

Please note: These minutes are yet to be confirmed as a true record of proceedings

**SHIRE OF BUSSELTON**

**MINUTES OF A SPECIAL COUNCIL MEETING HELD ON 23 FEBRUARY 2009**

**TABLE OF CONTENTS**

| <b>ITEM NO.</b> | <b>SUBJECT</b>                            | <b>PAGE NO.</b> |
|-----------------|---|-----------------|
| 1.              | ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE  | 1               |
| 2.              | PURPOSE OF THE MEETING                    | 1               |
| 3.              | PUBLIC QUESTION TIME                      | 2               |
| 4.              | DECLARATION OF DUE CONSIDERATION          | 2               |
| 5.              | DECLARATIONS OF INTERESTS                 | 2               |
| 6.              | PRESENTATIONS BY PARTIES WITH AN INTEREST | 2               |
| 7.              | BUSINESS OF THE MEETING                   | 2               |
|                 | 7.1 BUSINESS OF THE MEETING               | 2               |
| 8.              | CLOSURE                                   | 15              |

**SHIRE OF BUSSELTON****MINUTES OF A SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS,  
ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON MONDAY,  
23 FEBRUARY 2009 AT 10:00 AM**

The Presiding Member opened the meeting at 10.07 a.m.

**1. ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE**

|                   |  |  |
|-------------------|--|--|
| Presiding Member: | Cr Wes Hartley   | Shire President  |
| Members:          | Cr Bethwyn Hastie<br>Cr David Binks<br>Cr Ian Stubbs<br>Cr Anne Ryan<br>Cr Tom Tuffin<br>Cr Jackie Emery<br>Cr Bernie Masters<br>Cr Bev Clarke<br>Cr Don Hanran-Smith<br>Cr David Reid | (Until 11.06 a.m.)   |
| Officers:         | Mr Andrew Macnish<br>Mr Oliver Darby<br>Mr Matthew Smith<br><br>Ms Cathryn Hutton<br><br>Ms Jenny Mathies  | Chief Executive Officer<br>Director, Community Infrastructure<br>Director, Community and<br>Organisational Development<br>Executive Manager, Systems and<br>Information<br>Admin. Officer - Governance |
| Apologies:        | Cr Ross Bromell<br>Cr Rob Underdown  |  |
| Leave of Absence: | Nil  |  |
| Media:            | "Busselton-Dunsborough Times"<br>"Busselton-Dunsborough Mail"  |  |
| Public:           | 3  |  |

**2. PURPOSE OF THE MEETING**

This meeting has been called in accordance with Section 5.4(a)(ii) of the Local Government Act. On 18 February 2009, the CEO received signed notice from five Councillors (Crs Binks, Stubbs, Tuffin, Emery and Masters) calling for this meeting, setting out the date and purpose of the meeting.

The meeting, as set out in the notice, has been called "to consider conducting a review of the Standing Orders, changing the layout of the Council Chambers, obtaining Ron Back's governance workshop report,

availability of the Lot 16 West Street file, provision of a report and/or figures that support the need for the proposed new administration centre and other general governance issues.”

**3. PUBLIC QUESTION TIME**

Nil.

**4. DECLARATION OF DUE CONSIDERATION**

The Presiding Member requested Councillors to acknowledge, in accordance with Clause 8.1 of the Standing Orders, that they have given due consideration to the matters contained within the Agenda.

| <b>Declared Due Consideration</b> | <b>No Declaration</b> |
|-----------------------------------|-----------------------|
| Councillor Wes Hartley            |                       |
| Councillor Bethwyn Hastie         |                       |
| Councillor David Binks            |                       |
| Councillor Ian Stubbs             |                       |
| Councillor Anne Ryan              |                       |
| Councillor Tom Tuffin             |                       |
| Councillor Jackie Emery           |                       |
| Councillor Bernie Masters         |                       |
| Councillor Bev Clarke             |                       |
| Councillor Don Hanran-Smith       |                       |
| Councillor David Reid             |                       |

**5. DECLARATIONS OF INTERESTS**

Nil.

