



**Shire of Derby /
West Kimberley**

CONFIRMED MINUTES

**Special Council Meeting
Monday, 23 October 2023**

Date: Monday, 23 October 2023

Time: 4:30 PM

**Location: Council Chambers
Clarendon Street
Derby**



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Peta Smallshaw, Justice of the Peace begun conducting declarations with President and Council Members at 4:29pm.

1 DECLARATIONS

1.1 SWEARING IN OF PRESIDENT

File Number: 4285

Author: Neil Hartley, Director - Strategic Business

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

The office of President is elected at large as part of the biennial election for the Shire, however the successful candidate must be sworn in before they can act in the role, which has a four-year term of office. This needs to occur prior to the official commencement of the Special Council Meeting.

The President of the Council will take an oath and be sworn in before Justice of the Peace, Peta Smallshaw.

BACKGROUND

For the first time at the Shire of Derby/West Kimberley, the office of President was elected at large as part of the 2023 biennial election for the Shire. As a "Tier 2" local government in Western Australia, and until the State Government via the Local Government Act decides otherwise, this will be the model for future elections for this position.

The term of office of President begins when the member is elected (noting however that a Council Member cannot act in that capacity until being sworn in) and ends when the President resigns from office, does not make the required declaration of office within two months after being declared elected to that office, or when the position of President is next elected at or after the next ordinary elections. The President when elected at large is not a Councillor, so is addressed as Mr/Mrs, not Cr. as has historically been the case.

Justice of the Peace, Peta Smallshaw will officiate, following which the President will officially take up the position of President, and presiding member for this and future Council meetings.

STATUTORY ENVIRONMENT

Local Government Act S. 2.29 (Declaration) requires that a person elected as president or as a Council Member has to make a declaration in the prescribed form before acting in the office.

ATTACHMENTS

Nil

Mr Peter McCumstie, having read aloud and signed the Declaration required under the Local Government Act 1995, was formally sworn in as President before Justice of the Peace, Peta Smallshaw.

1.2 SWEARING IN/DECLARATION BY COUNCIL MEMBERS

File Number: 4252

Author: Neil Hartley, Director - Strategic Business

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

All newly elected Council Members are required to undertake a declaration to office and this will occur before Justice of the Peace, Peta Smallshaw. This needs to occur prior to the official commencement of the Special Council Meeting.

BACKGROUND

Each successful candidate of the election is required to make a declaration before they can act in the capacity of a Council Member; or as the council elected Deputy President. This is generally called a "swearing in" ceremony and takes place at a Special Council Meeting following closely after the election.

The declaration of office is a document that states the Council Member will faithfully perform their duties and will adhere to the principles and rules established by the Shire's Code of Conduct.

All newly elected Council Members are required to undertake a declaration to office in accordance with the requirements of Section 2.29 of the Local Government Act 1995, regulation 13 of the Local Government (Constitution) Regulations 1998 and the Oaths, Affidavits and Statutory Declarations Act 2005. This needs to occur prior to the official commencement of the Special Council Meeting in order to have successful candidates sworn in as Council Members, and then able to establish a quorum to sit as a Council.

In accordance with previous precedents the swearing in will be witnessed by Justice of the Peace, Peta Smallshaw.

The prescribed form will be provided to Council Members by the Chief Executive Officer at the Council meeting.

Newly elected Council Members will undertake their declaration in alphabetical order.

STATUTORY ENVIRONMENT

Local Government Act S. 2.29 (Declaration) requires that a person elected as president or as a Council Member has to make a declaration in the prescribed form before acting in the office.

ATTACHMENTS

1. Declaration by Council Members

The following elected Council Members read aloud and signed the Declaration required under *the Local Government Act 1995*, and were formally sworn in, witnessed by Justice of the Peace, Peta Smallshaw:

1. Cr Brett Angwin;
2. Cr Paul Bickerton;
3. Cr Brian Ellison;
4. Cr Wayne Foley;
5. Cr Kerrissa O'Meara; and
6. Cr Andrew Twaddle.



Form 7.

Declaration by elected member of Council [r. 13(1)(c)]

Local Government Act 1995
Local Government (Constitution) Regulations 1998

Declaration by Elected Member

I, _____ of (1) _____,
having been elected to the office of Councillor of the SHIRE OF DERBY/WEST KIMBERLEY, declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the code of conduct adopted by the Shire of Derby/West Kimberley under section 5.104 of the *Local Government Act 1995*.

