

Minutes

Meeting of Council
Tuesday, 16 November 2021

Held via Video Conference
(Zoom)

Commenced at 6:00pm

Council:

Cr Libby Stapleton (Mayor)
Cr Gary Allen
Cr Paul Barker
Cr Mike Bodsworth
Cr Kate Gazzard
Cr Rose Hodge
Cr Liz Pattison
Cr Adrian Schonfelder
Cr Heather Wellington

MINUTES FOR THE MEETING OF SURF COAST SHIRE COUNCIL
HELD VIA VIDEO CONFERENCE (ZOOM)
ON TUESDAY 16 NOVEMBER 2021 AT 6:00PM

PRESENT:

Cr Gary Allen
Cr Paul Barker
Cr Mike Bodsworth
Cr Kate Gazzard
Cr Rose Hodge
Cr Liz Pattison
Cr Adrian Schonfelder
Cr Libby Stapleton
Cr Heather Wellington

In Attendance:

Chief Executive Officer – Robyn Seymour
Acting General Manager Governance & Infrastructure – John Bertoldi
General Manager Culture & Community – Chris Pike
General Manager Environment & Development – Ransce Salan
Coordinator Governance – Liberty Nash
Governance Statutory Compliance & Reporting Officer – Zoe Eastick
Governance Officer – Julie Morales

OPENING:

The Surf Coast Shire local government area spans the traditional lands of the Wadawurrung People and the Eastern Maar People. The main Council office in Torquay where this meeting is held is on Wadawurrung Country. As this meeting is also live-streamed we wish to acknowledge the Traditional Owners of the lands on which each person is viewing the meeting and pay respect to Elders past, present and emerging. Council also acknowledges other Aboriginal people that may be attending or watching the meeting today.

PLEDGE:

Cr Kate Gazzard recited the pledge on behalf of all Councillors.

As Councillors we carry out our responsibilities with diligence and integrity and make fair decisions of lasting value for the wellbeing of our community and environment.

APOLOGIES:

Nil.

CONFLICTS OF INTEREST:

In accordance with Regulation 7 of the *Local Government (Governance and Integrity) Regulations 2020*, the election of the Mayor and Deputy Mayor is exempt from conflicts of interest declaration requirements.

BUSINESS:

1.	GOVERNANCE & INFRASTRUCTURE	4
1.1	<i>Term of Mayor and Deputy Mayor</i>	<i>4</i>
1.2	<i>Election of Mayor</i>	<i>7</i>
1.3	<i>Election of Deputy Mayor.....</i>	<i>10</i>
2.	CLOSED SECTION.....	13

1. GOVERNANCE & INFRASTRUCTURE

1.1 Term of Mayor and Deputy Mayor

Author's Title: Coordinator Governance
Department: Governance & Risk
Division: Governance & Infrastructure
Appendix:

General Manager: John Bertoldi
File No: F18/218-3
Trim No: IC21/1807

Officer Direct or Indirect Conflict of Interest:
In accordance with Local Government Act 2020 –
Section 130:

Yes No

Reason: Nil

Status:
Defined as confidential information in accordance
with Local Government Act 2020, Section 3(1):

Yes No

Reason: Nil

Purpose

The purpose of this report is for Council to determine by resolution if the Mayor and Deputy Mayor are to be elected for a term of one or two years.

Summary

In accordance with sections 26-27 of the *Local Government Act 2020* (the Act), Council must determine by resolution whether the Mayor will be elected for a period of one or two years. This matter must be resolved prior to the election of the Mayor.

Council has previously resolved at its 18 November 2020 meeting to establish an office of Deputy Mayor. Although this office is now established, to avoid any confusion this report will include a recommendation that this office continues to be maintained.

In accordance with section 20(a) of the Act, the office of the Mayor becomes vacant at the time of the next Mayoral election. The Chief Executive Officer will Chair the meeting until the election of the Mayor is completed but will not have any voting rights (section 25(3) of the Act).

Recommendation

That Council:

1. Continues to maintain the office of Deputy Mayor as previously resolved; and
2. Determines that the Mayor and Deputy Mayor be elected for a term of year/s.

