Special Meeting of Council

Tuesday 22 October 2019
Commencing at 7pm

Held at the Council Chambers, 6177 Great Northern Highway, Bindoon

Preface

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.

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

Attachments that formed part of the agenda, in addition to those tabled at the Ordinary Meeting of Council are put together as an addendum to these Minutes.

Unconfirmed Minutes

These minutes were approved for distribution on 1 November 2019.

Matthew Gilfellon
Chief Executive Officer

Confirmed Minutes

These minutes were confirmed at a meeting held on 20 November 2019.

Signed .....

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

Disclaimer

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the *Local Government Act 1995* (section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Chittering expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the Council meeting.

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8. CLOSURE 15

Before the opening of the meeting Mr Lee Martin JP conducted the swearing in of the Councillors who were declared elected by the Returning Officer at the election held on Saturday 19 October 2019.

Councillors John Curtis, Kylie Hughes, John Davis and Mary Angus, in accordance with the *Local Government Act 1995, s2.29(1)* made the following declaration before acting in the office:

> I …… of …… having been elected to the Council of the Shire of Chittering declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfill the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Chief Executive Officer declared the meeting open at 7.12PM and welcomed Lee Martin JP (Honorary Freeman of the Shire of Chittering).

2. ELECTION OF PRESIDENT AND DEPUTY PRESIDENT

2.1 Election of President

The Chief Executive Officer advised that he had received two nominations for the position of President prior to the Council meeting: Nominations were received from:

1. John Davis (self-nomination); and
2. Mary Angus (self-nomination).

The Chief Executive Officer called for any further nominations, with the following additional nomination:

3. Don Gibson (self-nomination).

The Chief Executive Officer adjourned the meeting at 7.11PM to allow the Ballot Paper to be printed up and distributed to Council.

The Chief Executive Officer reconvened the meeting at 7.12PM.

The Council members were instructed to vote on the matter by secret ballot and the votes cast were counted by the Chief Executive Officer and verified by Mr Lee Martin JP, and the results declared a draw.

The count was discontinued in accordance with the *Local Government Act 1995, Schedule 2.3, subclause 5(1)* and the Chief Executive Officer adjourned the meeting at 7.16PM.

The Chief Executive Officer reconvened the meeting at 7.24PM in the presence of:

1. Mary Angus
2. John Curtis
3. John Davis
4. Don Gibson
5. Kylie Hughes
6. Peter Osborn
7. Carmel Ross

The Chief Executive Officer called for nominations. Two nominations were received. The Chief Executive Officer declared that:

- The candidates were Crs Davis and Gibson; and
- The order on the ballot paper was:
  - John Davis
  - Don Gibson

The Chief Executive Officer adjourned the meeting at 7.26PM to allow the Ballot Paper to be printed up and distributed to Council.

The Chief Executive Officer reconvened the meeting at 7.27PM.

The Council members were instructed to vote on the matter by secret ballot and the votes cast were counted by the Chief Executive Officer and verified by Lee Martin JP. The Chief Executive Officer read aloud the votes received and declared Cr Don Gibson as elected Shire President.

Pursuant to Regulation 13(3) of the *Local Government (Constitution) Regulations 1998*, Cr Don Gibson made the following declaration as elected Shire President, witnessed by Lee Martin JP:

> I …… of ……
> having been elected to the office of **Shire President** of the Shire of Chittering declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfill the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

The Chief Executive Officer handed the meeting over to the newly elected Shire President, Cr Don Gibson and he assumed the chair.

3.2 Election of Deputy President

The Shire President advised that no nominations had been received prior to the meeting, and therefore called for nominations from the floor. Nominations received from:

1. Cr Mary Angus (self-nomination); and
2. Cr John Davis (self-nomination).

The President adjourned the meeting at 7.33PM to allow the Ballot Paper to be printed up and distributed to Council. The President reconvened the meeting at 7.36PM.

The Council members were instructed to vote on the matter by secret ballot. The President read aloud the votes received and declared Cr John Davis as elected Shire Deputy President.

