

# CITY OF JOONDALUP

## MINUTES OF THE STANDING ORDERS REVIEW COMMITTEE HELD IN CONFERENCE ROOM 3, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON MONDAY 16 DECEMBER 2002

### ATTENDANCE AND APOLOGIES

#### Committee Members:

Cr C Baker (Chairman)  
 Mayor J Bombak *from 1712 hrs.*  
 Cr A Patterson  
 Cr M O'Brien *from 1703 hrs.*

#### In Attendance:

Cr D Carlos *from 1708 hrs.*

#### Officers:

|   |          |
|---|----------|
| Chief Executive Officer:  | D SMITH  |
| Manager, Marketing, Communications<br>& Council Support Services: | M SMITH  |
| Senior Project Officer:   | P DUNN   |
| Committee Clerk:  | J AUSTIN |

The Chairman declared the meeting open at 1702 hrs.

### ATTENDANCES AND APOLOGIES

Nil.

### DECLARATIONS OF FINANCIAL/INTERESTS THAT MAY AFFECT IMPARTIALITY

Nil.

*Cr O'Brien entered the Room at 1703 hrs.*

## CONFIRMATION OF MINUTES

### MINUTES OF THE STANDING ORDERS REVIEW COMMITTEE MEETING HELD 8 APRIL 2002

**MOVED Cr Patterson, SECONDED Cr Baker that the Minutes of the Standing Orders Review Committee Meeting held on 8 April 2002 be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED**

### **ITEM 1        REVIEW OF PUBLIC QUESTION TIME AT COUNCIL MEETINGS AND BRIEFING SESSIONS - [01122] [02154] [23184] [08122]**

**WARD - All**

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#### **PURPOSE**

To review the trial procedure agreed to by the Council at its meeting held on 14 August 2001, relating to public question time at Council meetings and Briefing sessions.

#### **EXECUTIVE SUMMARY**

The Council at its meeting held on 14 August 2001 (CJ256-08/01 refers) adopted a revised set of procedures relating to public question time. Those revised procedures were in place for a trial period of six (6) months. A report was presented to the Council at its meeting held on 11 June 2002 as required by the resolution carried on 14 August 2001 where it was agreed to refer the review to the Standing Orders Review Committee.. The revised procedures adopted on 14 August 2001 made minimal change to the then current practice of public question time for the Council.

This reports presents a revised set of procedures relating to public question time, in line with the guidelines prepared by the Department of Local Government and Regional Development.

#### **BACKGROUND**

The Council at its meeting held on 11 June 2002 (CJ125-06/02 refers) resolved that:

*“The matter relating to review of public question time procedures of Council Meetings and Briefing Sessions be deferred pending receipt of guidelines relating to ‘managing public question time’ to be circulated by the Department of Local Government and Regional Development and be referred to the Standing Orders Review Committee.”*

The guidelines were received by the City on 8 August 2002 and were circulated to all members on Friday, 9 August 2002. A copy of the guidelines are attached for information.

Prior to August 2001, the following procedure related to public question time:

The current procedure for public question time is as follows:

*Council allows a 15 minute public question time at each Council meeting which is open to the public.*

*To enable prompt and detailed responses to questions, members of the public are requested to lodge questions in writing to the Committee Clerk at least two days prior to the Council meeting at which the answer is required.*

*The Mayor is responsible for the conduct of public question time and ensuring that each member of the public has an equal opportunity to ask a question. The Mayor shall also decide whether a question will be taken on notice or alternatively who should answer the question.*

*The following general rules apply to question time:*

- *question time is not to be used by a member of the public to make a statement or express a personal opinion.*
- *questions should properly relate to Council business.*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation.*
- *questions are not to be framed in such a way as to reflect adversely on a particular Elected Member or officer.*

The Council at its meeting held on 14 August 2001 (CJ256-08/01 refers) resolved as follows:

*“1 Council TRIALS the following procedure for public question time at Council Meetings and Briefing Sessions for a period of six months;*

*“Council allows for public question time at each Council meeting or Briefing Session which is opened to the public.*

*Questions must relate to the ordinary business of the City of Joondalup or the purpose of the Special Meeting, as appropriate.*

*The Mayor or the presiding person is responsible for the procedures and conduct of the public question time.*

