

The Chief Executive Officer
City Of Joondalup

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Dear Sir,

Please accept this letter as my submission regarding the Standing Orders Local Law that is currently open for public submissions.

My method for reviewing these Standing Orders was to start with section 18 of the Interpretations Act. This section states:

“Regard to be had to purpose or object

18. In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.”

Next I referred to section 1.3 of the Local Government Act. That section states:

“Content and intent

1.3. (1) This Act provides for a system of local government by –

- (a) providing for the constitution of elected local governments in the State;
- (b) describing the functions of local governments;
- (c) providing for the conduct of elections and other polls; and
- (d) providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.

(2) This Act is intended to result in –

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.”

I also referred to sections 2.8 and 2.10 of the Local Government Act. These state:

The role of the mayor or president

2.8. (1) The mayor or president --

- (a) presides at meetings in accordance with this Act;
- (b) provides leadership and guidance to the community in the district;
- (c) carries out civic and ceremonial duties on behalf of the local government;
- (d) speaks on behalf of the local government;
- (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
- (f) liaises with the CEO on the local government's affairs and the performance of its functions.

(2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

The role of councillors

2.10. A councillor --

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

When I examined the draft "Standing Orders" that the City of Joondalup has put out for public comment, I applied the tests of:

1. Does this clause of the Standing Orders help or promote the intent of the Local Government Act?
2. Does this clause of the Standing Orders assist or hinder a Councillor or Mayor in the performance of their duties?
3. How does this clause match the statements made in the City's "Strategic Plan"?

It was only through my experiences as a Councillor, 1994 to 1997, then a Council watcher, 1997 to 1999, then returning as a Councillor, 1999 to 2001, and now being a Council watcher again that I have been able to review the Standing Orders with the strength of purpose that I have applied in this submission.

Below is the text of the Standing Orders as I have modified them. Following that is a draft of a motion required to change the Standing Orders to meet the objectives of the Local Government Act.

Finally there is a document detailing the reasons for each change.

Trusting that Council will see the sound reasons for the changes required.

Yours truly

Steve Magyar

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**CITY OF JOONDALUP
STANDING ORDERS LOCAL LAW 2001
ARRANGEMENT**

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PART 1 - PRELIMINARY

Title

1 This local law may be referred to as the City of Joondalup Standing Orders Local Law 2001.

Commencement

2 This local law comes into operation 14 days after its publication in the Government Gazette.

Content and intent

3 (1) 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.
(2) This local law is intended to result in better decision making by Council, the orderly and efficient conduct of meetings dealing with Council business and greater community ***participation and*** understanding of the business of the Council by providing open and accountable local government.

Repeal

4 The former City of Wanneroo Standing Orders Local Law 1997, as published in the Government Gazette on 30 October 1997, is repealed on the day this local law comes into operation.

Definitions

5 In this local law, unless the context requires otherwise:

“Act” means the Local Government Act 1995.

“Admin. Reg.” means the Local Government (Administration) Regulations 1996.

“Adoption En Bloc” means the adoption by one resolution, of all or a group of recommendations from a committee or several reports, without amendment or qualification.

“CEO” means the Chief Executive Officer.

“Chairman” means any person presiding at a meeting. The Mayor presides at Council meetings and the committee Chairman presides at committee meetings.

“City” means the City of Joondalup.

“Council” means the Council of the City of Joondalup.

“Meeting” means a meeting of the Council or a committee.

“Member” means the Mayor or a Councillor or in the case of a committee, a member of the committee.

PART 2 - MEETINGS OF COUNCIL AND COMMITTEE

Calling of meetings

6 (1) Ordinary meetings of the Council and committees shall be held at the time determined by the Council.

(2) The Council shall resolve the days and times of Ordinary Council and committee meetings at the first Council meeting held after an ordinary election or as required from time to time.

Footnote 1: The calling of Council meetings is dealt with at Section 5.4 of the Act.

Notice of meeting and notice of adjournment

7 (1) Notice of a meeting can be given by phone, facsimile, letter or electronic mail and any written notice shall be signed by the CEO.

(2) Failure to receive a notice on the part of any member shall not affect the validity of any ordinary or special meeting so long as all reasonable steps have been taken to serve the notice.

(3) When a meeting is adjourned to a day and hour other than the next ordinary meeting, notice of the resumption of the adjourned meeting shall, if time permits, be sent to each member specifying the nature of the business to be transacted.

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(4) Where practicable the CEO will give local public notice of the day and hour for resumption of an adjourned meeting.

Footnote 2: a) The giving of notice of Council meetings is dealt with at Section 5.5 of the Act and the giving of public notice of meetings at Admin. Reg. 12.

b) How documents can be given to a person is dealt with at Sections 9.50 and 9.54 of the Local Government Act 1995 and sections 75 and 76 of the Interpretation Act 1984.

Public participation, access to agendas and supporting information

8 (1) Members of the public are welcome to attend all Council meetings, **briefing sessions** and any committee meetings open to the public. Copies of the Council and committee agendas (except those committees **particularly** determined by Council) are available where practicable, for inspection in all Council libraries, at the Administration Centre, prior to the meetings and as soon as practicable on Council's website.

(2) Certain matters/documents listed in the agenda may be marked CONFIDENTIAL - NOT FOR PUBLICATION. These matters may be discussed behind closed doors for confidential reasons and on such occasions members of the public will:

(a) not have access to documents marked CONFIDENTIAL – NOT FOR PUBLICATION; and

(b) be required to leave the room during discussion on these matters.

(3) Copies of documentation marked CONFIDENTIAL – NOT FOR PUBLICATION, may be made available to the public once a decision has been made on the confidential matter and a resolution of the Council has been made to make those documents available.

(4) At the end of each Council meeting, committee meeting or briefing session, an additional segment of at least 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session.

Footnote 3: Public access to agendas and supporting documentation is dealt with at Admin. Reg. 14. Sections 5.91 to 5.97 of the Act and the Freedom of Information Act 1992

Public access to unconfirmed minutes of Council and committee meetings

9 Unconfirmed minutes of each Council and committee meeting will be available on Council's website as soon as practicable after the meeting.

Footnote 4: Public access to unconfirmed minutes of Council and committee meetings is dealt with at Admin. Reg. 13.

Quorum for meetings

10 *Footnote 5: The requirements for a quorum for a meeting are dealt with at Sections 5.19 and 5.7 of the Act.*

Procedure if quorum not present

11 *Footnote 6: The procedures where a quorum for a meeting is not present are dealt with at Admin. Reg. 8.*

Lapse of quorum

12 (1) If at any time during any meeting a quorum is not present, the Chairman upon becoming aware of the fact, is to suspend the proceedings of the meeting for a period of 15 minutes.

(2) If a quorum is not present at the expiration of the 15 minutes suspension period the Chairman is to adjourn the meeting to a future time and date. A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment and be recorded in the minutes of the meeting.

(3) Where the debate on any motion is interrupted at a Council or committee meeting, which is adjourned due to lack of a quorum, that debate is to be resumed at the resumption of the meeting at the point where it was interrupted. The members who have spoken on the motion at the adjourned meeting, shall not be entitled to speak again on resumption of that meeting, except the mover who retains the right of reply.

(4) At any meeting where a quorum of members is not present or there is an adjournment due to the lack of a quorum the names of the members then present are to be recorded in the minute book.

Voting

13 (1) In taking the vote on any motion or amendment, the Chairman shall put the question first in the affirmative and then in the negative and may do so as often as is necessary, to form and declare an opinion as to whether the affirmative or the negative has the majority.

(2) The Chairman may direct a member to cast a vote electronically if devices are provided at a meeting to enable votes to be cast or recorded electronically.

Footnote 7: Voting at meetings is dealt with at Section 5.21 of the Act and Admin. Reg. 9.

PART 3 - BUSINESS AT MEETINGS

Order of business

14 (1) The order of business at an ordinary meeting of the Council shall, unless otherwise resolved by Council, be as near as is practicable, to the following:

Declaration of Opening /Announcement of Visitors.

Apologies/Leave of Absence (Previously Approved)

Public Question Time

Applications for Leave of Absence

Confirmation of Minutes

Announcements by the Chairman without discussion

Declarations of Financial Interest and Interests Affecting Impartiality

Petitions, Deputations and Presentations

Questions with Due Notice

Questions without Due Notice

Reports

Motions of Which Previous Notice has been Given

Motions for Reports

Second Public Question Time

Closure

(2) The order of business at an ordinary meeting of a committee shall be as near as practicable to the following:

Declaration of Opening

Apologies and Leave of Absence (Previously Approved)

Declarations of Financial Interest and Interests Affecting Impartiality

Public Question Time

Applications for Leave of Absence

Confirmation of Minutes

Petitions, Deputations and Presentations

Reports

Requests for Reports for Future Consideration

Closure

(3) The order of business at any special meeting of the Council or a committee will be in the order in which it appears in the agenda, **unless resolved by Council or committee.**

(4) At the resumption of an adjourned meeting the only business to be transacted will be that which remains outstanding on the agenda of the adjourned meeting.

