



# Special Council Meeting

Minutes

24 October 2023

**INDEX**

- 1. Official Opening.....3**
- 2. Attendance, Apologies and Leave of Absence Previously Approved.....3**
- 3. Elected Members.....4**
  - 3.1. Swearing in of Mayor.....4**
  - 3.2. Swearing in of Newly Elected Councillors.....4**
  - 3.3. Election of Deputy Mayor .....4**
  - 3.4. Swearing in of Deputy Mayor .....5**
- 4. Public Question Time .....5**
- 5. Announcements by the Member Presiding Without Discussion.....5**
- 6. Matters for Which the Meeting may be Closed .....5**
- 7. Disclosure of Interest .....5**
- 8. Petitions/Deputations .....6**
- 9. Attachments.....7**
  - 9.1.1. Attachments .....7**
- 10. Closure .....16**

**1. Official Opening**

The Acting Chief Executive Officer opened the meeting at 6:30pm and welcomed Councillors, Councillors elect, family members, Staff and Members of the Public Gallery. The A/Chief Executive Officer welcomed and thanked the Member for Forrestfield, Mr Stephen Price MLA, for his attendance.

The Acting Chief Executive Officer also acknowledged the Traditional Owners of the land on which we meet the Whadjuk Noongar people.

**2. Attendance, Apologies and Leave of Absence Previously Approved**

**Mayor**

Margaret Thomas JP (Presiding Member)

**Councillors**

**South East Ward**

John Giardina

Geoff Stallard

**South West Ward**

Mary Cannon

Brooke O'Donnell

**North West Ward**

Lisa Cooper

Dylan O'Connor

**North Ward**

David Modolo

Kathy Ritchie

**Members of Staff**

**Chief Executive Officer**

Gary Ticehurst - Acting Chief Executive Officer

**Executive Team**

Sinead McGuire/Director Asset Services

Nicole O'Neill - Director Community Engagement

Alison Egan - A/Director Corporate Services

Nathan Ritchie - Director Development Services

Brett Jackson – Strategic Projects Director

**Administration Support**

Darrell Forrest - Governance Advisor

Donna McPherson - Executive Assistant to the CEO

**Guest**

Stephen Price MLA, Member for Forrestfield

**Members of the Public** 18

**Members of the Press** Nil.

**Apologies**

**Leave of Absence Previously Approved** Nil.

### **3. Elected Members**

#### **3.1. Swearing in of Mayor**

In accordance with Section 2.29 of the Local Government Act 1995

Margaret Thomas made a declaration before acting as the Mayor. The declaration was made before Stephen Price MLA and the A/Chief Executive Officer.

The A/Chief Executive Officer vacated the chair as presiding Member. Mayor Thomas presided over the remainder of the meeting. 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**

In accordance with Section 2.29 of the Local Government Act 1995

Councillors John Giardina, Mary Cannon, Brooke O'Donnell, Kathy Ritchie and David Modolo made a declaration before acting in the office. The declaration was made before Stephen Price MLA and the A/Chief Executive Officer.

#### **3.3. Election of Deputy Mayor**

The election of the Deputy Mayor is undertaken in accordance with Schedule 2.3, Division 1, of the Local Government Act 1995. Nominations for the position of Deputy Mayor were received by the A/Chief Executive Officer in writing prior to the meeting to the meeting from Councillor Dylan O'Connor and Councillor Brooke O'Donnell.

The A/Chief Executive Officer called for nominations from the floor for the position of Deputy Mayor.

No other nominations were received.

The A/Chief Executive Officer acted as the returning officer for the election of the Deputy Mayor. Councillors were asked to vote for the position of Deputy Mayor by secret ballot. The votes cast counted in the presence of the Governance Adviser and the Executive Assistant to the CEO.

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 A/Chief Executive Officer declared the result as follows:

Cr Dylan O'Connor 4  
Cr Brooke O'Donnell 4  
Informal 1

In accordance with Section 2.3 Division 2 Clause 5 the election of the Deputy Mayor was adjourned for 7 days.

### **3.4. Swearing in of Deputy Mayor**

Not applicable

### **4. Public Question Time**

4.1 Nil.

### **5. Announcements by the Member Presiding Without Discussion**

5.1 The Mayor made the following announcement:

"I would like to extend a warm welcome to our new Councillor, David Modolo, who represents the North Ward along side returning Councillor Kathy Ritchie.

Sadly we must also bid farewell to two Councillors, Sue Bilich and Janelle Sewell who have shown unwavering passion, dedication and commitment to serving our community over the past few years. Your contributions have not gone unnoticed and your hard work has left a lasting impact on our City.

I would like to thank Stephen Price MLA, Member for Forrestfield, for assisting with the swearing in of councillors this evening. We appreciate your support and all you do for the community in the City of Kalamunda.

In closing I want to express my enthusiasm for what we can achieve together. We will work hard hand in hand and continue to make this City a vibrant and thriving place.

Thank you”

**6. Matters for Which the Meeting may be Closed**

6.1 Nil.

**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*.)

7.1.1 Nil.

**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.

7.2.1 Nil.

**8. Petitions/Deputations**

8.1 Nil.

**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.]*



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

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### **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	<b>Schedule 2.3</b>
Validity of elections	<b>Division 3 cl. 10</b>

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- (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).]*

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

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**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**

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**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**

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- (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**

There being no further business, the Presiding Member declared the Meeting closed at 7:15pm.

I confirm these Minutes to be a true and accurate record of the proceedings of this Council.

Signed: \_\_\_\_\_  
Presiding Member

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2023.