



SHIRE OF JERRAMUNGUP

SPECIAL COUNCIL MEETING

To the President and Councillors

Please be advised that a Special Meeting of the Council of the Shire of Jerramungup is to be held on

Wednesday, 25 October 2023

At the Council Chambers,
8 Vasey Street, Jerramungup
Commencing at 12.00 noon

Council Meeting Procedures

1. All Council meetings are open to the public, except for matters raised by Council under “confidential items”.
2. Members of the public may ask a question at an ordinary Council meeting under “public question time”.
3. Members of the public who are unfamiliar with meeting procedures are invited to seek advice at the meeting. If unsure about proceeding, just raise your hand when the presiding member announces public question time.
4. All other arrangements are in accordance with the Council’s Code of Conduct, policies and decisions of the Shire.

Martin Cuthbert

CHIEF EXECUTIVE OFFICER

19 October 2023

AGENDA

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Shire of Jerramungup
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Wednesday 25 October 2023

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ORDINARY COUNCIL MEETING AGENDA

1.0 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS

The meeting was opened atpm by the Chief Executive Officer.

Note: As this is the first meeting following the expiration of the current councillor term of office at the ordinary election on 21 October 2023, the *Local Government Act 1995* provides that the Chief Executive Officer will preside over the opening of the meeting and conduct the election for the Office of the Shire President.

2.0 RECORD OF ATTENDANCE

2.1 ATTENDANCE

ELECTED MEMBERS:

STAFF:

VISITORS:

GALLERY:

2.2 APOLOGIES

2.3 APPROVED LEAVE OF ABSENCE

2.4 ABSENT

2.5 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected 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.

An Elected 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 an Elected Member to speak, the extent of the interest must also be stated.

2.5.1 DECLARATIONS OF FINANCIAL INTERESTS

2.5.2 DECLARATIONS OF PROXIMITY INTERESTS

2.5.3 DECLARATIONS OF IMPARTIALITY INTERESTS

3.0 APPLICATIONS FOR LEAVE OF ABSENCE

4.0 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the *Local Government (Administration) Regulations 1996* Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by Absolute Majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

5.0 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

6.0 PUBLIC TIME

6.1 PUBLIC QUESTION TIME

6.2 PETITIONS, DEPUTATIONS, PRESENTATIONS AND SUBMISSIONS

7.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil.

8.0 REPORTS

8.1 ELECTION AND SWEARING IN OF SHIRE PRESIDENT

Location/Address:	Shire of Jerramungup
Name of Applicant:	Shire of Jerramungup
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	18 October 2023
Attachments:	Nil
Authority/Discretion:	Executive

SUMMARY:

To elect the President of the Council for the following two (2) year term of office.

The procedure for electing a Shire President is set out in schedule 2.3, division 1, of the *Local Government Act 1995*. The election is to be conducted as the first matter at the first meeting of the Council following an ordinary election.

The Chief Executive Officer will act as the Returning Officer for this election if required.

Nominations for the office are to be received in writing to the Chief Executive Officer before the meeting, or during the meeting before the close of nominations. Nominations close at the meeting at a time announced by the Chief Executive Officer.

The Chief Executive Officer will call for nominations for Shire President.

Councillors 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.

If two or more candidates receive the same number of votes, so that no candidate has the greatest number of votes, the count is to be discontinued and the meeting is to be adjourned for not more than seven days. Should this occur, it is intended to initially adjourn the meeting for ten minutes, and then resume the meeting. Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes. When the meeting resumes the Councillors are to vote again.

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

Swearing in of Shire President

The same procedure as for Item 'Swearing in/Declaration of Elected Members' applies. Chief Executive Officer, Mr Martin Cuthbert to officiate.

The Shire President will now take up the position of presiding member for the meeting.

BACKGROUND:

The ballot for President will be undertaken using the preferential voting system with the Chief Executive Officer being the Returning Officer. The winner will be declared elected to the position of President for a two-year term and will be required to read (and sign) a form titled Declaration for the Office of President (Electoral Form 7) in accordance with regulation 13(1)(c) of the *Local Government (Constitution) Regulations 1998*.

CONSULTATION:

Department of Local Government, Sport and Cultural Industries.

COMMENT:

The term of office of the President begins when they are elected and ends when they resign or are next elected at or after the next ordinary election – usually every two years.

STATUTORY ENVIRONMENT:

Oaths, Affidavits and Statutory Declarations Act 2005

Local Government (Elections) Regulations 1997

Local Government (Constitution) Regulations 1998 reg 13(1) and Form 7

Local Government Act 1995

2.8. Role of mayor or president

(1) *The mayor or president —*

- (a) *presides at meetings in accordance with this Act; and*
- (b) *provides leadership and guidance to the community in the district; and*
- (c) *carries out civic and ceremonial duties on behalf of the local government; and*
- (d) *speaks on behalf of the local government; and*
- (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- (f) *liaises with the CEO on the local government's affairs and the performance of its functions.*

(2) *Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.*

Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council***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.*

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.*

If required the ballot for President will be undertaken using the preferential voting system with the CEO being the Returning Officer.

The winner will be declared elected to the position of President for a two-year term and will be required to read (and sign) a form titled Declaration for the Office of President (Electoral Form 7) in accordance with regulation 13(1)(c) of the *Local Government (Constitution) Regulations 1998*.