Public question time

15 (1) Members of the public are encouraged to ask questions and are requested to submit their questions in writing prior to the meeting, to allow time for research and the provision of a detailed answer.

(2) The Chairman is responsible for the conduct of public question time.

(3) The Chairman will endeavour to have every question answered at the meeting at which it is asked but where this is not possible, the question will be taken on notice and where practicable, a written response will be provided to the person who asked the question.

(4) A member of the public wanting to ask a question during public question time will first state their name and address.

(5) Questions asked by the public are to relate to the business of the Council and are not to be in the form of a statement or a personal opinion.

(6) Members of the public may table documents at public question time which may correct any perceived errors or omissions in reports presented to Council or committee.

Footnote 8: Public question time at meetings is dealt with at Section 5.24 of the Act and Admin. Regs.5 - 7.

Application for leave of absence from Council meeting

16 (1) Members wishing to apply for leave of absence are to deliver in advance to the CEO, a written notice stating the period of leave sought.

(2) A request by a member for leave of absence requires the approval of the Council.

Footnote 9: The requirements for members to obtain leave of absence from Council meetings are dealt with at Section 2.25 of the Act.

Confirmation of minutes

17 When considering the minutes of a previous meeting, the only discussion permitted is that relating to the accuracy of the minutes.

Footnote 10: The requirements for keeping minutes of meetings and the content of minutes are dealt with at Section 5.22 of the Act and Admin. Reg. 11.

Announcements by Chairman without discussion

18 At any meeting of the Council or committee the Chairman may announce or raise any matter of interest or relevance to the business of the Council or committee and there shall be no discussion permitted on such matters.

Disclosure of financial interest

19 *Footnote 11: The requirements for disclosure of financial interest are dealt with at Sections 5.65-5.70 of the Act.*

Disclosure of interest affecting impartiality

20 (1) A Council member or an employee is to disclose any interest that he or she has in any matter to be discussed at a Council or committee meeting:

(a) that will be attended by the member or employee;

(b) in respect of which the member or employee has given, or will give advice.

(2) Disclosure of an interest under sub clause (1) is to be made immediately before the matter is discussed or at the time the advice is given and is to be recorded in the minutes of the meeting.

(3) Disclosure of an interest does not affect the ability of a member or employee to discuss or vote on the matter.

(4) In this clause “interest” means an interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected but does not include an interest as referred to in Sec.5.60 of the Act.

Footnote 12: The requirements for disclosure of interest affecting impartiality is dealt with at Admin. Reg. 34C and the City of Joondalup Code of Conduct.

On-going disclosure required

21 A member or an employee having an interest in a matter before a meeting has an obligation to declare that interest at each meeting where the matter arises.

Petitions

22 (1) A petition received by a member or the CEO shall be presented to the next ordinary Council meeting.

(2) Any petition to the Council shall:

(a) as far as practicable be prepared in the form prescribed in the Schedule,

(b) be addressed to the Council and forwarded to a member or the CEO, and

(c) state the name and address of the person to whom correspondence in respect of the petition may be served. Where no name and address is given, all correspondence will be forwarded to the person whose name appears first on the petition.

(3) Once a petition is presented to the Council, a motion may be made to receive the petition and refer it to the relevant section of the administration for action.

(4) All petitions of fifty signatures or more are to be the subject of a report to Council detailing actions taken by the administration to resolve the issues raised in the petition.

Deputations

23 (1) Any person or persons wishing to be received as a deputation by Council or a committee, shall, in the first instance, send a request to the CEO, setting out in concise terms the matter to be raised by the deputation.

(2) When the CEO receives a request for a deputation to the Council or a committee, it shall be brought to the attention of the Mayor or Chairman of the committee respectively, for acceptance or refusal. Where the Chairman refuses a request for a deputation to a committee, that request shall be referred to the Mayor for determination. **All Councillors or committee members shall be informed of any deputations refused by the Mayor at the next ordinary meeting of Council or meeting of the committee, which ever occurs first. This clause is subject to clause 46(3).**

(3) A deputation shall not exceed 5 persons in number and only 3 of those persons may address the meeting, but all may reply to questions from members of the Council or committee.

(4) Members of a deputation shall collectively have a maximum of 15 minutes to address the meeting, unless an extension of time is granted.

(5) Any matter that is subject of a deputation to a meeting is not to be decided on by the meeting until the deputation has completed its presentation.

Questions with Due Notice

Any member desiring to ask a question at any meeting shall direct the question to the Mayor and shall give notice thereof in writing to the Chief Executive Officer at least ten hours before the hour fixed for the meeting. Both the question and the answer shall be recorded in the minutes.

Every question and answer shall be submitted as briefly and concisely as possible and no discussion shall be allowed thereon.

Questions without Due Notice

Any member may ask questions without due notice when that member believes such questions, and receiving a reply to the questions, will assist the Council or committee to be better informed regarding any issue which is the business of Council or that committee. Questions without due notice may be refused by the Chairman, or taken on notice, unless the meeting decides otherwise.

Reports]

24 (1) The CEO may prepare such reports that in his/her opinion require consideration by the Council including those reports of a late and urgent nature.

(2) Reports submitted to Council for consideration in accordance with sub clause (1),

must be thoroughly researched and properly structured to include information on background, details, professional advice and comment on the matter and provide a recommendation(s).

Footnote 13: The requirements for the CEO to advise the Council and implement decisions are dealt with at Section 5.41 of the Act.

Motions of which previous notice has been given

25 (1) A member may raise at a meeting any business that member considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.

(2) A notice of motion under sub clause (1) is to be signed by the member and given to the CEO at least 7 clear days before the meeting at which it is to be moved.

(3) Where a notice of motion proposes that Council revokes an earlier resolution, the CEO shall comply with clause 64 (Implementing decisions).

(4) A notice of motion of which the subject matter is beyond the jurisdiction of the Council, may be ruled out of order by the Chairman.

(5) A motion of which notice has been given will lapse unless:

(a) the member who gave the notice or some other member authorised by him/her in writing, moves the motion when called on; or

(b) the Council resolves to defer consideration of the motion to a later time or date.

(6) Where a motion with notice under sub clause (1) contains any word or words which:

(a) reflect adversely on the character or actions of a member, officer or other person; or

(b) impute any motive to any member or officer; or

(c) are offensive or insulting,

then the CEO:

(i) after consultation with the Mayor, may reject the motion; or

(ii) after consultation with the member who submitted the motion, amend the form but not the substance of the motion so as to delete the word or words.

Motions for Reports

The CEO will prepare reports in response to all motions for reports where one third or more of the members present have supported the motion for the report.

Second Public Question Time

At the end of each Council meeting, committee meeting, where the public are allowed to attend, and briefing session, an additional segment of 15 minutes question time

is allowed to permit the public to ask questions on decisions made at that meeting, *or issues raised or listed for information at the briefing session. The chairman will request the mover of the motion to be the first person to respond to the question asked. In the event of the mover not being available to respond, then the seconder shall be required to respond. In the event that the seconder not being present to respond, then any other member who supported the motions shall be required to respond. It shall be competent for staff to provide such information as they see fit in response to a question at seconf public question time. Staff are not bound by clause 39 during second public question time.*

Meeting closure

26 At the conclusion of all business or when otherwise determined by the meeting, the Chairman shall declare the meeting closed and state the closing time.

PART 4 - CONDUCT OF MEETINGS

Official titles to be used

27 Members, when referring to others, shall designate them by their titles of Mayor, Deputy Mayor, Councillor, or in the case of staff by their position title.

Members seating

28 (1) At the first meeting following each ordinary election, the CEO will allocate a seat in the Council chamber to each member.

~~(2) The seat to the right of the Mayor shall remain available for seating of special guests, at the invitation of the Mayor.~~

~~(3) The Deputy Mayor shall be allocated a seat on the floor of the Council Chamber next to their fellow ward representative.~~

(2) The Deputy Mayor may decide to sit in the seat to the right of the Mayor or to sit with the other Councillors. Should the Mayor or Council decide to invite a special guest, the guest may be seated in any chair normally occupied by Directors or Administrative Staff.

(4) Each member shall occupy their allocated position when present at meetings of the Council until there is a request supported by a majority of the members for a re-allocation of positions.

Distinguished visitor seating

29 If a distinguished visitor is present at a meeting of the Council or a committee, the Chairman may invite that person to sit ~~beside the Chairman or~~ at the meeting table.

Media attendance and seating

30 Media representatives are permitted to attend meetings of the Council and be seated in that part of the Council Chambers or meeting room that may be set aside for their use, but must leave the meeting during any period when the meeting is closed to the public.

