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AGENDA

**SPECIAL MEETING OF COUNCIL
FOR
WEDNESDAY, 7 DECEMBER 2011
TO BE HELD AT THE COUNCIL MEETING ROOM, CIVIC CENTRE, PUNT ROAD, COBRAM
COMMENCING AT 6:00 PM**

1. CALLING TO ORDER - CEO

2. PRAYER

Almighty God we humbly ask you to guide our deliberations for the welfare and benefit of the Moira Shire and its people whom we serve.

Amen

3. ACKNOWLEDGEMENT OF COUNTRY

We, the Moira Shire Council, would like to acknowledge the traditional owners of the land upon which we meet and pay our respects to their Elders both past and present.

4. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE

5. DECLARATION UNDER ACTS, REGULATIONS, CODES OR LOCAL LAWS

6. DECLARATION OF ANY INTEREST OR CONFLICT OF INTEREST

7. OFFICERS REPORTS FOR DETERMINATION

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8. CLOSE OF MEETING



**GARY ARNOLD
CHIEF EXECUTIVE OFFICER**

FILE NO: 120.02.0010
3. OUR COMMUNICATIONS AND
PROCESSES
COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.1
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(, GARY ARNOLD)

ELECTION OF MAYOR

1. Executive Summary

The Chief Executive Officer will call for nominations for the position of Mayor of the Moira Shire Council in accordance with Council's *Meeting Procedures Local Law 2007*. At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council. The Mayor is to be elected after the last Saturday in November but not later than 31 December.

With changes to the *Local Government Act 1989* taking effect in 2012, the next Council election will be held one month earlier. As a result, the term for the Mayor being elected today will be less than the usual 12 months, ending at 6:00 am on 27 October 2012; the day of the next Council election.

2. Discussion

Timing Changes due to Changes in the Local Government Act (1989)

Under section 71(3)(a) of the *Local Government Act 1989* (the Act), the Mayor is to be elected after the last Saturday in November but not later than 31 December each year, and any Councillor (section 72(3)) is eligible for the election to the office of Mayor.

The election of the Mayor is usually undertaken at the first meeting of Council after the result of the election is declared. From 2012 onwards, the election of the Mayor must be undertaken between the fourth Saturday in October but not later than 30 November.

Changes to the Duration of Mayors Tenure

The *Local Government Amendment (Electoral Matter) Act 2011* was assented to on 6 September 2011 and will take effect from 1 January 2012. Changes to the Act include bringing forward by one month the date for the next Council election and the period for when election of the Mayor by Councillors is to take place.

Being the year before a Council election, the term of the Mayor being elected today will end at 6am on the 27 October 2012, the day of the next election.

“ 71. Election of Mayor

- (1) *At a meeting of the Council that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.*
- (2) *Before a Mayor is elected under this section, the Council may resolve to elect a Mayor for a term of two (2) years.*
- (3) *The Mayor is to be elected—*
 - (a) *after the last Saturday in November but not later than 31 December each year;*
or
 - (ab) *if under subsection (2), the Mayor is elected for a term of 2 years, the next election of Mayor is 2 years after the last Saturday in November but not later than 31 December in the second year after the election; or,*
 - (b) *as soon as possible after any vacancy in the office of Mayor occurs.*

<p>FILE NO: 120.02.0010 3. OUR COMMUNICATIONS AND PROCESSES COUNCIL PLAN ACTION NO. N/A</p>

<p>ITEM NO: 7.1 (CHIEF EXECUTIVE OFFICER, GARY ARNOLD) (, GARY ARNOLD)</p>
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ELECTION OF MAYOR (cont'd)

(4) *The election of a Mayor after the period specified in this section does not invalidate the election.*

* * * * *

(6) *The Mayor of a Shire Council may be titled the President.*

(7) *Any reference to "Mayor" includes a reference to "Lord Mayor" or "President" as the case may be.*

72. Term of office

(1) *The office of Mayor becomes vacant—*

(a) *at 6.00 am on the day of the election of the Mayor; or*

(b) *if he or she dies or ceases to be a Councillor; or*

(ba) *if his or her office as a Councillor is suspended for any period under this Act; or*

