

Special Meeting of Council

Minutes

Section 5.22 of the Local Government Act 1995

13 March 2018

Unconfirmed Minutes

These minutes were approved for distribution on 14 March 2018.



Stan Scott
CHIEF EXECUTIVE OFFICER

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as attachments to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

Confirmed Minutes

These minutes were confirmed at a meeting held on 27 March 2018.

Signed: 

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

Shire of Toodyay

SPECIAL MEETING – 13 MARCH 2018

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ATTACHMENTS *are included after Item 6.1.*

Shire of Toodyay

SPECIAL MEETING – 13 MARCH 2018

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr B Rayner, Shire President, declared the meeting open at 4.00pm.

2. RECORDS OF ATTENDANCE

Members

Cr B Rayner	Shire President
Cr T Chitty	Deputy Shire President
Cr J Dow	
Cr P Greenway	
Cr E Twine	
Cr R Welburn	

Staff

Mr S Scott	Chief Executive Officer
Ms A Bell	Manager Community Development
Mr G Bissett	Manager Planning & Development
Ms C Luangala	Manager Corporate Services
Mr S Patterson	Manager Works and Services
Mrs M Rebane	Executive Assistant

Visitors

S Cousins

2.1 APOLOGIES

Cr B Bell

3. DISCLOSURE OF INTERESTS

The Chief Executive Officer advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

4. PUBLIC QUESTIONS (relating to the purpose of the meeting)

Nil

5. PUBLIC SUBMISSIONS (relating to the purpose of the meeting)

Nil

6. PURPOSE OF MEETING

This meeting was called by the Shire President in accordance with Section 5.4 of the *Local Government Act 1995*.

The purpose of the Special Meeting is as follows:

“To consider the rescindment of Council Resolution No. 26/02/18 and all matters related thereto.”

6.1 Extraordinary Election – 15 June 2018

Date of Report:	13 March 2018
Name of Applicant / Proponent/s:	Shire of Toodyay
File Reference:	ELT1
Author:	S Scott – Chief Executive Officer
Responsible Officer:	S Scott – Chief Executive Officer
Previously Before Council:	February 2018 OCM Res. No. 26/02/18
Author's Disclosure of Interest:	Nil
Nature of Council's Role in the matter:	Executive
Attachments:	1. Elections Timetable.
Voting Requirements:	Absolute Majority

PURPOSE OF THE REPORT

To consider the date of an Extraordinary Election.

BACKGROUND

At the February 2018 Council Meeting Council resolved (Res No. 26/02/18) as follows:

That Council:

- 1. Set 25 May 2018 as the date for an Extraordinary Election West Ward to replace Councillor Craddock for the Balance of the term to October 2019;*
- 2. Appoint the WA Electoral Commission to conduct the election as a postal election; and*
- 3. That Council note that the budget allocation for elections will be increased at the budget review.*

Subsequently, Cr Granger has tendered her resignation, effective 13 March 2018.

As the Western Australian Electoral Commission had already been advised of the February 2018 Council resolution, and have taken action by notifying the Minister of the extraordinary election set for May 2018; s.15.2 (1) (a) of the Shire of Toodyay Standing Orders applies, hence this report to Council, and the calling of a Special Meeting.

CONSULTATION IMPLICATIONS

Consultation with Mr Richards at the Western Australian Electoral Commission, together with Mr Fraser at the Department of Local Government, Sport and Cultural Industries was required in respect to how the Shire was required to

proceed, given that a date for an extraordinary election had already been set by Council.

STRATEGIC IMPLICATIONS

There are no adverse strategic implications envisaged from this report.

POLICY IMPLICATIONS

There are no adverse policy implications envisaged from this report.

FINANCIAL IMPLICATIONS

As reported in February 2018, the Electoral Commissioner had provided a quote of \$12,500 including GST to run the extraordinary election. With the addition of the Central Ward to the process, the cost estimate for both wards is \$21,000.

The additional cost is in relation to the estimated number of electors in the Central Ward being 3,400 persons which is a lot more than estimated for the West Ward at 1,020 persons.

As mentioned previously, Council may also incur some additional expenses – and this has been approximated at around \$2,000, bringing the estimated total election cost to around \$23,000.

LEGAL AND STATUTORY IMPLICATIONS

10. Revoking or changing decisions (Act s. 5.25(1)(e))

- (1) *If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
 - (a) *in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
 - (b) *in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (1a) *Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) *If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
 - (a) *in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
 - (b) *in any other case, by an absolute majority.*
- (3) *This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

[Regulation 10 amended in Gazette 31 Mar 2005 p. 1030.]

Section 2.31 and 2.32 of the Local Government Act 1995 states as follows:

2.31. Resignation

- (1) *An elector mayor or president may resign from the office of mayor or president.*
- (2) *A councillor may —*
 - (a) *resign from the office of councillor;*
- (3) *Written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.*
- (4) *The resignation takes effect from the date of delivery of the notice or from a later day specified in the notice.*

2.32. How extraordinary vacancies occur in offices elected by electors

“The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member (b) resigns from the office;..”

Division 4 — Extraordinary elections

4.8. Extraordinary elections

- (1) *If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 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**.*

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 4.10(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.*

4.39. Close of enrolments

- (1) *In order to be included on the electoral roll for the election a person must be an elector of the district or ward, as the case requires, as at 5 p.m. on the 50th day before Election Day (the **close of enrolments**).*
- (2) *On or after the 70th day, but not later than on the 56th day, before Election Day the CEO is to give State-wide public notice of the time and date of the close of enrolments.*
- (3) *The notice is to give details of the steps that a person can take to become an elector before the close of enrolments [i.e. enrolling as an elector for the Legislative Assembly in respect of a residence in the district or ward (section 4.29) or making an enrolment eligibility claim in respect of the district or ward (sections 4.30 and 4.32)].*
- (4) *If, under section 4.37(3), a previous electoral roll is going to be used for the election, no notice is to be published under subsection (2).*

[Section 4.39 amended by No. 64 of 1998 s. 22.]