Declared at: _____ on _____

By: _____

Before me: _____

(1) Insert your residential address.

Derby

(08) 9191 0999 | 30 Loch Street
sdwk@sdwk.wa.gov.au | PO Box 94, Derby WA 6728

Fitzroy Crossing

(08) 9191 5355 | Flynn Drive
sdwk@sdwk.wa.gov.au | PO Box 101, Fitzroy Crossing

ABN: 99 934 203 062

www.sdwk.wa.gov.au

At 4:42pm.

**MINUTES OF SHIRE OF DERBY / WEST KIMBERLEY
SPECIAL COUNCIL MEETING
HELD AT THE COUNCIL CHAMBERS, CLARENDON STREET, DERBY
ON MONDAY, 23 OCTOBER 2023 AT 4:30 PM**

PRESENT: Mr Peter McCumstie (President), Cr Geoff Haerewa, Cr Andrew Twaddle, Cr Wayne Foley, Cr Brian Ellison, Cr Kerrissa O'Meara, Cr Brett Angwin and Cr Paul Bickerton.

IN ATTENDANCE: Neil Hartley (Acting CEO / Director of Strategic Business), Tamara Clarkson (Deputy Chief Executive Officer), Wayne Neate (Director Technical and Development Services), Christie Mildenhall (Acting Director of Community Services), Mark Davis (Sarah Smith (Executive Services Coordinator), Maria O'Connell (Media Officer), Noelene Bain (Executive Services Project Officer), Shane Edwards (Manager of Community Development), Kylie Hartley (Media and Communications Advisor) and Bob Hoogland (Manager of Corporate Services).

VISITORS: Kristen Campbell, Erica Morgan, Brianna Taylor-Ellison and Paul White.

GALLERY: Nil

APOLOGIES: Cr Geoff Davis.

APPROVED LEAVE OF ABSENCE: Nil

ABSENT: Nil

2 DECLARATION OF OPENING, ANNOUNCEMENTS OF VISITORS

The meeting was opened at 4:44pm by Mr Peter McCumstie (President).

3 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

A Council Member may attend council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings they have attended in total, in any rolling 12 months prior period. Authorisation can only be provided if the location and the equipment to be used by the Council Member are suitable to enable effective, and where necessary confidential, engagement in the meeting's deliberations and communications.

- Nil.

4 DISCLOSURE OF INTERESTS

4.1 Declaration of Financial Interests

- Nil.

4.2 Declaration of Proximity Interests

- Nil.

4.3 Declaration of Impartiality Interests

- Nil.

5 APPLICATIONS FOR LEAVE OF ABSENCE

- Nil.

6 PUBLIC TIME

6.1 Public Question Time

- Nil.

6.2 Public Statements

- Nil.

7 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

- Nil.

8 REPORTS

8.1 ELECTION AND SWEARING IN OF DEPUTY PRESIDENT

File Number: 4285

Author: Neil Hartley, Director - Strategic Business

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Executive

SUMMARY

The Deputy President of the Council is elected for a two-year term of office and will take an oath and be sworn in before Justice of the Peace, Peta Smallshaw.

BACKGROUND

Schedule 2.3, Division 2 of the Local Government Act 1995 sets out an acceptable procedure to follow. The election is to be conducted in accordance with the procedure prescribed by the President as the first matter dealt with (vis. following the swearing in of the President - being a position elected by electors as part of the biennial election; and the Elected Members).

The Chief Executive Officer will act as the Returning Officer for this election. Nominations for the office are to be received in writing by the Returning Officer/CEO before the meeting, or during the meeting before the time (which will be announced by the Returning Officer/CEO) for the close of nominations.

Council Members are to vote on the matter by secret ballot as if they were electors voting at an election. The votes cast are to be counted, and the successful candidate determined in accordance with Schedule 4.1. That is, using the "optional preferential" counting system, which is exactly the same as how the votes were counted after the biennial election for Council Members (and would also have been for the President had there been more than one nomination).

The Returning Officer/CEO is to declare and give notice of the result in accordance with regulation 11F of the *Local Government (Constitution) Regulations 1998*.

Swearing in of Deputy Shire President - The same procedure as for Item 'swearing in of President' applies. Justice of the Peace, Peta Smallshaw will officiate.