(c) *if he or she resigns in writing which is given at a Council meeting or to the Chief Executive Officer; or*

(ca) *if he or she becomes ineligible to hold office under section 81K; or*

(d) *if he or she is ousted from office.*

(2) *For the avoidance of doubt, the office of Mayor becomes vacant under subsection (1)(b) at 6.00 am on the day of a general election whether or not the Mayor has completed his or her term of office as resolved by the Council under section 71(1).*

(3) *Any Councillor is eligible for election or re-election to the office of Mayor.*

* * * * *

The process for the election of the Mayor is prescribed in Part 2, clause 7, of Council's Meeting Procedures Local Law 2007 (No.1 of 2007), as amended 22 July 2008. It should be noted that section 90(1)(ca) of the Act requires that "voting at a meeting that is open to members of the public must not be in secret". This takes precedence over clause 7(2) below and does not allow Council to vote for a Mayor by secret ballot.

PART 2 - ELECTION OF MAYOR AND OTHER CHAIRPERSONS

7. Election of Mayor

(1) *At any meeting to elect the Mayor, the Chief Executive Officer or delegate may act as a temporary chair to deal with the receipt of nominations for the election to the position of Mayor and to conduct the election of the Mayor in accordance with the provisions of this Local Law;*

(2) *The election of the Mayor will be carried out by a show of hands unless the Council resolves that it be carried out by secret ballot.*

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(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(, GARY ARNOLD)

ELECTION OF MAYOR (cont'd)

- (3) *In determining the election of the Mayor, the following process will apply:*
- (a) *where only one nomination is received, that Councillor must be declared elected; or*
 - (b) *where two nominations are received, the Councillor with the majority of votes cast will be declared elected; or*
 - (c) *where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot; or*
 - (d) *where there are more than two nominations received and the result has not been determined under paragraphs (b) or (c), the nominee with fewest number of votes cast must be eliminated (and if there is more than one nominee with an equal number of the fewest votes then a lot will determine the successful nominee in this instance) and the names of the remaining nominees must be put to the vote again; and*
 - (e) *the procedure in paragraph (d) must be repeated until the circumstances in Paragraph (c) apply or until there are only two nominees remaining in which case a further vote must be taken and the nominee with the majority will be declared elected or if there is an equal division of votes, the election must be determined by lot.*
- (4) *If the Mayor is unable to attend a Council meeting for any reason the Council must appoint an acting Chairperson.*
- (5) *Any election for the appointment of an acting Chairperson of a meeting of the Council or of a special committee will follow the same procedure as that for an election of Mayor.*
- (6) *The provisions applying to voting by secret ballot in this Local Law also apply to voting under this Part.*

3. Financial Implications

There are no financial costs outside the adopted budget to consider within this report.

4. Community Consultation

The election of Mayor must be conducted in a meeting open to the public.

5. Internal Consultation

This report has been prepared in consultation with Council's Corporate Governance Officer.

6. Legislative / Policy Implications

The advice provided within this report complies with the *Local Government Act 1989*, the *Local Government Amendment (Electoral Matters) Act 2011* and Council's *Meeting Procedures Local Law 2007 (No.1 of 2007)*.

7. Environmental Implications

There are no environmental implications to consider within this report.

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ITEM NO: 7.1
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(, GARY ARNOLD)

ELECTION OF MAYOR (cont'd)

8. Conflict of Interest Considerations

There are no officer conflict of interest issues to consider within this report.

9. Conclusion

Moira Shire Council is required to elect a Mayor in accordance with sections 71 and 72 of the *Local Government Act 1989* and Part 2, clause 7 of Council's *Meeting Procedures Local Law 2007*. It is recommended that Council elect a Mayor to serve until the date of the next Council election on 27 October 2012.

RECOMMENDATION

That Moira Shire Council elect Cr_____ as Mayor for a period ending on the date of the next Council election (27 October 2012) in accordance with sections 71 and 72 of the *Local Government Act 1989* and Part 2, clause 7 of Council's *Meeting Procedures Local Law 2007* (No.1 of 2007).

