

Corangamite Shire

AGENDA

Special Council Meeting

5.00 pm • Monday 7 November 2016

*Killara Centre
210-212 Manifold Street, Camperdown*

Order of Business

1. PRAYER
2. APOLOGIES
3. DECLARATIONS OF CONFLICT OF INTEREST
4. DEPUTATIONS & PRESENTATIONS
5. OFFICERS' REPORTS

ANDREW MASON
CHIEF EXECUTIVE OFFICER

DISCLAIMER

The advice and information contained herein is given by the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written enquiry should be made to the Council giving the entire reason or reasons for seeking the advice or information and how it is proposed to be used.

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4. DEPUTATIONS & PRESENTATIONS

1. Members of the public may address Council under this section of the Agenda of an Ordinary Meeting of the Council if:
 - a) The person is addressing the Council in respect to a submission on an issue under Section 223 of the *Local Government Act*, or
 - b) The person has requested that they address Council on an issue and the Mayor has agreed that they be heard.
2. Requests to address Council must be received by 5.00 pm on the day prior to the scheduled Ordinary Meeting of the Council.
3. Presentations made to Council in this section of the Agenda may not exceed five minutes in length, although Councillors may ask questions proceeding each presentation. If a presentation exceeds five minutes in length, the Mayor may request that the presenter ceases to address Council immediately.

5. OFFICERS' REPORTS

5.1 Oath of Office

Author: Penny MacDonald, Executive Services and Governance Coordinator

File No: D16/677

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author - Penny MacDonald

In providing this advice to Council as the Executive Services and Governance Coordinator, I have no interests to disclose in this report.

Summary

The purpose of this report is to receive and document the Oaths of Office of elected Councillors to enable them to act in their positions as Councillors of the Corangamite Shire Council.

Introduction

Under the provisions of the *Local Government Act 1989*, each elected Councillor is required to take the Oath of Office. This is required before a person elected to Council is capable of acting as a Councillor.

Issues

As required by section 63(2) of the *Local Government Act*, the Oath of Office must be made before the Chief Executive Officer, signed before the Chief Executive Officer and be recorded in the Minutes of the Council.

Policy and Legislative Context

Section 63 of *Local Government Act 1989* requires each elected Councillor to take the Oath of Office to enable them to act as a Councillor.

The *Local Government Act* provides that if the person elected fails to take the Oath of Office within three months after he or she is declared elected, their position will become vacant.

The Oath of Office is as follows:

I swear by Almighty God that I will undertake the duties of the office of Councillor in the best interests of the people in the municipal district of Corangamite Shire and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1989 or any other Act to the best of my skill and judgment.

Alternatively, under section 102 of the *Evidence (Miscellaneous Provisions) Act 1958* Councillors may choose to make an affirmation instead of an oath.

The Affirmation is as follows:

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people in the municipal district of Corangamite Shire and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1989 or any other Act to the best of my skill and judgment.

As required by section 63(2) of the *Local Government Act*, the Oath of Office must be made before the Chief Executive Officer, be dated and signed before the Chief Executive Officer, and recorded in the Minutes of the Council.

Internal / External Consultation

Elected Councillors have been advised about their obligations regarding the Oath of Office, and were provided with the opportunity to choose between the oath and affirmation forms of the Oath of Office.

Conclusion

Council is asked to receive the signed Oaths of Office for incorporation into the Minutes.

RECOMMENDATION

That:

- 1. Council receives the signed Oaths of Office of Councillors Beard, Brown, Durant, Gstrein, Illingworth, McArthur and Trotter made before the Chief Executive Officer.**
- 2. The signed Oaths of Office be recorded in the Minutes of Council.**

5.2 Councillor Code of Conduct

Author: Penny MacDonald, Executive Services and Governance Coordinator

File No: D16/674

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author - Penny MacDonald

In providing this advice to Council as the Executive Services and Governance Coordinator, I have no interests to disclose in this report.

Summary

The *Local Government Act 1989* (the Act) requires persons elected to Council to read the Councillor Code of Conduct (the Code) and make a declaration to abide by the Code before becoming a councillor. This report provides advice regarding the Councillor Code of Conduct and documents the declarations made by Corangamite Shire's newly elected Councillors.

Introduction

The existing Councillor Code of Conduct (attached under separate cover) was revised by Council in May 2016 to comply with new legislation amending the *Local Government Act 1989*. Changes to legislation now require persons elected to Council to read the existing Code and make a declaration to abide by it before being able to act as a councillor. Although the declaration does not have to be made at a Council meeting, it must be in writing and in the presence of the Chief Executive Officer. For transparency and to document Council's compliance, newly elected Councillors will also be asked to make their declaration at the first meeting of the new Council.

Councillors will have the opportunity to review the Councillor Code of Conduct and make any necessary changes within four months of the Council election. It is anticipated that this review will commence in December 2016.

Issues

The Councillor Code of Conduct is a key document that guides good governance principles for Councillors regarding the way they will interact with each other, Council staff and the community. The Code also includes:

- commitments to the appropriate use of Council resources and information by Councillors
- definitions of bullying, misconduct, serious misconduct and gross misconduct by a councillor
- an internal resolution procedure for the purposes of addressing disputes and alleged contraventions of the Code by a councillor
- sanctions for contravention of the Code by a councillor.

The Code underpins the strategic objectives of Council's commitment to accountable, democratic governance and states Councillors' commitment to working with these principles at all times. It is therefore important for Councillors to have read and understood the Councillor Code of Conduct, and make a declaration to abide by the Code, before becoming a councillor.