Council Resolution

MOVED Cr Adrian Schonfelder, Seconded Cr Paul Barker

That Council determines that the Mayor and Deputy Mayor be elected for a term of 1 year.

CARRIED 9:0

Voting:

<u>For</u>	<u>Against</u>	<u>Abstained</u>
Cr Allen	Nil	Nil
Cr Barker		
Cr Bodsworth		
Cr Gazzard		
Cr Hodge		
Cr Pattison		
Cr Schonfelder		
Cr Stapleton		
Cr Wellington		

CARRIED 9:0

1.1 Term of Mayor and Deputy Mayor

Report

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Background

At its meeting on 18 November 2020, the newly elected Council resolved that the Mayoral term would be for 1 year.

Discussion

Prior to each Mayoral election, Council must first determine the term of the Mayor (and Deputy Mayor). Council may select either a 1 year or a 2 year term. Once the term of the Mayor and Deputy Mayor has been determined, Council can proceed to electing the Mayor and Deputy Mayor.

In accordance with section 25(3) of the Act and Chapter 2, Section 1, Part 1 of Council's Governance Rules, the Chief Executive Officer will Chair this part of the meeting as a new Mayor will not yet have been elected.

Council Plan

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

<i>Implications</i>	<i>Applicable to this Report</i>
<i>Governance Principles</i> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<i>Policy/Relevant Law</i> (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
<i>Environmental/Sustainability Implications</i> (Consideration of the Governance Principles under s.9 of LGA 2020)	No
<i>Community Engagement</i> (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
<i>Public Transparency</i> (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
<i>Strategies and Plans</i> (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
<i>Financial Management</i> (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
<i>Service Performance</i> (Consideration of Service Performance Principles under s.106 of LGA 2020)	No
Risk Assessment	No
Communication	No
Human Rights Charter	No

Governance Principles - Local Government Act 2020 (LGA 2020)

The process of determining the term of the Mayor and Deputy Mayor must be undertaken before the election for these roles can take place. This process must be facilitated in accordance with the Act to enable the Council to serve the municipal community.

Policy/Relevant Law

The recommendation is made in accordance with sections 26-27 of the Act and is compliant with Chapter 2 of the Surf Coast Shire Governance Rules.

1.1 Term of Mayor and Deputy Mayor

Options

Option 1 – to determine by resolution, prior to the election of the Mayor, that the Mayor and Deputy Mayor will be elected for a term of 1 year.

This option is available at Council's discretion.

Option 2 – to determine by resolution, prior to the election of the Mayor, that the Mayor and Deputy Mayor will be elected for a term of 2 years.

This option is available at Council's discretion.

Option 3 – not to determine by resolution an election term for the Mayor (and Deputy Mayor if Council resolves to elect a Deputy Mayor) prior to the election of the Mayor and Deputy Mayor.

This option is not recommended, as it would constitute a breach of sections 26-27 of the Act.

Conclusion

To ensure compliance with sections 26-27 of the Act, Council must determine the term of the Mayor and Deputy Mayor prior to the election of the Mayor.

1.2 Election of Mayor

Author's Title: Coordinator Governance
Department: Governance & Risk
Division: Governance & Infrastructure
Appendix:

General Manager: John Bertoldi
File No: F18/218-3
Trim No: IC21/1809

Officer Direct or Indirect Conflict of Interest:
In accordance with Local Government Act 2020 –
Section 130:

Yes **No**

Reason: Nil

Status:
Defined as confidential information in accordance
with Local Government Act 2020, Section 3(1):

Yes **No**

Reason: Nil

Purpose

The purpose of this report is to elect the Surf Coast Shire Council Mayor for the period resolved by Council.

Summary

In accordance with section 26 of the *Local Government Act 2020* (the Act), this election must be undertaken during an open Council meeting and be conducted in accordance with section 25 of the Act. The procedures are set out in Council's Governance Rules Chapter 2, Part 1, Section 1.

The Council meeting for the election of the Mayor will be chaired by the Chief Executive Officer who will have no voting rights. Once the Mayor has been elected they must take the Chair.

