

**MINUTES**

**OF THE**

**SPECIAL MEETING OF COUNCIL**

**HELD ON**

**17 OCTOBER 2011**

**AT 6.00PM IN THE COUNCIL CHAMBERS**

**MELVILLE CIVIC CENTRE**

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**MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.00PM ON MONDAY, 17 OCTOBER 2011.**

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**1. PRESENT**

His Worship the Mayor, Russell Aubrey

**COUNCILLORS**

Deputy Mayor Cr C Robartson  
Cr R Willis  
Cr N Pazolli, Cr P Reidy  
Cr A Nicholson, Cr D Macphail  
Cr J Barton, Cr S Taylor-Rees  
Cr B Kinnell, Cr R Hill  
Cr N Foxtton, Cr M Reynolds

**WARD**

Bull Creek/Leeming  
Bull Creek/Leeming  
Applecross/Mount Pleasant  
City  
Bicton/Attadale  
Palmyra/Melville/Willagee  
University

**2. IN ATTENDANCE**

Dr S Silcox  
Mr M Tieleman  
Ms L Hartill  
Mr S Cope  
Mr J Christie  
Mr L Hitchcock  
Mr B Taylor

Mr J Clark

Ms J Paparella  
Ms S Tranchita  
Ms D Beilby

Chief Executive Officer  
Director Corporate Services  
A/Director Community Development  
Director Urban Planning  
Director Technical Services  
Executive Manager Legal Services  
Manager Information, Technology & Support  
Governance & Compliance Program Manager  
A/Business Support Officer  
Corporate Administration Officer  
Minute Secretary

At the commencement of the meeting there were 25 members of the public and no members from the Press in the Public Gallery.

### 3. **DECLARATION OF OFFICE CEREMONY FOR THE MAYOR AND NEWLY ELECTED COUNCILLORS.**

#### **WELCOME BY THE CHIEF EXECUTIVE OFFICER**

The Chief Executive Officer welcomed Elected Members of the Council, Staff and families to the Swearing-In Ceremony and introduced existing Elected Members.

#### **SWEARING-IN – SECTION 2.29 OF THE LOCAL GOVERNMENT ACT**

##### **DECLARATION OF OFFICE**

The Chief Executive Officer requested that Russell Aubrey, the newly Elected Mayor of the Council, take the **DECLARATION OF OFFICE** in accordance with Section 2.29 of the Local Government Act, after which the Declaration document was signed.

- Russell Aubrey was sworn in as Mayor for the period 2011 to 2015 by the Chief Executive Officer.

The Chief Executive Officer requested the newly Elected Members of the Council to individually take the **DECLARATION OF OFFICE** in accordance with Section 2.29 of the Local Government Act, after which the Declaration documents were signed –

- The following Members were sworn in as Councillors for the period 2011 to 2015 by His Worship the Mayor R A Aubrey

Cr S Taylor-Rees	Bicton/Attadale Ward
Cr N Pazolli	Applecross/Mount Pleasant
Cr R Willis	Bull Creek/Leeming Ward
Cr R Hill	Palmyra/Melville/Willagee Ward
Cr L M Reynolds	University Ward
Cr D Macphail	City Ward

The Members of the Council and Gallery stood to sing the National Anthem.

His Worship the Mayor R A Aubrey, read aloud the Affirmation of Civic Duty and Responsibility.

**Affirmation of Civic Duty and Responsibility**

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Standing Orders to ensure the efficient, effective and orderly decision making within this forum.

**4. APOLOGIES AND APPROVED LEAVE OF ABSENCE**

Nil.

**5. PUBLIC QUESTION TIME**

Nil.

**6. DISCLOSURES OF INTEREST**

Nil.

**7. APPLICATIONS FOR NEW LEAVES OF ABSENCE**

Nil.

**8. BUSINESS**

**C11/5196 – ELECTION OF DEPUTY MAYOR 2011/2013**

Acknowledging that the provisions of the Local Government Act 1995 allow the person elected to occupy the position for a period of twenty-four (24) months, City of Melville Elected Members have previously indicated their desire to elect the Deputy Mayor for a period of only twelve (12) months to give as many Councillors as possible exposure to and experience that this role provides. Past protocol has established that Candidates after 12 months stand down (resign) from the position and allow another ballot to be conducted in October 2012

At 6.23pm the Mayor invited nominations for the Office of Deputy Mayor for the 2011//2012 period.

