

MINUTES OF THE EXTRAORDINARY MEETING OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 16 JUNE 2020 IN THE COUNCIL CHAMBERS, SCONE COMMENCING AT 5.00pm

PRESENT:

Cr Maurice Collison (Mayor), Cr Kiwa Fisher (Deputy Mayor), Cr Sue Abbott, Cr Josh Brown, Cr Ron Campbell, Cr Lorna Driscoll and Cr Lee Watts.

APOLOGIES:

RESOLVED that the apology received from Cr James Burns be accepted.

Moved: Cr J Brown

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY

IN ATTENDANCE:

Mr Steve McDonald (General Manager), Mr Kristian Enevoldson (Director Corporate Services), Mr Nicholas Havyatt (Director Infrastructure Services), Mr Wayne Phelps (Finance Manager), Ms Daele Healey (Communications Officer), Mrs Karen Lee (Governance & Executive Support Officer) and Mrs Robyn Cox (Executive Assistant).

DISCLOSURES OF INTEREST:

Nil

UPPER HUNTER SHIRE COUNCIL

Ordinary Meeting - 16 June 2020

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GENERAL ADMINISTRATION REPORTS

G.06.1 *ELECTION OF MAYOR*

RESPONSIBLE OFFICER: Steve McDonald - General Manager

AUTHOR: Kristian Enevoldson - Director Corporate Services

PURPOSE

The purpose of this report is to elect a Councillor to the office Mayor until the biennial mayoral election in September 2020.

RECOMMENDATION

That:

1. The General Manager, as Returning Officer, conduct the election for the position of Mayor.
2. Nominations for the position of Mayor be accepted.
3. In the event of there being more than one nominee, Council determine by resolution, the method by which the election be conducted being preferential ballot, ordinary ballot or open voting.
4. In the event that the current Deputy Mayor is elected to the position of Mayor, an election process for the Deputy Mayor take place following the same process as outlined above

BACKGROUND

On 9 June 2020, Cr Wayne Bedggood tendered his resignation to the General Manager from both the office of Mayor and that of Councillor. Under the Local Government Act Council is required to fill the office of Mayor within 14 days from the date the vacancy occurred.

REPORT/PROPOSAL

Section 225 of the Local Government Act 1993 states that each Local Government area must have a Mayor elected in accordance with the provisions of the Act.

The Local Government Act now provides that a Mayor elected by the Councillors holds office for two years in accordance with Section 230(1).

The role of the Mayor (as set out in Section 226 of the Act) is:

- a) *to be the leader of the council and a leader in the local community,*
- b) *to advance community cohesion and promote civic awareness,*
- c) *to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,*
- d) *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,*
- e) *to preside at meetings of the council,*
- f) *to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,*
- g) *to ensure the timely development and adoption of the strategic plans, programs and policies of the council,*
- h) *to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,*

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- i) to promote partnerships between the council and key stakeholders,*
- j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,*
- k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,*
- l) to carry out the civic and ceremonial functions of the mayoral office,*
- m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,*
- n) in consultation with the councillors, to lead performance appraisals of the general manager,*
- o) to exercise any other functions of the council that the council determines.*

In the event of a casual vacancy in office of mayor elected by the councillors, Section 295 of the Act states:

- (1) If a casual vacancy occurs in the office of a mayor elected by the councillors, the vacancy is to be filled at a meeting of the council to be held within 14 days after the occurrence of the vacancy.*
- (2) If the councillors fail to elect a mayor as required by this section, the Governor may appoint one of the councillors as the mayor.*

As the resignation of Cr Bedggood on 9 June 2020 created a vacancy in the office of mayor, Council is required to hold a meeting by 23 June to elect a new mayor. A separate report will be presented to this meeting in relation to the options available for filling the vacant councillor role.

Schedule 7 – “Election of Mayor by Councillors” of the Local Government (General) Regulation 2005, sets out the procedures for the election of a mayor by the councillors of an area. The provisions include:

1. “Returning Officer

The General Manager (or a person appointed by the General Manager) is the Returning Officer.

2. Nomination

- (1) A Councillor may be nominated without notice for election as Mayor or Deputy Mayor.*
- (2) The nomination is to be made in writing by 2 or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) The nomination is to be delivered or sent to the Returning Officer.*
- (4) The Returning Officer is to announce the names of the nominees at the Council Meeting at which the election is to be held.*

3. Election

- (1) If only one Councillor is nominated, that Councillor is elected.*
- (2) If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.*
- (3) The election is to be held at the Council Meeting at which the Council resolves on the method of voting.*

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(4) In this clause:

“ballot” has its normal meaning of secret ballot

“open voting” means voting by a show of hands or similar means.

The form of ballot should be determined after the announcement of nominations, and the General Manager will call for a motion accordingly. The various forms of ballot that Council may adopt are summarised below:

- Preferential Voting – is a secret ballot and the system can only be adopted if there are more than two candidates. Voting is in order of preference, with votes marked 1, 2, 3, 4 etc. If a candidate receives more than half of the total votes, that person is declared elected. If not, the person with the lowest number of votes is excluded and their preferences distributed. This procedure is followed until one candidate receives more than half of the total votes. They are then declared elected.
- Ordinary Ballot – is a secret ballot. If there are two candidates, the person receiving the highest number of votes is declared elected. Should there be three or more candidates, the candidate receiving the lowest number of votes is excluded and fresh votes are taken until one candidate remains. A cross (X) against the candidate whose nomination is supported is all that is required when voting.
- Open Voting – is by a show of hands. If there are two candidates, the person receiving the higher number of votes is declared elected. If there are more than two candidates, the person with the lowest number of votes is excluded and this procedure is repeated until one candidate receives a simple majority of the votes.

