

CITY OF JOONDALUP

MINUTES OF MEETING OF THE STANDING ORDERS REVIEW COMMITTEE HELD IN WARD OFFICE 1, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY 2 MAY 2000.

ATTENDANCE AND APOLOGIES

Committee Members:

Mayor J Bombak - Chairman
Cr A Patterson - Deputy Chairman
Cr D Carlos
Cr S Magyar
Cr C Mackintosh
Chief Executive Officer, Lindsay Delahaunty

Officers:

Manager, Council Support Services:	M SMITH
Consultant – Local Laws:	P DUNN
Committee Clerk:	J AUSTIN

The Manager Council Support Services declared the meeting open at 1709 hrs.

ELECTION OF CHAIRMAN

Section 5.12 of the Local Government Act 1995 requires a committee appointed by a local government, to appoint a presiding member as the first item of business at its first meeting. Schedule 2.3 of the Act requires the Chief Executive Officer to preside, however, as the Chief Executive Officer is a member of the Committee, the Manager Council Support Services presided at the meeting until the Chairperson was elected. Nominations for the position of chairperson were to be given to the Manager Council Support Services in writing.

The Manager Council Support Services advised that two nominations had been received for the position of Chairman. Cr Patterson nominated Mayor John Bombak. Cr Magyar nominated Cr Don Carlos.

A ballot was therefore conducted. Following the counting of votes, the Manager Council Support Services declared Mayor John Bombak elected as Chairman. Mayor Bombak assumed the Chair at this point, the time being 1712 hrs.

ELECTION OF DEPUTY CHAIRMAN

The Manager Council Support Services advised that Cr Mackintosh had nominated Cr Andrew Patterson for the position of Deputy Chairman. There being no further nomination, Cr Patterson was declared elected as Deputy Chairman.

REVIEW OF STANDING ORDERS LOCAL LAW - [01369] [05885]

WARD - All

Summary of Purpose and Effect (to be read aloud at the Council Meeting)

The first action in the process of adopting a local law, requires a summary of the purpose and effect to be read aloud by the Mayor. The summary is as follows:

“The purpose of this local law is to:

provide a set of enforceable procedures to assist in the good conduct of Council, committee and electors meetings.

The intent of this local law is to:

result in better decision making by Council, the orderly and efficient conduct of meetings dealing with Council business and greater community understanding of the business of the Council by providing open and accountable local government.”

SUMMARY

This report covers the first of two parts of the process to be followed in adopting the proposed new Standing Orders Local Law 2000. The process is in accordance with section 3.12 of the Local Government Act 1995. (The Act) The first part involves:

- *reading aloud the purpose and intent of the proposed local law, at the meeting*
- the giving of statewide and local public notice that the local government proposes to make a local law. Matters to be included in that notice:
 - (i) the purpose and effect of the local law;
 - (ii) advice that copies of the proposed local law can be obtained from the local government; and
 - (iii) inviting submissions for six weeks after giving the notice.

This process is outlined in greater detail in the background section of this report.

The report outlines the objectives applied to the review of the Standing Orders Local Law, which provides a set of enforceable procedures to assist in the good conduct of Council, committee and electors meetings.

The report also recommends that the proposed adoption of the local law be advertised to seek public comment, in order to progress making of the local law.

BACKGROUND

The local laws of the former City of Wanneroo became the local laws of the City of Joondalup and Shire of Wanneroo on creation of the two new local governments on 1 July, 1998. The Local Government Act 1995 required that local governments review their local laws. The review of the City's Standing Orders Local Law will complete this requirement.

The proposed Standing Orders Local Law has been developed in consultation with the CEO, Directors, plus Managers and staff responsible for conduct of meetings and recording of meeting proceedings. Recently adopted Standing Orders Local Laws of other local governments have also been researched and bench marked against the City's with the view to include relevant clauses in the City's proposed local law.

The following objectives have been applied to preparation of the Standing Orders Local Law:

- 1 ensure the local law complies with the Local Government Act 1995 and other applicable legislation;
- 2 make the local law easier to read and understand by:
 - using plain English;
 - breaking down lengthy, complicated clauses into a series of appropriate sub clauses;
 - applying a more modern format;
- 3 make the local law more relevant to current needs.