*To enable prompt and detailed responses to questions, members of the public are requested to lodge questions in writing to the Committee Clerk two (2) days prior to the Council meeting or Briefing Session at which the answer is required. Answers to those questions received within that time frame will be provided in hard copy form at that meeting.*

*Those questions that are to be asked at the meeting are requested to be submitted in writing and placed in the ‘question tray’ prior to the commencement of the meeting. Those questions submitted in writing will be read aloud by the Chief Executive Officer and answers provided where possible. Verbal questions may be asked by members of the public and the period of time for verbal questions will be a minimum of fifteen (15) minutes.*

*The Mayor or presiding person shall decide to:*

- *accept or reject the question;*
- *nominate a member of the Council and/or officer to answer the question; or*
- *determine that any complex question which requires research shall be taken on notice with a response provided as soon as possible and included in the agenda for the next ordinary meeting of the Council.*

*The following rules apply to question time:*

- *question time is not to be used by a member of the public to make a statement or express a personal opinion.*
- *questions should properly relate to Council business.*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation.*
- *questions should be asked politely and are not to be framed in such a way as to reflect adversely on a particular Elected Member or officer;*
- *where an elected member is of the opinion that the question is not relevant to the business of the City of Joondalup or that a member of the public is making a statement, they may bring it to the attention of the meeting.*

2 *the standard advertisement in the local paper advertising the forthcoming Council meetings and Briefing Sessions be amended to include a summary of the procedure to ask questions;*

3 *at the conclusion of the six (6) month trial as detailed in (1) above, Council REQUESTS a further report evaluating the revised procedures relating to public question time.”*

The adopted revised procedure made minimal changes to the current practice of the day (changes above have been underlined).

This report evaluates the trial of the revised procedure relating to public question time, from the previous to the new.

## **DETAILS**

### **Statutory Provision:**

Section 5.24 of the local Government Act 1995 states:

### **Question time for the public**

- (1) Time is to be allocated for questions to be raised by members of the public and responded to at –
  - (a) every ordinary meeting of a Council; and
  - (b) such other meetings of Council or committees as may be prescribed.
- (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at Council or committee meetings are to be in accordance with regulations.

### **Local Government (Administration) Regulations 1996 state:**

### **Question time for the public at certain meetings – s.5.24 (1) (b)**

- 5 For the purposes of section 5.24 (1) (b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are –
  - (a) every special meeting of a Council;
  - (b) every meeting of a committee to which the local government has delegated a power or duty.

### **Minimum question time for the public – s.5.24 (2)**

- 6 (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of Councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

### **Procedures for question time for the public – s.5.24 (2)**

- 7 (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined -
  - (a) by the person presiding at the meeting; or

- (b) in the case where the majority of members of the Council or committee present at the meeting disagree with the person presiding, by the majority of those members,
- having regard to the requirements of subregulations (2) and (3).
- (2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the Council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in subregulation (3) requires -
- (a) a Council to answer a question that does not relate to a matter affecting the local government;
- (b) a Council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
- (c) a committee to answer a question that does not relate to a function of the committee.

In an effort to differentiate the procedures prior to the trial and during the trial, the following statistics are provided:

|  | Period August 2001 - May 2002 | Period February 2001 to July 2001 |
|--|-------------------------------|-----------------------------------|
| Questions raised at Council meeting and answered | 466                           | 297                               |
| Taken on Notice                                  | 233                           | 36                                |
| Questions submitted in writing                   | 243                           | 95                                |
| Questions asked verbally                         | 456                           | 238                               |

As a matter of comparisons, the following is a summary of how some local governments manage their public question time.

### City of Stirling

The City of Stirling allows for questions to be asked verbally or in writing, questions are preferred in written form, so the question can be more clearly understood for an answer to be given.

Discussions with the City of Stirling eluded that it was not subject to many questions at Council, but would only allocate the 15 minute question time period. The time limit may be extended slightly depending on the circumstances.

### City of Swan

The City of Swan has three sections of public question time:

- questions relating to reports on the agenda;
- questions in writing not relating to reports;
- verbal questions not relating to reports.
- public statement.

The City of Swan advised that where questions were of a complex nature and the member of the public requires an answer at the Council meeting (Wednesdays), it must be submitted by 5 pm the Friday before.

