



CITY OF VINCENT

SPECIAL COUNCIL MEETING

19 OCTOBER 2015

Notice of Meeting and Agenda

Notice is hereby given that a Special Council Meeting of the City of Vincent will be held at the Administration and Civic Centre, at 244 Vincent Street (corner Loftus Street), Leederville, on **Monday, 19 October 2015** at 6.30pm.

The purpose of the meeting is to consider the following items:

- Election of Deputy Mayor by Secret Ballot;
- Appointment of Council Members to Various Committees and Statutory Authorities; and
- Applications for Leave of Absence.

Len Kosova
CHIEF EXECUTIVE OFFICER

ENHANCING AND CELEBRATING OUR DIVERSE COMMUNITY

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PROCEDURE FOR PUBLIC SPEAKING TIME

The City of Vincent Local Law Relating to Standing Orders prescribes the procedure for persons to ask questions or make public statements relating to a matter affecting the City, either verbally or in writing, at a Council meeting.

Questions or statements made at a Special Meeting of the Council must only relate to the purpose for which the meeting has been called.

1. Shortly after the commencement of the meeting, the Presiding Member will ask members of the public to come forward to address the Council and to give their name, address and Agenda Item number (if known).
2. Public speaking time will be strictly limited to three (3) minutes per member of the public.
3. Members of the public are encouraged to keep their questions/statements brief to enable everyone who desires to ask a question or make a statement to have the opportunity to do so.
4. Public speaking time is declared closed when there are no further members of the public who wish to speak.
5. Questions/statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a Council Member or City Employee.
6. Where the Presiding Member is of the opinion that a member of the public is making a statement at a Council meeting, that does not affect the City, he may ask the person speaking to promptly cease.
7. Questions/statements and any responses will be summarised and included in the Minutes of the Council meeting.
8. Where practicable, responses to questions will be provided at the meeting. Where the information is not available or the question cannot be answered, it will be *"taken on notice"* and a written response will be sent by the Chief Executive Officer to the person asking the question. A copy of the reply will be included in the Agenda of the next Ordinary meeting of the Council.
9. It is not intended that public speaking time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

RECORDING OF COUNCIL MEETINGS

- ◆ All Ordinary and Special Council Meetings are electronically recorded (both visual and audio), except when the Council resolves to go behind closed doors;
- ◆ All recordings are retained as part of the City's records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office;
- ◆ A copy of the recorded proceedings and/or a transcript of a particular section or all of a Council meeting is available in accordance with Policy No. 4.2.4 - Council Meetings – Recording and Access to Recorded Information.

SPECIAL COUNCIL MEETING

ORDER OF BUSINESS

1. (a) Declaration of Opening

(b) Acknowledgement of Country Statement

“Today we meet on the lands of the Nyoongar people and we honour them as the traditional custodians of this land”.

2. Apologies/Members on Approved Leave of Absence

Nil.

3. Public Question Time and Receiving of Public Statements

Under Section 7(4)(b) of the Local Government (Administration) Regulations 1996, Council at a Special Meeting is not required to answer a question that does not relate to the purpose of the meeting.

4. Announcements by the Presiding Member (Without Discussion)

5. Declaration of Interests

- 5.1 Financial - Local Government Act 1995, s5.60A
- 5.2 Proximity - Local Government Act 1995, s5.60B
- 5.3 Impartiality - Local Government (Administration) Regulations 34

6. Reports

- 6.1 Election of Deputy Mayor by Secret Ballot.
- 6.2 Appointment of Council Members to Various Committees and Statutory Authorities.

7. Applications for Leave of Absence

8. Closure

6.1 Election of Deputy Mayor by Secret Ballot

Ward:	-	Date:	16 October 2015
Precinct:	-	File Ref:	SC283
Attachments:	1 – Nomination Form		
Tabled Items:	-		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

PURPOSE OF REPORT:

For Council to elect a Deputy Mayor.

BACKGROUND:

Schedule 2.3, Division 2 of the *Local Government Act 1995* (the Act), requires the office of Deputy Mayor to be filled as the first item of business dealt with at the first meeting of the Council following an ordinary local government election. The position is for a two year term, with the position being considered following every local government election.

Council is required to elect the Deputy Mayor from amongst the Councillors. Should there be more than one nomination, it will be necessary for a secret ballot to be held, as required by Section 8 of Schedule 2.3 of the Act (refer to Legal section of this report).

DETAILS:

Nomination forms (see **Attachment 1**) are to be submitted to the Mayor. If a nomination is being made by another Councillor, the nominee must consent to the nomination.

Upon election of the Deputy Mayor, there is a requirement for the incumbent to make a further declaration for that office.