DETAILS

Compliance with Local Government Act 1995

The Local Government Act 1995 and Administrative Regulations made under that Act, detail much of what a local government must comply with in conducting its meetings. It is a requirement under the Act, that no local law is to be inconsistent with the provisions of the Act.

The proposed local law has been further reviewed to identify and remove any clauses or sub clauses that were a duplication of a section of the Act or Administrative Regulations. This action was taken following recent legal advice on the matter and will avoid opportunity for any inconsistency or misinterpretation.

The Department of Local Government has also produced a booklet titled, “The Preparation of Agendas and Minutes – a Guide for WA Local Governments”. Each of these documents has been extensively referenced to ensure compliance with the Act and to apply recommended processes that assist in producing a sound local law that meets legislative requirements.

Shaded Areas not Local Law

In many instances, extracts from the Local Government Act 1995 and Administrative Regulations have been included in the proposed operating local law and are lightly shaded. These extracts are effectively footnotes. As they are extracts from higher level legislation (an Act of parliament) than a local law, they will not be included in the formal local law that will be gazetted. However, the shaded areas will remain in the operating copies of the local law. Their inclusion will reduce the need to refer to the Act to clarify requirements in these instances.

Using Plain English

Many former local laws were couched in legal and complicated terminology that tended to add to their confusion and make their interpretation by the general public more difficult. The modern approach applied to local laws is for them to be expressed in plain English to assist in their comprehension without the need for some legal training. This approach has been applied to make the local law easier to read and understand.

Replace Lengthy Complicated Clauses with Sub Clauses

In the past, it was common to see lengthy clauses covering a number of aspects of one matter in local laws. The use of lengthy clauses frequently complicated these matters as accent was placed on including all aspects in one clause. In many instances the content of these lengthy clauses is still relevant to the requirements of the current Act and proposed local law. Where possible, these clauses have been broken down into sub clauses containing the relevant information. The use of sub clauses will assist in making the local law easier to read and understand.

Apply Modern Format

The format applied to all new local laws is similar to that of an Act of Parliament, and combines with the other initiatives of using plain English and breaking down complicated clauses. The more open format with distinct clause headings, better clause numbering and the general improved set out has resulted in a far less cluttered document. As such, it is easier to read and an improvement on previous local law formats.

Relevance to Current Needs

The majority of the proposed local law consists of rules that facilitate opportunity for thorough and informed decision making on all matters requiring a Council decision. These rules also provide for the professional, logical and orderly progression of Council meetings, structured in a way that meets Council’s responsibilities under the Local government Act 1995 and Administration Regulations. It is therefore considered that the proposed local law will effectively meet the current needs of the Council in this respect.

While many improvements have been made when compared with the current local law, there were several areas where it was necessary to concentrate on removing the confusion or opportunity for misinterpretation. Two of these areas relate to the need to disclose any interest in matters being considered at meetings and the revocation of resolutions. Both these matters have received increased attention from the Department of Local Government and are subject of report in the Annual Statutory Compliance Return.

It is likely that an amendment will be made to the Local Government (Administration) Regulations 1996 to strengthen the requirements concerning revocation of resolutions, similar to what has been included in the proposed local law.

Changes in focus

Over the past decade, the focus of all manner of business has been concentrated on improved customer service. This relates as much to local governments as any other business, as our customers increasingly expect an improved quality of service. In addition, the provisions of the Local Government Act 1995 require local governments to be more open and accountable in their dealings and that the public have access to more information.

In an attempt to achieve best practice principles, a modern approach that meets these requirements and effectively provides better customer service, has been adopted by many local governments. The modern approach involves the introduction of Briefing Sessions coupled with two Council meetings each month. The application of such meeting processes, provides the opportunity for all elected members to be equally informed, initially on an informal basis at the Briefing Session, where matters can be thoroughly discussed before any formal decision is to be made by full Council.