Members of the public are entitled to ask two (2) questions during each of the three sections, if they have more than one question, they are to wait until everyone has had an opportunity, and if time permits may ask further questions. This may vary on the circumstances, and if public question time is extended, it is generally done in five-minute intervals.

### City of Perth

The City of Perth allows a period of 15 minutes with questions being preferred to be in writing prior to the meeting. Discussions with the City of Perth could not recall using the entire allotted period for public questions.

The following procedure is followed by the City of Perth for the asking of and responding to questions raised by members of the public at a meeting:

- (a) a member of the public who raises a question during question time is to state their name and address;
- (b) it is preferred that questions be submitted in writing in which case they will be read out by the CEO but questions may be asked orally;
- (c) questions are to be answered by the member or employee nominated by the presiding person;
- (d) questions are to be in writing (no oral questions), and the presiding person may determine that any complex question requiring research be answered only in writing; and
- (e) no discussion of a question or answer is to take place.

### City of Melville

The City of Melville allows a period of 15 minutes and requests all questions to be made in writing prior to the meeting. Discussions with the City of Melville could not recall using the entire allotted period for public questions.

The following procedure is followed by the City of Melville for the asking of and responding to questions raised by members of the public at a meeting:

- 1 Question Time will be limited to fifteen (15) minutes and be the first item of business immediately following Leave of Absence at the commencement of the meeting.
- 2 Questions must relate to the ordinary business of the City of Melville, function of the Committee or the purpose of the Special Meeting as appropriate.
- 3 A question must be submitted in writing and placed in the Question Tray prior to the commencement of the meeting - (Question form on website).
- 4 Her Worship the Mayor or the person presiding at the meeting may, at their discretion:
  - Accept or reject the question
  - Nominate a member of the Council and/or Officer to answer the question; or
  - Determine that any complex questions requiring research of a question not relating to an item in the Agenda will be answered in writing as soon as possible.
- 5 Please note that no debate or discussion will be permitted on any question or answer.
- 6 All questions (except those rejected) and a summary of the response will be recorded in the minutes.
- 7 Elected Members and Officers of the Council are usually available following the closure of Council/Committee meetings to answer any other questions.

### City of Subiaco

The City of Subiaco conducts a “Public Address/Statement Time” in addition to the statutory required period of public question time.

During Public Address/Statement Time, each member of the public is entitled to address the Council via a statement. Each member of the public is allocated a maximum time to make their statements (currently three minutes), with the total time period allocated for statement time being at the presiding members discretion.

Public question time follows public statement time on the order of business of the agenda. A member of the public is also able to ask two (2) questions (timeframe currently two minutes). If a person is asking questions; then they are not permitted to make a statement and vice versa.

There is no time limit for public question time, with the presiding person responsible for the procedures. It should be noted that during public question time, there is no repetition of statements made earlier, and questions are asked in groups based on topics.

Prior to the commencement of the meeting, a staff member explains the rules to the members of the public. If during either period, the rules/procedures are not being fairly administered, elected members may bring the inconsistency to the attention of the meeting.

In an effort to establish order into public question time at Council meetings and Briefing Sessions and not allow public question time to be dominated by one person or a minor group, the following procedure is suggested:



## **Suggested amended procedure**

### **Introduction**

Public question time is provided at meetings of the Council or briefing sessions that are open to the public.

Public question time is not a public forum for debate or making public statements. The time is limited to asking of questions and receiving responses. This procedure is designed to assist the conduct of public question time and provide a fair and equitable opportunity for members of the public who wish to ask a question. Public question time is not to be used by elected members. Members of the Council are encouraged to use other opportunities to obtain information.

Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.

### **Prior to the Meeting/Briefing Session**

To enable prompt and detailed responses to questions, members of the public are encouraged to lodge questions in writing to the Committee Clerk by close of business on the Friday prior to the Council meeting or Briefing Session at which the answer is required. Answers to those questions received within that time frame, where practicable, will be provided in hard copy form at that meeting.

### **At the Meeting/Briefing Session**

A register will be provided for those persons wanting to ask questions to enter their name, and the order of registration will be the order in which persons will be invited to ask their questions.

Public question time will be limited to the legislative minimum of fifteen (15) minutes and may be extended by resolution of the Council, but the extension of time is not to exceed ten (10) minutes in total. Public question time will be limited to two (2) questions per member of the public. When all people who wish to do so have asked their two (2) questions, the presiding member may, if time permits, provide an opportunity for those who have already asked their two (2) questions to ask further questions.

