



MINUTES

SPECIAL MEETING OF COUNCIL

**Held directly after the Annual General Meeting of Electors
which commenced at 7.00pm on
Thursday , 4th December 2008**

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1.0 DECLARATION OF OPENING

The Deputy Mayor declared the meeting open at 7.31pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Deputy Mayor (West Ward)

D Wolfe

Councillors:

Breaksea Ward	J Bostock
Breaksea Ward	D Wiseman
Frederickstown Ward	D Price
Frederickstown Ward	Vacant
Kalgan Ward	J Walker
Kalgan Ward	R Buegge
Vancouver Ward	Absent
Vancouver Ward	K Stanton
West Ward	Vacant
West Ward	D Wolfe
Yakamia Ward	J Matla
Yakamia Ward	G Kidman

Staff:

Chief Executive Officer	P Richards
Executive Director Corporate & Community Services	WP Madigan
Acting Executive Director Works & Services	P Brown
Executive Director Development Services	R Fenn
Corporate Governance Coordinator (Minutes)	S Jamieson

Public Gallery and Media:

1 media representative was in attendance and approximately 25 members of the public.

Apologies/Leave of Absence:

Elected Members

Mayor	MJ Evans, JP
Councillor (Vancouver Ward)	R Paver

3.0 OPENING PRAYER

As this meeting immediately followed the Annual General Meeting of Electors, the Deputy Mayor did not 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.”

4.0 PUBLIC QUESTION TIME

Council's Standing Orders Local Laws provide that each Special 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 business listed on the agenda.

Such questions should be submitted to the Chief Executive Officer, in writing, no later than 10.00am on the last working day preceding the meeting (the Chief Executive Officer shall make copies of such questions available to Members) but questions may be submitted without notice.

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

The Deputy Mayor asked the Public Gallery if there was anyone who would like to address Council.

No members of the public requested to address Council.

5.0 REPORTS

ITEM NUMBER: 5.1

ITEM TITLE: APPOINT THE WESTERN AUSTRALIAN ELECTORAL COMMISSION TO CONDUCT ORDINARY AND EXTRAORDINARY ELECTIONS

THE NATURE OF COUNCIL'S ROLE IN THIS MATTER:

Executive Function: Council setting strategic direction and overseeing the operational functions of the City.

File Number or Name of Ward	:	MAN 016 (All Wards)
Summary of Key Points	:	Agree to conduct the extraordinary election and ordinary elections by postal vote. Confirm the proposed extraordinary election schedule for West and Frederickstown Ward.
Proponent	:	City of Albany
Reporting Officer(s)	:	Corporate Governance Coordinator (S Jamieson)
Disclosure of Interest	:	Nil
Previous Reference	:	OCM 18/11/08 Item 18.1 OCM 15/06/06 Item 12.2.1 OCM 20/02/07 Item 14.4.1
Bulletin Attachment(s)	:	Nil

BACKGROUND

1. As a result of Councillor Williams resigning on Wednesday 26th November 2008, there is a legislative requirement to conduct an additional extra-ordinary election for West ward.
2. At the 18/11/08 Ordinary Council Meeting Council declared the Electoral Commissioner be responsible for the conduct of the extraordinary Election for Frederickstown ward and decided to conduct the extra-ordinary election to be conducted by postal election.
3. The current procedure required by the Local Government Act 1995 is that written agreement of the Electoral Commissioner has to be obtained before the vote is taken.
4. This agreement is subject to the proviso that the City of Albany also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.
5. In order to achieve this following the two motions need to be passed by a by absolute majority:

Item 5.1 continued.

- a. **Declare**, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
- b. **Decide**, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election

DISCUSSION

6. The Electoral Commissioner is responsible for conducting postal elections in Western Australia and conducts elections on request under the Local Government Act 1995.
7. By making the Electoral Commissioner responsible for these elections, the City of Albany can ensure that the election is conducted independently and with impartiality.
8. Postal elections are more convenient for electors and typically achieve a higher rate of voter participation.
9. Advantages for Local Government to have the election conducted by the WAEC:
 - a. Ensures that all statutory requirements are fulfilled, noting that it is not the core business of the CEO to run elections.
 - b. A full election report (including statistics) is prepared by the Electoral Commission for presentation to Council.
 - c. The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner.
 - d. Materials and equipment used in the processes meet contemporary electoral standards.