The following nominations for the position of Deputy Mayor were received –

Cr N Pazolli  
Cr C Robartson

The Mayor closed the nominations at 6.24pm and gave each of the candidates the opportunity to make a brief presentation to the meeting.

The Chief Executive Officer conducted the Election in accordance with the provisions of the Local Government Act. A secret ballot was conducted.

At 6.33pm Cr Robartson was declared Deputy Mayor from October 2011 to October 2013.

**DECLARATION**

The Chief Executive Officer requested the newly elected Deputy Mayor to make the **DECLARATION OF OFFICE**, in accordance with Section 2.29 of the Local Government Act 1995, which was duly signed by the Deputy Mayor and the Mayor.

Cr Robartson was sworn in as Deputy Mayor for the period October 2011 to October 2013 by His Worship the Mayor R A Aubrey.

**C11/5197 - APPOINTMENT OF COMMITTEES 2011/2013 (AMREC) (ATTACHMENT)****Membership of Committees**

Legislative requirements for the appointment of committee members are dealt with in Section 5.10 of the Local Government Act 1995. Section 5.10 states as follows:-

*(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. (Note section 5.9(2) states that a committee is to comprise - (a) council members only; or (b) council members and employees.*

*(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.*

*(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.*

Note: - In accordance with Section 5.10(4) of the Local Government Act 1995, the Mayor may, where a Committee has a Councillor as a Member, give notice of intention to be a member of that Committee. In such circumstances, the local government is to appoint the Mayor to be a member of that Committee.

As the City is divided up into six wards, membership of Committees is usually evenly distributed across the wards so that each ward receives equal representation on the Committees.

**C11/5197 - APPOINTMENT OF COMMITTEES 2011/2013 (AMREC) (ATTACHMENT)****OFFICER RECOMMENDATION (5197)****ABSOLUTE MAJORITY**

At 6.36pm Cr Robartson moved, seconded Cr Reidy -

**That the committees for the 2011/2013 period consist of six members comprising of equal representation from each of the wards, where practicable, plus the Mayor, for the:-**

**Governance Committee and the**

**Financial Management, Audit, Risk & Compliance Committee**

**With Deputies appointed to cover periods of absence by individual members.**

Amendment

At 6.36pm Cr Pazolli moved, seconded Cr Nicholson -

**That the Officer Recommendation be amended by the deletion of the words "six members comprising of equal representation from each of the wards" and insertion of the words "*those members who wish to nominate for each committee,*"**

At 6.52pm the Mayor submitted the amendment, which was declared

**LOST (4/9)**Reasons for Amendment

In the past the membership of the two committees was split between the Elected Member group because there were many more committees than now and the commitment of time by Elected Members to attend all the meetings was too onerous. This is no longer the case given the small number of Finance Management Audit Risk Compliance and Governance Committee meetings and Cr Pazolli believed that all Elected Members that wish to should be able to nominate for both of the committees as many Elected Members will attend both meetings as committee members or observers.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5197)****ABSOLUTE MAJORITY**

**That the committees for the 2011/2013 period consist of six members comprising of equal representation from each of the wards, where practicable, plus the Mayor, for the:-**

**Governance Committee and the**

**Financial Management, Audit, Risk & Compliance Committee**

**With Deputies appointed to cover periods of absence by individual members.**

At 6.52pm the Mayor declared the motion

**CARRIED BY ABSOLUTE MAJORITY (13/0)**



**C11/5197 - APPOINTMENT OF COMMITTEES 2011/2013 (AMREC) (ATTACHMENT)**

**Governance Committee**

Details of the functions of the Governance Committee can be found in the following document:-  
[5197 Governance Committee Charter](#)

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5197)  
ABSOLUTE MAJORITY**

At 6.52pm Cr Robartson moved, seconded Cr Reidy -

**That by absolute majority decision of the Council the following elected members and their deputies be appointed to the Governance Committee from October 2011 to October 2013.**