**6. PRESENTATIONS BY PARTIES WITH AN INTEREST**

Nil.

**7. BUSINESS OF THE MEETING**

**7.1 BUSINESS OF THE MEETING**

**FILE NO:** COM1

**PRECIS**

Signed notice in accordance with Section 5.4 of the Local Government Act 1995 was given to the CEO, directing that a Special Meeting of the Council be convened in the Council Chambers on Monday, 23 February 2009, commencing at 10.00 a.m.

The abovementioned notice states that the purpose of the meeting is:

**PART A**

To consider and vote on the following proposed resolutions:

1. That:

- (a) the Council agree to carry out a review of its Local Law relating to the Proceedings and Business of Council (Standing Orders);
- (b) a copy of the "Model" Standing Orders prepared by WALGA be used as the base document for the review and that the CEO arrange for a copy of the document to be circulated to all Councillors within seven days of the date of this meeting;
- (c) Ron Back be engaged by the CEO to conduct a workshop or workshops as required, of all Councillors to determine the content of a set of Standing Orders that the Councillors wish to have formally adopted to replace the existing Standing Orders;
- (d) the funding for the engagement of Ron Back be drawn from the same COA that has been utilised for the engagement of Ron Back to conduct the recent Governance Workshop;
- (e) the CEO take appropriate steps to ensure that the necessary resources are available for the Councillor Workshops, including secretarial support, to enable all the workshops to be conducted before the end of April 2009;
- (f) when the Councillors have completed the review of the Standing Orders and have arrived at an appropriate set of Standing Orders to replace the existing Standing Orders, a special meeting of Council be convened before the end of May 2009 to consider the formal resolutions required to commence the promulgation process.

2. That:

- (a) The CEO take appropriate action to carry out the following changes to the layout of the Council Chambers:
  - (i) remove surplus tables from the raised portion of the Council Chambers after allowing for only the Shire President, CEO and Minute Clerk to remain on the raised section;
  - (ii) provide a table approximately at the rear of where Councillor Emery sits to accommodate two Directors;
  - (iii) provide a table approximately at the rear of where Councillor Tuffin sits to accommodate two Directors;

- (iv) shift the centre and western end Councillor tables to taper in towards the middle of the room to allow the lectern and a small space on either side of the lectern, between Councillors Tuffin and Emery;
  - (b) The CEO arrange to have the abovementioned changes put in place within seven days of the date of this meeting and ensure that this new layout is in place for each Council Meeting, whether Ordinary or Special and each Briefing Session over the next three months;
  - (c) The Council review the new layout after the expiration of three months.
3. That the Shire President contact Ron Back as a matter of urgency to obtain his report on the recently held Governance Workshop. Further, as soon as Mr Back's report is received, the Shire President to circulate a copy to all Councillors and arrange to have allocated at a briefing session during March appropriate time to enable Councillors to discuss the report.
4. That the CEO make available in the Councillors' room, the file relating to Lot 16 West Street to enable the file to be perused by Councillor Ryan and any other interested Councillors to enable Councillor Ryan and the other interested Councillors to perform their functions under the Local Government Act. The CEO to notify all Councillors by email when the file is available for perusal in the Councillors' room. The file is to remain in the Councillors' room for two full days. This decision is to be actioned by the CEO within seven days of the date of this meeting.
5. That the CEO provide all Councillors with a copy of the report and/or the figures that support the need for the proposed new Administration Centre. Without limiting the generality of the information to be provided to all Councillors, the report is to clearly set out the following:
- (a) current staff numbers, where they are located and the floor area of each location. (The locations being: the main administrative building, the area that was the former Civic Centre, the building across Southern Drive from the offices, the temporary buildings on site and the Shire Depot.)
  - (b) The projected extra staff (numbers and positions) expected to be employed in each of the next 10 years.

This information to be circulated to all Councillors within 14 days of the date of this meeting.

**PART B**

Discussion on any other general governance issues of concern to individual Councillors.