Recording of meetings

31 (1) Subject to sub section (3), no person is to use any electronic visual or sound recording device to record the proceedings of a Council or committee meeting unless the Chairman has given permission to do so.

(2) If the Chairman gives permission under sub clause (1), the Chairman is to advise the meeting immediately before the recording is commenced, that permission has been given and details of the part of the meeting that is to be recorded.

(3) The CEO is to arrange the electronic recording of council meetings in keeping with Council policy.

Order of speakers

32 When two or more members indicate their desire to speak at the same time the chairman shall decide who is entitled to priority.

Presentation of committee reports

33 The chairman of a committee is to move a motion and speak to the recommendation of a committee, except where:

(a) the chairman is not present, then the deputy chairman or another member at the Mayor's discretion, may move the motion and speak to the recommendation; or

(b) an elected member is not a member of the committee, (e.g. on an external committee), then any elected member nominated by the Mayor may move the motion and speak to the recommendation.

Members not to interrupt

34 A member shall not:

(a) make any noise or disturbance or converse in a loud manner whilst any other member is addressing a meeting; or

(b) cause any interruption or speak out of turn during a meeting, other than to raise a point of order, make a personal explanation or move a procedural motion.

No member to cross floor

35 When the Chairman is putting any motion, no member shall cross the floor, or whilst any other member is speaking, pass between the speaker and the Chair or pass behind the Chair.

Members entering, leaving or withdrawing from Council meeting

36 After a meeting of the Council has commenced, a member shall not enter, leave or withdraw from that meeting, without first paying due respect by deferring to the Mayor.

Chairman may participate in discussion

37 The Chairman may participate in the discussion of any motion before the meeting provided the Chairman addresses the meeting before the right of reply is exercised.

Footnote 14: The requirements for voting by a Chairman at a meeting are dealt with at Section 5.21 of the Act. (See clause 13.)

Chairman to be heard without interruption

38 Whenever the Chairman signifies a desire to speak during a debate, any member speaking or offering to speak is to be silent, so that the Chairman may be heard without interruption.

No adverse reflection

39 (1) A member shall not reflect adversely on:

(a) a resolution of the Council or a committee, except on a motion that the resolution be revoked;

(b) the character or actions of another member, Council employee or any other person, or use offensive or objectionable expressions in reference to any member, Council employee or any other person; unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(2) A member of the Council or a committee may request that any words used by a member, be recorded in the minutes, immediately after their use and the person taking the minutes is to take down the words used and read them to the meeting for verification.

Withdrawal of offensive language

40 (1) A member who, in the opinion of the Chairman, uses an expression which:

(a) in the absence of a resolution under clause 39(1):

(i) reflects adversely on the character or actions of a member, officer or other person; or

- (ii) imputes any motive to any member or officer; or
 - (b) is offensive or insulting,
- is to, when directed by the Chairman, unreservedly withdraw the expression and make a satisfactory apology.
- (2) Where a member fails to comply with a direction of the Chairman under sub clause (1), the Chairman may refuse to hear the member further on the matter then under discussion and call on the next speaker.

Relevance to debate

41 When addressing a meeting on any motion or other business, members shall confine their remarks to the motion or other business and not digress.

Chairman to draw attention of meeting to unbecoming behaviour

42 The Chairman may call the attention of the meeting to continued irrelevance, tedious repetition, unbecoming language or any breach of order, or decorum on the part of a member, and may direct the member, if speaking, to discontinue speaking, and the member shall immediately cease speaking and be seated.

Breach of rules of debate

43 Any member who fails to comply with the provisions of the rules of debate, or who fails to comply with a direction of the Chairman commits a breach of this local law.

Persistent breach

44 Where a member persists in a breach of this local law, the Chairman may direct the member to refrain from taking any further part in the meeting, other than by voting and the member shall comply with that direction.

Personal explanation and correction of fact

- 45 (1) A member or an employee may at any time request permission of the Chairman to make a personal explanation or advise the meeting of the correct facts.
- (2) Where a member or an employee seeks to make a personal explanation or correct any statement of fact made in discussion on a matter before the meeting, the Chairman may with the consent of the member then speaking, approve of the request for the explanation or information to be given. Where the member then speaking declines to consent, the explanation or correction of facts is to be offered at the conclusion of that speech.
- (3) A member or an employee making a personal explanation or advising the correct facts, shall confine comments to clarification of the matter under debate.

Point of order

46 (1) A member may direct the Chairman's attention to a breach of this local law by any other member and shall specify the grounds of the breach.

- (2) A member expressing a difference of opinion with, or contradicting, a speaker shall not be recognised as raising a point of order.
- (3) The Chairman shall decide all questions of order or practice and such decisions shall be final and be accepted by the meeting without argument or comment, unless in any particular case, the meeting then resolves that a different ruling is to be substituted for the ruling given by the Chairman.
- (4) A motion, amendment or other business deemed out of order is to be no longer discussed and requires no resolution.
- (5) Where anything said or done by a member is deemed out of order, the Chairman may require the member to make an explanation, retraction or apology as the case may be.

Preservation of order – Council members

- 47 (1) The Chairman is to preserve order at all times and, when putting a motion may call any member to order whenever in the Chairman's opinion, there is cause to do so.
- (2) Any member who acts in breach of this clause may be deemed by the Chairman to be out of order.
- (3) Where a member persists in any conduct which the Chairman deems is out of order, or refuses to make any explanation, retraction or apology required by the Chairman, then the Chairman may direct the member to refrain from taking any further part in that meeting, other than by recording the member's vote and the member shall comply with that direction.
- (4) Any member who fails to comply with a direction given by the Chairman under sub clause (3) commits an offence.
Penalty \$1,000

Preservation of order – members of the public

- 48 (1) Members of the public are not permitted to interrupt or enter into any debate by the Council.
- (2) Members of the public addressing Council or a committee with the consent of the Chairman are to cease that address immediately after being directed to do so by the Chairman;
- (3) Where a member of the public fails to comply with a direction of the Chairman under this clause, the Chairman may order the removal of the offending person from the meeting room.
- (4) Any member who fails to comply with a direction given by the Chairman under this clause commits an offence.
Penalty \$1,000

Serious disorder

49 (1) If the Chairman is of the opinion that by reason of serious disorder or otherwise, the business of the meeting cannot effectively be continued, the Chairman may adjourn the meeting for a period of 15 minutes. On resumption of the meeting, it shall be immediately decided whether business is to proceed and that question shall be decided without debate.

(2) If, having once adjourned the meeting, the Chairman is again of the opinion that the business of the meeting cannot effectively be continued, the meeting may be closed or adjourned to another date.

PART 5 – MOTIONS AND AMENDMENTS

Recommendations in reports

50 (1) A recommendation made by or contained in a report may be:

- (a) adopted by the Council without amendment or modification;
- (b) rejected by the Council in its entirety;
- (c) amended or modified and adopted with those amendments or modifications;
- (d) referred back for further consideration.

(2) Where in the opinion of the Chairman, an amendment or modification of a recommendation alters the substance or effect of the recommendation, a new motion is to be put forward prefaced by the words, "I move that the recommendation be rejected and that....."

(3) Where a recommendation made by or contained in a report is rejected, amended or modified by the Council, an explanatory note outlining the reasons for the rejection, amendment or modification, shall be included in the minutes of the meeting.

Adoption of recommendations en bloc

51 Council may adopt by one resolution all the recommendations or a group of recommendations from a committee or several reports after having first identified those recommendations if any, that:

- (a) require adoption by absolute or special majority vote,
 - (b) there is a disclosure of interest;
 - (c) members have indicated they want to debate, and
- each of those recommendations in (a), (b) and (c) is to be considered separately.

Motions

52 (1) A member proposing a primary motion or amendment shall state its substance before addressing the meeting and if so required by the Chairman, *or a majority of members*, shall put the motion or amendment in writing.

(2) The Chairman or the meeting by resolution, may require a complicated motion to be divided into two or more motions.

No opposition to motions

53 (1) On a motion being moved and seconded, the Chairman may ask the meeting if any member opposes it.

(2) If no member signifies opposition to the motion the Chairman may declare the motion carried without debate and without taking a vote.

(3) If a member signifies opposition to a motion, the motion shall be dealt with according to this local law.

Motions to be seconded

54 (1) Subject to sub clause (2) a motion or amendment shall not be discussed or put to the vote unless seconded.

(2) A nomination to any position is not required to be seconded.

(3) A member seconding a motion is deemed to have reserved the right to speak on the motion later in the debate.

(4) The mover of a primary motion cannot amend that motion without the consent of the seconder.

Withdrawing motions

55 A motion or amendment may be withdrawn by the mover, with the consent of the meeting, and no member is to speak on it after it has been withdrawn.