<b>Member</b>	<b>Deputy</b>	<b>Ward</b>
Mayor Ex Officio		Section 5.10(4) Mayoral Position
Cr Reidy	Cr Pazolli	Applecross/Mount Pleasant
Cr Taylor-Rees	Cr Barton	Bicton/Attadale
Cr Robartson	Cr Willis	Bull Creek/Leeming
Cr Nicholson	Cr Macphail	City
Cr Hill	Cr Kinnell	Melville/Palmyra/Willage
Cr Foxtan	Cr Reynolds	University

At 6.55pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**C11/5197 - APPOINTMENT OF COMMITTEES 2011/2013 (AMREC) (ATTACHMENT)**

**Financial Management, Audit, Risk & Compliance Committee**

Details of the functions of the Financial Management, Audit, Risk and Compliance Committee can be found in the following document

[5197 FMARC Charter](#)

It should be noted that in addition to the Elected Members the membership of this Committee includes one external member appointed by the Council. Mr Richard Woodgate is the current member his term of appointment will expire on 31 December 2012.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5197)  
ABSOLUTE MAJORITY**

At 6.56pm Cr Robartson moved, seconded Cr Reidy

**That by absolute majority decision of the Council the following Elected Members and their Deputies be appointed to the Financial Management, Audit, Risk and Compliance Committee from October 2011 to October 2013.**

<b>Member</b>	<b>Deputy</b>	<b>Ward</b>
Mayor Ex Officio		Section 5.10(4) Mayoral Position
Cr Pazolli	Cr Reidy	Applecross/Mount Pleasant
Cr Barton	Cr Taylor-Rees	Bicton/Attadale
Cr Willis	Cr Robartson	Bull Creek/Leeming
Cr Macphail	Cr Nicholson	City
Cr Kinnell	Cr Hill	Melville/Palmyra/Willage
Cr Reynolds	Cr Foxtton	University

At 6.57pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**P11/3261 - NOMINATION OF REPLACEMENT CITY OF MELVILLE LOCAL GOVERNMENT MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)**

Ward : All  
 Category : Operational  
 Application Number : Not Applicable  
 Subject Index : Development Assessment Panels  
 Customer Index : Department of Planning  
 Property : Not Applicable  
 Proposal : Nomination of Replacement Local Government Members for Development Assessment Panels  
 Applicant : Not Applicable  
 Owner : Not Applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3205 – Nomination of City of Melville Local Government Members for Development Assessment Panels – 19 April 2011  
 P11/3215 – Nomination of Additional City of Melville Local Government Members for Development Assessment Panels – 17 May 2011  
 Responsible Officer : Peter Prendergast  
 Manager Planning and Development Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council review decisions made by Officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>

**P11/3261 - NOMINATION OF REPLACEMENT CITY OF MELVILLE LOCAL GOVERNMENT MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)****KEY ISSUES / SUMMARY**

- Development Assessment Panels (DAPs) commenced on 1 July 2011.
- At the Ordinary Meetings of Council held 19 April 2011 and 17 May 2011, Councillors Foxtton and Halton were nominated as the Local Government representatives for the City of Melville and Councillors Pazolli and Reynolds were nominated as Deputy Local Government representatives.
- Local Government elections are to be held 15 October 2011. Where the existing nominated Local Government DAP members do not retain their position on Council, the Council is required to elect replacement members by 31 October 2011.
- The Department of Planning will provide training for all replacement DAP members following the elections.
- It is recommended that Council nominate replacement DAP members where the existing nominated DAP members do not contest or retain their position on Council.

**BACKGROUND**

The *Approval and Related Reforms (No. 4) (Planning) Act 2010* was passed by Parliament in August 2010 which allows the commencement of DAPs in WA.

DAPs are to be independent decision making bodies comprised of technical experts and elected local government representatives.

DAPs commenced on 1 July 2011. The City of Melville is part of a joint DAP called the Metro Central JDAP (JDAP) along with the local governments of Bassendean, Bayswater, Belmont, Canning, South Perth and Victoria Park.