RISK IMPLICATIONS (including DAIP)

There are no adverse risk implications envisaged from this report.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

OFFICER COMMENT / DETAILS

Advice from the Department of Local Government, Sport and Cultural Industries was sought. Due to the "West Ward" being specified in the Council Resolution made in February 2018; that resolution would be required to be rescinded, and substituted with a new resolution that would include a new extraordinary election date, incorporating all ward vacancies.

The Western Australian Electoral Commission has provided a copy of the Election Timetable (**Attachment 1**).

In order to rescind the February 2018 Council Resolution, in accordance with s.15.1 of the Shire of Toodyay Standing Orders, the Officer's Recommendation will require a mover, plus two seconders.

OFFICER'S RECOMMENDATION

MOVED Cr **SECONDED** Cr
SECONDED Cr

That Council:

1 Rescind Council Resolution No 26/02/18 which read as follows:

1. Set 25 May 2018 as the date for an Extraordinary Election West

	Ward to replace Councillor Craddock for the Balance of the term to October 2019;
2.	Appoint the WA Electoral Commission to conduct the election as a postal election; and
3.	That Council note that the budget allocation for elections will be increased at the budget review.
2	Substitute the following resolution:
1.	Set 15 June 2018 as the date for Extraordinary Election(s) to replace vacant Council positions for the balance of their respective terms in accordance with the provisions of s.4.39 (1) of the <i>Local Government Act 1995</i> ;
2.	Appoint the WA Electoral Commissioner responsible for the conduct of the Extraordinary Election(s);
3.	Declare that the Extraordinary Election(s) are to be conducted as postal election(s); and
4.	That Council note that the budget allocation for the extraordinary election(s) will be increased at the budget review.
MOTION CARRIED BY ABSOLUTE MAJORITY 6/0	

The Shire President ruled that the Officer's Recommendation be split into two separate points as follows:

Officer's Recommendation 1: Rescind Motion;

Officer's Recommendation 2: Substitution Motion.

OFFICER'S RECOMMENDATION 1/COUNCIL RESOLUTION NO. 37/03/18	
MOVED Cr Greenway	SECONDED Cr J Dow
	SECONDED Cr Welburn
That Council rescind Council Resolution No 26/02/18 which read as follows:	
1.	Set 25 May 2018 as the date for an Extraordinary Election West Ward to replace Councillor Craddock for the Balance of the term to October 2019;
2.	Appoint the WA Electoral Commission to conduct the election as a postal election; and
3.	That Council note that the budget allocation for elections will be increased at the budget review.
MOTION CARRIED BY ABSOLUTE MAJORITY 6/0	

OFFICER'S RECOMMENDATION 2/COUNCIL RESOLUTION NO. 38/03/18

MOVED Cr Chitty

SECONDED Cr Greenway

SECONDED Cr Welburn

That Council:

1. Set 15 June 2018 as the date for Extraordinary Election(s) to replace vacant Council positions for the balance of their respective terms in accordance with the provisions of s.4.39 (1) of the *Local Government Act 1995*;
2. Appoint the WA Electoral Commissioner responsible for the conduct of the Extraordinary Election(s);
3. Declare that the Extraordinary Election(s) are to be conducted as postal election(s); and
4. That Council note that the budget allocation for the extraordinary election(s) will be increased at the budget review.

MOTION CARRIED BY ABSOLUTE MAJORITY 6/0



ELECTION TIMETABLE Toodyay Extraordinary Election

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)	Tue	27/03/2018
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Tue	27/03/2018
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Fri	6/04/2018
70 to 56	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments. Preferred date Wednesday 11 April 2018	LGA 4.39(2)	Fri to Fri	6/04/2018 to 20/04/2018
56	Last day for the CEO to advise the Electoral Commissioner of the need to prepare a residents roll.	LGA 4.40(1)		20/04/2018
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day. Preferred date Wednesday 25 April 2018	LGA 4.47(1)	Fri	20/04/2018
50	Close roll 5.00 pm	LGA 4.39(1)	Thu	26/04/2018
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Tue	1/05/2018
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)	Wed	2/05/2018
38	If a candidate's nomination is withdrawn not later than 4.00 pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Tue	8/05/2018
37	Close of Nominations 4.00 pm on the 37th day before election day.	LGA 4.49(a)	Wed	9/05/2018
36	Last day for the CEO to prepare & certify an owners & occupiers roll for the election. Last day for the Electoral Commissioner to prepare & certify a residents roll.	LGA 4.41(1) LGA 4.40(2)	Thu	10/05/2018
29	Lodgement of election packages with Australia Post. Week Commencing	Approx	Thu	17/05/2018
22	The preparation of any consolidated roll under subregulation (1) be completed on or before 22nd day before election day.	Reg. 18(2)	Thu	24/05/2018
19	Last day for the Returning Officer to give Statewide public notice of the election. Preferred date Wednesday 16 May 2018	LGA 4.64(1)	Sun	27/05/2018
4	Commence processing returned election packages	Approx	Mon	11/06/2018
0	Election Day Close of poll 6.00 pm	LGA 4.7	Fri	15/06/2018

Post Election Day	Post Declaration	References to Act/Regs		Date
5	Election result advertisement.	LGA 4.77	Wed	20/06/2018
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	Fri	29/06/2018
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)	Fri	13/07/2018

7. CLOSURE OF MEETING

The Chairperson declared the meeting closed at 4.17pm.