During public question time at the meeting, each member of the public wanting to ask questions will be required to provide a written form of their question(s) to a Council employee.

Where the number of required questions exceeds the number able to be asked, the member of the public may submit the unasked questions to the Council, where they would be 'taken on notice' and a written response provided.

The procedure to ask a public question during the meeting is as follows:

- persons are requested to come forward in the order they registered;
- give their name and address;

- read out their question;
- before or during the meeting each person is requested to provide a written form of their question to a designated Council employee;
- the person having used up their allowed number of questions or time is asked by the presiding member if they have more questions; if they do then the presiding member notes the request and places them at the end of the queue; the person resumes their seat in the gallery;
- the next person on the registration list is called;
- the original registration list is worked through until exhausted; after that the presiding member calls upon any other persons who did not register if they have a question (people may have arrived after the meeting opened);
- when such people have asked their questions the presiding member may, if time permits, provide an opportunity for those who have already asked a question to ask further questions;
- public question time is declared closed following the expiration of the allocated time period or where there are no further questions.

The Mayor or presiding member shall decide to:

- Accept or reject the question and his/her decision is final;
- Nominate a member of the Council and/or Council employee to respond to the question;

Due to the complexity of the question, it be taken on notice with a written response provided as soon as possible, and included in the agenda of the next briefing session or Council meeting, whichever applicable.

The following rules apply to public question time:

- *question time is not to be used by a member of the public to make a statement or express a personal opinion;*
- *questions should properly relate to Council business;*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation;*
- *questions should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or Council employee;*

- *where a response has been provided to a question asked by a member of the public, and where that response, in the opinion of the presiding person, adequately deals with the question, there is no obligation to further justify the response;*
- *where an elected member is of the opinion that the question is not relevant to the business of the City of Joondalup or that a member of the public is making a statement, they may bring it to the attention of the meeting.”*

It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City’s records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City’s resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

### **Disclaimer**

Responses to questions not put in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.

### **COMMENT**

It is acknowledged that the Local Government Act 1995 provides the right to members of the public to ask questions of their local government under certain circumstances. The regulations, however, provide that the asking of and responding to questions raised by members of the public are to be determined:

- by the person presiding at the meeting; or
- in the case where the majority of members of the Council or committee present at the meeting disagree with the person presiding, by a majority of those members.

With the large number of verbal questions asked at recent Council meetings, there is a need for the Council to review its procedures following the trial. The number and sometimes complexity of verbal questions asked of members and officers where responses are given without the opportunity to adequately research the response does not lead to ‘good government’ and may in fact lead to ill informed decisions being made of the Council.

The suggested procedure provides every member of the public with a fair and equal opportunity to ask a question and receive a response, as required by the regulations. The suggested procedure does not limit the number of questions that can be asked by members of the public, but puts in place an effective and fair process by which they can be asked. Having questions submitted in writing will better clarify the ‘actual question’ being asked to better enable a more informed response to be given.

The requirement that questions be submitted by close of business on the Friday prior to the Council meeting/Briefing Session will allow informed and properly researched responses to be given which may lead to more informed decisions being made by the Council if the questions asked relate to an item to be considered by the Council.

The Local Government Act 1995 provides for greater community participation in decisions and affairs of a local government. The introduction of public question time at Council meetings is only one of many ways in which a local government is required to allow the public to participate in its affairs.

It would be fair to say that public question time over recent times has been difficult to control, with some members of the public taking the opportunity to make statements about the dealings of the Council. While it is fully appreciated that members of the public are entitled to have their say, and it is part of the democratic process, there however needs to be a fair degree of control when members of the public are asking questions during public question time.

With the emphasis being placed on members of the public to submit their questions in writing, this will allow the questions to be better understood and for a direct response to be provided. This will also minimise the number of statements being made during public question time, allow a more fairer and equitable way for people to ask questions rather than the time being dominated by the few and also allows the opportunity for those people to ask a question who may be intimidated in speaking publicly in such a forum.

The modern role of the elected body is to set policy and strategy and provide goals and targets for the local government. The employees have the task of implementing the decisions and dealing with operational issues of the local government. While the role of the elected member is to communicate with the residents is acknowledged, where members of the public have concerns with operational matters, they should be encouraged to deal directly with the administration. Where such concerns are received, the administration would deal with the issues raised within established policies of the City.