One motion at a time

56 Only one motion is to be debated at any one time.

Limitation on members speaking

57 (1) Only the mover of a motion may speak twice on the same motion.

(2) The mover of a motion or an amendment:

(a) shall speak to that motion or amendment first, after it has been seconded;

(b) has the right of reply and in exercising that right is to confine the reply to previous speakers' comments and not introduce any new matters;

(3) No member shall speak on any motion after the mover has replied.

(4) A member may only speak on a motion or reply for a period of 5 minutes, unless an extension of time is granted by the meeting without debate.

(5) Council may by resolution suspend the operation of this clause during debate on a motion.

Amendments

58 (1) A member may move an amendment to a primary motion, at any time during debate on the motion, except:

(a) when the mover has been called by the Chairman to exercise the right of reply; or

(b) during debate on a procedural motion.

(2) Every amendment shall be relevant and not negate the motion in respect of which it is moved.

(3) An amendment to a motion shall only take one of the following forms:

(a) that certain words be omitted;

(b) that certain words be omitted and others substituted or added;

(c) that certain words be added.

(4) Every amendment shall be read or stated before being moved by the mover.

(5) (a) Only one amendment is to be discussed at a time, but as often as an amendment is lost, another amendment may be moved before the primary motion is put to the vote.

(b) Where an amendment is carried, one further amendment to the primary motion, as amended, and no more, may be moved.

(6) Where an amendment is carried, the primary motion as amended shall, for all purposes of subsequent debate and subject only to sub clause (5), be treated as a primary motion.

PART 6 – REVOCATION MOTIONS

Revocation motions

59 A notice of motion to revoke a previous decision, regardless of when that previous decision was made, shall:

(a) be in writing;

(b) be signed by the required number of members, in accordance with the Act;

(c) clearly identify the decision to be revoked or changed;

- (d) clearly state the reason for seeking the revocation or change;
- (e) include an alternative motion;
- (f) be delivered to the CEO at least 7 clear days prior to the meeting at which it is proposed to move the motion, unless the notice of motion is received by the CEO, before the end of the same meeting where the motion to be revoked was carried.

Limitation on power to revoke or change decisions

60 Council should not vote on a motion to revoke or change a decision of the Council whether the motion of revocation or change is moved with or without notice, if at the time the motions moved or notice is given:

- (a) action has been taken to implement the decision;
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, or where that approval or authorisation of a licence, permit or certificate has been put into effect by the City in writing to the applicant or the applicant's agent, by an employee of the City authorised to do so, without having considered a statement of impact prepared by, or, at the direction of the CEO, of the legal and financial consequences of the proposed revocational change.

Support for revocation or change

61 *Footnote 15: The requirements for the support of a motion for revocation or change of a Council decision are dealt with at Section 5.25(e) of the Act and Admin. Reg. 10.*

Revocation motion at the same meeting

62 (1) Subject to clauses 59, 60 and 61, a decision made at a meeting may be revoked or changed at the same meeting.

- (2) Where the CEO receives a notice of motion to revoke a decision made at a meeting before the close of that meeting, the CEO shall immediately advise the Chairman of the notice of motion;
- (3) Where the Chairman is advised of a notice of motion under sub clause (2), the Chairman shall, at the first available opportunity and before the end of the meeting:
 - (a) place the notice before the meeting;
 - (b) determine whether there is sufficient support for the motion in accordance with the Act; and
 - (c) if there is sufficient support, deal with the motion.

Notice of revocation motion

63 Where a notice of motion which complies with the requirements of clause 59 is received by the CEO following the meeting at which the resolution to be revoked was carried, the CEO shall include the notice of motion in the agenda:

- (a) of a special meeting if convened for consideration of the notice of motion, or
- (b) of the next Council or committee meeting at which the motion is to be considered.

Implementing decisions

64 (1) Where a notice of motion to change or revoke a decision of Council or a committee, which complies with the requirements of clause 59, is received before any action has been taken to implement that decision, then no action is to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with.

(2) Implementation of a decision is only to be withheld under sub clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(3) Where a notice of motion to change or revoke a decision of Council is defeated, the CEO shall, as soon as practicable put into effect the original resolution of the Council.

PART 7 - PROCEDURAL MOTIONS

Permissible procedural motions

65 (1) During the course of any motion a member may move a procedural motion that, provided it is seconded, shall be dealt with immediately.

(2) Permissible procedural motions that may be moved in accordance with sub clause

(1) are that:

- (a) the meeting do now adjourn;
- (b) the debate be adjourned;
- (c) the motion be deferred;
- (d) the motion be now put;
- (e) the motion lie on the table;
- (f) the meeting proceed to the next business;
- (g) the meeting sit behind closed doors; or
- (h) the meeting be now closed.

The meeting do now adjourn

- 66 (1) A member may, at the conclusion of the speech of any other member or on the conclusion of any business, move without notice, that the meeting do now adjourn and that motion shall include the time and date for resumption of that meeting.
- (2) A member who has spoken on any motion then before the meeting shall not move or second a motion for the adjournment of the meeting.
- (3) On a motion to adjourn the meeting, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second the motion and the mover of the motion, (if any) which was then under debate, may speak for not more than 5 minutes. No other debate shall be allowed.
- (4) At the same meeting a member may not move or second more than 1 motion for the adjournment of a meeting.
- (5) On a motion for the adjournment of a meeting being carried, a record shall be taken of all members who have spoken on the matter then under debate (if any) and they shall not be permitted to speak on any subsequent consideration of the same motion. This local law does not deprive the mover of the primary motion, the right of reply.
- (6) On a motion to adjourn a meeting being carried, the Chairman shall adjourn the meeting to the time and date specified in the motion.
- (7) If on any motion for adjournment of a meeting being put and lost, the motion then under consideration or the next on the notice paper, or any other that may be allowed precedence, shall be considered and put to the vote before any subsequent motion for adjournment can be considered.
- (8) On a motion for the adjournment of the meeting being carried, the debate on the motion (if any) under debate when the motion was moved shall be continued immediately on resumption of the meeting.

The debate be adjourned

- 67 (1) A member may, at the conclusion of the speech of another member, move without previous notice that the debate be adjourned to a later time in the same meeting or to a subsequent meeting. The member moving that motion may speak for not more than 5 minutes.
- (2) A member who has spoken on the motion then before the meeting shall not move or second a motion for the adjournment of the debate.
- (3) No discussion shall be allowed on a motion for the adjournment of a debate.
- (4) At the same meeting, a member shall not move or second more than one motion for adjournment of the same debate.

(5) On a motion for the adjournment of a debate being carried, a record shall be taken of all members who have spoken on the matter then under debate and they shall not be permitted to speak on any resumption of the debate on that matter. This local law does not deprive the mover of the primary motion, the right of reply.

(6) On resumption of an adjourned debate, the member who moved its adjournment shall be entitled to speak first.

The motion be deferred

68 (1) A member may, at the conclusion of the speech of any other member move, without notice, that the motion be deferred and that motion shall include the time and date of the meeting at which consideration of the motion is to resume.

(2) A member who has spoken on the motion then before the meeting shall not move or second a motion, that the motion be deferred.

(3) On a motion that the motion be deferred, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second the motion and no other debate shall be allowed.

(4) If a motion that the motion be deferred is carried, debate on that motion shall not be resumed until the time and date specified in the motion.

The motion be now put

69 (1) A member may, at the conclusion of the speech of any other member move without comment, that the motion be now put.

(2) A member who has spoken on the motion then before the meeting shall not move or second a motion that the motion be now put.

(3) No discussion shall be allowed on a motion that the motion be now put.

(4) At the same meeting a member may not move or second more than 1 motion that the motion be now put in relation to the same motion.

(5) When it is resolved by the meeting that the motion under consideration be now put, the mover of the motion under consideration may speak in reply for not more than 5 minutes provided that at least 1 member has spoken in opposition to the motion.

(6) A motion that the motion be now put shall relate only to the motion or amendment then before the meeting, and if carried in respect of an amendment, shall not affect the debate on the substantive motion.

(7) When a motion that the motion be now put is carried, the motion to be put includes any amendment already carried by the meeting.

(8) The Chairman may refuse to accept a motion that the motion be now put where it would have the effect of unfairly limiting debate before the principal arguments for and against the motion have been presented.

The motion lie on the table

- 70 (1) A member may, at the conclusion of the speech of any other member move, without notice, that the motion lie on the table.
- (2) A member who has spoken on the motion then before the meeting shall not move a motion, that the motion lie on the table.
- (3) On a motion that the motion lie on the table, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second the motion and no other debate shall be allowed.
- (4) A member shall not, at the same meeting, move or second more than 1 motion that the motion lie on the table.
- (5) If a motion that the motion lie on the table is carried, debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.
- (6) On a motion that the motion lie on the table being carried, a record shall be taken of all members who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion. This local law does not deprive the mover of the motion, the right of reply.
- (7) Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.
- (8) A member moving the taking of the motion from the table shall be entitled to speak first on the resumption of the debate on that motion.