Greater Public Participation

Two Council meetings each month provides Council's customers with increased opportunity to take advantage of a relatively quick decision making process. This decision making process is also seen as a significantly enhanced service in the eyes of Council's customers. In addition, those customers or interested public have the opportunity to attend just one briefing session where matters are informally considered before a formal decision is made by Council. Under the usual committee system operated by local governments, Council members and its customers would need to attend several meetings in order to obtain the same information that is available at one briefing session.

By having two Council meetings each month, those customers or interested public who attend the meetings have the same opportunity to ask questions of the Council that was previously available by having public questions at the beginning and end of one Council meeting. Two Council meetings each month also increases the opportunity for customers to make deputations or presentations to Council.

Informed decision making

The Order of Business of meetings does not include any heading for late and urgent business. Making decisions at a meeting without the benefit of a thoroughly prepared report is considered to be a highly dangerous practice that must be avoided at all times. It is difficult to identify any matter that could not be held over to the next meeting, particularly as Council meets twice

monthly. Alternatively, a special meeting could be held if necessary in order for a report to be provided and any decision being made on an informed basis. This approach is in keeping with responsible government management that is expected by the community.

All matters that are subject of a report to Council should require a decision. All reports must include recommendations outlining the action that the reporting officer considers most appropriate for Council to take. This process enables Council to effectively use the professional advice that is provided by its employees and contractors. Where Council chooses to amend those recommendations, a suitable notation explaining the reason for the amendment must be provided in the minutes of the meeting.

Benefits of the modern approach

The overall effect of having the two informal Briefing Sessions each month and two formal Council meetings is:

All Council members can be equally informed at Briefing Sessions before having to make decisions at formal Council meetings;
Council can make decisions for its customers in half the time of a committee and one Council meeting process; and
The opportunity for public participation in the decision making process is significantly enhanced.

Changes to Standing Orders

In an effort to assist elected members to be able to differentiate between the changes in the draft Standing Orders local law to that of the existing local law, the major changes have been identified below with an explanation. These changes have also been identified in italics throughout the Standing Orders local law document.

Clauses 1 (Title); 3 (Content and intent) and 4 (Repeal)

In accordance with the new local law format, each new local law is required to include an ‘intent clause’. Clause 4 details the repeal of the existing Standing Orders local law that was adopted by the former City of Wanneroo. This clause is legally required as it is not possible to have two laws covering the same matter.

Clause 10 (Public access to unconfirmed minutes of Council and committee meetings)

This clause reaffirms the requirement of the Local Government (Administration) Regulations 1996 to ensure committee and Council minutes are made available to the public within the prescribed times.

Clause 14 (Order of business)

The order of business has been amended to better reflect the modern approach that the Council has taken with its decision making. The order of business has removed the antiquated ‘procedural’ motions, such as:

- Questions with due notice
- Questions without due notice
- Reports of Committees

- Reports of the CEO
- Motions of which previous notice has been given
- Motions for further action
- Question time

- Questions with Due Notice

This section of the order of business allows for an elected member to ask a question at a meeting and the member shall give notice of the question to the CEO, at least ten hours before the commencement of the meeting. Both the question and the answer are to be recorded in the minutes. Every question and answer shall be submitted as briefly and as concisely as possible and no discussion shall be allowed.

The use of such a procedure is rare and achieves little as the answer is typically in a yes or no response.

- Questions without Due Notice

This procedure is not defined under the current standing orders local law. It is understood that it is a period allocated on the agenda where members may ask questions at a meeting, however answers may not necessarily be provided. If the question is taken on notice, then a response is to be provided at the next ordinary meeting.

Again, such a procedure is rarely used.

- Reports of Committees

The Council of the day resolved to convene two ordinary meetings of the Council per month and disbanded the structural committees. Therefore there was no need to have a specific section on the agenda to discuss reports of committees and it was agreed that the reports presented be dealt with in the four specific categories.

- Motions of Which Previous Notice has been given

Clause 3.12 of the standing orders allows for a member to bring forward at a meeting such business as that member wishes in the form of a motion. Such a motion must be given in writing to the CEO either at the previous meeting or at anytime thereafter being no less than seven clear days before the meeting at which it is to be brought forward.