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Patterson, SECONDED Cr O'Brien that it be recommended that Council ADOPTS the following revised procedure relating to public question time at Council meetings and Briefing Sessions that are open to the public:**

### **“Introduction**

**Public question time is provided at meetings of the Council or briefing sessions that are open to the public.**

**Public question time is not a public forum for debate or making public statements. The time is limited to asking of questions and receiving responses. This procedure is designed to assist the conduct of public question time and provide a fair and equitable opportunity for members of the public who wish to ask a question. Public question time is not to be used by elected members. Members of the Council are encouraged to use other opportunities to obtain information.**

**Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.**

### **Prior to the Meeting/Briefing Session**

To enable prompt and detailed responses to questions, members of the public are encouraged to lodge questions in writing to the Committee Clerk by close of business on the Friday prior to the Council meeting or Briefing Session at which the answer is required. Answers to those questions received within that time frame, where practicable, will be provided in hard copy form at that meeting.

### **At the Meeting/Briefing Session**

A register will be provided for those persons wanting to ask questions to enter their name, and the order of registration will be the order in which persons will be invited to ask their questions.

Public question time will be limited to the legislative minimum of fifteen (15) minutes and may be extended by resolution of the Council, but the extension of time is not to exceed ten (10) minutes in total. Public question time will be limited to two (2) questions per member of the public. When all people who wish to do so have asked their two (2) questions, the presiding member may, if time permits, provide an opportunity for those who have already asked their two (2) questions to ask further questions.

During public question time at the meeting, each member of the public wanting to ask questions will be required to provide a written form of their question(s) to a Council employee.

Where the number of required questions exceeds the number able to be asked, the member of the public may submit the unasked questions to the Council, where they would be ‘taken on notice’ and a written response provided.

The procedure to ask a public question during the meeting is as follows:

- persons are requested to come forward in the order they registered;
- give their name and address;
- read out their question;
- before or during the meeting each person is requested to provide a written form of their question to a designated Council employee;
- the person having used up their allowed number of questions or time is asked by the presiding member if they have more questions; if they do then the presiding member notes the request and places them at the end of the queue; the person resumes their seat in the gallery;
- the next person on the registration list is called;
- the original registration list is worked through until exhausted; after that the presiding member calls upon any other persons who did not register if they have a question (people may have arrived after the meeting opened);

- when such people have asked their questions the presiding member may, if time permits, provide an opportunity for those who have already asked a question to ask further questions;
- public question time is declared closed following the expiration of the allocated time period or where there are no further questions.

The Mayor or presiding member shall decide to:

- Accept or reject the question and his/her decision is final;
- Nominate a member of the Council and/or Council employee to respond to the question;

Due to the complexity of the question, it be taken on notice with a written response provided as soon as possible, and included in the agenda of the next briefing session or Council meeting, whichever applicable.

The following rules apply to public question time:

- *question time is not to be used by a member of the public to make a statement or express a personal opinion;*
- *questions should properly relate to Council business;*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation;*
- *questions should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or Council employee;*
- *where a response has been provided to a question asked by a member of the public, and where that response, in the opinion of the presiding person, adequately deals with the question, there is no obligation to further justify the response;*
- *where an elected member is of the opinion that the question is not relevant to the business of the City of Joondalup or that a member of the public is making a statement, they may bring it to the attention of the meeting.*

It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

### **Disclaimer**

**Responses to questions not put in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.”**

Discussion ensued.

*During discussion:*

*Cr Carlos entered the Room at 1708 hrs.*

*Mayor Bombak entered the Room at 1712 hrs.*

**The Motion was Put and**

**CARRIED**

## **ITEM 2            REVIEW OF CORPORATE CODE OF CONDUCT - [09358]**

**WARD - All**

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### **PURPOSE**

To review the Corporate Code of Conduct.

### **SUMMARY**

The Local Government Act 1995 requires all local governments to have in place a code of conduct that sets various standards to be observed by elected members, committee members and employees. The Local Government Act requires that each local government review its code of conduct within 12 months of its ordinary elections. With the recent City’s ordinary election being held in May 2001, it is now opportune for the review to be performed.

In order to perform the review, input was sought from applicable stakeholders, along with comparisons with similar documents from similar organisations. The review proposes some changes to the current code in order to provide a more complete document for those affected by its operation.