Note: If, when the votes cast are counted, there is an equality of votes between two or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than seven days later, a special meeting of the council is to be held. Should this occur, it is intended to adjourn the meeting for a short period of time (10 to 20 minutes as declared by the President at the meeting) to enable the President to consider when a Special Council Meeting ought to be scheduled, and then resume the meeting. At this Special Council Meeting, any nomination for the office may be withdrawn, and further nominations may be made, before Council Members again vote.

ATTACHMENTS

Nil

The Returning Officer/CEO called for nominations in writing for the position of Deputy Shire President. At the close of nominations, the following nomination was received:

1. Cr Haerewa nominated in writing to the Returning Officer.

The Returning Officer/CEO declared Cr Haerewa elected as Deputy Shire President for the next two year period (to conclude at the start of the first meeting of the council after the local government's next ordinary elections).

Cr Haerewa having read aloud and signed the Declaration required under the Local Government Act 1995, was formally sworn in as Deputy Shire President before Justice of the Peace, Peta Smallshaw.

***Note:* Notice of the result will be provided in accordance with regulation 11F of the Local Government (Constitution) Regulations 1998.**

8.2 BALLOT FOR SEATING ORDER FOR COUNCIL MEMBERS

File Number: 4252

Author: Neil Hartley, Director - Strategic Business

Responsible Officer: Amanda Dexter, Chief Executive Officer

Authority/Discretion: Administrative

SUMMARY

Consistent with the Shire's Standing Orders Local Laws, and as has historically occurred following past elections, a ballot will be conducted by the Chief Executive Officer for the order of seating of Council Members in the Chambers.

This report is to endorse the seating position for the Deputy President and the balloted seat positions for individual Council Members.

DISCLOSURE OF ANY INTEREST

Nil applicable.

BACKGROUND

The President, Deputy President (by historic convention), Chief Executive Officer, Shire Staff and Minute Taker all have pre-assigned seats. Seating for remaining Council Members are numbered as Elected Member 3 – 9. As has historically occurred following past elections, a ballot has been conducted by the Chief Executive Officer for the order of seating of these Council Members in the Chamber.

The President will invite Council Members to take their seats after the ballot.

Please see attached plan of Council Chamber seating arrangements.

STATUTORY ENVIRONMENT

Shire of Derby/West Kimberley Standing Orders clause 8.2 (Members to Occupy Own Seats) outlines that at the first meeting after each ordinary elections, the CEO is to allot by random draw, a position at the Council table to each Council Member. Council Members are to occupy that seat at Council Meetings until Council resolves otherwise.

POLICY IMPLICATIONS

Nil applicable.

FINANCIAL IMPLICATIONS

Nil applicable.

STRATEGIC IMPLICATIONS

GOAL	OUR PRIORITIES	WE WILL
1. Leadership and Governance	1.2 Capable, inclusive and effective organisation	1.2.1 Provide strong civic leadership

RISK MANAGEMENT CONSIDERATIONS

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: Non-compliance with the Shire's Standing Orders can result in a breach of the Code of Conduct.	Rare	Moderate	Low	Council Members to comply with ballot draw
Reputation: Non-compliance with the Shire's Standing Orders could result in negative media.	Rare	Moderate	Low	Council Members to comply with ballot draw

CONSULTATION

The process is consistent with the Shire's Standing Orders. There is no community consultation necessary on this occasion.

COMMENT

Nil applicable.