The Chairperson may rule a notice of motion that is beyond the jurisdiction of the Council out of order. A notice of motion shall lapse unless the member who gave the notice or a member authorised by the mover, in writing, is present to move the motion at the meeting.

The Council has recently resolved to trial the current meeting cycle of two Council meetings per month, which are supported by two briefing sessions. As it has been stated before, there is a general trend to move to this type of decision making structure within local government.

The success of the briefing sessions allows for elected members to raise matters that require detailed reports to be prepared to ensure that the Council makes the most informed decision as possible. Motions of which notice has been given can lead to the Council making decisions without the benefit of a thoroughly prepared report. This is a practice that should be highly discouraged.

It has been suggested in the draft review of the standing orders local law that the item of business 'Motions of which Previous Notice has been given' be included in the order of business. A Notice of motion should be forwarded to the CEO fourteen (14) clear days prior to the meeting at which it is to be discussed. This will enable the appropriate report to be prepared so that an informed decision is made by the Council.

- Motions for Further Action

This is not defined within the current standing orders; however, it was seen that this item of business was a form of 'general business'. It allowed elected members to near the end of a meeting to address the Council on matters for further action, which could range from a number of issues.

A publication produced by the Department of Local Government stated that 'general business' should not be listed as an agenda item as it allows for agenda items to be raised on the spot without adequate background information. Such requests from elected members can be forwarded to the relevant directorate on a 'Councillor's Request' form or raised at a briefing session.

- Question Time

This allowed for members of the public to ask a second lot of questions of the Council following the decisions of the reports presented to the Council. The Local Government Act 1995, states that the Council shall hold a period of 15 minutes at the commencement of each meeting to allow for members of the public to ask questions.

It is suggested that with two Council meetings per month, deputation periods prior to each Council meeting and the briefing sessions being open to the public, it would be fair to say that the members of the public are now able to be party to the decision making process more now than in the past.

Clause 17, (Part 2) (Confirmation of minutes)

This clause reaffirms the requirement of the Local Government Act 1995 for the person presiding at the meeting to certify the minute book.

Clause 18 (Announcements by the Chairman without discussion)

Even though this part of the agenda is not new, this clause allows the ability for the Chairman to make announcements on the operations of the City without discussion.

Clause 20 (Disclosure of non-financial interest)

The amendment of the Local Government Act 1995 required every local government to include in its Code of Conduct the requirement for elected members and employees to declare interests of a non-financial nature. To ensure open and accountable local government, this clause has been included in the Standing Orders.

Clause 21 (On-going disclosure required)

This clause reaffirms the requirement for those persons who have an interest to declare that interest on an on-going basis, as required by legislation.

Clause 24 (Part 1) and (Part 2) (Reports)

This clause now reflects that reports can be presented to the Council whether they be from a committee or the administration. It was felt that there was no need to distinguish between reports of committees or employees in the order of business as they would fall within the one category 'reports'. This clause allows for the CEO to present reports of a late and urgent nature.

Clause 26 (Meeting closure)

The order of business reflects that the last item of business is to close the meeting. The existing Standing Orders do not specify the procedure.

Clauses 28 (Members seating); 29 (Distinguished visitor seating) and 30 (Media attendance and seating)

Clause 28 determines that the CEO is to allocate each member with a seat within the Chamber following each ordinary election. Clause 29 states that the chair to the right of the Mayor will be reserved for the special guest and that the Deputy Mayor shall occupy a seat on the Chamber floor. This is common practice amongst local governments as the Deputy Mayor is elected by the people of a particular Ward. The Standing Orders now stipulate the rules applicable to the attendance of media at the meeting and that seating will be allocated.

Clause 31 (Recording of meetings)

The current policy of the Council allows for meetings of the Council to be recorded for the purposes of minute taking. This clause stipulates that no other person is to record the proceedings of a Council or committee meeting without the permission of the Chairman.

Clause 44 (Part 2) and (Part 3) (Personal explanation and correction of fact)

This clause now allows for either elected members or employees to seek permission to correct any fact during debate. This will further assist the Council to making better informed decisions.

Clause 47 (Preservation of order – members of the public)

There may be some occasions during a meeting where a member(s) of the public interrupts the proceedings of a Council or committee meeting. This clause now allows the Chairman to take the necessary action to ensure the meeting is not interrupted.