Pursuant to Regulation 13(3) of the *Local Government (Constitution) Regulations 1998*, Cr John Davis made the following declaration as elected Shire Deputy President, witnessed by Lee Martin JP:

> I …… of ……. having been elected to the office of **Deputy Shire President** of the Shire of Chittering declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfill the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

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

3.1 Attendance

The following Members were in attendance:

Member:	Cr Mary Angus	
	Cr John Curtis	
	Cr John Davis	
	Cr Don Gibson	(Presiding Member)
	Cr Kylie Hughes	
	Cr Peter Osborn	
	Cr Carmel Ross	

Quorum – 4 members

The following Shire staff were in attendance:

Staff	Matthew Gilfellon	Chief Executive Officer
	Rhona Hawkins	Executive Manager Corporate Services
	Peter Stuart	Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Natasha Mossman	Executive Assistant (Minute Secretary)

Members of the public	23
Media	0

3.2 Apologies

Nil

3.3 Approved leave of absence

Nil

4. DISCLOSURE OF INTEREST

Nil

5. PUBLIC QUESTION TIME

Summary of questions received during the meeting

5.1 Chris Waldie, Bindoon Historical Society Secretary

Question: **Will Council consider including the Bindoon Historical Society on the external organisations representation, as unfortunately the Society did not respond to the request by the due date?**

Answer: *The Presiding Member advised that yes, Council will add the Bindoon Historical Society to the list of external organisations.*

5.2 Lee Martin, Bindoon

Question: **Will Council seek to rectify the footpath at the front of the office, near the security light, as an older resident had a fall here recently?**

Answer: *The Presiding Member advised that yes, Council will seek to have this fixed.*

6. REQUEST FOR LEAVE OF ABSENCE

Nil

MOTION / COUNCIL RESOLUTION 271019
Moved Cr Gibson / Seconded Cr Ross
That Council suspend *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members* to allow for free and open debate

CARRIED 7/0
7.44PM

7. PURPOSE OF MEETING

7.1 Appointments of Delegates to Committees, Advisory Groups and External Organisations

Applicant	Shire of Chittering
File ref	04/06/0001
Prepared by	Executive Assistant
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	**Absolute Majority**
Attachments	1. Council Committees and Advisory Group Booklet

Executive Summary
Council is requested to consider the appointment of representatives to various Council Committees and Advisory Groups and external committees/boards.

Background
The *Local Government Act 1995* (the Act), Section 5.11 states that where a person is appointed as a member of a committee under Section 5.10 the persons membership continues until the next ordinary election day.

Council establishes various committees and advisory groups to advise on specific matters within its authority. For the Shire of Chittering, Committees and Advisory Groups are not delegated a decision making power and are therefore limited to making recommendations to Council on matters for action.

The Act regulates Committees of Council and requires that the appointment of representatives is to be determined by Council. The Shire applies this same process to the appointment of representatives to its Advisory Groups, although these groups are not required to comply with the Act. Council may also appoint representatives to external committees/boards when requests are received to do so.

Following the 19 October 2019 Local Government Election, all positions on Committees and Advisory Groups are vacated:-

5.11. (1) "Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until—
(d) the next ordinary elections day,…"

Council is now required to consider the appointment of representatives to its various Committees, Advisory Groups and external organisations.

1. *West Australian Local Government Association (WALGA) Avon Midland Country Zone*

WALGA Avon Midland Country Zone presents issues from the Shires of Chittering, Dalwallinu, Dandaragan, Gingin, Goomalling, Moora, Northam, Toodyay, Victoria Plains and York to WALGA State Council. Council appoints one Elected Member as delegate and one Elected Members as deputy delegate to the WALGA Avon Midland Country Zone.

WALGA State Council is the voice of local government in Western Australia and advocates on behalf of the State's local governments and negotiates services agreements for the sector. It is not a government department or agency. Each of the Zones elect a State Council representative and deputy representative at the November 2019 Zone meeting.

Sitting fees are not paid for Zone meetings.

WALGA State Council pays sitting fees of $3,300 per annum to State Councillors and $380.00 per meeting attended to the Deputy State Councillors for every meeting attended as the State Council delegate. Expenses are also reimbursed for State Councillors and Deputy State Councillors incurred whilst attending State Council meetings.

2. *Mid-West/Wheatbelt Joint Development Assessment Panel (JDAP)*

In accordance with Regulation 26 of the *Planning and Development (Development Assessment Panel) Regulations 2011* Council is required to nominate four Elected Members comprising two Local Members and two alternate Local Members to the JDAP. Appointment is determined by the Minister and is for a period of two years.

The current nominated Councillors have been appointed to the JDAP with a term ending 26 January 2020:

Member	Alternate Member
Cr Gordon Houston	Cr Carmel Ross
Cr Peter Osborn	Cr Mary Angus

Depending on the results of the elections, Council may be required to nominate for any vacancy. All four positions will become vacant on 26 January 2020.

It is mandatory for all JDAP Members to attend training before acting in the position and new Elected Members will be advised of JDAP training dates and times.

