



Shire of Cunderdin

Minutes of a Special Council Meeting

Dear Council Member,

A Special Meeting of the Cunderdin Shire Council was held on **Friday 23rd October 2015** in the Council Chambers, Lundy Avenue Cunderdin commencing **at 1:00pm**, for the purpose of:

1. Swearing In of newly elected Councillors; and
2. For the election of the Shire President and Deputy Shire President for the Shire of Cunderdin for the two (2) year period 2015 to 2017.

Peter Naylor
Chief Executive Officer

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3. Finance and Administration

3.1 Swearing In of newly elected Councillors

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	20 th October 2015
Author:	Peter Naylor
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

For the newly elected Councillors to take the Declaration by Elected Member in accordance with the provisions of the Local Government Act 1995.

Background

Provisions within the *Local Government Act 1995*, S2.29, and the Local Government (Constitution) Regulations 1998, C13, state that a person elected as a councillor has to make a declaration in the prescribed form before acting in the office and the format in which that declaration is to be made.

Comment

Mr Ken Baxter JP is in attendance to administer this function.

Consultation

Nil

Statutory Implications

Local Government Act 1995

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.

Local Government (Constitution) Regulations 1998

13. Oaths, affirmations and declarations (s. 2.29, 2.42)

- (1) For the purposes of sections 2.29 and 2.42 — [(a), (b) deleted] (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7; (d) the form of declaration for a commissioner is that in Form 8.

- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
 - (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorised person.
- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —
authorised person means a person before whom a statutory declaration can be made under the Oaths, Affidavits and Statutory Declarations Act 2005.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Newly elected Councillors Doug Kelly, Dianne Kelly, Todd Harris, Bernard Daly and Alison Harris took the Declaration by Elected Member before Mr Alec Fissioli, Justice of the Peace.

3.2 Election of Shire President

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	20 th October 2015
Author:	Peter Naylor
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

For Council to elect the Shire President for the next two (2) year period, 2015 to 2017.

Background

Provisions within the *Local Government Act 1995*, Schedule 2.3, Division 1, provide for the election of the Shire President by the Council.

Section 2.29 of the *Act* states that a person elected by the council as president has to make a declaration in the prescribed form before acting in the office.

Local Government (Constitution) Regulations 1998, C13, provides for the format in which the person elected as the president has to make the declaration.

Comment

Nil

Consultation

Nil

Statutory Implications

Local Government Act 1995

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 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council [Sections 2.11(1)(b) and 2.15]

Division 1 — Mayors and presidents

1. Terms used
In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1); office means the office of councillor mayor or president.

2. When council elects mayor or president
 - (1) The office 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 first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.
 3. CEO to preside
The CEO is to preside at the meeting until the office is filled.
 4. How mayor or president is elected
 - (1) The council is to elect a councillor to fill the office.
 - (2) The election is to be conducted by the CEO in accordance with the procedure prescribed.
 - (3) Nominations for the office are to be given to the CEO 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 CEO, which is to be a sufficient time after the announcement by the CEO 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 CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.
 - (5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
 - (6) Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) 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 CEO is to declare and give notice of the result in accordance with regulations, if any.
- [Clause 4 amended by No. 49 of 2004 s. 69(2)-(5); No. 66 of 2006 s. 14.]
5. Votes may be cast a second time
 - (1) If when the votes cast under clause 4(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 the meeting is to be adjourned for not more than 7 days.
 - (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.
 - (3) When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.
 - (4) The votes cast under subclause (3) 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.

Local Government (Constitution) Regulations 1998

13. Oaths, affirmations and declarations (s. 2.29, 2.42)

- (1) For the purposes of sections 2.29 and 2.42 — [(a), (b) deleted] (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7; (d) the form of declaration for a commissioner is that in Form 8.
- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
 - (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorised person.

- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —
authorised person means a person before whom a statutory declaration can be made under the Oaths, Affidavits and Statutory Declarations Act 2005.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

The Chief Executive Officer advised that two written nominations have been received for Councillor RC (Clive) Gibsone for the Position of Shire President.

Cr Gibsone accepted the nominations for the position.

As there were no further nominations received, Cr Gibsone was therefore declared elected unopposed to the position of Shire President for the Shire of Cunderdin for the two year period 2015 to 2017.

Cr Gibsone duly took the Declaration by Elected Member for the position of Shire President before Mr Alec Fissioli, Justice of the Peace.

Cr Gibsone thanked the councillors for their support, and advised the meeting that he looked forward to another term as Shire President.

3.3 Election of Deputy Shire President

Location:	Shire of Cunderdin
Applicant:	Chief Executive Officer
Date:	20 th October 2015
Author:	Peter Naylor
Item Approved by:	Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	Nil
Attachment/s:	Nil

Proposal/Summary

For Council to elect the Deputy Shire President for the next two (2) year period, 2015 to 2017.

Background

Provisions within the *Local Government Act 1995*, Schedule 2.3, Division 1, provide for the election of the Deputy Shire President by the Council.

Section 2.29 of the *Act* states that a person elected by the council as deputy president has to make a declaration in the prescribed form before acting in the office.

Local Government (Constitution) Regulations 1998, C13, provides for the format in which the person elected as the deputy president has to make the declaration.

Comment

Nil

Consultation

Nil

Statutory Implications

Local Government Act 1995

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 — 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 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.
 - (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.
 - (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.

Local Government (Constitution) Regulations 1998

13. Oaths, affirmations and declarations (s. 2.29, 2.42)

- (1) For the purposes of sections 2.29 and 2.42 — [(a), (b) deleted] (c) the form of declaration for a mayor, president, deputy mayor, deputy president or councillor is that in Form 7; (d) the form of declaration for a commissioner is that in Form 8.

- (2) A declaration required by section 2.29 to be made by a person elected as a mayor or president is to be made before —
 - (a) the immediate predecessor of the person in the office of mayor or president; or
 - (b) an authorised person.
- (3) A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person.
- (4) A declaration required by section 2.42 to be made by a person appointed as a commissioner is to be made before an authorised person.
- (5) In this regulation —
authorised person means a person before whom a statutory declaration can be made under the Oaths, Affidavits and Statutory Declarations Act 2005.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

The Chief Executive Officer advised that two written nominations have been received for the Position of Deputy Shire President.

The nominations being for Cr Dennis Whisson and Cr Doug Kelly.

Cr Whisson accepted the nomination for the position, however Cr Kelly declined.

Therefore as there were no further nominations received, Cr Whisson was declared elected unopposed to the position of Deputy Shire President for the Shire of Cunderdin for the two year period 2015 to 2017.

Councillor Whisson duly took the Declaration by Elected Member for the position of Deputy Shire President before Mr Alec Fissioli, Justice of the Peace.

Cr Whisson thanked the councillors for their support.

4. Closure of meeting

There being no further business the Shire President declared the meeting closed at 1:30pm.