PUBLIC CONSULTATION / ENGAGEMENT

10. There is no requirement to conduct public consultation for this item.

GOVERNMENT CONSULTATION

11. The Corporate Governance Coordinator contacted the WAEC to ascertain the election process time line and requested an amendment to the original request to include an extraordinary election for West ward.

Item 5.1 continued.

12. Based on the suggested polling date of Saturday 28th February 2009, so that both extraordinary elections could be undertaken on the same day, Wednesday 10th December 2008 is the last day for agreement by the Electoral Commissioner to conduct the postal election.

STATUTORY IMPLICATIONS

13. Following consultation with the Deputy Mayor, it was agreed to nominate the Electoral Commissioner to conduct the postal election, and seek endorsement of council for this action.
14. Section 4.61 of the Local Government Act 1995, states in part as follows:

“4.61. Choice of methods of conducting the election

(1) The election can be conducted as a —

“postal election” which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

“voting in person election” which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(2) The local government may decide to conduct the election as a postal election.*

** Absolute majority required.*

15. Section 4.20 (4) of the Act states as follows:

(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

**Absolute majority required.’*

16. Section 4 of the Act states as follows:

“4.8. Extraordinary elections

(1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 or 2.33 an election to fill the office is to be held.

(2) An election is also to be held under this section if section 4.57 or 4.58 so requires.

(3) An election under this section is called an "extraordinary election"

Item 5.1 continued.

“4.9. Election day for extraordinary election

(1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed -
(a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or

(b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).

(2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.1 O (b) applies, it cannot be later than 4 months after the vacancy occurs.

(3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to -

(a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and

(b) advise the CEO of the day fixed.

FINANCIAL IMPLICATIONS

17. The additional cost of running the extra ordinary election will be approximately \$10,500 dollars.
18. The total cost for running a postal election for both the Frederickstown and West Wards was quoted by the WAEC as \$23,500.
19. The cost of running the additional extraordinary election for both wards has not been budgeted for.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

20. This item directly relates to the following elements from the Albany Insight ~ Beyond 2020 Corporate Plan:

“Community Vision:

Nil

Priority Goals and Objectives:

Goal 4: Governance ... The City of Albany will be an industry leader in good governance and service delivery.

City of Albany Mission Statement:

At the City of Albany we are results driven and accountable. We provide best value in applying council and community resources, and we apply Council funds carefully.”

Item 5.1 continued.

POLICY IMPLICATIONS

21. There are no policy implications related to this item; however there is a legislative requirement.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

22. **Option One.** "postal election" which is an election at which the method of casting votes is to be posting or delivering them to an electoral officer on or before election day; or
23. **Option Two.** "voting in person election" which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
24. The preferred option is Option One as:
 - a. The running of elections is not the core business of the Chief Executive Officer; and
 - b. Having the elections run by the WAEC will ensure statutory compliance is met.

SUMMARY CONCLUSION

25. The proposed polling date, Saturday 28th February 2009, for the extraordinary Election Day allows enough time for the electoral requirements to be complied.
26. A postal election is the preferred option.

Item 5.1 continued.

ITEM NUMBER – 5.1 OFFICER RECOMMENDATION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED COUNCILLOR PRICE

SECONDED COUNCILLOR MATLA

THAT Council:

- i) **DECLARE**, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of extraordinary and ordinary elections up to and including the 17th October 2009; and
- ii) **DECIDE**, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the elections during this period will be a postal elections;
- iii) **ALLOCATE** \$25,500 to conduct the extra ordinary election and that this amount is subject to the next quarterly review;
- iv) **CONFIRM** the suggested polling date is Saturday 28th February 2009; and
- v) **ENDORSE** the actions of the Chief Executive Officer in nominating the Electoral Commissioner to conduct the postal election.