The meeting proceed to the next business

- 71 (1) A member may, at the conclusion of the speech of any other member move, without notice, that the meeting proceed to the next business.
- (2) A member who has spoken on the motion then before the meeting shall not move or second a motion that the meeting proceed to the next business.
- (3) On a motion that the meeting proceed to the next business, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second the motion and no other debate shall be allowed.
- (4) During the course of the same motion, a second motion that the meeting do proceed with the next business, shall not be made within 1 hour after a similar motion has been lost.
- (5) When a motion is carried that the meeting proceed to the next business, the motion under discussion shall be considered as lapsed, but if that motion was an amendment to a substantive motion, the substantive motion shall then become the next item of business.

The meeting sit behind closed doors

72 (1) A member may move at any time, notwithstanding that another member may be speaking to a question then under debate, that the meeting sit behind closed doors.

(i.e. to close the meeting to the public)

(2) Any member may move a motion that the meeting sit behind closed doors whether or not that member has already spoken to the question then under debate.

(3) On a motion that the meeting sit behind closed doors, the mover may speak for not more than 5 minutes, the seconder shall not speak other than formally to second the motion and no other debate shall be allowed.

(4) A member shall not, in respect of the same item of business, move or second more than 1 motion that the meeting sit behind closed doors.

(5) On a resolution that the meeting sit behind closed doors being carried, the Chairman shall direct all persons, other than members and employees that the meeting permits to remain, to leave the meeting room and every person shall immediately comply with that direction.

(6) Any person who fails to comply with a direction made to leave the meeting room commits an offence and may by order of the Chairman be removed from the meeting room.

(7) On a resolution that the meeting sit behind closed doors being carried, the meeting shall proceed behind closed doors until the Council by resolution decides to proceed with open doors.

(8) Upon resuming the meeting with open doors the Chairman shall, if approved by the meeting, read out the resolutions passed by the Council whilst it was meeting behind closed doors, and details of any voting recorded.

Footnote 16: The requirements for meetings to be open to the public and the reasons that meetings may be closed to the public are dealt with at Section 5.23 of the Act.

The meeting be now closed

73 (1) A member may, after the debate and voting on any motion has been concluded, move, without notice, that the meeting be now closed.

(2) The mover, seconder and any other member wishing to speak on a motion that the meeting be now closed, may speak for not more than 5 minutes.

(3) A member who has moved a motion that the meeting be now closed, shall not move the same motion within 1 hour of the earlier motion being lost.

(4) On a motion that the meeting be now closed being carried, the Chairman shall immediately close the meeting, and no further business may be transacted. Any business outstanding on the agenda for that meeting shall be carried forward to the agenda for the next ordinary meeting of the Council.

(5) A motion that “the meeting be now closed” does not prevent the operation of clause 8(4), unless the motion that “the meeting be now closed” is due to failure to comply with clause 48.

PART 8 – COMMITTEES

Appointment, types and membership of committees

74 (1) Committee members shall be appointed by absolute majority resolution at the time of appointing the committee and thereafter at the first meeting of the Council held after the ordinary election.

(2) Where more than one member is nominated to a position on a committee, the incumbent shall be elected by ballot.

(3) the minutes of all committee meetings shall be reported to the next Council meeting or within one month of the meeting of the committee, as staff resources or other factors determine.

Footnote 17: The appointment of, types and membership of committees is dealt with at Sections 5.8 – 5.11 of the Act.

Election of Committee Chairman and Deputy Chairman

75 Footnote 18: The election of Committee Chairman and Deputy Chairman is dealt with at Sections 5.12 – 5.15 of the Act.

Delegation of some powers and duties to committees

76 The powers and duties of any committee shall be as determined by the Council on appointment of the committee and thereafter, at the first Council meeting after the ordinary election or as otherwise considered necessary.

Footnote 19: The delegation of some powers and duties to committees is dealt with at Sections 5.16 - 5.18 of the Act.

Committee meetings

77 (1) The CEO shall call a meeting of a committee when requested by the Mayor, Chairman of the committee, or any two members of the committee.

(2) The decisions of a committee shall be decided by a simple majority of the votes of those members present and shall be expressed as recommendations.

(3) The minutes of the committee shall be circulated to members within 5 business days of the meeting.

Member only committees

78 (1) The Chairman of a member only committee shall allow any member who is not a member of that committee to address the committee and to participate in the discussion of any item as requested by that member.

(2) Every member only committee shall report to the Council on decisions made and recommendations that require Council consideration.

Member attending committee as observer

79 (1) A member may attend at meetings of a committee as an observer, notwithstanding that the member is not a member of that committee.

(2) A member attending a committee meeting as an observer, may speak with the approval of the committee, but is not to vote on any motion before the committee, unless the member is a deputy of a member excluded from a meeting due to a financial interest or absent for other reasons.

(3) Subject to the sub clause (2) a member attending a committee as an observer is to sit in the area set aside for observers separated from the committee members.

Disclosure by members who are observers at committee meetings

80 All members present at committee meetings including those members attending as observers, have an obligation to declare their interest in any matter being considered by the meeting.

Limit standing orders apply at committees

81 Unless otherwise provided in this local law, standing orders shall generally apply to proceedings at committees with the exception of Clause 56(1) in relation to the number of times a member may speak.

PART 9 – MISCELLANEOUS

Representation on public bodies

82 Where a member is to be appointed to a public body to represent Council, written notice of the vacancy or need for the appointment is to be given to all members and the Council shall either by resolution or ballot, (if more members are nominated than the number of representatives required) appoint such representatives.

Confidentiality

83 (1) Every matter dealt with by, or brought before a meeting sitting behind closed doors:

(a) shall be treated as strictly confidential, and

(b) without the authority of the Council, shall not be disclosed to any person other than the Mayor, members or the officers or employees of the City (and in the case of officers and employees, only so far as may be necessary for the performance of their duties) prior to the discussion of that matter at a meeting of the Council held with open doors.

(2) Nothing in this local law shall prevent the CEO from recording the business conducted at the meeting in the minute book.

(3) All documents of the local government, that are marked 'CONFIDENTIAL' or 'NOT FOR PUBLICATION' are confidential to the Council, and shall not be published, copied, or reproduced, in whole or in part, in any manner whatsoever without the express permission of the Council or the CEO.

(4) Any person who does any act prohibited by sub clause (1) or (3) commits an offence.

(5) In the event of a perceived inconsistency between this clause and the provisions of the Act, then the provision of the Act shall prevail.

Penalty \$5,000

Meetings of electors

84 (1) This local law shall so far as is practicable, apply to all meetings of Electors held in accordance with the Act.

(2) A person who is not an elector of the City may not participate in any discussion at a meeting of electors, unless the meeting, by a motion otherwise permits, but that person is not entitled to vote.

Footnote 20: The requirements for electors meetings are dealt with at Sections 5.26 -5.33 of the Act and Admin. Regs. 15 - 18.

PART 10 - INTERPRETATION AND ENFORCEMENT OF STANDING ORDERS

Suspension of standing orders

85 (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or all clauses of the Standing Orders.

(2) The mover of a motion to suspend temporarily one or more of the Standing Orders is to state the clause or clauses to be suspended and the purpose of the suspension.

(3) If a member objects to a motion to suspend a Standing Order, the motion must be carried by an absolute majority vote.

Interpretation

86 (1) Where there is no provision or insufficient provision is made in this local law, the Chairman shall determine the procedure to be observed and may use, as a guide, the procedure of the Western Australian Parliament.

(2) If there is an inconsistency between any provision of this local law and the Act, then the provision of the Act shall prevail.

(3) In accordance with section 18 and 19 of the Interpretations Act 1984, if there is a situation where the use of the other parts of this clause have failed to determine a suitable procedure, then the outcome that appears to promote open and accountable government *SHALL BE APPLIED.*

Enforcement

87 *Footnote 21: The right to prosecute for any offence committed under this local law is covered under Section ~~5.61.~~ 9.24*



15/8/01

SCHEDULE

PETITION OF ELECTORS OF THE CITY OF JOONDALUP

To the Mayor and Councillors of the City of Joondalup

We, the undersigned, all being electors of the City of Joondalup do respectfully request that the Council:

(Here set out a concise statement of facts and the action sought)

Correspondence in respect of this petition should be addressed to:

The names and addresses of your petitioners are as follows

DATE FULL NAME ADDRESS AGREE/DISAGREE/NO OPINION SIGNATURE

NOTE: Petitioners may contact Council on telephone number 9400 4000 if they wish to withdraw from this petition or change their comment.

