

Special Council Minutes Index – 7 February 2022

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MINUTES

For the Special Meeting of Council held in the Council Chambers on **Monday 7 February 2022 commencing at 5.30pm**, called for the purpose of setting a revised date for the holding of the Annual General Meeting of Electors.

Acknowledgment of Country – Presiding Member

On behalf of the Councillors, staff and gallery, I acknowledge the Noongar People, the Traditional Custodians of the land on which we are gathered, and pay my respects to their Elders past, present and emerging.

Attendance & Apologies

President	- Cr J Bookless
Councillors	- J Boyle - T Lansdell - S Mahoney - J Mountford - A Pratico - P Quinby - A Rose
Officer	- T Clynch, Chief Executive Officer - M Larkworthy, Executive Manager Corporate Services - E Denniss, Executive Manager Community Services - E Matthews, Executive Assistant
Apology	- Cr B Johnson

Attendance of Gallery

B. Bebbington

Public Question Time

B. Bebbington

Section 5.55a of the *Local Government Act* regarding advertising of the Annual Report states it must be done within 14 days of it going to council. Is there any reason why this has not be applied?

CEO Response - section 5.55a of the Local Government Act states that the CEO must publish the Annual Report within 14 days of it being accepted. The Annual Report was uploaded onto the Shire website within 14 days of adoption. My understanding is that it was uploaded prior to Christmas.

Was there a public notice? Section 5.55a requires a public notice and not just uploading.

CEO Response – Mr. Bebbington, you have quoted section 5.55a which states that the Annual Report must be published, it has been published. Public notice

requirements are under a different section. Section 5.55a has been complied with, section 5.55 as it is mentioned in the report did not occur.

Does Council consider that subject to the ratification of the 24 February date this evening, that all elements of the new procedure comply with policy M.36 and the *Local Government Act*?

CEO Response – there will be a public notice placed on the noticeboards and at the library, newspaper adverts for both the holding of the AGM and availability of the Annual Report, and there will be a website and Facebook posting.

Are all of the website items in place already?

CEO Response – we are waiting for the resolution this evening to advertise the public notice on the website. The reason for the current public notice on the noticeboards was to advise the public of the postponement of the meeting and that a tentative date had been set, subject to confirmation by Council.

If there is an adverse audit report, is that normally something that would be made available in time for the AGM?

CEO Response – the report is yet to be presented to Council, which will occur at the February Ordinary Council Meeting. There is no requirement to advertise the adverse trend report or present it at the AGM.

Can you confirm that the requirement is to present the report to the Minister within 3 months of completion and then it is required to be publically advertised?

Executive Manager Corporate Services – I confirm that the report has been considered by the Audit Committee and the committee's recommendations will be presented to the February Ordinary Council Meeting. Once the report has been endorsed by Council it is sent to the Minister and is required to be published on the Shire website within 14 days of being provided to the Minister.

In order to ensure we do not have a repeat of notices being placed in the incorrect location, I would like to bring to your attention that the AGM is listed under Council Meetings on the website, is this an incorrect place to have it listed?

CEO Response - I will need to check that tomorrow, the notice should be under Public Notices and AGM of Electors on the website.

Should all public notices issued by the Shire appear on the public notice section of the website?

CEO Response - if they are a statutory public notice, yes. If there is a related section (of the website) to the subject matter of the notice it would make sense to also place it there.

Petitions/Deputations/Presentations - Nil

Comments on Agenda Items by Parties with an Interest - Nil

Notification of Disclosures of Interest

Section 5.65 or 5.70 of the Local Government Act requires a Member or Officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Member or Officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

A Member who makes a disclosure under Section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow a Member to speak, the extent of the interest must also be stated.

SpC.01/0222 Suspension of Standing Orders

At its December 2021 meeting Council resolved:

That Council:

1. *That at an appropriate period after the commencement of each ordinary and special council meetings Council is to consider suspending Clause 9.1 of its Standing Orders Local Law to allow Council Members to remain seated whilst addressing Council, either in speaking to a motion or the asking of a question.*
2. *That this procedure be conducted as a trial to determine whether a permanent change in the Standing Orders should be sought.*

Clause 18.1 of the Standing Orders states:

- (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of these Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of these Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension

The key words in clause 18.1 are “suspend temporarily” meaning that Council must resolve at each Council Meeting to suspend clause 9.1 of the Standing Orders for the duration of the meeting.

Council Decision *Moved Cr Rose, Seconded Cr Mountford*

SpC.01/0222 *That Council suspend clause 9.1 of its Standing Orders Local Law to allow Council Members to remain seated whilst addressing Council, either in speaking to a motion or the asking of a question.*

Carried 8/0

Business Items

ITEM NO.	SpC.02/0222	FILE REF.	208
SUBJECT	Setting Revised Date for Holding of the Annual General Meeting of Electors		
PROPONENT	Council		
OFFICER	Chief Executive Officer		
DATE OF REPORT	4 February 2022		

OFFICER RECOMMENDATION

That Council:

