



MINUTES

**For the Special Meeting of Council held on
Tuesday 22 February 2011
7.00 pm
City of Albany Council Chambers**

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1.0 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor declared the meeting open at 7.02pm.

ITEM 1.0: RESOLUTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR LEAVESLEY

SECONDED: COUNCILLOR DUFTY

1. **THAT Standing Order 3.1 be SUSPENDED to allow recording of proceedings.**
2. **THAT Standing Order 4.2(4) be SUSPENDED to allow CEO Faileen James to be seated on the Mayor's right hand side.**

**MOTION CARRIED 9-0
ABSOLUTE MAJORITY ACHIEVED**

2.0 OPENING PRAYER

The Mayor asked all present to be up standing and read the opening prayer.

“Heavenly Father, we thank you for the beauty and peace of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

3.0 PUBLIC QUESTION AND STATEMENT TIME

Council's Standing Orders Local Laws provide that each Ordinary Meeting of the Council shall make available a total allowance of 30 minutes, which may be extended at the discretion of Council, for residents in attendance in the public gallery to address clear and concise questions to His Worship the Mayor on matters relating to the operation and concerns of the municipality.

Each person who presented questions or made comments at the Open Forum were limited to a time period of four minutes to allow all those wishing to comment an opportunity to do so.

Mr Murray Field, Ratepayer, Middleton Beach 7:05 PM

Addressed the Council in opposition of proposed changes to wards and representation. Mr Field made the following points:

If City of Albany was a small shire he could understand a reduction; however as the City is a diverse environment that consists of marine, land and agriculture, coupled with a rapidly growing population the current number of wards and representatives should be retained.

Middleton Beach Esplanade Corner Site:

- Opposed to increasing residential component of this development site.
- Opposed to height restrictions.
- This is a commercial site, as such the Council needs to reconsider density and height restrictions if this site is to become viable for an international resort

Item 3.0 continued.

Mr Tony Harrison, Little Grove. 7:07 PM

Addressed Council in opposition of proposed changes to wards and representation and supported the status quo, being: 12 Councillors and current ward number and structure.

Tennis Courts at the Little Grove, South Coast Progress Association:

Requested Council endorsement and assistance in sourcing Royalties for Regions funding to upgrade the tennis courts at the Little Grove, South Coast Progress Association.

Mr Eric Wakes Wall, York Street:

Requested assistance in improving the look of Mr Eric Wake's Wall on York Street.

Suggested that public art (murals) could be applied to the wall and suggested that a project involving indigenous and non indigenous artists be investigated.

The Mayor responded that the Streetscape Committee is currently working on beautifying Mr Eric Wakes Wall.

Ms Juliet Albany. 7:11 PM

Addressed Council in opposition to recommended proposed changes to wards and representation and supported the status quo.

Ms Albany reminded Council that development control is a major activity and responsibility of the City and requested Council have another look at supporting "Third Party Appeal Rights", based on the following points:

- Planning control is undemocratic as the community voice has been effectively silenced by the removal of third party right of appeal; and
- The developer retains two rights of appeal, being:
 - The right to appeal a condition of approval.
 - The right to appeal a refusal.

Note: Third party rights allow parties, other than the applicant for permits and development to appeal the decisions of State and local government planning bodies.

Mr Michael Pemberton, Shorts Place. 7:13 PM

Mr Pemberton addressed Council in support of recommended changes to wards and representation.

The reasons given:

- Eight elected representatives and no ward boundaries would support the City in realising its full potential and satisfy the needs of the ratepayers, through:
 - Faith in democracy;
 - No boundaries on the future;
 - No boundaries placed on facilities;
 - No boundaries placed on progress; and
 - Supporting the election of the best eight people to do the job.

Ms Vera Anne Torr, Sussex Street. 7:15 PM

Ms Torr addressed Council in opposition of proposed changes to wards and representation and supported the status quo.

Ms Torr made the following points:

- Democracy gives people the right to vote;
- Lack of interest in government can be displayed by lack of attendance in the public gallery this evening (which is quite shameful);
- Respect those members of the public who made the effort in submitting a formal public submission; and
- Requested Council to weigh up their decision based on public submissions

The Mayor closed public questions and statement time at **7:17 PM**

**4.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)**

Mayor M J Evans JP

Councillors:

Breaksea Ward	R Hammond
Frederickstown Ward	D Wellington
Kalgan Ward	M Leavesley
Kalgan Ward	C Holden
Vancouver Ward	D Bostock
West Ward	D Wolfe
West Ward	D Dufty
Yakamia Ward	R Sutton

Staff:

Chief Executive Officer	F James
Executive Manager Business Governance	S Jamieson

Public Gallery and Media:

Nine members of the public were and two members of the media were in attendance.