15/8/01

cjstandorder-nofootnotes

HERE IS THE MOTION DRAFTED FOR COUNCIL, TO CHANGE THE STANDING ORDERS

That Council:

1 NOTES the Minutes of the Standing Orders Review Committee Meeting held on ?? 2001, forming Attachment 1 to Report ??;

NOTES the following amendments:

- 2.1 Content and intent, clause 3 (2), add the words ‘participation and’ after community and before understanding;
- 2.2 amend the heading ‘Public access to agendas and supporting information’ to ‘Public participation, access to agendas and supporting information’;
- 2.3 clause 8 (1), add the words ‘briefing sessions’, after ‘meetings’ and before ‘and any committee meetings’;
- 2.4 clause 8(1), add the word ‘particularly’ after committees and before ‘determined by Council’;
- 2.5 create a new clause 8(4), ‘At the end of each Council meeting, committee meeting or briefing session, an additional segment of at least 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session’;
- 2.6 add to footnote 3, ‘Division 7 of the Act and the Freedom of Information Act 1992.’;
- 2.7 include in Part 3, Business at Meeting, Order of business, clause 14 (1), ‘Questions with Due Notice’, after Petitions, Deputations and Presentations;
- 2.8 include in Part 3, Business at Meeting, Order of business, clause 14 (1), ‘Questions without Due Notice’, after ‘Questions with Due Notice’;

- 2.9 include in Part 3, Business at Meeting, Order of business, clause 14 (1), “Motions for Reports”, after “Motions of Which Notice has been Given”;
- 2.10 include in Part 3, Business at Meeting, Order of business, clause 14 (1), “Second Public Question Time”, after “Motions for Reports”;
- 2.11 include in clause 14 (2), the order of business of a committee, after “Requests for Reports for Future Consideration”, a “Second Public Question”;
- 2.12 Add to clause 14 (3), order of business at any special meeting of the Council or a committee, after the word “agenda”, “unless resolved otherwise, by Council or committee”;
- 2.13 Create a new clause 15 (6), “Members of the public may table documents at public question time which may correct any perceived errors or omissions in reports presented to Council or committee.”;
- 2.14 Create a new clause 22 (4), “All petitions of fifty signatures or more are to be the subject of a report to Council detailing actions taken by the administration to resolve the issues raised in the petition.”;
- 2.15 Add to clause 23 (2), the following, “All Councillors or committee members shall be informed of any deputations refused by the Mayor before the next meeting of Council, or meeting of the committee or briefing session, whichever ever occurs first. Refusal of deputations is subject to clause 46(3).”;
- 2.16 Create a new clause after clause 23, “Deputations” and before “Reports”, titled “Questions with Due Notice” and stating, “Any member desiring to ask a question at any meeting shall direct the question to the Mayor and shall give notice thereof in writing to the Chief Executive Officer at least ten hours before the hour fixed for the meeting. Both the question and the answer shall be recorded in the minutes. Every question and answer shall be submitted as briefly and concisely as possible and no discussion shall be allowed thereon, except for one supplementary question on each question asked, or to foreshadow a motion for a report regarding the subject of the questions and answers.”;
- 2.17 create a new clause after “Questions with Due Notice”, titled, “Questions without Due Notice”, which states, “Any member may ask questions without due notice when that member believes such questions, and receiving answers to the questions, will assist the Council or committee to be better informed regarding any issue which is the business of Council or that committee. Questions without due notice may be refused by the Chairman, or taken on notice, unless the meeting decides otherwise.”
- 2.18 create a new clause after clause 25, “Motions of which previous notice has been given”, titled “Motions for Reports”, which states, “The CEO will prepare reports in response to all motions for reports where one third or more of the members present have supported the motion for the report.”
- 2.19 Create a new clause after “Motions for Reports”, titled, “Second Public Question Time”, which states, “At the end of each Council meeting, committee meeting, where the public are allowed to attend, and briefing session, an additional segment of at least 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session. The chairman will request the mover of the motion to be the first person to respond to the question asked. In the event of the mover not being available to respond, then the seconder shall be required to respond. In the event that the seconder not being present to respond, then any other member who supported the motion shall be required to respond. It shall be competent for staff to provide such information as they see fit in response to a question at second public question time. Staff are not bound by clause 39 during second public question time.”

- 2.20 Delete clause 28 (2) and (3), and replace with, “The Deputy Mayor may decide to sit in the seat to the right of the Mayor or to sit with the other Councillors. Should the Mayor or Council decide to invite a special guest, the guest may be seated in any chair normally occupied by Directors or Administrative Staff.”;
 - 2.21 In clause 29, delete “beside the chairman or”
 - 2.22 Add the words “or a majority of members”, after Chairman;
 - 2.23 Create a new clause 73.(5), which states, “A motion that “the meeting be now closed” does not prevent the operation of clause 8(4), unless the motion that “the meeting be now closed” is due to failure to comply with clause 48.”
 - 2.24 Create a new clause, 73 (3) which states, “the minutes of all committee meetings shall be reported to the next Council meeting or within one month of the meeting of the committee, as staff resources or other factors determine.”;
 - 2.25 Create a new clause 83 (5), which states, “In the event of a perceived inconsistency between this clause and the provisions of the Act or the provisions or intent of the Freedom of Information Act 1992, then the provisions of the Act, or the provisions or intent of the Freedom of Information Act 1992, shall prevail.”
 - 2.26 Add a footnote to clause 83, which states, “Footnote ?? The public’s right to view documents and the CEO’s rights to mark documents “CONFIDENTIAL or “NOT FOR PUBLICATION are dealt with by Division 7 of the Act, Admin Reg. 14, and the Freedom of Information Act 1992.”
 - 2.27 Add the words “subject to clause 46 (3)”, after “the Chairman shall”, in clause 86 (1);
 - 2.28 Create a new clause 86 (3), which states, “(3) In accordance with section 18 and 19 of the Interpretations Act 1984, if there is a situation where the use of the other parts of this clause have failed to determine a suitable procedure, then the outcome that appears to promote the content and intent of this local law, and section 1.3 of the Act, shall prevail.
3. in accordance with section 3.13 of the Local Government Act 1995, APPROVES the re-advertising of the proposed local law, “City of Joondalup Standing Orders Local Law 2001”, forming Attachment 2 to Report ??, in order to seek public comment.

REASONS FOR AMENDMENTS TO STANDING ORDERS LOCAL LAW 2001

The intent of these changes is to provide open and accountable government and encourage greater community participation in Council decision making. The changes give effect to the relevant sections of the Council's Strategic Plan.

The Strategic Plan states:

“We are proud that the City of Joondalup continues to be seen as a leader in local government, reflecting our commitment to being innovative, strategic, and progressive”

This submission is intended to assist the Council to continue to be innovative, strategic, and progressive

Only the sections of the Standing Orders that have been altered are listed in this document. The additions to the Standing Orders are shown as bold Italics underlined. Words deleted are shown as bold Italics underlined strikethrough.

The complete clause is shown in a box with the changes, followed by the reasons for each change.

Content and intent

3 (1) 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.

(2) This local law is intended to result in better decision making by Council, the orderly and efficient conduct of meetings dealing with Council business and greater community ***participation and*** understanding of the business of the Council by providing open and accountable local government.

Council's strategic plan states under the Guiding Principles “Actively promote effective communication with the community, with opportunities for the community to participate in Council planning and decision-making.”

The addition of the words “participation and” give effect to the Guiding Principles of the City of Joondalup

Public participation, access to agendas and supporting information

8 (1) Members of the public are welcome to attend all Council meetings, **briefing sessions** and any committee meetings open to the public. Copies of the Council and committee agendas (except those committees **particularly** determined by Council) are available where practicable, for inspection in all Council libraries, at the Administration Centre, prior to the meetings and as soon as practicable on Council's website.

(2) Certain matters/documents listed in the agenda may be marked CONFIDENTIAL - NOT FOR PUBLICATION. These matters may be discussed behind closed doors for confidential reasons and on such occasions members of the public will:

- (a) not have access to documents marked CONFIDENTIAL – NOT FOR PUBLICATION; and
- (b) be required to leave the room during discussion on these matters.

(3) Copies of documentation marked CONFIDENTIAL – NOT FOR PUBLICATION, may be made available to the public once a decision has been made on the confidential matter and a resolution of the Council has been made to make those documents available.

(4) At the end of each Council meeting, committee meeting or briefing session, an additional segment of at least 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session.

Footnote 3: Public access to agendas and supporting documentation is dealt with at Admin. Reg. 14. Division 7 of the Act and the Freedom of Information Act 1992

Including “participation” to the heading affirms Council’s Strategic Plan’s Guiding Principles.

Including “briefing sessions” affirms Council commitment to “Open and Accountable Government” by having all forums of Council decision making open to the public.

Including “particularly” affirms Council’s commitment to open and accountable government by making the decision to exclude the public from any part of its decision making process a deliberate act instead of an automatic act.