Recommendation

That Council duly elects to be the Mayor of the Surf Coast Shire Council for the agreed term.

Nomination

Cr Libby Stapleton was nominated by Cr Kate Gazzard, Seconded Cr Adrian Schonfelder

Nomination

Cr Paul Barker was nominated by Cr Paul Barker, Seconded Cr Heather Wellington

Voting for Cr Libby Stapleton to be Mayor of the Surf Coast Shire Council for a one year term:

For

Cr Gary Allen
Cr Mike Bodsworth
Cr Kate Gazzard
Cr Rose Hodge
Cr Liz Pattison
Cr Adrian Schonfelder
Cr Libby Stapleton

Voting for Cr Paul Barker to be Mayor of the Surf Coast Shire Council for a one year term:

For

Cr Paul Barker

Cr Heather Wellington abstained from voting.

Cr Libby Stapleton was declared Mayor of the Surf Coast Shire Council for a term of one year.

1.2 Election of Mayor

Report

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Background

At its 18 November 2020 meeting, Council resolved to appoint Councillor Libby Stapleton as Mayor for a period of 1 year. As this period is now complete, Council is required to conduct a new Mayoral election.

Discussion

Section 25 of the Act outlines the requirements for the election of the Mayor of the Council:

- (1) At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.
- (2) Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor.
- (3) The election of the Mayor must—
 - (a) be chaired by the Chief Executive Officer; and
 - (b) subject to this section, be conducted in accordance with the Governance Rules.
- (4) Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.
- (5) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
- (6) If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.
- (7) In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.

All Councillors are eligible for election to the office of Mayor unless they are disqualified on the basis of serious misconduct pursuant to section 167 of the Act. No current Councillors are excluded under this section.

The CEO, acting as Chair of this meeting, will be responsible for conducting the election in accordance with Chapter 2, Part 1, Section 1 of Council's Governance Rules.

After the election of the Mayor is determined, the Mayor must take the Chair.

Council Plan

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

Implications	Applicable to this Report
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
Policy/Relevant Law (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
Environmental/Sustainability Implications (Consideration of the Governance Principles under s.9 of LGA 2020)	No
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	No

1.2 Election of Mayor

Risk Assessment	No
Communication	No
Human Rights Charter	No

Governance Principles - Local Government Act 2020 (LGA 2020)

The process of electing the Mayor is a statutory requirement which is integral to the functions of Council. This process must be facilitated in accordance with the Act to enable the Council to serve the municipal community.

Policy/Relevant Law

The recommendation is made in accordance with sections 25-26 of the Act and is compliant with Chapter 2 of Council's Governance Rules.

Options

Option 1 – That Council duly elects an eligible Councillor to be the Mayor of the Surf Coast Shire for the agreed term.

This option is recommended by officers to ensure compliance with relevant legislation.

Option 2 – That Council does not elect a Mayor of the Surf Coast Shire for the agreed term.

This option is not recommended by officers as it would be in breach of legislation including section 25 of the *Local Government Act 2020*.

Conclusion

Council should elect a Mayor for the agreed term and for the specified timeframe to ensure compliance with the Act. This process must be undertaken in accordance with Council's Governance Rules.

1.3 Election of Deputy Mayor

Author's Title: Coordinator Governance
Department: Governance & Risk
Division: Governance & Infrastructure
Appendix:

General Manager: John Bertoldi
File No: F18/218-3
Trim No: IC21/1810

Officer Direct or Indirect Conflict of Interest:
In accordance with Local Government Act 2020 –
Section 130:

Yes

No

Reason: Nil

Status:
Defined as confidential information in accordance
with Local Government Act 2020, Section 3(1):

Yes

No

Reason: Nil

Purpose

The purpose of this report is for Council to elect a Deputy Mayor for the term determined by Council.

Summary

Section 20A of the *Local Government Act 2020* (the Act) provides Council with the option to elect a Deputy Mayor. At its meeting on 18 November 2020, Council resolved to establish the office of Deputy Mayor.

The election of the Deputy Mayor must be undertaken during an open Council meeting which must be conducted in accordance with sections 25-27 of the Act. The election processes and procedures are set out in Council's Governance Rules.