Apologies/Leave of Absence:

Councillors:

Breaksea Ward	J Bostock
Vancouver Ward	R Paver
Yakamia Ward	J Matla
Frederickstown Ward	Vacant

Staff:

Executive Director Corporate & Community Services	WP Madigan
Executive Director Planning & Development Services	G Bride
Executive Director Works and Services	K Ketterer
Assistant Business Governance Officer	J Williamson

5.0 DECLARATION OF INTEREST

Nil

6.1: WARDS AND REPRESENTATION REVIEW

File Number (Name of Ward)	: GO.BOU.1(All Wards)
Disclosure of Interest	: Nil
Previous Reference	: OCM 14/12/10 Item 4.7 OCM 19/10/10 Item 4.10
Attachment	: Paper for Council Consideration of Wards and Representation 2011, including copies of public submissions, which includes: <ul style="list-style-type: none"> • OCM 18/08/09 and OCM 14/12/10 • Copies of summarised and assessed public submissions against options and original public submission forms • Proposed Ward Boundary Maps
Consulted References	: <i>Local Government Act 1995 (the Act)</i> Review of Wards and Representation: for local government with a ward system and local governments without a ward system, November 2008
Reporting Officer	: EM Business Governance (S Jamieson)
Responsible Officer	: Chief Executive Officer (F James)

IN BRIEF

- That Council endorses a recommendation to the Local Government Advisory Board (LGAB)

BACKGROUND

1. On 19 October 2010, Council resolved to reaffirm its previous decision to reduce the number of elected members from twelve, plus a popularly elected Mayor, to eight plus a popularly elected Mayor and authorised staff to commence the process of conducting a Ward and elected member review to ascertain the cause and effect of reducing the existing six wards to four with two elected representatives for each ward and a directly elected Mayor.
2. The Chief Executive Officer (Interim) Mr John Bonker, in consultation with the Local Government Advisory Board (LGAB), felt that even though Council resolved to reduce the existing six wards and the number of elected representatives, it was considered appropriate that other options should be considered and views from the public be sought.
3. On 14 December 2010, Council endorsed the options for consideration as detailed in the Paper (attached).
 - **Option 1.** Four wards with two elected representatives for each ward (eight councillors):
 - **Option 1A.** Description: Concentric circles radiating out from the City Centre.
 - **Option 1B.** Description: Corridors radiating out from the City Centre.
 - **Option 2.** Eight wards with one elected representative for each ward (eight councillors)
Description: Radiating out from City Centre.
 - **Option 3.** No wards with eight elected representatives (eight councillors)
Description: No Wards

- **Option 4.** Six wards with two elected representatives for each ward (twelve councillors)
Description: No change. Retain current ward structure and representation.
4. Statutory advertising commenced on 23 December 2010 with public submissions accepted up until 5pm on 8 February 2011.
 5. At the close of the submission period, 32 submissions had been received.
 6. Of those submissions three were from representative organisations, with members totalling over seven hundred in one case.

DISCUSSION

7. The LGAB requires to be advised of Council's decision by no later than the first week of March 2011 to comply with the WA Electoral Commission Timeline. The LGAB timeline is as follows:
 - 1 March 2011 Council submits a report to the LGAB for consideration;
 - End April 2011-The LGAB meets to discuss City's proposal and submits report to the Minister for Local Government ; and
 - End July 2011- If accepted by the Minister, the Minister will make a recommendation to the Governor for the making of the appropriate order.
8. It is recommended that Council review the assessment made against each public submission and assessment criteria, as detailed in the Officer's Report-Review of Wards and Representation.
9. A copy of the assessment is detailed in the Officer's Report.

Summary of Public Submissions

Supported Option	Ind. Returns	Org. Returns	Sub-Total
Option 1. Four (4) wards with 2 elected representatives for each ward (8 councillors)			
○ Option 1A. Description: Concentric circles radiating out from the City Centre.	0	0	0
○ Option 1B. Description: Corridors radiating out from the City Centre.	0	1	1
Option 2. Eight (8) wards with 1 elected representative for each ward (8 councillors)	0	0	0
Option 3. No wards with 8 elected representatives (8 councillors)	4	1	5
Option 4. Six (6) wards with 2 elected representatives for each ward (12 councillors)	20	2	22
<i>None of the Above</i>	4	0	4
Total Returns			32

Wards or No Wards	
Wards	27
No Wards	5
Total Returns	32

Item 6.1 continued.

10. Further information is detailed in the Officer's (Discussion Paper) attached report.

Reaching a decision

11. If Council proposes to maintain the status quo then reasons for this **must** be included in the resolution.
12. If the Council decides to make a change, then in accordance with s2.1(1)(b) of the *Local Government Act 1995* (The Act) an **absolute majority** is required.
13. If another option is recommended to the LGAB, Council will be required to determine:
- a. A full spill or a redistribution of Councillors positions; and
 - b. Ward Names.