The position of Deputy Mayor has no specific statutory role or responsibility beyond those of a Councillor. However, the Deputy Mayor performs the functions of the Mayor when authorised to do so under section 5.34 of the Act.

5.34. When deputy mayors and deputy presidents can act

If —

- (a) *the office of mayor or president is vacant; or*
- (b) *the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,*

then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

The Act outlines the role of the Mayor as:

- (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.
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CONSULTATION/ADVERTISING

Not applicable.

LEGAL/POLICY:

Local Government Act 1995

The relevant sections of the Act are:

Section 2.15 Filling the office of deputy mayor or deputy president

The deputy mayor or deputy president is to be elected by the council under Schedule 2.3 of Division 2.

Section 2.29 Declaration

- (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*

Schedule 2.3, Division 2 Deputy mayors and deputy presidents

Section 7 When the council elects the 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.*

Section 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.*

Section 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.*
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- (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 Council Members – Allowances Fees and Re-Imbursements of Expenses Policy (Policy No 4.2.7):

1.3 Deputy Mayoral Allowance

The City will pay the Deputy Mayor an Annual Local Government Allowance equivalent to **25%** (maximum allowed is 25%) of the Mayoral Allowance. (*Section 5.98A, Regulation 33A of Local Government (Administration) Regulations 1996*).

6.2 Appointment of Council Members to various Committees and Statutory Authorities

Ward:	-	Date:	16 October 2015
Precinct:	-	File Ref:	-
Attachments:	-		
Tabled Items:	-		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

OFFICER RECOMMENDATION

That Council:

1. In accordance with the provisions of the *Local Government Act 1995*, Sections 2.28, 5.8 and 5.10, APPROVES BY ABSOLUTE MAJORITY the appointment of the following Council Members to Council's Statutory Authorities and Regional Councils, as detailed in this report, for the term 20 October 2015 to 21 October 2017 (unless otherwise specified):

- 1.1 Development Assessment Panel (DAP) - Local Government Metro West*
(2 Council Members, 2 Alternate Members) - *For the period to expire on 26 April 2017*

Member:

1. Cr
2. Cr Topelberg*

Alternate Members:

1. Cr Buckels*
2. Cr Cole*

* Appointed as Members until 26 April 2017.

- 1.2 Western Australian Local Government Association (WALGA) - Central Metropolitan Zone (2 Council Members)

Members:

1. Cr
2. Cr

Deputies:

1. Cr
2. Cr

- 1.3 Mindarie Regional Council* (1 Council Member)

Member:

1. Cr

* **Note:**

It is a requirement of the Mindarie Regional Council Establishment Agreement that Council carries a specific resolution to nominate an Alternate Member for each occasion that the approved Member is unable to act.

1.4 Tamala Park Regional Council (1 Council Member)

Member:

1. Cr

Alternate Member

1. Cr

PURPOSE OF REPORT:

The purpose of the report is to appoint Council Members to the various regional councils and Statutory Authorities.

BACKGROUND:

As part of the Council's role in governing for the City, Council Members represent the Council on a range of Committees, Regional Councils and Statutory Authorities. Membership is generally aligned to the election cycle, therefore it is necessary to appoint members for the next two years. At this stage it is proposed to appoint members to the Development Assessment Panels, Western Australian Local Government Association – Central Metropolitan Zone, Mindarie Regional Council (MRC) and Tamala Park Regional Council (TPRC). Membership of other committees and working groups will be presented to a subsequent meeting.

DETAILS:

1. Development Assessment Panels (DAPs) - Local Government Metro West
(2 Council Members, 2 Alternate Members)

Meeting Occurrence:	When required
Date of Meeting:	When suitable
Time of Meeting:	When suitable
Location of Meeting:	City of Vincent Administration and Civic Centre; or Department of Planning; or Other Local Government
No. of Meetings held in 2013-2015 Period:	38 Meetings
Responsible Liaison Officer:	Director Planning Services
Purpose of Appointment:	<ul style="list-style-type: none">• <i>DAPs will be responsible for determining development applications where the likely cost of the development exceeds a specified dollar value</i>• <i>(For the City of Vincent, any proposal over \$7 million in value would be determined by the DAP).</i>

Fees for DAP Members:	1. Fee for presiding member per meeting to determine development applications	\$500
	2. Fee for any other member per meeting to determine development applications	\$400
	3. Fee per meeting for presiding member to determine applications to amend or cancel determination	\$100
	4. Fee per meeting for any other member to determine applications to amend or cancel determination	\$50
	5. Fee for presiding member attending proceeding in State Administrative Tribunal	\$500
	6. Fee for any other member attending proceeding in State Administrative Tribunal	\$400
	7. Fee for Training	\$400
	<ul style="list-style-type: none">• <i>Please note that eligibility for payment of DAPs sitting fees is guided by Premier's Circular 2010-02</i>	