Including “At the end of each Council meeting, committee meeting or briefing session, an additional segment of 15 minutes question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session”, promotes a greater level of accountability to the public.

The inclusion of a second public question time creates an opportunity for the public to bring to the Councils attention information that may have been omitted during the briefing session. The second public question time promotes accountability, participation and partnership with the community.

Including “Division 7 of the Act and the Freedom of Information Act 1992” in the footnote refers users of the Standing Orders to more sources of information regarding the public’s right to

access Council documents. Including these references will be more helpful to the public than omitting the references.

PART 3 - BUSINESS AT MEETINGS

Order of business

14 (1) The order of business at an ordinary meeting of the Council shall, unless otherwise resolved by Council, be as near as is practicable, to the following:

Declaration of Opening /Announcement of Visitors.
Apologies/Leave of Absence (Previously Approved)
Public Question Time
Applications for Leave of Absence
Confirmation of Minutes
Announcements by the Chairman without discussion
Declarations of Financial Interest and Interests Affecting Impartiality
Petitions, Deputations and Presentations
Questions with Due Notice
Questions without Due Notice
Reports
Motions of Which Previous Notice has been Given
Motions for Reports
Second Public Question Time
Closure

(2) The order of business at an ordinary meeting of a committee shall be as near as practicable to the following:

Declaration of Opening
Apologies and Leave of Absence (Previously Approved)
Declarations of Financial Interest and Interests Affecting Impartiality
Public Question Time
Applications for Leave of Absence
Confirmation of Minutes
Petitions, Deputations and Presentations
Reports
Requests for Reports for Future Consideration
Second Public Question Time
Closure

(3) The order of business at any special meeting of the Council or a committee will be in the order in which it appears in the agenda, **unless resolved otherwise, by Council or committee.**

The order of business has been extended to include “Questions with Due Notice”, “Questions without Due Notice,” “Motions for Reports” and a “Second Public Question Time”. These four items are key tools for maintaining open and accountable government, and encouraging greater public participation.

QUESTIONS WITH AND WITHOUT NOTICE

Questions with and without notice are well established procedures within the Westminster system of parliamentary democracy. The removal of Questions with and without notice could greatly increase the potential for local administrative lawlessness. Please refer to “The

Westminster Tradition and Australia” by Leslie Marchant, Visiting Professor, University of Notre Dame, and Resident Scholar State Library of Western Australia,

Questions with and without notice are key tools available to Councillors to hold the Administration publicly accountable.

It should be noted that at the end of the standing orders there is clause 86(1), which states:

“Where there is no provision or insufficient provision is made in this local law, the Chairman shall determine the procedure to be observed and may use, as a guide, the procedure of the Western Australian Parliament.”

The inclusion of this clause confirms the link between council’s standing orders and the principles and application of the Westminster parliamentary processes.

MOTIONS FOR REPORTS

This has been included to allow Councillors to show initiative and publicly be seen providing leadership.

SECOND PUBLIC QUESTION

This has been included for two reasons, the first is greater public participation in Council decision making processes, and the second is increased accountability.

Greater public participation is part of the process of developing “partnerships” with the community. The definition of partnership below is from the City’s own Strategic Plan.

“Partnerships

To work with the community and groups to ensure information, activities and projects are shared and there is a two-way communication process occurring.”

Clearly a second public question fits ideally into this definition as second public question creates an opportunity to ensure that a “two-way communication process” is occurring.

A process to ensure increased accountability through a second public question is included further on in this amended version of the Standing Orders. The process detailed is that at second public question time, the person to answer the question should be the mover of the motion that the public are questioning. If the mover is not available to answer the question, then the Councillor to answer the question should be the Councillor who seconded the motion. Should neither of these two Councillors be available then the Mayor may call upon any of the Councillors who supported the motion to answer the question.

This process will ensure that the movers and supporters of any motions and subsequent resolution of council answer directly to the public.

To further increase public accountability, it is suggested that during the second public question time that the staff of the City not be restricted from providing their best professional advise. This will assist the public in determining if their elected members are performing in the best interests of the community.

Public question time

15 (1) Members of the public are encouraged to ask questions and are requested to submit their questions in writing prior to the meeting, to allow time for research and the provision of a detailed answer.

(2) The Chairman is responsible for the conduct of public question time.

(3) The Chairman will endeavour to have every question answered at the meeting at which it is asked but where this is not possible, the question will be taken on notice and where practicable, a written response will be provided to the person who asked the question.

(4) A member of the public wanting to ask a question during public question time will first state their name and address.

(5) Questions asked by the public are to relate to the business of the Council and are not to be in the form of a statement or a personal opinion.

(6) Members of the public may table documents at public question time which may correct any perceived errors or omissions in reports presented to Council or committee.

Footnote 8: Public question time at meetings is dealt with at Section 5.24 of the Act and Admin. Regs.5 - 7.

The inclusion of the right of the public to table documents at public question time is suggested as a means of encouraging the public to come to council meetings well prepared to assist the Council make the best well informed decision possible. This should increase public participation and accountability.

Petitions

22 (1) A petition received by a member or the CEO shall be presented to the next ordinary Council meeting.

(2) Any petition to the Council shall:

(a) as far as practicable be prepared in the form prescribed in the Schedule,

(b) be addressed to the Council and forwarded to a member or the CEO, and (c) state the name and address of the person to whom correspondence in respect of the petition may be served. Where no name and address is given, all correspondence will be forwarded to the person whose name appears first on the petition.

(3) Once a petition is presented to the Council, a motion may be made to receive the petition and refer it to the relevant section of the administration for action.

(4) All petitions of fifty signatures or more are to be the subject of a report to Council detailing actions taken by the administration to resolve the issues raised in the petition.

The inclusion of a clause that requires all petitions of fifty signatures or more to be the subject of a report back to Council is suggested because petition to Council are just that, petition to the Council itself. Petitions are not to the administrative staff of the Council.

The number fifty is chosen because it is half of the number of signatures required to call a special meeting of electors. A limit of fifty is also intended to ensure that the petitioners can demonstrate some level of public support of their petition.

Finally the number fifty is chosen to prevent the Council agenda being overloaded with reports on petitions that lack a reasonable level of public support.

Deputations

23 (1) Any person or persons wishing to be received as a deputation by Council or a committee, shall, in the first instance, send a request to the CEO, setting out in concise terms the matter to be raised by the deputation.

(2) When the CEO receives a request for a deputation to the Council or a committee, it shall be brought to the attention of the Mayor or Chairman of the committee respectively, for acceptance or refusal. Where the Chairman refuses a request for a deputation to a committee, that request shall be referred to the Mayor for determination. **All Councillors or committee members shall be informed of any deputations refused by the Mayor before the next meeting of Council, or meeting of the committee, or briefing session, which ever occurs first. Refusal of deputations is subject to clause 46(3).**

(3) A deputation shall not exceed 5 persons in number and only 3 of those persons may address the meeting, but all may reply to questions from members of the Council or committee.

(4) Members of a deputation shall collectively have a maximum of 15 minutes to address the meeting, unless an extension of time is granted.

(5) Any matter that is subject of a deputation to a meeting is not to be decided on by the meeting until the deputation has completed its presentation.

The clause requiring the Mayor or chairman of a committee to notify councillors and/or committee members of the refusal of deputation is suggested so that the decision to refuse is more likely to reflect the council's or committee's opinion that the deputation should be refused. This will create a fairer system for determining these situations.

Included in this new clause is the right of the Council or committee to over rule the mayor or chairman at the next available meeting. This increases the accountability of the mayor or chairman to the council or committee.

Questions with Due Notice

Any member desiring to ask a question at any meeting shall direct the question to the Mayor and shall give notice thereof in writing to the Chief Executive Officer at least ten hours before the hour fixed for the meeting. Both the question and the answer shall be recorded in the minutes.

Every question and answer shall be submitted as briefly and concisely as possible and no discussion shall be allowed thereon, except for one supplementary question on each question asked, or to foreshadow a motion for a report regarding the subject of the questions and answers.

Questions without Due Notice

Any member may ask questions without due notice when that member believes such questions, and receiving a reply to the questions, will assist the Council or committee to be better informed regarding any issue which is the business of Council or that committee. Questions without due notice may be refused by the Chairman, or taken on notice, unless the meeting decides otherwise.

The inclusion of questions with and without notice is a corner stone of the Westminster System. Local government is a child of that system. The removal of Questions with and without notice is undermining the very foundations of democracy.

Motions for Reports

The CEO will prepare reports in response to all motions for reports where one third or more of the members present have supported the motion for the report.

Currently there are no controls on the processes of Councillors' requesting reports. This has the potential to create problems in two ways.

A Councillor may attempt to overload the administration with requests for reports, or request many reports in an attempt to create the image that they are doing something about real or imagery problems

Or, the administration may refuse or delay the presentation of reports requested by a councillor.