STATUTORY IMPLICATIONS

14. The City of Albany has not received an order from the Governor to change the number of elected members or number of wards.
15. Schedule 2.2 of the Act, clause 5: Local government may propose ward changes or make minor Proposals: A local government may, whether or not it has received a submission:
- i. carry out a review of whether or not an order under section 2.2 (Districts may be divided into wards.), 2.3 (Names of districts and wards) or 2.18 (Fixing and changing the number of Councillors) should, in Council's opinion, be made;
 - ii. propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is:
 - (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited;
- or
- iii. propose* to the Minister the making of an order changing the name of the district or a ward.

* Absolute majority required.

16. Schedule 2.2 of the Act, clause 6 provides that a review of Ward Boundaries and the number of offices for councillor of each ward shall be undertaken at least once every eight years.
17. Section 2.2 of the Act – “**Districts may be divided into wards**” states that:
- (2) *The Governor, on the recommendation of the Minister, may make an order -*
 - (a) *dividing a district into wards;*
 - (b) *creating new wards in a district that is already divided into wards;*
 - (c) *changing the boundaries of a ward;*
 - (d) *abolishing any or all of the wards into which a district is divided; or*
 - (e) *as to a combination of any of those matters.*

Item 6.1 continued.

- (3) *For the purposes of this Act –
(a) An order that divides a district into wards is to be regarded as establishing a ward system for the district; and
(b) An order that abolishes all of the wards into which a district is divided and does not create new wards, is to be regarded as discontinuing the ward system for the district.*
- (4) *Schedule 2.2 (which deals with wards and representation) has effect.*
- (5) *The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.*

18. Section 2.3 of the Act – “**Names of districts and wards**” states that:

- (2) *An order under section 2.2 establishing a ward system for a district is to include an order naming the wards.*
- (3) *If a local government proposes under Schedule 2.2 that an order be made changing the name of the district or a ward, the Minister may recommend to the Governor that the order be made, and the Governor may make the order accordingly*
- (4) *The Minister can only make a recommendation under subsection (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.*

19. Section 2.18 of the Act – “**Fixing and changing the number of councillors**” states that:

- (2) *When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.*
- (3) *The Governor, on recommendation of the Minister, may make an order –
(a) changing the number of officers of councillor on a council;
(b) specifying or changing the number of offices of councillor for a ward;
or
(c) as to a combination of those matters.*
- (4) *The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.*

20. Schedule 2.2 of the Act, clause 9 “**Proposal by local government**”. On completing a review, the local government is to make a report in writing to the Advisory Board and may propose* to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit. * **Absolute majority required.**

POLICY IMPLICATIONS

21. There are some governance policy implications relating to this item which will be addressed as part of Council's Governance Policy Review.

FINANCIAL IMPLICATIONS

22. The financial implications of finalising the review process is minimal as it will be accommodated from within existing budgeted funds, and existing staff resources (General Management Services).
23. Staffing (FTE) – 8 hours (Approximately \$380).

Financial implications of a Ward System

Ward Structure	Councillor Vacancies	Mayor Vacancy	Estimate \$
6 Wards	6	1	86,000
6 Wards	6	1	67,000
6 Wards	12	1	92,000
4 Wards	2	1	57,000
4 Wards	8	1	85,000

Financial implications of a No Ward System

Ward Structure	Councillor Vacancies	Mayor Vacancy	Estimate \$	Remarks
District (No wards)	8	1	80,000	All councillor positions up for election
District (No wards)	4	1	78,000	LG ordinary election scenario, every two years
District (No wards)	1	0	60,000	Example cost for an extra ordinary election

Assumptions

- Number of electors in district 24,000
- Number of electors in proposed 4 wards approximately 6,000
- Non statutory advertising costs not included
- Cost estimates do not include any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- Cost estimates do not include one local government staff member to work in the polling place on election day
- Cost estimates to be confirmed upon confirmation of ward restructure

PUBLIC CONSULTATION

24. Local Public Notice was published in the Albany Weekender on 23 December 2010; giving 7.5 weeks' notice.
25. A public forum was held on Thursday 27 January 2011, which attracted twenty five members of the public.

CONCLUSION

26. Council must decide its position on this point, but if the Council decides to make a change, then an absolute majority is required. The resolution of Council must propose the making of an order under s2.2(1), s2.3(3) and/or s2.18(3) of The Act.

ITEM 6.1 ALTERNATE MOTIONS BY COUNCILLOR LEAVESLEY

RECEIVED: Monday, 21 Feb 2011 at 1.31pm.

