

AGENDA.

Ordinary Council Meeting

Late Report

13 December 2022

Notice of Meeting

Mayor and Councillors

The next Ordinary Council Meeting of the City of South Perth Council will be held on Tuesday 13 December 2022 in the the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth commencing at 6.00pm.



MIKE BRADFORD
CHIEF EXECUTIVE OFFICER

12 December 2022

Acknowledgement of Country

Kaartdjinin Nidja Nyungar Whadjuk Boodjar Koora Nidja Djining Noonakoort kaartdijin wangkiny, maam, gnarnk and boordier Nidja Whadjuk kura kura.

We acknowledge and pay our respects to the traditional custodians of this land, the Whadjuk people of the Noongar nation and their Elders past and present.

Our Guiding Values



Disclaimer

The City of South Perth disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence or the like is discussed or determined during this meeting, the City warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the City.

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1. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

In accordance with Clause 5.4 of the City of South Perth Standing Orders Local Law 2007:

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the City and must be considered and dealt with by the Council before the next meeting.

14.1 Extraordinary Election - Como Ward

File Ref: D-22-59534
Author(s): Bernadine Tucker, Manager Governance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report is to declare that the Electoral Commission will conduct the Extraordinary Election to fill the vacancy in the Como Ward created by Councillor Carl Celedin resigning, and for an Extraordinary Election to be conducted by a postal method.

Officer Recommendation

That Council:

1. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the extraordinary election for the Como Ward.
2. Decide, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the method of conducting the extraordinary election will be as a postal election for the Como Ward.
3. Allocates an amount of \$30,000 in the 2022/23 budget to cover the costs of the extraordinary election.

Absolute Majority Required

Background

Councillor Carl Celedin was elected to the City of South Perth Council in October 2019 for a four-year term, expiring in October 2023. On 9 December 2022, Councillor Celedin submitted his resignation to the CEO and Mayor effective from 12 December 2022.

10.4.1 Extraordinary Election - Como Ward

In accordance with section 4.17 of the *Local Government Act 1995*, a vacant Councillor office can remain unfilled until the next ordinary election if the vacancy occurred after the third Saturday in January of the election year, and before the third Saturday in July of that election year. As Councillor Celedin resigned before the third Saturday in January 2023, the City must hold an extraordinary election.

Cr Celedin's resignation creates a vacancy in the Como Ward. Local government elections must be conducted in accordance with the *Local Government Act 1995* and associated regulations. Section 4.9(1)(b) of the *Local Government Act 1995* requires Council to determine how it wishes to deal with the vacancy within one month of the date the vacancy was created.

In accordance with Section 4.20(1) of the *Local Government Act 1995*, the Chief Executive Officer is the returning officer for local government elections, unless and in accordance with Section 4.20(2), another person is appointed by the Council as being responsible for the election. Any other person, other than the Chief Executive Officer, is required to be approved by the Western Australian Electoral Commissioner.

The Council can decide, under Section 4.20(4) of the *Local Government Act 1995*, for the Western Australian Electoral Commissioner to be responsible for an election, which includes the appointment of a returning officer and other arrangements associated with that election. The City recently received an in principle agreement from the Western Australian Electoral Commissioner to conduct the City of South Perth Extraordinary Election for the Como Ward. In accordance with the *Local Government Act 1995*, Council is requested to confirm the Electoral Commissioner as being responsible for conducting the City of South Perth Extraordinary Election and to endorse a postal voting method be undertaken for that election.

There are two methods for conducting local government elections, this being postal voting or voting in person. The *Local Government Act 1995* stipulates that postal elections must only be conducted by the Western Australian Electoral Commission.

There are significant benefits for the elections to be conducted as a postal election:-

- It increases the voter turnout;
- Having an external person appointed by the Electoral Commission as the returning officer creates separation and provides independence to the process;
- It is easier for electors to vote.

Comment

The Electoral Commission have advised that they can conduct an extraordinary election for the Como Ward on Friday 3 March 2023 with nominations opening on Wednesday 18 January 2023 and closing on Wednesday 25 January 2023.

Consultation

Advice has been received from the Electoral Commissioner that they are willing to conduct the postal election for the City of South Perth Extraordinary Election for the Como Ward.

Policy and Legislative Implications

Division 4 of Part 4 of the *Local Government Act 1995*.

Financial Implications

It is estimated that the cost for the Western Australian Electoral Commission to conduct the 2023 City of South Perth Extraordinary Election for the Como Ward would be approximately \$30,000 (including GST).

Costs not incorporated in this estimate include any non-statutory advertising (such as additional advertisements in community newspapers), any legal expenses (other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns), and employee costs to work in the polling place on Election Day.

The City’s current budget does not include any provision for an extraordinary election.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	High
Mitigation and actions	Appointment of the Electoral Commissioner will ensure that the election is managed in accordance with statutory requirements.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

- Strategic Direction: Leadership
- Aspiration: A local government that is receptive and proactive in meeting the needs of our community
- Outcome: 4.3 Good governance
- Strategy: 4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

Nil.