**OFFICER RECOMMENDATION - PART A, CLAUSE 1**

1. That -

- (a) This review be scheduled as a task in the 09/10 Corporate Plan, thus allowing four months to receive and review the newly proposed 'Model' standing orders (the new Model being currently with the legislative review committee).
- (b) The existing 'Model' standing orders be sourced and circulated to Councillors as soon as practicable and the new Model's estimated time of availability also be advised.
- (c) Pursuant to (b) and (c), an initial workshop be scheduled for all Councillors to be run internally, (if as a result of that exercise, the Council subsequently seeks alternative advice, then that option would be perfectly acceptable and open to it) within one month of the circulation of the new Model standing orders.
- (d) Funding for Governance training for Ron Back in 08/09 has come from COA 100.10000.3587. The Purchasing Policy calls for expected engagement amounts greater than \$1000 to be verbally quoted and for amounts above this but less than \$5000, two quotes are required. As such Ron Back be requested to supply a quote against a brief to be worded herein (by the Council) and thus this approach ensures transparency and conforms to usual controls.
- (e) The CEO ensure the first 'Governance' workshop be scheduled as soon as convenient to elected members after the publication of the new model standing orders.
- (f) The Council not set a date to do something three months hence (when indeed a Council meeting can be convened with a minimum of a few days or even hours notice).

**OFFICER RECOMMENDATION - PART A, CLAUSE 4**

4. That the Council resolve that legal advice on the matter be obtained from solicitors specialising in Local Government law and this be funded from COA 300.10500.3244. This advice will be sought within seven days.

**OFFICER RECOMMENDATION - PART A, CLAUSE 5**

5. That this process be left as the Council has already framed/facilitated rather than have staff conduct their own separate analysis ahead of time and ahead of the Council's review of the 10 year financial plan, (note that the draft plan will be available to be workshopped by elected members proposed for 20 March).

**OFFICER RECOMMENDATION - PART B**

That the Council note that immediately at the conclusion of this special meeting, individual councillors will be able to discuss any other general governance issues of concern, (and as such will reserve the right to occupy the chamber and close the door if deemed necessary).

Note: Each of the proposed resolutions were dealt with separately by the Council.

**MOTION 1**

Moved Councillor Stubbs, seconded Councillor Ryan:

That:

- (a) the Council agree to carry out a review of its Local Law relating to the Proceedings and Business of Council (Standing Orders);
- (b) a copy of the "Model" Standing Orders prepared by WALGA be used as the base document for the review and that the CEO arrange for a copy of the document to be circulated to all Councillors within seven days of the date of this meeting;
- (c) Ron Back be engaged by the CEO to conduct a workshop or workshops as required, of all Councillors to determine the content of a set of Standing Orders that the Councillors wish to have formally adopted to replace the existing Standing Orders;
- (d) the funding for the engagement of Ron Back be drawn from the same COA that has been utilised for the engagement of Ron Back to conduct the recent Governance Workshop;
- (e) the CEO take appropriate steps to ensure that the necessary resources are available for the Councillor Workshops, including secretarial support, to enable all the workshops to be conducted before the end of April 2009;
- (f) when the Councillors have completed the review of the Standing Orders and have arrived at an appropriate set of Standing Orders to replace the existing Standing Orders, a special meeting of Council be

convened before the end of May 2009 to consider the formal resolutions required to commence the promulgation process.

### **AMENDMENT MOVED**

#### **AMENDMENT**

Moved Councillor Masters, seconded Councillor Stubbs:

That sub-para. (c) be amended by deletion of the name "Ron Back" at the beginning and replacement with the words "subject to Mr Ron Back supplying a quote, he".

#### **AMENDMENT CARRIED 8/3**

##### Dissenting Voters:

Councillor Bethwyn Hastie  
Councillor Wes Hartley  
Councillor Don Hanran-Smith

#### **FORESHADOWED MOTION**

During debate on this matter, Councillor Hanran-Smith foreshadowed his intention to move the Officer Recommendation in relation thereto.