The City has received one DAP application to date for the redevelopment of the St John of God Murdoch Campus. This application is yet to be determined by the JDAP.

At the Ordinary Meetings of Council held 19 April 2011 and 17 May 2011, Councillors Foxtton and Halton were nominated as the Local Government representatives and Councillors Pazolli and Reynolds were nominated as Deputy Local Government representatives. The above nominated Local Government DAP member's terms expire on 26 April 2013.

**DETAIL**

The *Planning and Development (Development Assessment Panels) Regulations 2011* state that if a local government DAP member is not re-elected during the Council elections, then the local government must nominate another member for appointment for the remainder of the outgoing member's term of office.

Of the existing nominated Local Government DAP members, it is noted that Councillor Halton has not re-contested her current position as an Elected Member for the Palmyra-Melville-Willagee ward and Councillor Pazolli's position as an Elected Member for the Applecross-Mt Pleasant ward is being contested.

**P11/3261 - NOMINATION OF REPLACEMENT CITY OF MELVILLE LOCAL GOVERNMENT MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)**

As a result, one replacement Local Government DAP member is required to be nominated by Council to replace Councillor Halton. Furthermore, should Councillor Pazolli not be re-elected, one replacement Deputy Local Government DAP member will also be required to be nominated.

The term of office for the replacement members will also expire on 26 April 2013.

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising of the DAP local government nominations is not required under the *Development Assessment Regulations 2011*.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

No consultation with external agencies is required.

**STATUTORY AND LEGAL IMPLICATIONS**

DAPs are to make decisions based upon the existing planning framework of the municipality within which the application site is located.

Where an application to review a decision made by a DAP is lodged with the State Administrative Tribunal (SAT), members of the DAP who made the decision may be called upon to represent the DAP at the SAT.

**FINANCIAL IMPLICATIONS**

The sitting fee for local government DAP members determining applications is \$400. Local Government DAP members will also be paid \$400 upon the completion of the required training and \$400 where they attend proceedings at the SAT in relation to a DAP decision.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The Minister for Planning must remove a DAP member if they cease to hold a position or qualification which made them eligible to sit as a DAP member.

DAP members are bound by similar requirements regarding behaviour and conflict of interest as Elected Members are, such as:

- Declare direct or indirect interest in a matter
- Not to disclose or make improper use of information acquired as a member
- Not accepting "prohibited" gifts
- Comply with the Code of Conduct
- Not to make any statement regarding the competence or honesty of a local government employee or public sector employee.

**P11/3261 - NOMINATION OF REPLACEMENT CITY OF MELVILLE LOCAL GOVERNMENT MEMBERS FOR DEVELOPMENT ASSESSMENT PANELS (REC)****POLICY IMPLICATIONS**

There is no Council Policy that relates to the nomination of DAP members.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Should Council fail to nominate replacement representatives, the Minister for Planning has the ability to appoint community representatives to represent Melville on the DAP. The community representatives would be selected from residents within the local government area who are considered to have relevant knowledge or experience which will enable them to represent the interests of their local community. The implications of this option is that the City of Melville and its interests will not be represented in the determination of applications by the DAP.

A DAP member may resign from office at any time by forwarding a written resignation to the Minister for Planning. The Minister can also grant a leave of absence to a DAP member.

**CONCLUSION**

It is recommended that Council nominate one DAP member and one deputy DAP member.

Nominations for member were received for Cr Reynolds, Cr Macphail and Cr Pazolli.

After voting by the Council, Cr Reynolds was the preferred nominee as DAP member.

Nominations for Deputy Member were received for Cr Macphail and Cr Nicholson.

After voting by the Council, Cr Macphail was the preferred nominee as DAP Deputy

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3261)****APPROVAL**

At 7.01pm Cr Robartson moved, seconded Cr Reidy -

**That Council nominate Cr Reynolds to represent the City of Melville as a Local Government Development Assessment Panel member, with Cr Macphail as the Deputy.**

At 7.02pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)****9. CLOSURE**

There being no further business to discuss the Mayor declared the meeting closed at 7.04pm.