



Special Council Meeting 16 December 2014

MINUTES



16 December 2014

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MINUTES OF A SPECIAL COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON TUESDAY, 16 DECEMBER 2014 COMMENCING AT 7.15PM.

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MINUTES OF A SPECIAL COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON TUESDAY, 16 DECEMBER 2014 COMMENCING AT 7.15PM.

310. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

310.1 Present

Mayor J O'Neill Presiding Member

Cr J Amor

Cr C Collinson

Cr M Handcock

Cr J Harrington

Cr S Martin

Cr M McPhail

Cr A Watkins

Mr G Clark CEO/Minute Taker

311. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member made the following acknowledgement:

"On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place."

312. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

313. RECORD OF APOLOGIES

Cr Rico.

314. PUBLIC QUESTION TIME

Nil.

315. BUSINESS

315.1 Local Government Reform – Transitional Matters – Appointment of Commissioners
By Gary Clark Acting Chief Executive Officer on 15 December 2014

PURPOSE

To obtain a decision about the Council's position on the appointment of Commissioners to the new entity of the amalgamated Town of East Fremantle and City of Fremantle as proposed.

BACKGROUND

In November 2014 Council appointed representatives to the Local Implementation Committee (LIC) which met for the first time on Friday 5 December 2014. One of the key governance items that were raised as an agenda item for discussion at the next LIC meeting in February 2015, is that of the appointment of the Commissioner or Commissioners to the new entity.

Discussion and subsequent information provided at the LIC by representatives from the Department of Local Government and Communities and WALGA, proposes that the Town of East Fremantle and the City of Fremantle can resolve to request that the Minister for Local Government and Communities/Governor appoint joint Commissioners to oversee the new entity from 1 July 2015 until a democratically elected Council is appointed.

Both Councils have expressed a preference for a Ward structure to be in place for the first election however it is not possible to have a proposal ready for the new commissioner/s to adopt and lodge with the Local Government Advisory Board so a Ward



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structure would be in place for elections in October 2015. Both local governments would need to request that the elections be delayed until March or April 2016.

Some concern was expressed at the LIC meeting about the length of time that the new local government would be without elected representation. It was considered that both existing communities would be more comfortable with this timeframe if some of the commissioners were elected members from the current Councils.

Discussion focused around the opportunity for the new entity to have five (5) commissioners appointed, comprising of the democratically elected representatives, such as the Mayors and Deputy Mayors of the Town of East Fremantle and City of Fremantle, in addition to an independently appointed person overseeing the governance of the new entity from 1 July 2015.

These representatives would have the authority to appoint the interim Chief Executive Officer to administer the new entity from 1 July 2015, until the newly elected Council is able to appoint a Chief Executive Officer.

LIC members agreed that having democratically elected representatives appointed as Commissioners of the new entity would be a preferred option to a singularly appointed external Commissioner (or Commissioners) and agreed to put the matter to the respective Councils for deliberation.

Council at its meeting on the 9th December 2014 resolved to nominate the Mayor and one other Councillor (instead of the Deputy Mayor as recommended), in a joint request to the Minister to delay the election of the new local government and appoint elected members as commissioners.

REPORT

The LIC proposal to *jointly* request five commissioners with four being the Mayor and Deputy Mayor of the abolished local governments would suggest that a joint approach would carry more weight with the Minister than individual proposals.

If East Fremantle takes a different approach to Fremantle then there is a high risk that the Minister or his advisors would perceive a lack of consensus.

The highest priority for both local governments is that a ward structure is in place for the first election of the new local government. The second highest, but dependent, priority is to delay the election to enable the ward structure to be in place.

The third priority is to have elected representation, in the form of Councillors as Commissioners in the period between 1 July 2015 and the election in 2016. Seeking to name individual elected members as preferred Commissioners would be the least priority of the four objectives mentioned.

Any perceived lack of consensus between the two current local governments or within the Town of East Fremantle may result in the Minister deciding to appoint no elected members as Commissioners.

Statutory Requirements

Local Government Act 1995 (As amended)

Provisions under the Local Government Act for the appointment of Commissioners are as follows:

Section 2.39 Appointment of commissioner:

- (1) *A commissioner of a local government can be appointed by the Governor under the power given by section 2.6(4), 2.36A(3), 2.37(4), 2.37A(1), 8.30 or 8.33 and not otherwise.*



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- (2) (2) Subsection (1) does not prevent the appointment of a person under schedule 2.4 clause 4 to fill a vacancy in the office of commissioner.

Section 2.40 Joint commissioners

- (1) A power to appoint a commissioner includes power to appoint 3 or 5 commissioners to administer the local government and to appoint one of them to be the chairperson and another to be the deputy chairperson.
- (2) If 3 or 5 commissioners are appointed —
- (a) they are to exercise the powers and discharge the duties of the council of the local government jointly; and
 - (b) the chairperson is to exercise the powers and discharge the duties of the mayor or president; and
 - (c) the deputy chairperson is to exercise the powers and discharge the duties of the deputy mayor or deputy president.

Relevant Council Policies

Nil

Strategic Plan Implications

As discussed in the body of this report.

Financial/Resource/Budget Implications

Nil

Conclusion

The appointment of five (5) Commissioners that include the existing Mayors and Deputy Mayors plus an independently appointed person, would best serve the interests of both the Town of East Fremantle and the City of Fremantle, as it will provide continuity and consistency of decision making for the entity until such time as a new Council is elected and appointed.

The Minister for Local Government may appoint one, three or five Commissioners. While five Commissioners would be preferable the priority would be to ensure that the first election is held under a ward structure.

The Acting CEO has sought advice from the Department of Local Government and Communities (DLGC) about any precedents for elected members, other than Mayors or Deputy Mayors, acting as Commissioners. The advice from Tim Fowler, Special Advisor, Legislation and Reform Executive at DLGC, advised the following;

"The determination of who to appoint as a commissioner is a matter for the Minister under the Act.

There are precedents for having five commissioners which is what happened recently for Greater Geraldton. The Act only allows, one, three or five. It will be a matter for each council to indicate its preference.

I see that both of your Mayors signed the letter of 27 November to the Minister requesting 3 commissioners made up of the two mayors and an independent chair. Is East Fremantle now having second thoughts about the number?

It is possible that a mayor may not wish to carry out the role of commissioner and in that case I guess it could be the deputy or another councillor nominated by the council. A similar situation could arise for a deputy mayor.

I agree that it would be better that there was consensus between the two local governments and the letter of the 27th appeared to present that."



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Voting Requirements

Simple Majority

RECOMMENDATION

That Council nominate the Deputy Mayor as the second elected member in any joint letter to the Minister requesting the appointment of elected members as commissioners for the new local government.

Cr Harrington

That Council nominate the Deputy Mayor as the second elected member in any joint letter to the Minister requesting the appointment of elected members as commissioners for the new local government.

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Cr Handcock – Cr Amor

That Council nominate the Presiding Member of the Town Planning & Building Committee as the second elected member in any joint letter to the Minister requesting the appointment of elected members as commissioners for the new local government.

CARRIED 6:2

316.

CLOSURE OF MEETING

There being no further business, the meeting closed at 7.41pm.

*I hereby certify that the Minutes of the special meeting of the **Council** of the Town of East Fremantle, held on **16 December 2014**, Minute Book reference **310. to 316.** were confirmed at the meeting of the Council on*

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Presiding Member