#### **COUNCIL DECISION 1**

C0902/045 Moved Councillor Stubbs, seconded Councillor Ryan:

That:

- (a) the Council agree to carry out a review of its Local Law relating to the Proceedings and Business of Council (Standing Orders);
- (b) a copy of the "Model" Standing Orders prepared by WALGA be used as the base document for the review and that the CEO arrange for a copy of the document to be circulated to all Councillors within seven days of the date of this meeting;
- (c) subject to Mr Ron Back supplying a quote, he be engaged by the CEO to conduct a workshop or workshops as required, of all Councillors to determine the content of a set of Standing Orders that the Councillors wish to have formally adopted to replace the existing Standing Orders;
- (d) the funding for the engagement of Ron Back be drawn from the same COA that has been utilised for the engagement of Ron Back to conduct the recent Governance Workshop;
- (e) the CEO take appropriate steps to ensure that the necessary resources are available for the Councillor Workshops, including secretarial

support, to enable all the workshops to be conducted before the end of April 2009;

- (f) when the Councillors have completed the review of the Standing Orders and have arrived at an appropriate set of Standing Orders to replace the existing Standing Orders, a special meeting of Council be convened before the end of May 2009 to consider the formal resolutions required to commence the promulgation process.

**CARRIED 7/4**

Dissenting Voters:

Councillor Bethwyn Hastie

Councillor Wes Hartley

Councillor Don Hanran-Smith

Councillor Bev Clarke

Note 1: As the Motion was carried, Councillor Hanran-Smith was unable to move the Officer Recommendation that he had previously foreshadowed.

Note 2: In accordance with Local Government Administration Regulation 11(da), reasons are required to be recorded for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

**Councillor Tom Tuffin:**

A significant number of Councillors (including myself) had indicated during their workshop with Mr Back that they wanted to review the Standing Orders as a matter of priority – this motion, as put, allowed this to happen as a matter of priority. The Officers' Recommendation would have delayed progress significantly and unnecessarily.

**Councillor David Binks:**

The Standing Orders have, for a long time, been considered by the CEO as being in need of reviewing. The Council's decision simply gets the ball rolling with a Councillor-driven review. The Officer's Recommendations are valid, however this review has been waiting a long time now and this decision will get the ball rolling.

**Councillor Ian Stubbs:**

Because I disagreed with it.

**Councillor Bernie Masters:**

I believed that the need to review the Council's standing orders was more urgent than suggested by the Officer Recommendation and that such a review needed to be conducted within the next few weeks.

**Councillor Jackie Emery:**

I did not agree with the Officer Recommendation.

**Councillor David Reid:**

I held a differing view to the Officer's Recommendation which was supported by a COUNCIL MAJORITY.

**Councillor Anne Ryan:**

*No reason provided.*

**MOTION 2**

Moved Councillor Binks seconded Councillor Tuffin:

That:

- (a) The CEO take appropriate action to carry out the following changes to the layout of the Council Chambers:
  - (i) remove surplus tables from the raised portion of the Council Chambers after allowing for only the Shire President, CEO and Minute Clerk to remain on the raised section;
  - (ii) provide a table approximately at the rear of where Councillor Emery sits to accommodate two Directors;
  - (iii) provide a table approximately at the rear of where Councillor Tuffin sits to accommodate two Directors;
  - (iv) shift the centre and western end Councillor tables to taper in towards the middle of the room to allow the lectern and a small space on either side of the lectern, between Councillors Tuffin and Emery;
- (b) The CEO arrange to have the abovementioned changes put in place within seven days of the date of this meeting and ensure that this new layout is in place for each Council Meeting, whether Ordinary or Special and each Briefing Session over the next three months;
- (c) The Council review the new layout after the expiration of three months.

**AMENDMENT MOVED**

**AMENDMENT**

Moved Councillor Hartley, seconded Councillor Clarke:

That the motion be amended by deletion of sub-para. (b) and replacement with the following:

- (b) That the decision of the Council be conveyed to the CEO with respect to the timetable, with any budgetary implications and other matters to be reported back to the Council before any action is taken.