JDAP local members receive payments (attendance fees) set out below for attendance at each of the following meetings/training sessions:

- $425 for attending a meeting to determine development applications;
- $100 for attending a meeting to determine applications to amend or cancel approvals;
- $425 for attending proceedings in State Administrative Tribunal;
- $400 for attending a training session; and
- $200 for attending a re-training session.

Attachment 1 provides an overview of the Committees and Advisory Groups of the Shire of Chittering.

Membership is based on the current Terms of Reference. Council should give due consideration to whether the current membership as set out in the relevant Terms of Reference are adequate.

Consultation/Communication Implications

Local

- Community groups – an email was sent to 68 community groups and organisations seeking EOIs for Council representation. Of the 68 community groups, responses were received from the following, and the booklet has been updated accordingly:

ORGANISATION	DETAILS	ACTION
Tronox Community Consultative Committee	No longer an active committee. Meetings will take annually between Tronox and the Shire.	Deleted
Ellen Brockman Integrated Catchment Committee	Meet six times a year	Appointment required
Chittering Land Conservation District Committee (t/a Chittering Landcare Group)	Meet every two months, commencing February	Appointment required
The Livestock Centre Muchea Consultative Group	No longer an active committee	Deleted
District Health Advisory Council (WA Country Health Service Wheatbelt)	Representation not required	Deleted
Chittering Tourist Association	Only one representative required	Appointment required
Muchea Hall User Group	One representative required, preferably not associated with Muchea Hall User Group	Appointment required
Bindoon and Districts Agricultural Society	No response from email sent 10 October 2019	Deleted
Bindoon Community Progress Association	No response from email sent 10 October 2019	Deleted
Bindoon and Districts Historical Society	No response from email sent 10 October 2019	Deleted
Bindoon Sport and Recreation Association	No response from email sent 10 October 2019	Deleted
Chittering Valley Progress and Sporting Association	No response from email sent 10 October 2019	Deleted
Wannamal Community Centre	No response from email sent 10 October 2019	Deleted

State

Nil

Legislative Implications

State

- *Local Government Act 1995*

  "Establishment of committees:

  5.8 A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

  ** Absolute majority required.*

  5.9 Types of committees:

  (1) In this section:

  ***"other person"** means a person who is not a council member or an employee.*

  (1) A committee is to comprise:

  (a) council members only;
  (b) council members and employees;
  (c) council members, employees and other persons;
  (d) council members and other persons;
  (e) employees and other persons; or
  (f) other persons only.

  5.10 Committee members, appointment of:-

  (1) A committee is to have as its members:

  (a) persons appointed by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
  (b) persons who are appointed to be members of the committee under subsection (4) or (5).

  ** Absolute majority required.*

  (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.

  (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.

  (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.

  (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish:

  (a) to be a member of the committee; or
  (b) that a representative of the CEO be a member of the committee,

  the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A Deputy committee members:

(1) The local government may appoint a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.*

** Absolute majority required.*

(2) A person who is appointed as a deputy of a member of a committee is to be:

(a) if the member of the committee is a council member – a council member; or

(b) if the member of the committee is an employee – an employee; or

(c) if the member of the committee is not a council member or an employee – a person who is not a council member or an employee; or

(d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.

(3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.

(4) A deputy member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

5.11 Committee membership, tenure of:-

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until:

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;

(b) the person resigns from membership of the committee;

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until:

(a) the term of the person's appointment as a committee member expires; or

(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first."

Local
Nil

Policy Implications

State
Nil

Local

- *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*

  Objectives *To clearly outline the support and allowances available to the Shire's Elected Members within the provisions of the Local Government Act 1995 (the "Act") to cover any "out of pocket" expenses that are incurred in carrying out their function as an Elected Member. It also establishes guidelines in respect to Elected Members' participation in conferences and training.*

  Policy *In addition to those allowances and reimbursements available to Elected Members under the Act, and Regulations made under the Act, this Policy will outline "approved expenses" the Shire will reimburse Elected Members if incurred in their capacity as an Elected Member.*

  The Council also recognises that Elected Members have a responsibility to undertake development opportunities necessary to enable them to fulfil their duties of public office.

Financial Implications
Nil

Strategic Implications
Local

- *Strategic Community Plan 2017-2027*

Focus area:	Strong leadership
Objective:	S5.2 Strong partnerships and relationships
Strategy:	S5.2.1 Built effective partnerships with stakeholders
Objective:	S5.3 Accountable governance
Strategy:	S5.3.1 Good governance which supports efficient and effective service delivery

State
Nil

Site Inspection
Not applicable

Triple Bottom Line Assessment
Economic implications
There are no known significant economic implications associated with this proposal.