Policy and Legislative Context

Section 63(1)(b) of the *Local Government Act 1989* requires persons elected to Council read the Councillor Code of Conduct and make a declaration to abide by the Code before being able to act as a Councillor. The declaration must be in writing and in the presence of the Chief Executive Officer, as prescribed by section 63(3) of the Act.

The declaration is as follows:

I hereby declare that I have read the Councillor Code of Conduct for Corangamite Shire Council adopted on 24 May 2016, and declare that I will abide by this Code

Should a newly elected Councillor fail to make a declaration to abide by the Councillor Code of Conduct within three months of being declared elected, their office as Councillor become vacant in accordance with section 64 of the Act.

Internal / External Consultation

Newly elected Councillors have been provided with a copy of the Councillor Code of Conduct and briefed on its importance including legislative requirements during the Councillor induction program.

Options

Persons elected to Council are required to read the Councillor Code of Conduct and make a declaration to abide by the Code before becoming a Councillor.

Conclusion

The Councillor Code of Conduct is an important document that supports Council's commitment to accountable, democratic governance. The Code outlines the principles of good governance required by Councillors in the way they interact with each other, Council staff and the community, as well as including commitments to appropriate use of Council resources and internal resolution procedures for breaches of the Code. Persons elected to Council are required to read the existing Councillor Code of Conduct and make a declaration to abide by the Code before becoming a Councillor. Councillors will have the opportunity to review the Code within four months of the Council election.

RECOMMENDATION

That the newly elected Councillors proceed to make their declarations to abide by the Councillor Code of Conduct.

Attachments

1. Councillors Code of Conduct Adopted 24 May 2016 - Under Separate Cover

5.3 Election of Mayor - Term of Office

Author: Penny MacDonald, Executive Services and Governance Coordinator

File No: D16/676

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author - Penny MacDonald

In providing this advice to Council as the Executive Services and Governance Coordinator, I have no interests to disclose in this report.

Summary

The purpose of this report is to determine the term of office for the position of Mayor of Corangamite Shire to serve Council commencing on 7 November 2016.

Introduction

Traditionally Corangamite has elected its Mayor for a term of one year.

Policy and Legislative Context

Section 71(2) of the *Local Government Act 1989* provides that councils may determine the term of the position of Mayor (one or two years) before they elect a councillor as Mayor. It is necessary to determine the term before the election of the Mayor can occur.

Options

1. That Council resolves that the term of office for the position of Mayor from November 2016 is two years.
2. That Council resolves that the term of office for the position of Mayor from November 2016 is one year.

Conclusion

Council is required to determine the length of the mayoral term, as one or two years, before a Mayor is elected to serve Council from November 2016.

RECOMMENDATION

That Council proceeds to determine the length of the mayoral term.

5.4 Election of Mayor

Author: Penny MacDonald, Executive Services and Governance Coordinator

File No: D16/675

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

In providing this advice to Council as the Chief Executive Officer, I have no interests to disclose in this report.

Author - Penny MacDonald

In providing this advice to Council as the Executive Services and Governance Coordinator, I have no interests to disclose in this report.

Summary

The purpose of this report is to provide advice on the process for the election of Mayor for Corangamite Shire Council. It also provides advice on the election of Deputy Mayor if the majority of Council agree to elect a Councillor to that position.

Introduction

Under Section 71 of the *Local Government Act 1989*, Councillors must elect a Councillor to be Mayor of the Council.

The Mayor's role is to chair all meetings of the Corangamite Shire Council and to take precedence at all municipal proceedings within the Shire.

Council also has the opportunity to elect a councillor to the position of Deputy Mayor if agreed by the majority of Council. Where the Mayor is unavailable to attend meetings or events, the Deputy Mayor will represent the Mayor.

Issues

In accordance with *Meeting Procedures Local Law No.3 (2016)*, the election of Mayor and Deputy Mayor (if required) must be by a show of hands at a meeting open to the public.

Nominations are to be called for and seconded. A candidate may nominate themselves but the nomination must be seconded. If nominated by another Councillor, the nominee is to be provided with an opportunity to accept or decline the nomination.

If there is one nominee, that nomination must still go to a vote by show of hands; if there are two nominees, Council will vote by show of hands and the candidate with the highest number of votes declared elected; if there are three or more nominees, the candidate with the lowest number of votes will be eliminated and an additional vote undertaken to determine between the two remaining candidates. If there is a tied vote, the successful candidate will be determined by the drawing of a lot.

The successful Councillor will be Mayor of Corangamite Shire until the term of office concludes as determined by Council before the election of Mayor.

If the majority of Councillors agree to elect a Deputy Mayor, the same election process is to be followed. The successful Councillor will hold the position of Deputy Mayor until the term of office for the Mayor concludes.

Policy and Legislative Context

Election of a Mayor is required under section 71 of the *Local Government Act 1989* and will be conducted in accordance with *Meeting Procedures Local Law No.3 (2016)*.

Meeting Procedures Local Law No.3 (2016) provides for the election of a Deputy Mayor if the majority of Councillors agree.

Conclusion

The successful Councillor will be Mayor of Corangamite Shire until the term of office concludes as determined by Council before the election of Mayor. After the Mayor is elected they must take the Chair for the remainder of the meeting.

Should Council choose to elect a Deputy Mayor, the successful Councillor will hold the position until the Mayoral term of office concludes.

RECOMMENDATION

That Council proceeds to elect a Mayor.