**AMENDMENT LOST 4/7**

Dissenting Voters:

Councillor David Binks  
Councillor Bernie Masters  
Councillor Tom Tuffin  
Councillor Ian Stubbs  
Councillor Anne Ryan  
Councillor Jackie Emery  
Councillor David Reid

**COUNCIL DECISION 2**

C0902/046            Moved Councillor Binks, seconded Councillor Tuffin:

That:

- (a) The CEO take appropriate action to carry out the following changes to the layout of the Council Chambers:
- (i) remove surplus tables from the raised portion of the Council Chambers after allowing for only the Shire President, CEO and Minute Clerk to remain on the raised section;
  - (ii) provide a table approximately at the rear of where Councillor Emery sits to accommodate two Directors;
  - (iii) provide a table approximately at the rear of where Councillor Tuffin sits to accommodate two Directors;
  - (iv) shift the centre and western end Councillor tables to taper in towards the middle of the room to allow the lectern and a small space on either side of the lectern, between Councillors Tuffin and Emery;
- (b) The CEO arrange to have the abovementioned changes put in place within seven days of the date of this meeting and ensure that this new layout is in place for each Council Meeting, whether Ordinary or Special and each Briefing Session over the next three months;
- (c) The Council review the new layout after the expiration of three months.

**CARRIED 7/4**

Dissenting Voters:

Councillor Don Hanran-Smith  
Councillor Bev Clarke  
Councillor Wes Hartley  
Councillor Bethwyn Hastie

11.06 a.m. At this time Councillor Clarke left the meeting and did not return.

### **COUNCIL DECISION 3**

C0902/047 Moved Councillor Stubbs, seconded Councillor Ryan:

That the Shire President arrange to have allocated at a Briefing Session during March appropriate time to enable Councillors to discuss Mr Back's report from the last governance workshop.

**CARRIED 9/1**

Dissenting Voter:

Councillor Don Hanran-Smith

### **MOTION 4**

Moved Councillor Masters, seconded Councillor Ryan:

That the CEO make available in the Councillors' room, the file relating to Lot 16 West Street to enable the file to be perused by Councillor Ryan and any other interested Councillors to enable Councillor Ryan and the other interested Councillors to perform their functions under the Local Government Act. The CEO to notify all Councillors by email when the file is available for perusal in the Councillors' room. The file is to remain in the Councillors' room for two full days. This decision is to be actioned by the CEO within seven days of the date of this meeting.

**AMENDMENT MOVED**

### **AMENDMENT**

Moved Councillor Binks, seconded Councillor Hanran-Smith:

That the motion be amended by

- (i) addition of a new sub-para. (a) (incorporating the Officer Recommendation) as follows
  - (a) That legal advice on the matter of access to the file in relation to Lot 16 West Street and the matter of access to information in general be obtained from solicitors specialising in Local Government law and this be funded from COA 300.10500.3244. This advice will be sought within seven days.
- (ii) renaming of the existing motion to sub-para. (b); and

- (iii) addition at the beginning of sub-para. (b) of the words "In the event that the advice grants access in relation to Lot 16 West Street".

**AMENDMENT CARRIED 5/5  
ON THE CASTING VOTE OF THE PRESIDING MEMBER**

Dissenting Voters:

Councillor Ian Stubbs  
Councillor Anne Ryan  
Councillor Tom Tuffin  
Councillor David Reid  
Councillor Jackie Emery

- 11.45 am At this time the Executive Manager, Systems and Information left the meeting.
- 11.47 am At this time the Executive Manager, Systems and Information returned to the meeting.