Part 5 (Motions and Amendments)

This Part of the local law has not been substantially amended, merely better structured for the ease of interpretation.

Clause 55 (Limitation on members speaking)

This clause has been amended by the addition of part (a) which clarifies when the mover of a motion or an amendment is to speak to the motion or amendment.

Part 6 (Revocation Motions)

The Local Government Act 1995 introduced a number of changes to the operations of local government, one being the revocation of motions. This Part details the procedures to be followed when there is the requirement to revoke a previous decision of the Council.

Clause 67 (The motion be deferred)

Part 7 of the proposed Standing Orders deals with procedural motions. Clause 66 has been included to reflect that a ‘motion be deferred’ be a procedural motion. This clause details the procedure to be followed when a deferral motion is moved and amended.

Clause 78 (Member attending committee as observer)

It is practice amongst local governments that elected members attending a meeting of a committee of which they are not a member are to sit in an area separate from committee members. They may sit at the committee table and speak on a matter if invited to do so. This allows for the members of the committee to be clearly recognised by the Chairman and members of the public to ensure proper meeting procedures are followed.

Clause 79 (Disclosure by members who are observers at committee meetings)

This clause has been included to ensure the requirements of the Local Government Act 1995 are adhered to. The requirement to disclose interests for members of a committee that comprises ‘other persons only’ (being not elected members, employees) is not necessary.

Local Law Making Procedure

Section 3.12 of the Local Government Act 1995, details the procedure that a local government must follow when making a local law. The details relating to the first stage of making a local law are:

- “ **3.12** (1) In making a local law a local government is to follow the procedure described in this section, in the sequence it is described.
- (2) At a Council meeting the person presiding is to read aloud, or cause to be read aloud, a summary of the purpose and effect of the proposed local law.

- (3) The local government is to -
 - (a) give statewide and local public notice stating that -
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice;
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day not less than 6 weeks after the notice is first given.
 - (b) as soon as the notice is given , give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the proposed local law is proposed to be made, to that other Minister, and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law * that is not significantly different from what was proposed.

**Special Majority Required ”*

COMMENT

The proposed local law includes the repeal of the current Standing Orders Local Law carried over from the former City of Wanneroo, being:

City of Wanneroo Standing Orders Local Law 1997, as published in the Government Gazette - 30 October 1997.

The repeal of the current local law coincides with the coming into operation of the proposed local law.

The City’s solicitor has reviewed the proposed local law to ensure that the content is within the bounds of operation of the Local Government Act 1995.

It is recommended that the proposed local law be advertised in accordance with section 3.12 of the Local Government Act 1995, in order to seek public comment.

OFFICER'S RECOMMENDATION THAT IT BE RECOMMENDED THAT Council, in accordance with section 3.12 of the Local Government Act 1995, APPROVES the advertising of the proposed local law, "City of Joondalup Standing Orders Local Law 2000", in order to seek public comment.

Manager Council Support Services gave an overview of the process involved in the review of the Standing Orders Local Law.

Discussion ensued in relation to the role of Standing Orders Local Law, the merits of a committee system and the level of public participation at Council meetings. In response to concern raised at the ability of elected members to raise questions or issues of concern, the Chief Executive Officer referred to the procedure for raising items at a briefing session, the ability of elected members to ask a question or call for a point of clarification at a Council meeting, and the provisions to permit suspension of a clause of Standing Orders if so required.

Further discussion ensued regarding clause 56(2) which reads "*a member seconding a motion is to be deemed to have spoken on the motion unless at the time of seconding it, the member reserves the right to speak on the motion later in the debate*". It was pointed out that this was a standard clause but could be removed if the elected members so wished.

It was resolved that this item of business be resubmitted to the next meeting of the Standing Orders Review Committee to allow further debate.

DATE OF NEXT MEETING

The next meeting of the Standing Orders Review Committee will be held in Conference Room 1, Joondalup Civic Centre on Tuesday 16 May 2000 at 5.00 pm.

CLOSURE

There being no further business, the Chairman declared the meeting closed at 1815 hrs.