast under section 4.69(3); and
- (b) includes a vote accepted by the returning officer as a preference vote under section 4.75(1) or under regulations made for the purposes of section 4.75(3)(a).

Note for this clause:

For the purposes of the definitions of *first-preference vote* and *preference vote*, see also section 4.73(5) which provides for a ballot paper to be treated as if a numeral indicating a preference had been altered.

[Clause 1 inserted: No. 11 of 2023 s. 92.]

Local Government Act 1995**Schedule 4.1** How to count votes and ascertain the result of an election**Division 2** One office elections**cl. 2**

Division 2 — One office elections*[Heading inserted: No. 11 of 2023 s. 92.]***2. One office election: 2 candidates**

- (1) If there are only 2 candidates in a one office election —
 - (a) the first-preference votes for each candidate must be counted; and
 - (b) the candidate who has the greater number of first-preference votes is elected.
- (2) If the candidates have the same number of first-preference votes, the returning officer must draw lots in accordance with regulations to determine which candidate is elected.

*[Clause 2 inserted: No. 11 of 2023 s. 92.]***3. One office election: 3 or more candidates**

Clauses 4 and 5 apply if there are 3 or more candidates in a one office election.

*[Clause 3 inserted: No. 11 of 2023 s. 92.]***4. Count of first-preference votes**

- (1) The first-preference votes for each candidate must be counted.
- (2) A candidate is elected if the number of first-preference votes for the candidate exceeds 50% of the total number of all the first-preference votes for candidates.

*[Clause 4 inserted: No. 11 of 2023 s. 92.]***5. Process if no candidate elected under clause 4**

- (1) The process in subclause (2) —
 - (a) must be followed if no candidate is elected under clause 4; and

- (b) as necessary, must be repeated until a candidate is elected under subclause (3).

Notes for this subclause:

1. Subclauses (4) to (6) supplement subclauses (2) and (3) for cases where candidates have the same number of votes.
2. Subclauses (7) and (8) explain how the terms ballot paper and continuing candidate are used in this clause.

- (2) The process is as follows —
- (a) exclude the candidate (the *excluded candidate*) with —
 - (i) if this process is being followed for the first time — the fewest first-preference votes; or
 - (ii) if this process is being repeated — the fewest votes on the last count under paragraph (d);
 - (b) set aside as exhausted any ballot paper of the excluded candidate that contains —
 - (i) no preference votes at all; or
 - (ii) no preference votes for any continuing candidates;
 - (c) transfer any remaining ballot papers of the excluded candidate that indicate the next available preference for a particular continuing candidate to that continuing candidate;
 - (d) count the number of votes for each of the continuing candidates by totalling the following —
 - (i) the number of first-preference votes for the continuing candidate;
 - (ii) if this process is being followed for the first time — the total number of ballot papers transferred to the continuing candidate under paragraph (c);
 - (iii) if this process is being repeated — the total number of ballot papers transferred to the continuing candidate under paragraph (c) on this or a previous occasion.
- (3) A continuing candidate is elected if, on a count under subclause (2)(d), the number of votes for the continuing candidate exceeds 50% of the total number of all the votes for continuing candidates.

Local Government Act 1995**Schedule 4.1** How to count votes and ascertain the result of an election**Division 2** One office elections**cl. 5**

- (4) Subclause (6) applies if subclause (2)(a) cannot otherwise be applied because, as the case requires —
- (a) 2 or more candidates have the same number of first-preference votes (no other candidates having fewer first-preference votes); or
 - (b) 2 or more candidates have the same number of votes on the last count under subclause (2)(d) (no other candidates having fewer votes).
- (5) Subclause (6) also applies if subclause (3) cannot otherwise be applied because —
- (a) there are only 2 continuing candidates in a count under subclause (2)(d); and
 - (b) on the count, the continuing candidates have the same number of votes.
- (6) The returning officer must draw lots in accordance with regulations to determine, as the case requires —
- (a) the candidate to be excluded; or
 - (b) the continuing candidate to be elected.
- (7) For the purposes of the process in subclause (2), a ballot paper is a ballot paper of the excluded candidate if either of the following applies —
- (a) the ballot paper contains a first-preference vote for the excluded candidate;
 - (b) the process is being repeated and the ballot paper was transferred to the excluded candidate under subclause (2)(c) on a previous occasion.
- (8) For the purposes of the process in subclause (2), a continuing candidate is a candidate to whom neither of the following applies —
- (a) the candidate is the excluded candidate;
 - (b) the process is being repeated and the candidate was excluded under subclause (2)(a) on a previous occasion.

[Clause 5 inserted: No. 11 of 2023 s. 92.]

10. Closure