**COUNCIL DECISION 4**

C0902/048 Moved Councillor Masters, seconded Councillor Ryan:

- (a) That legal advice on the matter of access to the file in relation to Lot 16 West Street and the matter of access to information in general be obtained from solicitors specialising in Local Government law and this be funded from COA 300.10500.3244. This advice will be sought within seven days.
- (b) In the event that the advice grants access in relation to Lot 16 West Street, that the CEO make available in the Councillors' room, the file relating to Lot 16 West Street to enable the file to be perused by Councillor Ryan and any other interested Councillors to enable Councillor Ryan and the other interested Councillors to perform their functions under the Local Government Act. The CEO to notify all Councillors by email when the file is available for perusal in the Councillors' room. The file is to remain in the Councillors' room for two full days. This decision is to be actioned by the CEO within seven days of the date of this meeting

**CARRIED 10/0**

- 11.58 am At this time the Chief Executive Officer left the meeting.
- 11.59 am At this time the Chief Executive Officer returned to the meeting.

**MOTION 5**

Moved Councillor Tuffin, seconded Councillor Stubbs:

That the CEO provide all Councillors with a copy of the report and/or the figures that support the need for the proposed new Administration Centre. Without limiting the generality of the information to be provided to all councillors, the report is to clearly set out the following:

- (a) current staff numbers, where they are located and the floor area of each location. (The locations being: the main administrative building, the area that was the former Civic Centre, the building across Southern Drive from the offices, the temporary buildings on site and the Shire Depot.)
- (b) The projected extra staff (numbers and positions) expected to be employed in each of the next 10 years.

This information to be circulated to all Councillors within 14 days of the date of this meeting.

12.10 pm At this time Councillors Emery and Hastie left the meeting.

12.12 pm At this time Councillor Hastie returned to the meeting.

12.14 pm At this time Councillor Masters left the meeting

12.15 pm At this time Councillor Binks left the meeting.

12.16 pm At this time Councillor Emery returned to the meeting.

12.17 pm At this time Councillor Binks returned to the meeting.

12.18 pm At this time Councillor Masters returned to the meeting.

12.33 pm At this time Councillor Stubbs left the meeting.

12.35 pm At this time Councillor Stubbs returned to the meeting.

**MOTION (PROCEDURAL)**

Moved Councillor Reid, seconded Councillor Hanran-Smith:

That the Motion be put.

**CARRIED 10/0**

**COUNCIL DECISION**

C0902/049            Moved Councillor Tuffin, seconded Councillor Stubbs:

That the CEO provide all Councillors with a copy of the report and/or the figures that support the need for the proposed new Administration Centre. Without limiting the generality of the information to be provided to all councillors, the report is to clearly set out the following:

- (a) current staff numbers, where they are located and the floor area of each location. (The locations being: the main administrative building, the area that was the former Civic Centre, the building across Southern Drive from the offices, the temporary buildings on site and the Shire Depot.)
- (b) The projected extra staff (numbers and positions) expected to be employed in each of the next 10 years.

This information to be circulated to all Councillors within 14 days of the date of this meeting.

**CARRIED 7/3**

Dissenting Voters:

Councillor Wes Hartley  
Councillor Don Hanran-Smith  
Councillor Bethwyn Hastie

Note: In accordance with Local Government Administration Regulation 11(da), reasons are required to be recorded for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

**Councillor David Binks:**

Cr Stubbs is entitled to request this information at this time and it is not a difficult request to accommodate.

**Councillor Tom Tuffin:**

This is important information for decision making purposes.

**Councillor Ian Stubbs:**

Because I disagreed with it.

**Councillor Bernie Masters:**

I believed that the information requested was required more urgently than would have been provided had the Officer Recommendation been accepted.

**Councillor Jackie Emery:**

I did not agree with the Officer Recommendation.

**Councillor David Reid:**

I could not agree with the Officer's Recommendation which was supported by a COUNCIL MAJORITY.

The reasons for an individual's position should not be required when the Council has made a decision. This would set a precedent for every Council Meeting, Special or Committee and serve no useful purpose.

**Councillor Anne Ryan:**

*No reason provided.*

**8. CLOSURE**

The meeting closed at 12.40 p.m.

|  |                         |
|--|-------------------------|
| THESE MINUTES CONSISTING OF PAGES 1 TO 15 WERE CONFIRMED AS A TRUE |                         |
| AND CORRECT RECORD ON  | _____                   |
| DATE: _____  | PRESIDING MEMBER: _____ |