

SHIRE OF EXMOUTH



SPECIAL COUNCIL MEETING MINUTES

18 October 2011

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on 17 November 2011 as a true and accurate record of the Special Council Meeting held on 18 October 2011.

.....
**C (Turk) Shales
President**

All attachment items referred to in these minutes are available for public perusal at the Shire office

DISCLAIMER

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Please note this agenda contains recommendations which have not yet been adopted by Council.

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Signed at Exmouth
on 28 June, 2010.



(B Price), Chief Executive Officer Shire of Exmouth

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SHIRE OF EXMOUTH
SPECIAL COUNCIL MEETING MINUTES
Held in the Council Chamber, Maidstone Crescent, Exmouth
On 18th October 2011

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Chief Executive Officer, acting as the Presiding Member in the absence of the Shire President declared the meeting open at 11.04am.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillor T Shales
Councillor S Fitzgerald
Councillor R Winzer
Councillor J Warren
Mr B Price

Chief Executive Officer

VISITORS

Gallery: 5

APOLOGIES

Councillors Elect M. Hood & G. Thompson were an apology.

LEAVE OF ABSENCE: Nil

3. DECLARATIONS, OATHS OR AFFIRMATIONS OF ALLEGIANCE

Councillor Elect Warren questioned the legitimacy of the special meeting being held for the swearing in ceremony and the election of a new Shire President and Deputy Shire President as he had received advice from WALGA that this process was held at the next ordinary meeting of Council.

The CEO responded by saying that the Council has the opportunity to conduct a Special Council meeting (which was advertised in the required time) and as practised from previous elections to establish the new Council immediately after the election.

Mr Laurie McDonald JP, performed the formal duty of inducting the newly elected Councillors into office.

Those Councillors sworn and who made their Declaration of Office were: -

3.1 Cr S. Fitzgerald

3.2 Cr J. Warren

4. ELECTION OF SHIRE PRESIDENT

The Local Government Act 1995 (Sections 2.11 to 2.15 and Schedules 2.3 and 4.1) outlines procedures for the election process for the Shire President and Deputy Shire President. In each case the following procedures have to be adhered to:-

- i) The election for the Shire President is conducted by the Chief Executive Officer. The election for the Deputy Shire President is conducted by the (newly elected) Shire President.

- ii) Nominations for Shire President and Deputy Shire President must be given in writing-
 - a) nominations for Shire President must be given in writing to the Chief Executive Officer,
 - b) Nominations for Deputy Shire President must be given in writing to the Shire President.
- iii) If a Councillor is nominated by another Councillor, the Chief Executive Officer or Shire President (as the case may be) is NOT to accept the nomination unless the nominee has advised the Chief Executive Officer or Shire President orally or in writing that he or she is willing to be nominated for the office.
- iv) Councillors are to vote on the nominations by secret ballot just as they would at any Council election. Councillors who have accepted nomination are entitled to cast a vote just the same as those Councillors not nominated.
- v) Votes are counted by the Chief Executive Officer on the basis of “first past the post” and the candidate with the highest number of votes is declared elected.
- vi) If there is an equality of votes, the meeting is adjourned for a period of not more than 7 days.
- vii) During the 7 day period up until the adjourned meeting resumes, existing candidates may withdraw their nominations or new nominations can be made (provisions still apply in relation to written nominations and willingness to accept nominations where the nominee is not the nominating person).
- viii) Upon resumption of the adjourned meeting, Councillors all vote for a second time and if there is a clear winner that person is declared.
- ix) If upon the second count there is still an equality of votes, the Chief Executive Officer is to draw lots to ascertain a winner.

Taking of the Oath of Allegiance and Declaration of Office of Shire President.

COUNCIL DECISION – 01-1011 – ITEM 4.1

The Chief Executive Officer declared the position vacant and called for nominations in writing for the position of Shire President in accordance with the procedures and requirements of the Local Government Act 1995. Councillor Shales had provided a nomination for himself in writing.

Councillor Warren verbally nominated Councillor Winzer who politely refused.

As there were no further nominations the Chief Executive Officer declared Councillor Shales duly elected to the position of Shire President for the next 2 years.

Mr Laurie McDonald JP performed the formal duty of swearing in Cr Shales as the newly elected Shire President, with Cr Shales stating and signing the Declaration of Office.

The Chief Executive Officer handed over proceedings to the Shire President.

5. ELECTION OF DEPUTY SHIRE PRESIDENT

The same method of nomination applies for the position of Deputy Shire President as does the counting of votes except that the newly elected Shire President will take the Chair for the process.