Other Membership:	<ul style="list-style-type: none">• Three (3) members with specialist knowledge in the areas of town planning, architecture, or other related disciplines• Director Planning Services• Manager Planning and Building Services• Other City Officers (<i>as required</i>)
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Current Council Members

1. Mayor John Carey
2. Cr Joshua Topelberg

Alternate Members

1. Cr Matt Buckels
2. Cr Emma Cole

2. Western Australian Local Government Association (WALGA) - Central Metropolitan Zone (2 Council Members)

Meeting Occurrence:	Bi-Monthly (or six weekly)
Date of Meeting:	Thursday
Time of Meeting:	6pm
Location of Meeting:	Local Governments in the Central Metropolitan Zone on a rotation basis
No. of Meetings held in 2013-2015 Period:	9 Meetings
Responsible Liaison Officer:	Chief Executive Officer
Member Sitting Fees:	<ul style="list-style-type: none">• Nil.
<i>Purpose of Appointment:</i>	<ul style="list-style-type: none">• <i>To represent Council on the Western Australian Local Government Association - Central Metropolitan Zone.</i>

- Other Membership:
- Representatives from Central Metropolitan Zone Councils
 - Chief Executive Officer (*non-voting*)

Previous Council Members

1. Mayor John Carey
2. Cr Roslyn Harley

Previous Deputy

1. Chief Executive Officer (for both)

3. Mindarie Regional Council (MRC) (*1 Council Member*)

- Meeting Occurrence: Monthly
Date of Meeting: Third Thursday of Month (*approx.*)
Time of Meeting: 5.30pm
Location of Meeting: Member Councils on a rotation basis
No. of Meetings held in 2013-2015 Period: 14 Meetings

Responsible Liaison Officer: Chief Executive Officer

Purpose of Council:

- *To make decisions concerning Waste Management, including the landfill disposal site at Tamala Park.*

Member Sitting Fees:

- \$10,300 per annum
- \$1,000 for Information Technology allowance
- \$140 per meeting for Alternate Member

Note: Child Care and Travel costs will be reimbursed in accordance with Reg. 31 and 32 of the Local Government (Administration) Regulations 1996

Previous Council Member

1. Mayor John Carey

Previous Alternate Member**

(See note below)

(** *It is a requirement of the Mindarie Regional Council Establishment Agreement that Council carries a specific resolution to nominate an Alternate Member for each occasion that the approved Member is unable to act.*)

4. Tamala Park Regional Council (TPRC) (1 Council Member*)
(* *The Regional Council has a preference for Member Councils to elect their Mayor as the representative.*)

Meeting Occurrence: Bi-Monthly
Date of Meeting: Thursday
Time of Meeting: 6.00pm
Location of Meeting: Member Councils on a rotation basis

No. of Meetings held in 2013-2015 13 Meetings
Period:

Responsible Liaison Officer: Chief Executive Officer

Purpose of Council:

- *To make decisions concerning the Tamala Park land and its redevelopment.*

Member Sitting Fees:

- \$10,300 per annum
- \$140 per meeting for Alternate Member

Previous Council Member

1. Mayor John Carey

Alternate Member

- Not nominated.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Part 5 Division 2 of the *Local Government Act 1995* deals with Council meetings, committees and their meetings and elector's meetings. The following sections are relevant to committee membership and tenure.

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.*
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- (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 of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.*

[Section 5.11A inserted by No. 17 of 2009 s. 20.]

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; or*
(b) *the person resigns from membership of the committee; or*
(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.

No alternate members or deputies are appointed to the MRC. The appointment of alternate members or deputies to serve on a Regional Council can only be made under specific circumstances and not on an ongoing basis. (Section 5.10(3) prescribes the application of the *Interpretation Act 1984*.)

It is important to note therefore that should any of the Council's appointed representatives not be available to attend a meeting of the MRC during the appointed term, a special resolution of Council is required to appoint an alternate member for the specific period that the member is not available, in accordance with sections 52 (1) (b) and (c) of the *Interpretation Act 1984*, which provides:

"52 (1) (b) Where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and

52 (1) (c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment."

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Plan 2013-2023 - Key Result Area Four –

"Leadership, Governance and Management" and, in particular:

"4.1 - Manage the organisation in a responsible, efficient and accountable manner".

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

There are no budget implications for the City in respect to membership on the DAP or regional councils, however members receive allowances from the respective agency.

COMMENTS:

The timely appointment of the City of Vincent representatives to the DAP, MRC, TPRC and WALGA Central Metropolitan Zone will ensure the City is represented on these organisations, enabling them to participate in decision-making that may impact the City.