- 1. Endorse the decision made by the CEO in consultation with the Shire President and councillors to, at late notice, postpone the holding of the Annual General Meeting (AGM) of Electors on Thursday 3 February 2022 due to the discovery of administrative errors in providing public notice of that proposed meeting.*
- 2. Set a revised date for the holding of the Annual General Meeting (AGM) of Electors as 5.30pm, Thursday 24 February 2022 in the Council Chambers.*
- 3. Note that due to an administrative error in the public notice process for the originally scheduled date for holding of the AGM of Electors this meeting will now be held more than 56 days after it accepted the annual report for the 2020/21 financial year. This will represent a technical breach of section 5.27 of the Local Government Act.*

Summary/Purpose

Due to an administrative error public notice of the Annual General Meeting (AGM) of Electors originally proposed to be held on 3 February 2022 wasn't properly given and this caused councillors to informally agree with the CEO's recommendation to postpone the meeting to another date so that proper public notice could be given. Due to the short time period (1 day) between this issue becoming apparent and the original meeting date a Special Council meeting couldn't be held to change the meeting date prior to the originally scheduled date.

Background

Council, at its December 2021 meeting resolved:

C.06/1221 That Council:

- 1. Accepts the Annual Report including the Annual Financial Report and Audit Report for the 2020/21 financial year and gives local public notice of its availability.*
- 2. Schedules the Annual General Meeting of Electors to be held on Thursday, 3 February 2022 in the Council Chambers, commencing at 5:30pm.*
- 3. Note the Auditor's report includes a 'significant adverse trend in the financial position of the Shire as the Asset Sustainability Ratio and Operating Surplus Ratio have been below the industry benchmark and OAG threshold for the past 3 years'.*

Officer Comment

The administrative errors made in giving public notice of the AGM were:

- Due to the notice missing the newspaper deadline it wasn't published until 26 January 2022 which was only 8 days prior to the scheduled AGM date instead of the statutory 14 day notice period.
- The public notice wasn't uploaded to the Shire website and the page on the website relating to the AGM and Annual Report didn't give details of the meeting date (it actually still said a meeting date hadn't been set).
- There were delays in placing the public notices on Shire notice boards.
- Public notice of the AGM date and the availability of the annual report were intended to be done on the same notice. A review of this process has determined that the notices need to be separated with the notice advising of the availability of the annual report to be done as soon as possible after the Council meeting at which the annual report is accepted, and that the notice giving details of the AGM date be released near the 14 day statutory notice period.

In response to these errors a revised administrative procedure has been created for ensuring public notification requirements are met in future.

Noting the requirement for a minimum 14 days' public notice, a revised AGM date of Thursday 24 February could be set, with public notice being given in the Manjimup Bridgetown Times on Wednesday 9 February 2022 and notices being placed on Shire notice boards. The advert for the AGM date will include advice that the annual report is available for viewing at the library and on the Shire website but a separate notice has been placed on Shire noticeboards, library noticeboard and sent to Greenbushes CRC for its noticeboard on 4 February 2022.

A news story (with related Facebook Post) will be uploaded to the Shire website in the week prior to the AGM explaining what the AGM is and the format of the AGM.

Thursday 24 February 2022 is also the meeting date for the February ordinary Council meeting and it is intended that that meeting would follow the conclusion of the AGM.

It is acknowledged that the holding of the meeting on 24 February 2022 will mean the AGM is held more than 56 days after Council accepted the annual report and annual financial statements for the year ending 30 June 2021. This will represent a technical breach of section 5.27 of the Local Government Act and may require self-reporting if a relevant question is contained in the Compliance Audit Return for 2022. The matter may also be formally noted by the auditor.

Statutory Environment

Local Government Act 1995

5.27. Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

Integrated Planning

- Strategic Community Plan
 - Outcome 14 Effective governance and financial management
 - Objective 14.1 Achieve excellence in organisational performance and service delivery
- Corporate Business Plan - Nil
- Long Term Financial Plan – Not applicable
- Asset Management Plans – Not applicable
- Workforce Plan – Not applicable
- Other Integrated Planning – Nil

Policy Implications - Nil

Budget Implications

Costs of approximately \$350 will be incurred for readvertising of the AGM and this can be met by existing budget allocations.

Whole of Life Accounting – Nil

Delegated Authority

Risk Management

There are no risk management implications associated with the officers recommendation as the financial and operational will be minimal and align with current risk management plans and practices.

Voting Requirements – Simple Majority

Council Decision Moved Cr Mountford, Seconded Cr Pratico

SpC.02/0222 That Council:

- 1. Endorse the decision made by the CEO in consultation with the Shire President and councillors to, at late notice, postpone the holding of the Annual General Meeting (AGM) of Electors on Thursday 3 February 2022 due to the discovery of administrative errors in providing public notice of that proposed meeting.**
- 2. Set a revised date for the holding of the Annual General Meeting (AGM) of Electors as 5.30pm, Thursday 24 February 2022 in the Council Chambers.**
- 3. Note that due to an administrative error in the public notice process for the originally scheduled date for holding of the AGM of Electors this meeting will now be held more than 56 days after it accepted the annual report for the 2020/21 financial year. This will represent a technical breach of section 5.27 of the Local Government Act.**

Carried 8/0

Matters Behind Closed Doors (Confidential Items) – Nil

Closure

The Presiding Member closed the meeting at 5.45pm.

List of Attachments – Nil

Minute papers checked and authorised by CEO, Mr T P Clynch		11.02.2022
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