By making the requests for reports a formal process these potential problems can be reduced.

Finally, the number of Councillors required to support a motion for a report should only be the same as that for a rescission motion to be considered by council. That is, a 1/3 of members. When the report is finally tabled, the requirement to take action regarding the report would be the same as any other item of that nature.

Second Public Question Time

At the end of each Council meeting, committee meeting, where the public are allowed to attend, and briefing session, an additional segment of **at least 15 minutes** question time is allowed to permit the public to ask questions on decisions made at that meeting, or issues raised or listed for information at the briefing session. The chairman will request the mover of the motion to be the first person to respond to the question asked. In the event of the mover not being available to respond, then the seconder shall be required to respond. In the event that the seconder not being present to respond, then any other member who supported the motion shall be required to respond. It shall be competent for staff to provide such information as they see fit in response to a question at second public question time. Staff are not bound by clause 39 during second public question time.

This addition to the Standing Orders is designed to make Councillors accountable for the motions that they move, second or support. The words of the clause speak for themselves.

Added to the accountability of the Councillors is the provision that Council staff may freely give their professional advice regarding the resolution of Council. This should ensure that motions other than those recommended by the officers are well prepared and the supporters of such motions are confident in their support by being able to stand up to both public and professional scrutiny.

Members seating

28 (1) At the first meeting following each ordinary election, the CEO will allocate a seat in the Council chamber to each member.

~~*(2) The seat to the right of the Mayor shall remain available for seating of special guests, at the invitation of the Mayor.*~~

~~*(3) The Deputy Mayor shall be allocated a seat on the floor of the Council Chamber next to their fellow ward representative.*~~

~~*(2) The Deputy Mayor may decide to sit in the seat to the right of the Mayor or to sit with the other Councillors. Should the Mayor or Council decide to invite a special guest, the guest may be seated in any chair normally occupied by Directors or Administrative Staff.*~~

(4) ~~(3)~~ Each member shall occupy their allocated position when present at meetings of the Council until there is a request supported by a majority of the members for a re-allocation of positions.

Distinguished visitor seating

29 If a distinguished visitor is present at a meeting of the Council or a committee, the Chairman may invite that person to sit ~~*beside the Chairman or*~~ at the meeting table.

The deputy mayor should sit next to the mayor. There are both functional and symbolic reasons for this.

With the meetings being run on-line it would be a major disruption to proceedings for the deputy mayor to close down their laptop computer and re-plug at the mayors seating position.

The Deputy Mayor is the Councillor who has the confidence of the floor, not the mayor who was elected by the people. The seating of the Deputy Mayor with the Mayor symbolises the sharing of power in the chamber.

Motions

52 (1) A member proposing a primary motion or amendment shall state its substance before addressing the meeting and if so required by the Chairman, or a majority of members, shall put the motion or amendment in writing.

(2) The Chairman or the meeting by resolution, may require a complicated motion to be divided into two or more motions.

The Council itself, not the mayor alone should decide if a motion should be writing.

The meeting be now closed

73 (1) A member may, after the debate and voting on any motion has been concluded, move, without notice, that the meeting be now closed.

(2) The mover, seconder and any other member wishing to speak on a motion that the meeting be now closed, may speak for not more than 5 minutes.

(3) A member who has moved a motion that the meeting be now closed, shall not move the same motion within 1 hour of the earlier motion being lost.

(4) On a motion that the meeting be now closed being carried, the Chairman shall immediately close the meeting, and no further business may be transacted. Any business outstanding on the agenda for that meeting shall be carried forward to the agenda for the next ordinary meeting of the Council.

(5) A motion that “the meeting be now closed” does not prevent the operation of clause 8(4), unless the motion that “the meeting be now closed” is due to failure to comply with clause 48.

The motion that “the meeting now be closed could be used to deny the public its second question and thus reduce the accountability of the Councillors. Therefore this clause has been added to maintain accountability.

PART 8 – COMMITTEES

Appointment, types and membership of committees

74 (1) Committee members shall be appointed by absolute majority resolution at the time of appointing the committee and thereafter at the first meeting of the Council held after the ordinary election.

(2) Where more than one member is nominated to a position on a committee, the incumbent shall be elected by ballot.

(3) the minutes of all committee meetings shall be reported to the next Council meeting or within one month of the meeting of the committee, as staff resources or other factors determine.

Footnote 17: The appointment of, types and membership of committees is dealt with at Sections 5.8 – 5.11 of the Act.

This clause is suggested to ensure that all committees are accountable to the Council by reporting all committee minutes to the Council. This clause is designed to correct a perceived omission of the Act.

Confidentiality

83 (1) Every matter dealt with by, or brought before a meeting sitting behind closed doors:

(a) shall be treated as strictly confidential, and

(b) without the authority of the Council, shall not be disclosed to any person other than the Mayor, members or the officers or employees of the City (and in the case of officers and employees, only so far as may be necessary for the performance of their duties) prior to the discussion of that matter at a meeting of the Council held with open doors.

(2) Nothing in this local law shall prevent the CEO from recording the business conducted at the meeting in the minute book.

(3) All documents of the local government, that are marked 'CONFIDENTIAL' or 'NOT FOR PUBLICATION' are confidential to the Council, and shall not be published, copied, or reproduced, in whole or in part, in any manner whatsoever without the express permission of the Council or the CEO.

(4) Any person who does any act prohibited by sub clause (1) or (3) commits an offence.

(5) In the event of a perceived inconsistency between this clause and the provisions of the Act or the provisions or intent of the Freedom of Information Act 1992, then the provisions of the Act, or the provisions or intent of the Freedom of Information Act 1992, shall prevail.

Footnote ?? The public's right to view documents and the CEO's rights to mark documents "CONFIDENTIAL or "NOT FOR PUBLICATION" are dealt with by Division 7 of the Act, Admin Reg. 14, and the Freedom of Information Act 1992

The public have the right to view many council documents. The CEO's right to mark documents "CONFIDENTIAL or "NOT FOR PUBLICATION," are controlled by this legislation. This relationship between the various laws should be noted at this point in the standing orders.

Interpretation

86 (1) Where there is no provision or insufficient provision is made in this local law, the Chairman shall, subject to clause 46 (3), determine the procedure to be observed and may use, as a guide, the procedure of the Western Australian Parliament.

(2) If there is an inconsistency between any provision of this local law and the Act, then the provision of the Act shall prevail.

(3) In accordance with section 18 and 19 of the Interpretations Act 1984, if there is a situation where the use of the other parts of this clause have failed to determine a suitable procedure, then the outcome that appears to promote the content and intent of this local law, and section 1.3 of the Act, shall prevail.

The Interpretations Act 1984 governs how written laws are read in Western Australia. Sections 18 and 19 give guidance in this matter and should be referred to here to assist in the use of standing orders.

Sections 18 and 19 are quoted below in arial type for reference.

The wording of this additional clause is consistent with the Interpretations Act 1984.

Regard to be had to purpose or object

18.In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.

Use of extrinsic material in interpretation

19.(1)Subject to subsection (3), in the interpretation of a provision of a written law, if any material not forming part of the written law is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material —

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; or
- (b) to determine the meaning of the provision when —
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law leads to a result that is manifestly absurd or is unreasonable.

(2)Without limiting the generality of subsection (1), the material that may be considered in accordance with that subsection in the interpretation of a provision of a written law includes —

- (a) all matters not forming part of the written law that are set out in the document containing the text of the written law as printed by the Government Printer;

- (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of Parliament before the time when the provision was enacted;
- (c) any relevant report of a committee of Parliament or of either House of Parliament that was made to Parliament or that House of Parliament before the time when the provision was enacted;
- (d) any treaty or other international agreement that is referred to in the written law;
- (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of Parliament by a Minister before the time when the provision was enacted;
- (f) the speech made to a House of Parliament by a Minister on the occasion of the moving of a motion that the Bill containing the provision be read a second time in that House;
- (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the written law to be a relevant document for the purposes of this section; and
- (h) any relevant material in any official record of proceedings in either House of Parliament.

(3) In determining whether consideration should be given to any material in accordance with subsection (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to —

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; and
- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

Enforcement

87 Footnote 21: *The right to prosecute for any offence committed under this local law is covered under Section ~~5.61.~~ 9.24*

Section 5.61 of the Act states:

.....
“ 5.61. A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.”

Whilst section 9.24 of the Act states:

“ 9.24. Anyone can commence proceedings for an offence against this Act.”

Section 9.24 is the only section of the Act that I can find that covers enforcement.

Well, Mary if you have read this far it is time to have a cup of tea.

Thanks for taking an interest.

Hope to hear from you soon.

Steve

Please telephone me on 9401 9003 if you wish to discuss this in person. It takes me forever to type out my thoughts.