VOTING REQUIREMENT

Simple majority

ATTACHMENTS

- Council Chamber Seating Plan**

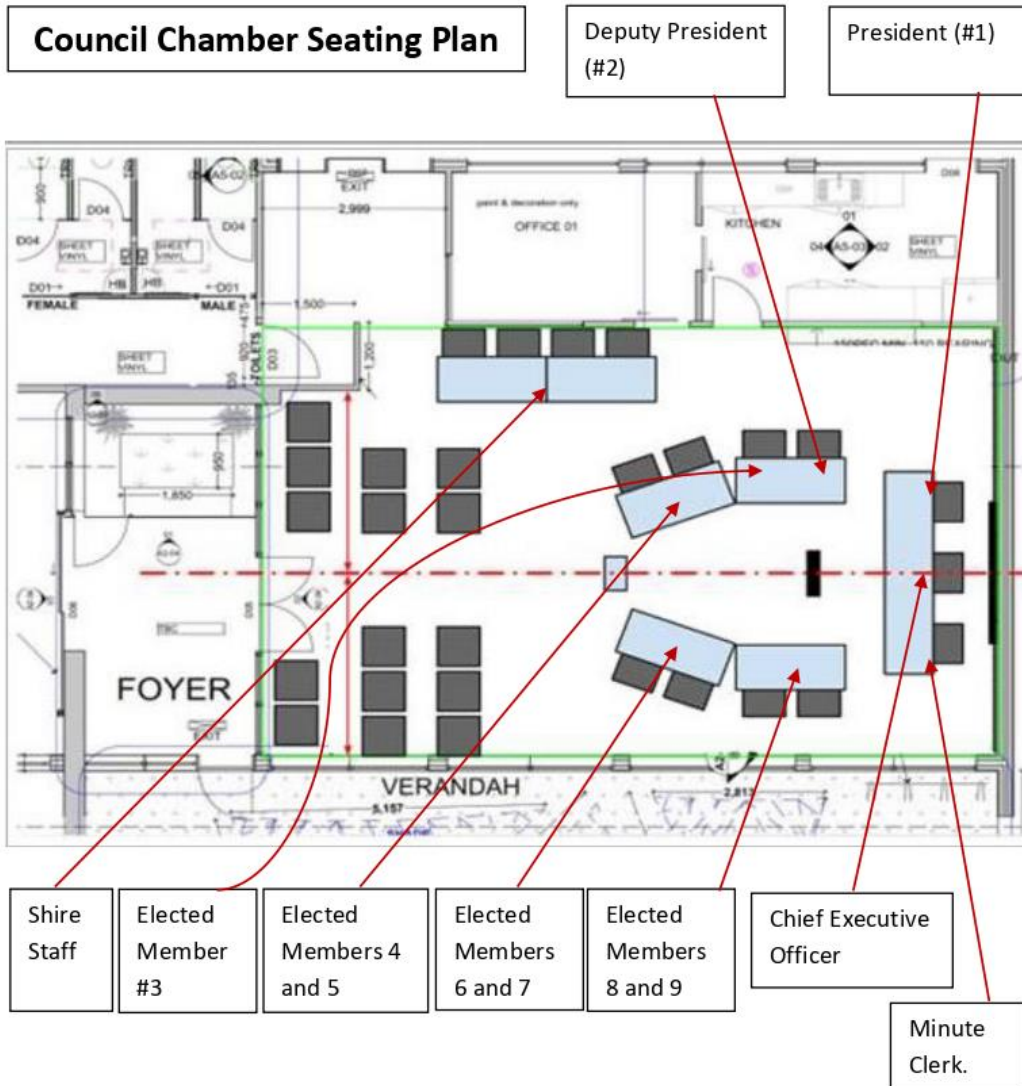
RESOLUTION 116/23**Moved: Cr Andrew Twaddle****Seconded: Cr Brett Angwin****THAT COUNCIL:**

- 1. Endorsed the Council Chamber seating positioning for the President; Deputy President, Chief Executive Officer and other Shire Officers;**
- 2. Notes the order of Seating Ballots drawn for individual Council Members; and**
- 3. Endorses the seating positions as follows:**
 - (a) EM3 Seat: Cr Brian Ellison;**
 - (b) EM4 Seat: Cr Paul Bickerton;**
 - (c) EM5 Seat: Cr Geoff Davis;**
 - (d) EM6 Seat: Cr Brett Angwin;**
 - (e) EM7 Seat: Cr Kerrissa O'Meara;**
 - (f) EM8 Seat: Cr Wayne Foley; and**
 - (g) EM9 Seat: Cr Andrew Twaddle.**

In Favour: Crs Geoff Haerewa, Andrew Twaddle, Peter McCumstie, Wayne Foley, Brian Ellison, Kerrissa O'Meara, Brett Angwin and Paul Bickerton

Against: Nil

CARRIED 8/0



9 NEW BUSINESS OF AN URGENT NATURE

10 CLOSURE

10.1 Date of Next Meeting

The next ordinary meeting of Council will be held Thursday, 26 October 2023 at 5:30pm in the Council Chambers, Clarendon Street, Derby.

10.2 Closure of Meeting

The Presiding Member closed the meeting at 5:04pm.

These minutes were confirmed at a meeting on

26 October 2023
.....

Signed:



Presiding Person at the meeting at which these minutes were confirmed.

Date: 26 October 2023
.....