Unlike earlier items at this meeting, as the Mayor has now been elected, the newly elected Mayor shall Chair the remainder of this meeting.

Recommendation

That Council duly elects to be the Deputy Mayor of the Surf Coast Shire Council for the agreed term.

Nomination

Cr Gary Allen was nominated by Cr Paul Barker, Seconded Cr Heather Wellington

Nomination

Cr Liz Pattison was nominated by Cr Adrian Schonfelder, Seconded Cr Rose Hodge

Voting for Cr Gary Allen to be Deputy Mayor of the Surf Coast Shire for a one year term:

For

Cr Gary Allen
Cr Paul Barker
Cr Heather Wellington

Voting for Cr Liz Pattison to be Deputy Mayor of the Surf Coast Shire for a one year term:

For

Cr Mike Bodsworth
Cr Kate Gazzard
Cr Rose Hodge
Cr Liz Pattison
Cr Adrian Schonfelder
Mayor Libby Stapleton

Cr Liz Pattison was declared Deputy Mayor of the Surf Coast Shire for a term of one year.

1.3 Election of Deputy Mayor

Report

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Background

Council previously resolved to elect Councillor Liz Pattison as Deputy Mayor for a term of 1 year. As this term completed, Council will need to conduct an election to appoint a Deputy Mayor for the term agreed earlier in this meeting.

Discussion

In the previous Local Government Act (1989) the role of Deputy Mayor was not formally recognised whilst the new Act provides for Councils to establish an office of Deputy Mayor and includes guidance on the role powers of the Deputy Mayor.

Section 20A of the Act states that:

- (1) A Council may establish an office of Deputy Mayor.
- (2) If the Council has established an office of Deputy Mayor, the provisions of this Act relating to the office of Deputy Mayor apply.
- (3) If a Council has not established an office of Deputy Mayor, section 20B applies.

Section 27 of the Act outlines the requirements of the election of the Deputy Mayor:

- (4) Section 25, other than subsection (3)(a), applies to the election of a Deputy Mayor by the Councillors as if any reference in that section to the Mayor was a reference to the Deputy Mayor.
- (5) Section 26 applies to the election of a Deputy Mayor as if any reference in that section to the Mayor was a reference to the Deputy Mayor.

In accordance with Chapter 2, Part 1, Section 2 of Council's Governance Rules, the procedure for the appointment of Deputy Mayor will be the same as the procedure for the appointment of Mayor, with the exception that the Mayor shall preside over the election rather than the CEO.

Council Plan

Theme 7 Accountable and Viable Council

Strategy 19 Improve Council's credibility as a trusted decision maker through meaningful engagement

Reporting and Compliance Statements:

Local Government Act 2020 – LGA 2020

Implications	Applicable to this Report
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
Policy/Relevant Law (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes
Environmental/Sustainability Implications (Consideration of the Governance Principles under s.9 of LGA 2020)	No
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	No
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	No
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	No
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	No
Risk Assessment	No

1.3 Election of Deputy Mayor

Communication	No
Human Rights Charter	No

Governance Principles - Local Government Act 2020 (LGA 2020)

As Council has previously resolved to establish the office of Deputy Mayor, this election is a statutory requirement which is integral to the functions of Council. This process must be facilitated in accordance with the Act to enable the commencing Council to serve the municipal community.

Policy/Relevant Law

The recommendation is made in accordance with sections 20A and 25-27 of the Act and is compliant with Chapter 2 of the Surf Coast Shire Governance Rules.

Options

Option 1 – That Council establishes the office of Deputy Mayor and duly elects an eligible Councillor to be the Deputy Mayor of the Surf Coast Shire for the agreed term.

This option is available at Council's discretion.

Option 2 – That Council resolves not to elect a Deputy Mayor of the Surf Coast Shire.

This option is available at Council's discretion.

Conclusion

As the term of the Deputy Mayor has now expired, Council must now conduct an election to appoint a Deputy Mayor for the agreed term. This process must be undertaken in accordance with the Act and Council's Governance Rules.

1. CLOSED SECTION

Nil

Close: There being no further items of business the meeting closed at 6:17pm.