A nomination form for the position of Mayor is provided under separate cover. From a procedural point of view it would be easier if any nomination forms are completed (including signed acceptance of the nomination by the candidate) and ready to hand in when nominations are formally called at the commencement of the election item.

The completed nomination form and acceptance may also be lodged with the Returning Officer prior to the meeting.

OPTIONS

N/A

CONSULTATION

N/A

IMPLICATIONS

a. Policy and Procedural Implications

The procedures for the election of the Mayor as set out in the LG Regulations.

b. Financial Implications

N/A

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c. Legislative Implications

The legislation regarding mayoral election is described above.

d. Risk Implications

N/A

e. Sustainability Implications

N/A

f. Other Implications

N/A

CONCLUSION

It is a requirement under the Local Government Act for each council in NSW to elect a mayor.

ATTACHMENTS

There are no enclosures for this report

RESOLVED

That:

1. **The General Manager, as Returning Officer, conduct the election for the position of Mayor.**
2. **Nominations for the position of Mayor be accepted.**
3. **In the event of there being more than one nominee, Council determine by resolution, the method by which the election be conducted being ordinary ballot.**
4. **In the event that the current Deputy Mayor is elected to the position of Mayor, an election process for the Deputy Mayor take place following the same process as outlined above.**

Moved: Cr R Campbell

Seconded: Cr K Fisher

CARRIED

The Acting Mayor vacated the Chair and the Returning Officer conducted the elections.

Election of Mayor

There being one (1) nomination received and being in order, Cr Maurice Collison was declared elected as Mayor of Upper Hunter Shire until September 2020.

Election of Deputy Mayor

There being one (1) nomination received and being in order, Cr Kiwa Fisher was declared elected as Deputy Mayor of Upper Hunter Shire until September 2020.

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G.06.2 **RESIGNATION OF COUNCILLOR WAYNE BEDGGOOD**

RESPONSIBLE OFFICER: Steve McDonald - General Manager

AUTHOR: Kristian Enevoldson - Director Corporate Services

PURPOSE

On Tuesday 9 June 2020, Councillor Wayne Bedggood tendered his resignation to the General Manager from both the positions of Mayor and Councillor of the Upper Hunter Shire Council. The purposes of this report is to seek Council's direction to either to proceed to a by-election or maintain the councillor vacancy until the next Local Government election.

RECOMMENDATION

That Council request the General Manger write to the NSW Minister for Local Government seeking approval to dispense with a by-election to replace the casual vacancy on Council created by the resignation of Councillor Bedggood in accordance with Section 294(2) of the NSW Local Government Act.

BACKGROUND

On Tuesday 9 June 2020 Cr Wayne Bedggood tendered his resignation from Council to the General Manager, effective immediately. Council has the option to now proceed to a by-election or make a request to the Minister for Local government seeking approval to maintain the vacancy created by Cr Bedggood's departure until the next Local Government election.

REPORT/PROPOSAL

Section 285 of the NSW Local Government (General) Regulation specifies that when a civic office becomes vacant, the general manager of the council is to give notice of the vacancy within seven days to the Secretary and the Chief Executive Officer of Local Government NSW if the vacancy is in the office of a mayor elected by councilors (as is the case with the Upper Hunter Shire). Such notification was provided by the General Manager on 12 June 2020.

Council now has the option to proceed with a by-election or request that the vacant position be maintained until the next Local Government election if the period of time to the election is less than 18 months. The original date for the next election was September 2020, however due to the Covid-19 pandemic this date has been extended to September 2021 to allow local councils and communities time to recover, and to attend polling stations in a safe manner.

Section 291 of the Act states that if a casual vacancy occurs in a civic office, the office is to be filled by a by-election with the election to be held on a Saturday that falls within 3 months of the vacancy occurring.

Alternatively, Section 294 covers the dispensing with by-elections, which is permissible if a casual vacancy occurs in the office of a councilor within 18 months before the date specified for the next ordinary election of the councillors. If such a casual vacancy occurs in the office of a councillor (but not the office of a mayor elected by the electors), the Minister may, on the application of the council order that the vacancy not be filled, or order the holding on a stated day of a by-election to fill the vacancy.

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Section 295 of the LG Act 295 states that if a casual vacancy occurs in the office of a mayor elected by the councilors (as is the case here), the vacancy is to be filled by an existing councillor at a meeting of the council to be held within 14 days after the occurrence of the vacancy. There is another report to this meeting which deals with this election. Further, if the councillors fail to elect a mayor as required by this section, the Governor may appoint one of the councillors as the mayor.

OPTIONS

1. Proceed to a by-election to fill the vacancy created by Cr Bedggood
2. Resolve to write to the Minister for Local Government requesting the vacancy be maintained until the next election.

CONSULTATION

N/A

IMPLICATIONS

a. Policy and Procedural Implications

The procedures and options are outlined above

b. Financial Implications

The vacancy would result in one less councilor and hence a saving of the associated councillor fees and costs for around 16 months. Alternatively, if Council resolves to proceed to a by-election, this would cost in the vicinity of \$150,000.

c. Legislative Implications

The relevant sections of the Act and Regulations are stated above.

d. Risk Implications

N/A

e. Sustainability Implications

N/A

f. Other Implications

N/A

CONCLUSION

It would be preferable to dispense with a by-election and maintain the current vacancy on Council. This would result in a Council of eight rather than nine members until the next general election.

ATTACHMENTS

There are no enclosures for this report



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RESOLVED

That Council request the General Manger write to the NSW Minister for Local Government seeking approval to dispense with a by-election to replace the casual vacancy on Council created by the resignation of Councillor Bedggood in accordance with Section 294(2) of the NSW Local Government Act.

Moved: Cr L Watts

Seconded: Cr R Campbell

CARRIED UNANIMOUSLY