Taking of the Oath of Allegiance and Declaration of Office of Deputy Shire President.

Cr Shales assumed the chair as Shire President and called for nominations for the position of Deputy President. Councillor Fitzgerald had provided a nomination for himself in writing.

As there were no further nominations the Shire President declared Councillor Fitzgerald duly elected to the position of Deputy Shire President for the next 2 years.

Mr Laurie McDonald JP performed the formal duty of swearing in Cr Fitzgerald as the newly elected Deputy Shire President, with Cr Fitzgerald stating and signing the Declaration of Office.

6. PUBLIC QUESTIONS TIME (11.14am – 11.29am)

In accordance with section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allows members of the public the opportunity of questioning Council on matters concerning them.

Council Consideration Towards Public

When public questions necessitate resolutions of Council, out of courtesy the matter is to be dealt with immediately to allow the public to observe the determination of the matter (obviates the need for the public to wait an undetermined period of time).

When a matter is listed on the Agenda and member/s of the public are in attendance to observe the determination of the matter, out of courtesy the matter is to be brought forward on the agenda and dealt with immediately to allow the public to observe the determination of the matter (again this obviates the need for the public to wait an indeterminate period of time).

There were no questions received.

7. APPLICATIONS FOR LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.

Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non attendance at a meeting is not an application for leave of absence.

No applications were received.

8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

The Shire President thanked Councillors for their confidence and support and acknowledged the efforts of all candidates and congratulated the successfully elected Councillors. He said that he had huge shoes to fill following on from the excellent service provided by the previous Shire President and councillors but looked forward to working with the new Council in representing the community into what should be an exciting period for Exmouth.

The Shire President also thanked and acknowledged Mr L McDonald JP for performing the role of swearing in the new Councillors and positions. Mr McDonald left the meeting at this time.

9. DRAW FOR THE COUNCILLORS POSITIONS AT THE COUNCIL TABLE

Arrangements took place for Councillors positions at the Council table. The Deputy President's seat is allocated on the right side of the President's seat.

10. REPORTS OF OFFICERS

10.1 Chief Executive Officer

10.1.1 Formation of Council Committees

Location: Exmouth
Applicant: Bill Price
File Reference: GV.CO.2
Disclosure of Interest: Nil
Date: 14 October 2011
Author: Chief Executive Officer, Bill Price

Signature:



SUMMARY

The report recommends that Council endorses the proposed committee structure and allocates Council representatives to the same Committees.

BACKGROUND

Council Committees, often referred to as “Occasional Committees”, generally meet on an as needs basis or each month, depending on the time of year or issues at hand.

These Committees do not have authority to make any decisions of Council, but can make recommendations to Council. The only exception to this is where a Committee is specifically given delegated authority of Council. Often these Committees use the term “Advisory Committee” to clearly identify that they must refer any recommendations to Council for endorsement.

These Committees are formed to address a targeted area of interest or need, and often include a mix of Councillors, staff and community members.

Council has in the past nominated numerous Occasional Committees, but in practise they have been mainly dormant with issues being handled by the majority of the Council. As Council now operates with only six (6) elected members, it is felt that the bare requirement of Committees be established with the majority of issues being directed through the ordinary Council or if considered urgent, the calling of special meetings. Below is a list of the recommended committees for Council.

1. **Townscape Advisory Committee**

In the past this committee has comprised of 2 Councillors, (Cr Fleay, Cr Winzer), Council staff and members of the public. The Committee meets on an as needs basis.

The purpose of this Committee is to plan and implement the outcomes of the Exmouth CBD & Foreshore revitalisation Plan. For practical purposes, it is recommended that the Councillors and staff of the Committee continue to select the community members of the committee based on previously established criteria.

2. **Ningaloo Centre Management Committee**

As this is likely to be the major project for the Council over the next couple of years it is recommended that a Management Committee be established to assist in the project management requirements of the project. It is recommended that the committee comprise of 3 Councillors, CEO, Executive Manager Community Engagement and Exmouth GDC Representative.

3. **Audit Committee**

In the past this Council Committee has been comprised of all 7 Councillors.

This Committee has been formed to fulfil the requirements of the Local Government Act by having an Audit Committee which provides an independent oversight of the financial systems of a local government.

COMMENT

Occasional Committees:

In making appointments to a Committee, Council should bear in mind the right of any Councillor to be a member of at least one Committee and should also consider the optimum Committee numbers, shared work load and relevant skills or experience that a Councillor can bring to a Committee.

With the creation of Committees comes the requirement to administer that Committee in accordance with the requirements of the Local Government Act. This takes resources which can sometimes be better utilised in other areas of Council administration. In addition to administration resources required, both Councillors and members of the public have limited availability to attend meetings.

For the above reasons, it is recommended that all of Council's Committees continue to only meet on an as needs basis.

STATUTORY ENVIRONMENT

All Committees are established under provisions of Sections 5.8 to 5.18 of the local Government Act 1995.

Council is able to establish Committees of 3 or more by **ABSOLUTE MAJORITY** vote of the Council (all Committees whether new or re-established ones must be "created" by absolute majority) and Committees may comprise:-

- b) Councillors only,
- c) Councillors and employees,
- d) Councillors, employees and other persons,
- e) Councillors and other persons,
- f) Employees and other persons,
- g) Other persons only.

When creating Committees of a (a) and or (b) type above, the committees are to have as its members-

- i) Persons appointed by **ABSOLUTE MAJORITY** of the Council,
- ii) The Shire president if he/she advises the Council at the time of appointment of the Committee his/her wish to be a member of the Committee,
- iii) The Chief Executive Officer or his representative if at the time of appointing the Committee the Council decides that it wants to have employees as members of the Committee and it is the Chief Executive Officers wish to be a member of the Committee.

At any given time each Councillor is entitled to be a member of at least one Committee of the (a) and (b) type mentioned above and if a Councillor nominates him/herself to be a member of such a committee or committees, the Council is to appoint that Councillor to at least one of the Committees as the Council decides.

Explanation: If Council has two Committees of the (a) and/or (b) types, and a Councillor nominates to go on 1 of those Committees, the Councillor must be appointed to that Committee. However if the Councillor nominates to go on both of those Committees, the Council can decide which Committee the Councillor is appointed to (it could be both or only one depending on the circumstances, e.g. number of nominations received for the Committees).

APPOINTMENT OF COMMITTEE DEPUTIES:

Section 5.10(3) of the Local Government Act 1995 confers, vide Section 52 of the Interpretations Act 1984, the power for Council to appoint Deputies in cases where the appointed Councillor cannot act, however the "cause" for being unable to perform Council functions is limited to "illness", "temporary absence from the State" and "conflict of interest" (simply not wanting to attend or work commitments is not sufficient reason to ask a Deputy

to act at a meeting). Appointment of Deputies must be done by way of an **ABSOLUTE MAJORITY** vote of the Council and the resolution must specify the period for which the Deputy appointment applies (eg., full term of the Committee or for only part of the time).

The concept of Deputies could only be effective where there are sufficient numbers of Councillors remaining after the appointment of Committee Members to act as back-ups (deputies). For example, if a Committee comprised of 9 principal Members, there would not be enough Councillors remaining to act as Deputies for each and every principal Member.

Council needs to give thought to the optimum size of Committees (bearing in mind the right of each Councillor to be a Member of at least one Committee of the (a) and/or (b) type above). If Council had Committees comprising large numbers of Councillors, the question would then have to be asked on the purpose for the Committee – Committees of large numbers would not really be subject to review by Council, perhaps business would be better dealt with at a full Council level.

Committees currently established include all of those mentioned in the Agenda under the headings of “Occasional Committees”.

The matter of Committee appointment needs some degree of thought, particularly the size of the committees. Even though there is no limit to the number of Councillors who can participate on a particular Committee, the philosophy behind the Committee structure could be negated. To have Committees of large numbers would really signal that Committees themselves should be dispensed with and the business conducted through full Council.

SHIRE PRESIDENT’S RIGHT TO BE MEMBER OF COMMITTEES:

Section 5.10(4) of the Local Government Act 1995 provides that where any Committee is being established by Council and Committee membership is to comprise of Councillors, the Shire President can indicate a desire to be a member of that Committee. Where the Shire President so indicates, the Council must appoint he/she as a member of that Committee.

OCCASIONAL COMMITTEES:

Occasional Committees do not meet every month but meet on an as needs basis, with items often referred to Committees from Council where further investigation is required. If a meeting is convened by the Chief Executive Officer in consultation with the Committee Chairperson, these meetings are generally held in the last week of the month, to enable any recommendations from the Committee to be considered at the next Council meeting on the third Thursday of the month.

Committees have no authority to make any decisions of Council, but can make recommendations to Council. The only exception to this is where a Committee is specifically given delegated authority of Council.

POLICY IMPLICATIONS

Council Policy 1.13 – *Committee Meetings*

Council Policy 3.13 – *Audit Committee – Establishment & Terms of Reference*

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Objective 1 – To provide Sustainable Management of the Organisation.

Strategic Objective 2 – To consistently apply the Principles of Good Governance.

Key Action 1 – To continue ethical and responsible decision making – Compliance with Statutory Processes.

Key Action 4 – To recognise the legitimate interest of stakeholders – Structure and composition of Council committees.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATIONS – 10.1.1

1) **TOWNSCAPE ADVISORY COMMITTEE**

That the Council of the Shire of Exmouth :-

- a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Townscape Advisory Committee;*
- b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors, Staff and Other Persons;*
- c) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer, Executive Manager Town Planning, Executive Manager Engineering Services, Executive Manager Health & Building (or Senior Officer's delegates) and up to 4 Other Persons selected by the Councillors and staff of the Committee:-*

MEMBERS:

- (1) Cr*
- (2) Cr*

2) **NINGALOO CENTRE MANAGEMENT COMMITTEE**

That the Council of the Shire of Exmouth :-

- a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Ningaloo Centre Management Committee;*
- b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors, Staff and Other Persons;*
- c) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer, Executive Manager Community Engagement and up to 1 Other Persons selected by the Councillors and staff of the Committee:-*

MEMBERS:

- (1) Cr*
- (2) Cr*
- (3) Cr*

3) **AUDIT COMMITTEE**

That the Council of the Shire of Exmouth :-

- a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes an Audit Committee;*
- b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors only;*
- c) The Committee meet annually;*
- d) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall consist of the whole Council.*

COUNCIL DECISION – 02-1011 - 10.1.1

Moved Councillor Winzer, seconded Councillor Fitzgerald,

1) TOWNSCAPE ADVISORY COMMITTEE

That the Council of the Shire of Exmouth :-

- (a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Townscape Advisory Committee;*
- (b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors, Staff and Other Persons;*
- (c) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer, Executive Manager Town Planning, Executive Manager Engineering Services, Executive Manager Health & Building (or Senior Officer's delegates) and up to 4 Other Persons selected by the Councillors and staff of the Committee:-*

MEMBERS:

- (1) Cr Winzer*
- (2) Cr Thompson*

2) NINGALOO CENTRE MANAGEMENT COMMITTEE

That the Council of the Shire of Exmouth :-

- a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes a Ningaloo Centre Management Committee;*
- b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors, Staff and Other Persons;*
- c) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall have as its Members the following Councillors, the Chief Executive Officer, Executive Manager Community Engagement and up to 1 Other Persons selected by the Councillors and staff of the Committee:-*

MEMBERS:

- (1) Cr Shales*
- (2) Cr Warren*
- (3) Cr Fitzgerald*

3) AUDIT COMMITTEE

That the Council of the Shire of Exmouth :-

- a) In accordance with provisions of Sections 5.8 of the Local Government Act 1995 Council establishes an Audit Committee;*
- b) In accordance with provisions of Sections 5.9 of the Local Government Act 1995, the Committee is to comprise of Councillors only;*
- c) The Committee meet annually;*
- d) In accordance with provisions of section 5.10 (1)(a) and (3) of the Local Government Act 1995 the Committee shall consist of the whole Council.*

CARRIED BY ABSOLUTE MAJORITY 4/0

10. REPORTS OF OFFICER

10.1 Chief Executive Officer

10.1.2 Appointment of Council Representatives to External Committees and Organisations

Location: Exmouth
Applicant: Bill Price
File Reference: GV.CO.2
Disclosure of Interest: Nil
Date: 14 October 2011
Author: Chief Executive Officer, Bill Price

Signature:



SUMMARY

Periodically there is a requirement for Councillors to represent the Council on a number of external committees and other organisations. This report recommends that Council nominate representatives to serve on those committees and organisations.

BACKGROUND

Previously Council had representatives on a range of external committees and other organisations. The following portfolio structure is recommended for Councillor representation:

- Gascoyne Regional Committees – These three committees generally meet quarterly and in conjunction with each other on a rotational basis amongst the Gascoyne shires. The Shire President is required to be represented with one other Cr.
 - Gascoyne Regional Collaborative Group (GRCG),
 - Gascoyne Country Zone (WALGA)
 - Gascoyne Regional Road Group (GRRG)
- Local Emergency Management Committee (LEMC)
- Gascoyne Regional Planning Committee – 1 Cr
- Development Assessment Panels (DAPS) – Cr Shales, Cr Winzer and 2 Cr proxy reps
- Recreation & Culture Portfolio – (all sporting groups, cultural and art groups etc) – 1 Cr.
- Emergency/Community Services Portfolio – (emergency service groups, volunteer and service organisations etc) - 1 Cr.
- Environmental Portfolio – (Jurabi, Bundegi, Murion Islands Management Group, DEC, Cape Care and environmental organisations etc) – 1 Cr.
- Commerce/Industry/Tourism Portfolio – (Visitor Centre, business and industry groups, Marina Advisory Group, etc) – 1 Cr.
- Oil & Gas Reference Group Portfolio – (Woodside, BHP, Apache, Chevron Community Reference Groups) – 1 Cr.

COMMENT

There are a number of Community groups, representative organisations and working groups that the Exmouth Shire Council has a Council representative on. The above list is the various groups seeking a Council representative(s).

Councillors may have a particular field of interest, skill or knowledge which they feel would make them a suitable Council representative. Council is not required in all instances to have a nominated representative attend the listed groups, and Councillor's need to assess their availability and time schedule to attend the nominated groups.

The CEO is appointed to most of the Committees seeking a Council Officer as a representative, but may delegate to a specific Officer this task.

STATUTORY ENVIRONMENT

All Committees are established under provisions of Sections 5.8 to 5.18 of the local Government Act 1995.

POLICY IMPLICATIONS

Council Policy 1.13 – *Committee Meetings*

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Objective 1 – To provide Sustainable Management of the Organisation.

Strategic Objective 2 – To consistently apply the Principles of Good Governance.

Key Action 1 – To continue ethical and responsible decision making – Compliance with Statutory Processes.

Key Action 4 – To recognise the legitimate interest of stakeholders – Structure and composition of Council committees.

VOTING REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATIONS – 10.1.2

That the following Councillor(s) / Officer(s) be appointed as representatives for the Shire of Exmouth on the following committees and other organizations:

Gascoyne Regional Committees

Councillor – Shire President

Councillor –

Council Officer - CEO

Council Officer – EMES (GRRG)

*Local Emergency Management Committee
(LEMC)*

Councillor – Shire President

Councillor – Deputy Shire President

*Council Officers – CEO, EMTP, Ranger & Emergency
Services Officer*

Gascoyne Regional Planning Committee

Councillor –

<i>Development Assessment Panels (DAPS)</i>	<i>Councillor – Shales, Proxy - Councillor – Winzer, Proxy -</i>
<i>Recreation & Culture Portfolio</i>	<i>Councillor -</i>
<i>Emergency/Community Services Portfolio</i>	<i>Councillor -</i>
<i>Environmental Portfolio</i>	<i>Councillor -</i>
<i>Commerce/Industry/Tourism Portfolio</i>	<i>Councillor –</i>
<i>Oil & Gas Reference Group Portfolio</i>	<i>Councillor -</i>

COUNCIL DECISION – 03-1011 - 10.1.2
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Moved Councillor Winzer, seconded Councillor Fitzgerald,

That the following Councillor(s) / Officer(s) be appointed as representatives for the Shire of Exmouth on the following committees and other organizations:

<i>Gascoyne Regional Committees</i>	<i>Councillor – Shire President Councillor – Winzer Council Officer - CEO Council Officer – EMES (GRRG)</i>
<i>Local Emergency Management Committee (LEMC)</i>	<i>Councillor – Shire President Councillor – Winzer Council Officers – CEO, EMTP, Ranger & Emergency Services Officer</i>
<i>Gascoyne Regional Planning Committee</i>	<i>Councillor – Fitzgerald</i>
<i>Development Assessment Panels (DAPS)</i>	<i>Councillor – Shales, Proxy - Fitzgerald Councillor – Winzer, Proxy - Warren</i>
<i>Recreation & Culture Portfolio</i>	<i>Councillor - Thompson</i>
<i>Emergency/Community Services Portfolio</i>	<i>Councillor - Winzer</i>
<i>Environmental Portfolio</i>	<i>Councillor - Fitzgerald</i>
<i>Commerce/Industry/Tourism Portfolio</i>	<i>Councillor – Warren</i>
<i>Oil & Gas Reference Group Portfolio</i>	<i>Councillor - Hood</i>

CARRIED 4/0

11. CLOSURE OF MEETING

The President declared the meeting closed at 11.44 am.