Social implications
There are no known significant social implications associated with this proposal.

Environmental implications
There are no known significant environmental implications associated with this proposal.

Officer Comment/Details
The establishment of Committees and Advisory Groups assists the Council to perform its legislative responsibilities and representation on externally based committees allows the Shire of Chittering to have input into various issues that face the local government industry.

Where there are more nominations than vacancies for representation, a ballot will need to be conducted however Council has the discretion to amend the Terms of Reference for any Committee or Advisory Group should Council deem it appropriate to change the representation. There is no discretion to amend a terms of reference for external committees or boards.

7.1 RECOMMENDATION / COUNCIL RESOLUTION 281019
Moved Cr Davis / Seconded Cr Osborn
That Council BY ABSOLUTE MAJORITY:

1. appoints the following elected members to committees, advisory groups and external committees/boards in accordance with their Terms of Reference where applicable:

- **a. WALGA Avon Midland Country Zone**
  - **i. Delegate – Cr Don Gibson; and**
  - **ii. Deputy – Cr John Davis;**
- **b. Mid-West/Wheatbelt Joint Development Assessment Panel**
  - **i. One Member – Cr Kylie Hughes;**
- **c. Northern Growth Alliance**
  - **i. Delegate – Cr Don Gibson; and**
  - **ii. Deputy – Cr John Davis;**
- **d. Chittering Bushfire Advisory Committee**
  - **i. Delegate – Cr Carmel Ross;**
  - **ii. Deputy – Cr John Curtis;**
- **e. Chittering Local Emergency Management Committee (LEMC)**
  - **i. Delegate – Cr Don Gibson; and**
  - **ii. Deputy – Cr John Davis;**
- **f. Audit and Risk Committee**
  - **i. Cr Don Gibson;**
  - **ii. Cr John Davis;**
  - **iii. Cr Mary Angus;**
  - **iv. Cr John Curtis;**
  - **v. Cr Kylie Hughes;**
  - **vi. Cr Peter Osborn;**
  - **vii. Cr Carmel Ross;**
- **g. Chittering Community Planning Advisory Group**
  - **i. Delegate – Cr Kylie Hughes; and**
  - **ii. Deputy – Cr Carmel Ross;**
- **h. Chittering Community Support Funding Advisory Group**
  - **i. Delegate – Cr Don Gibson; and**
  - **ii. Deputy – Cr John Davis;**

i. Chittering Education Scholarship Advisory Group
- **i. Delegate – Cr Mary Angus; and**
- **ii. Deputy – Cr John Curtis;**

j. Chittering Mining Advisory Group
- **i. Delegate – Cr Kylie Hughes; and**
- **ii. Deputy – Cr Don Gibson;**

k. Chittering Youth Krew
- **i. Delegate – Cr Mary Angus; and**
- **ii. Deputy – Cr Kylie Hughes;**

l. Chittering Community Complex Advisory Group
- **i. Delegates – Cr Kylie Hughes and Cr Carmel Ross; and**
- **ii. Deputy – Cr John Davis;**

m. Chittering Tourist Association
- **i. Representative – Cr John Curtis;**

n. Chittering Valley Land Conservation District Committee (t/a Chittering Landcare Group)
- **i. Delegate – Cr Kylie Hughes; and**
- **ii. Proxy – Cr John Curtis;**

o. Ellen Brockman Integrated Catchment Committee
- **i. Delegate – Cr Kylie Hughes; and**
- **ii. Deputy – Cr John Curtis;**

p. Muchea Hall User Group
- **i. Representative – Cr Carmel Ross;**

q. Wheatbelt North Regional Road Group
- **i. Delegate – Cr Don Gibson; and**
- **ii. Deputy – Cr John Curtis;**

r. Bindoon and Districts Historical Society
- **i. Delegate – Cr John Curtis; and**
- **ii. Deputy – Cr Carmel Ross.**

2. Appoints the following Elected Members to the relevant portfolios:
- **a. Community Development – Cr Angus;**
- **b. Natural Environment – Cr Hughes;**
- **c. Built Environment – Cr Curtis;**
- **d. Economic Development and Tourism – Cr Ross; and**
- **e. Governance – Cr Davis.**

CARRIED 7/0
7.54PM

8. CLOSURE

The Presiding Member declared the meeting closed at 7.55PM.