**MOTION CARRIED 9-0
ABSOLUTE MAJORITY**

Item 5.1 continued.

Correspondence from the WAEC:

-----Original Message-----

From: Garry Hawkes [mailto:Garry.Hawkes@waec.wa.gov.au];

Sent: 24/11/2008 1:55:35 PM

To: Stuart Jamieson [mailto:stuartj@albany.wa.gov.au]; Peter Madigan [mailto:peterm@albany.wa.gov.au];

CC: Rae Batten [mailto:raeb@albany.wa.gov.au]; Stan Goodman

[mailto:stang@albany.wa.gov.au]; Phillip Richards [mailto:Phillip.Richards@waec.wa.gov.au];

Subject: RE: Request for Amendment to City of Albany Extraordinary Election scheduled polling date 28 Feb 09.

Hi Peter and Stuart

The updated quote for both the Frederickstown and West ward is \$23,500. Council will need to pass the following motions for the West ward:

1. declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and
2. decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the extraordinary election will be as a postal election.

A formal letter is following.

Please find attached the election timetable.

Regards

Garry Hawkes
Senior Project Officer, Local Government Operations
WESTERN AUSTRALIAN Electoral Commission
Level 2, 111 St Georges Terrace
Perth Western Australia 6000
Phone: (08) 9214 0422 Fax: (08) 9214 0479
Mobile: 0404 813 204

Item 5.1 continued.

ELECTION TIMETABLE
City of Albany - Frederickstown and West Wards
Local Government Extraordinary Election 28/2/2009

DT

Days to Polling Day	Local Government Act	References to Act/Regs	Day	Date
80	Last day for agreement of Electoral Commissioner to conduct postal election.	LGA 4.20 (2)(3)(4)	Wed	10/12/2008
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Wed	10/12/2008
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Sat	20/12/2008
70	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments.	LGA 4.39(2)	Sat	20/12/2008
to 56	Preferred date Wednesday 24 December 2008		to Sat	to 3/01/2009
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day.	LGA 4.47(1)	Sat	3/01/2009
	Preferred date Wednesday 7 January 2009			
50	Close roll 5.00pm	LGA 4.39(1)	Fri	9/01/2009
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Wed	14/01/2009
44	Nominations Open First day for candidates to lodge completed nomination paper, in the prescribed form, with the Returning Officer. Nominations period is open for 8 days.	LGA 4.49(a)	Thu	15/01/2009
38	If a candidate's nomination is withdrawn not later than 4pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Wed	21/01/2009
37	Close of Nominations 4.00pm on the 37th day before election day.	LGA 4.49(a)	Thu	22/01/2009
36	CEO to prepare an owners' & occupiers' roll for the election. Electoral Commissioner to prepare residents' roll.	LGA 4.41(1) LGA 4.40(2)	Fri	23/01/2009
22	Lodgement of election packages with Australia Post.	Approx	Fri	6/02/2009
19	Last day for the Returning Officer to give Statewide public notice of the election.	LGA 4.64(1)	Mon	9/02/2009
	Preferred date Wednesday 28 January 2009			
3	Commence processing returned election packages	Approx	Wed	25/02/2009
0	Polling Day Close of poll 6.00pm	LGA 4.7	Sat	28/02/2009

Post Polling Day	Post Declaration	References to Act/Regs	Date
4	Public Notice of the result.	LGA 4.77	4/03/2009
14	Report to Minister. The report relating to an election under section 4.79 is to be provided to the Minister within 14 days after the declaration of the result of the election.	Reg.81	14/03/2009
28	An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.	LGA 4.81(1)	28/03/2009

6.0 GENERAL BUSINESS

Nil

7.0 CLOSURE OF MEETING

There being no further business the Mayor declared the meeting closed at 7.32pm.

Confirmed as a true and correct record of proceedings.

D Wolfe
Deputy Mayor