STRATEGIC IMPLICATIONS:

This item relates to the following component from the Shire of Jerramungup Community Plan 2021 - 2031; Prove informed and transparent decision making that meets our legal obligations, and the needs of our diverse community.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications for this report.

WORKFORCE IMPLICATIONS:

There are no additional workforce implications as a result of this item.

POLICY IMPLICATIONS:

Policy implications do not apply to this report and it is the opinion of the author that policy development is not required.

The Chief Executive Officer to call for nominations in writing for the position of Shire President.

The following candidates were nominated:

1. Cr _____ nominated in writing by Cr _____
2. Cr _____ nominated in writing by Cr _____

Ballot papers to be drawn. The meeting was adjourned at (time) to prepare the ballot papers and resumed at (time).

If required, a vote will be conducted by secret ballot with the Chief Executive Officer as the Returning Officer.

The Chief Executive Officer declared Cr _____ elected as Shire President for a period of two years. Vote x/x.

Cr _____ having read aloud and signed the Declaration required under the *Local Government Act 1995*, was formally sworn in as Shire President before Rex Parsons JP.

Form 7

DECLARATION BY ELECTED MEMBER

I,

of ¹, having been elected to the office of Shire President of the Shire of Jerramungup 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 Jerramungup under section 5.104 of the *Local Government Act 1995*.

Declared at: Council Chambers, 8 Vasey Street, Jerramungup on: Wednesday 25 October 2023

By:

Before me:

Rex Parsons, Justice of the Peace

¹ Insert your residential address.

Local Government Act 1995

Local Government (Constitution) Regulations 1998

DECLARATION OF RESULT

Cr _____ was elected to the role of President for a term of two years.

Having been elected as President, read aloud and signed the Declaration required under the *Local Government Act 1995*, to be formally sworn in as Shire President before Rex Parsons JP, Cr _____, took over the role of chair from the Chief Executive Officer and presided over the rest of the meeting.

8.2 ELECTION AND SWEARING IN OF DEPUTY SHIRE PRESIDENT

Location/Address:	Shire of Jerramungup
Name of Applicant:	Shire of Jerramungup
File Reference:	
Author:	Martin Cuthbert, Chief Executive Officer
Responsible Officer:	Martin Cuthbert, Chief Executive Officer
Disclosure of any Interest:	Nil
Date of Report:	18 October 2023
Attachments:	Nil
Authority/Discretion:	Executive

SUMMARY:

To elect the Deputy President of the Council for the following two (2) year term of office.

The Shire President is to determine the procedure for electing the Deputy Shire President. However, schedule 2.3, division 2 of the *Local Government Act 1995* sets out a procedure, which is essentially the same as that for electing the Shire President. The election is to be conducted as the next matter following the election of the Shire President, at the first meeting of the Council after an ordinary election.

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

The Shire President will call for nominations for Deputy Shire President.

Councillors 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.

If two or more candidates receive the same number of votes, so that no candidate has the greatest number of votes, the count is to be discontinued and the meeting is to be adjourned for not more than seven days. Should this occur, it is intended to initially adjourn the meeting for ten minutes, and then resume the meeting. Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes. When the meeting resumes the councillors are to vote again.

The Shire President 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 'Election and Swearing in of Shire President' applies. Chief Executive Officer, Mr Martin Cuthbert will officiate.

CONSULTATION:

Department of Local Government, Sport and Cultural Industries.

STATUTORY ENVIRONMENT:

Oaths, Affidavits and Statutory Declarations Act 2005

Local Government (Elections) Regulations 1997

Local Government (Constitution) Regulations 1998 reg 13(1) and Form 7

Local Government Act 1995

Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council

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 council elects 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.*

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.

The Shire President called for nominations in writing for the position of Deputy Shire President.

The following candidates were nominated:

1. Cr _____ nominated in writing by Cr _____
2. Cr _____ nominated in writing by Cr _____

Ballot papers to be drawn. The meeting was adjourned at (time) to prepare the ballot papers and resumed at (time).

The vote was conducted by secret ballot with the Chief Executive Officer as the Returning Officer.

The Shire President declared Cr _____ elected as Deputy Shire President for a period of two years. Vote x/x.

Cr _____ having read aloud and signed the Declaration required under the *Local Government Act 1995*, was formally sworn in as Deputy Shire President before Rex Parsons JP.

Form 7

DECLARATION BY ELECTED MEMBER

I,

of **1**, having been elected to the office of Deputy Shire President of the Shire of Jerramungup 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 Jerramungup under section 5.104 of the *Local Government Act 1995*.

Declared at: Council Chambers, 8 Vasey Street, Jerramungup on Wednesday 25 October 2023

By:

Before me:

Rex Parsons, Justice of the Peace

1 Insert your residential address.

Local Government Act 1995

Local Government (Constitution) Regulations 1998

9.0 CONFIDENTIAL REPORTS

Nil

10.0 CLOSURE

10.1 DATE OF NEXT MEETING

The next ordinary meeting of Council will be held Wednesday, 25 October 2023, commencing at 2.00pm, in the Council Chambers, 8 Vasey Street, Jerramungup.

10.2 CLOSURE OF MEETING

The Presiding Member closed the meeting at

These minutes were confirmed at a meeting held

.....

Signed:

Presiding Person at the meeting at which these minutes were confirmed

Date: