



MINUTES OF THE SPECIAL MEETING OF COUNCIL HELD ON 27 APRIL 2010

I hereby certify that the Special Meeting of Council held are a true and accurate record of the proceedings contained therein.

Shire President Confirmed

SUMMARY OF AGENDA

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SHIRE OF WYNDHAM EAST KIMBERLEY

MINUTES

OF THE SPECIAL COUNCIL MEETING
HELD ON, 27 APRIL 2010, AT 6:00 PM

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 6:00pm.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Cr F Mills	Shire President
J Moulden	Deputy Shire President
Cr J McCoy	Councillor
Cr D Ausburn	Councillor
Cr J Parker	Councillor
Cr K Wright	Councillor

G Gaffney	Chief Executive Officer
J Ellis	Director Corporate Services
W Richards	Manager Recreation Services

APOLOGIES

Cr R Addis	Councillor
C K Torres	Councillor

3. DECLARATION OF:

- **Financial Interest**

Nil

- **Members Impartiality Interest**

Nil

- **Proximity Interest**

Nil

4. BUSINESS OF MEETING

4.1 ADOPTION OF NEW DATE FOR EXTRAORDINARY ELECTION

DATE:	27 April 2010
PROPONENT:	Shire Of Wyndham East Kimberley
LOCATION:	Shire Of Wyndham East Kimberley
AUTHOR:	Gary Gaffney, Chief Executive Officer
REPORTING OFFICER:	Gary Gaffney, Chief Executive Officer
FILE NO:	60.14.15
ASSESSMENT NO:	N/A

PURPOSE

For Council to consider a date to hold the Extraordinary Election to fill the vacancy created by the resignation of Mr Paul Caley as the poll held on 16 April 2010 has been determined to be invalid.

BACKGROUND

Council considered had approved a date for the election on Friday 12 March 2010 – refer Item 13.6.5, 20 October 2009. Unfortunately the commencement of advertising was missed due to the changeover of the Chief Executive Officer and the previously Acting Chief Executive Officer.

The advertising process is required to commence 70 days from the election date and a series of milestone dates occur in the countdown to the election. The date of the election is required to avoid public holidays on any milestone dates.

On 19 January 2010 Council resolved

Minute No: 9026

Moved: Cr D Ausburn

Seconded: Cr K Wright

That Council approve the revised date for the Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley be Friday 16 April 2010 and the Electoral Commissioner be advised accordingly.

CARRIED UNANIMOUSLY: (8/0)

The election proceeded with polling happening on 16 April 2010. Just prior to the close of polling on Election Day a wording issue with the ballot papers was identified. Advice was sought from the Department of Local Government in regard to the ballot paper and the consequence this would have on the election. The Returning Officer was advised that the polling should continue and at the close of the poll the ballot boxes should be secured but the votes not counted.

The Department sought advice from the State Solicitors Office and advised the Returning Officer that the Shire had effectively not issued valid ballot paper, and therefore no votes had been cast, preventing the Returning Officer from proceeding with a count of votes.

The Department has further advised that the election process should recommence from the date of advertising of polling date.

STATUTORY IMPLICATIONS

With respect to the extraordinary election, the following applies:

LOCAL GOVERNMENT ACT 1995 - SECT 4.9

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.

With respect to the change in the number of elected members, the following applies: -

POLICY IMPLICATIONS

There are no specific policy implications associated with this report.

FINANCIAL IMPLICATIONS

Costs are dependent on the number of polling offices operated for the election and the timing of the election which has implications for electoral allowances for staff required to conduct and work on Election Day. The recommended polling day is a Friday so staffing costs will be minimal.

In recent election elections polling booths have been conducted at Oombulgurri, Kalumburu, Wyndham and Kununurra. This necessitates a plane charter to Oombulgurri and Kalumburu at an estimated cost \$4,000.

Mandatory advertising costs associated with the election are estimated at around \$3,000. Additional advertising in regard to the need to conduct the poll a second time is required.

STRATEGIC IMPLICATIONS

Local Government is the first tier of Government and Council is the governing body. The election of Councillors and participation of the public in that process is fundamental to the democratic principles in Australia.

COMMUNITY CONSULTATION

Nil in terms of the Council decision. Public are advised of the election through the required advertising processes and participate through the election itself.

Given that the election will need to be conducted a second time suitable notice and explanation will be given to the electorate.

COMMENT

The following revised election timetable is recommended:

23 April 2010	Shire President request to CEO to call Special Meeting
27 April 2010	Special Meeting of Council to set Election Date
28 April 2010	Request approval of Electoral Commissioner to hold Election on 21 May 2010
1 May 2010	State wide Public Notice of Election
21 May 2010	Extraordinary Election polling day.

ATTACHMENTS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

- 1) That Council advises the Electoral Commissioner that
 - a) The Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley held on 16 April 2010 was conducted with a ballot paper that was not in accordance with Form 10 of the Local Government (Elections) Regulation 1997.
 - b) The Returning Officer received advice from the Department of Local Government that no valid votes have been cast, thus preventing the Returning Officer from proceeding with a count of votes.
 - c) Council has been advised by the Department of Local Government to fix a new poll date and for the Returning Officer to issue a new election notice giving notification of the new poll date.
- 2) That Council approves the polling date of Friday 21 May 2010 to re-conduct the Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley.
- 3) That Council requests approval of the Electoral Commissioner for the Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley to be held on Friday 21 May 2010.

COUNCIL DECISION

Minute No. 9130

Moved: Cr J Parker

Seconded: Cr K Wright

- 1) ***That Council advises the Electoral Commissioner that***
 - a) The Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley held on 16 April 2010 was conducted with a ballot paper that was not in accordance with Form 10 of the Local Government (Elections) Regulation 1997.***
 - b) The Returning Officer received advice from the Department of Local Government that no valid votes have been cast, thus preventing the Returning Officer from proceeding with a count of votes.***
 - c) Council has been advised by the Department of Local Government to fix a new poll date and for the Returning Officer to issue a new election notice giving notification of the new poll date.***
- 2) ***That Council approves the polling date of Friday 21 May 2010 to re-conduct the Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley.***
- 3) ***That Council requests approval of the Electoral Commissioner for the Extraordinary Election to fill the vacancy created by the resignation of Cr. Paul Caley to be held on Friday 21 May 2010.***

Carried Unanimously 6/0

5. MEETING CLOSURE

With all matters of business complete, the Shire President closed the meeting at 6.02pm.