ITEM 6.1 ALTERNATE MOTION 1 BY COUNCILLOR LEAVESLEY

That Council NOT REAFFIRM Council's previous decision to reduce the number of elected members from twelve Councillors and a popularly elected Mayor to eight Councillors and a popularly elected Mayor.

(MOTION WITHDRAWN BY COUNCILLOR LEAVESLEY)

Councillor's Reason:

On advice from the CEO, this motion may be considered a revocation of a previous Council decision, and as such has not met the notice requirements to revoke or change a previous decision, in accordance with clause 6.1(2) of the Standing Orders Local Law 2009 and section 5.25(1)(e) of the Act.

ITEM 6.1 ALTERNATE MOTION 2 BY COUNCILLOR LEAVESLEY

That Council:

- (i) In accordance with Schedule 2.2(9) of the *Local Government Act 1995* (the Act), recommends to the Local Government Advisory Board (LGAB) that the current elected member ward representation and ward boundaries remain in place.
- (ii) Undertakes another review of the wards and representation in three years time.

Councillor's Reason:

Council decided in December 2010 to conduct public consultation. The overwhelming response of the public submissions is to retain both the existing ward boundaries and 12 Councillors.

ITEM 6.1: ALTERNATE MOTION 2 BY COUNCILLOR LEAVESLEY

**MOVED: COUNCILLOR LEAVESLEY
SECONDED: COUNCILLOR D BOSTOCK**

That Council:

- (iii) In accordance with Schedule 2.2(9) of the *Local Government Act 1995* (the Act), recommends to the Local Government Advisory Board (LGAB) that the current elected member ward representation and ward boundaries remain in place.**
- (iv) Undertakes another review of the wards and representation in three years time.**

**LOST 5-4
DID NOT ACHIEVE
ABSOLUTE MAJORITY**

Record of vote:

For: Mayor Evans, Councillors Leavesley, D Bostock, Dufty and Wolfe
Against: Councillors Wellington, Hammond, Sutton, & Holden

The Responsible Officer's Recommendations were then put:

ITEM 6.1: RESPONSIBLE OFFICER RECOMMENDATION 1

**MOVED: COUNCILLOR WELLINGTON
SECONDED: COUNCILLOR HAMMOND**

- (i) Reaffirm Council's prior decision at the ordinary meeting of Council on 19/10/2010 to reduce the number of elected members from twelve with a popularly elected mayor, to eight with a popularly elected mayor.**
- (ii) The Local Government to undertake another review of wards and representation in three years time.**

MOTION LOST 3-6

Record of vote:

For: Councillors Wellington, Holden & Hammond.
Against: Mayor Evans, Councillors Sutton, Dufty, Wolfe, D Bostock, & Leavesley.

Mayor called for mover of the RESPONSIBLE OFFICER RECOMMENDATION 2.

Recommendation lapsed as a result of no mover.

CEO addressed Council on options to move forward and recommended Council adjourn the meeting under clause 7.1(b) of the Standing Orders Local Law 2009 in order to consider:

- (i) An alternate motion under Clause 3.6(1) of the Standing Orders, which allows for cases of urgency for an alternate motion to be admitted and discussed.
- (ii) Seeking another recommendation from the CEO.

ITEM 6.1 PROCEDURAL MOTION BY MAYOR EVANS

In accordance with clause 7.1(e) of the Standing Orders Local Law 2009, the Mayor moved a procedural motion that the meeting be now closed.

POINT OF CLARIFICATION BY COUNCILLOR D BOSTOCK

Councillor Bostock asked what the ramification would be if a recommendation is not made to the Minister (the Local Government Advisory Board).

Response: Executive Manager Business Governance stated that the status quo (the current number of wards, boundaries and elected representatives) would remain in place as the City is still within the eight year statutory review period.

ITEM 6.1: PROCEDURAL MOTION BY MAYOR EVANS

MOVED: MAYOR EVANS
SECONDED: COUNCILLOR SUTTON

THAT the meeting be now closed.

CARRIED 5-4

Record of Vote:

For: Mayor Evans, Councillors Sutton, Wolfe, D Bostock, and Leavesley.
Against: Councillors Holden, Wellington, Hammond and Dufty.

7.0 CLOSURE OF MEETING

ITEM 8.0: RESOLUTION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR WOLFE

THAT Council Resume Standing Order 3.1, to stop recording of proceedings.

CARRIED 9-0

The Mayor declared the meeting closed at **8.11 PM**.

Attachments:

- A. Tabled documents (Councillor D Bostock)
- B. Response to questions taken on notice at the public forum conduct on 27 Jan 11
- C. Paper for Council Consideration of Wards and Representation 2011 (Officer's Report)