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3. OUR COMMUNICATIONS AND
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COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.2
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

STATEMENT FROM OUTGOING MAYOR

1. Executive Summary

The outgoing Mayor will make an outgoing speech to Council and the public gallery reflecting on their term (2010/11) as Mayor of the Moira Shire Council.

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3. OUR COMMUNICATIONS AND
PROCESSES
COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.3
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

MAYORAL STATEMENT - INCOMING

1. Executive Summary

The Mayor of the Moira Shire (2011/12) will present an Incoming Statement to the Council and members of the public gallery.

FILE NO: 120.02.0010
3. OUR COMMUNICATIONS AND
PROCESSES
COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.4
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

ELECTION OF DEPUTY MAYOR

1. Executive Summary

In accordance with Part 2, clause 7 (5) of Council's Meeting Procedures Local Law 2007 (No.1 of 2007) the election of the Deputy Mayor follows the same procedure as that for the election of the Mayor.

It is recommended that Council appoint a Deputy Mayor for the period ending 27 October 2012, the day of the next Council election. Under section 68 all Councillors (including a Deputy Mayor) are to go out of office at 6am on the day appointed for each general election.

2. Discussion

The duties of the position of Deputy Mayor include taking on the role of Acting Mayor in accordance with section 73 of the *Local Government Act 1989*, as follows:

“ **73. Precedence of Mayor**

- (1) *The Mayor of a Council takes precedence at all municipal proceedings within the municipal district.*
- (2) *The Mayor must take the chair at all meetings of the Council at which he or she is present.*
- (3) *If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor.*
- (4) *An acting Mayor may perform any function or exercise any power conferred on the Mayor.*

Council's Protocol and Procedures Code, Roles and Responsibilities of Councillors provides additional guidance on the role of Mayor.

The Mayor may call for nominations for the position of Deputy Mayor.

3. Financial Implications

There are no financial costs outside the adopted budget to consider within this report.

4. Community Consultation

The election of Deputy Mayor is required to be held in a meeting open to the public.

5. Internal Consultation

Report prepared in consultation with Council's Corporate Governance Officer.

6. Legislative / Policy Implications

The advice provided within this report complies with the *Local Government Act 1989*, the *Local Government Amendment (Electoral Matters) Act 2011* and Part 2, clause 7 (5) of Council's Meeting Procedures Local Law 2007 (No.1 of 2007).

FILE NO: 120.02.0010
3. OUR COMMUNICATIONS AND
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COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.4
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

ELECTION OF DEPUTY MAYOR (cont'd)

7. Environmental Implications

There are no environmental implications to consider within this report.

8. Conflict of Interest Considerations

There are no officer conflict of interest issues to consider within this report.

9. Conclusion

That Council determine whether to elect a Deputy Mayor and if so, elect a Deputy Mayor to serve until the day of the next Council election, which will be 27 October 2012.

RECOMMENDATION

That Council elect Cr _____ as Deputy Mayor to serve for a period ending on the date of the next Council election (27 October 2012).

FILE NO: 120.02.0010
3. OUR COMMUNICATIONS AND
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COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.5
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

STATEMENT FROM OUTGOING DEPUTY MAYOR

1. Executive Summary

The outgoing Deputy Mayor will make an outgoing speech to Council and the public gallery reflecting on their term (2010/11) as Deputy Mayor of the Moira Shire Council.

FILE NO: 120.02.0010
3. OUR COMMUNICATIONS AND
PROCESSES
COUNCIL PLAN ACTION NO. N/A

ITEM NO: 7.6
(CHIEF EXECUTIVE OFFICER, GARY
ARNOLD)
(CORPORATE GOVERNANCE, GARY
ARNOLD)

DEPUTY MAYORAL STATEMENT - INCOMING

1. Executive Summary

The Deputy Mayor of the Moira Shire (2010/11) will present an Incoming Statement to the Council and members of the public gallery.