### **BACKGROUND**

The Local Government Act 1995 (the Act) was introduced on 1 July 1996. An intended result with the introduction of the new Act was to allow for greater accountability of local governments to their communities. As a result of this, the Act requires every local government to prepare and adopt a code of conduct to be observed by elected members, committee members and employees.

A local government is to review its code of conduct within 12 months of each ordinary election and make such changes to the code of conduct, as it considers appropriate. The last ordinary election for the City was held in May 2001. The former City of Wanneroo first adopted a code of conduct in April 1997, that code was subsequently adopted by the new City of Joondalup and has been reviewed in accordance with the legislation.

## DETAILS

Section 5.103 of the Act states:

- 1 Every local government is to prepare and adopt a code of conduct to be observed by council members, committee members and employees.
- 2 A local government is to review its code of conduct within 12 months after each ordinary elections day and make such changes to the code, as it considers appropriate.
- 3 Regulations may prescribe the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a local government is of effect only to the extent to which it is not inconsistent with regulations.

Regulations 34B and 34C of the Local Government (Administration) Regulations 1996 are the relevant regulations referred to in section 5.103(3). These regulations require a code of conduct to cover such issues as:

- Procedures for the acceptance of token gifts or acts of hospitality;
- Requirement to disclose at a Council or Committee meeting ‘interests’ that may affect impartiality.

The intent of the code is to provide a framework for behaviour that must be observed to ensure that, in the best interests of the local community and the public generally, the highest ethical standards are practised by elected members and employees of the City of Joondalup.

As a result of the legislative requirement to review the current code of conduct, input was sought from elected members and senior employees of the City. The review also included research into other similar documents from other organisations, which included the Code of Ethics developed by the Public Sector Standards Commission.

The revised draft copy of the code of conduct is attached for information, with the altered sections highlighted in italics.

The main changes to the document relate to:

- Rewrite of the introduction;
- Inclusion/rewrite of Values and Ethical Principles;
- Inclusion of relationships between elected members and employees;
- Inclusion of appointments to external committees;
- Inclusion of defamation clause;
- Further explanation on communication and public relations; and
- Additional section relating ‘Whistleblower’ protection.



## COMMENT/FUNDING

The review has not suggested major changes to the existing code of conduct; it has merely attempted to refine the document to better guide those affected by the code for good public administration.

Since the introduction of the requirement for local governments to adopt codes of conduct, there have been a number of concerns raised within the industry regarding the lack of ‘teeth’ the codes have in order to deal with breaches of the code.

It is interesting to note that as a result of these industry concerns and to make the code legally enforceable by way of a penalty for non-compliance, the City of Perth has attempted to incorporate the enforceable provisions of the code into a local law. This proposal by the City of Perth was to ensure that where the standards of behaviour expected by the code of conduct were not met, then appropriate penalties are enforced. Under the current situation within the industry, codes of conduct across the industry contain minimal (if any) penalty provisions. The State Legislative Review Committee did not accede to the proposal.

As a result of the City of Perth’s experience and general concerns from the local government industry, a working party was formed comprising representatives from Western Australian Local Government Association (WALGA), Department of Local Government and Regional Development and Local Government Managers Australia (LGMA) to discuss the concept of a Local Government Tribunal.

Initial indications were that the establishment of the Tribunal was to be included as part of the Amendment Bill proposed to be through Parliament by the end of 2002. Further indications is that the concept of an industry tribunal is still to be developed and if it eventuates will not occur within the short-term.

The code does not override or affect the legislation applicable to local government, but merely provides a framework of expected behaviour. The proposed revised code of conduct is submitted for the Council’s consideration.

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr O’Brien, SECONDED Cr Patterson that the Standing Orders Review Committee recommends to Council that the City’s Code of Conduct, as amended and forming Attachment 1 to this Report be ADOPTED.**

Discussion ensued.

**The Motion was Put and**

**CARRIED**

### **ITEM 3      REVIEW OF STANDING ORDERS LOCAL LAW - [01369] [05885]**

**WARD - All**

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#### **PURPOSE**

For the Standing Orders Review Committee to give consideration to a further review of the City's Standing Orders Local Law.

#### **BACKGROUND**

The local laws of the former City of Wanneroo became the local laws of the City of Joondalup following the split of the former local government on 1 July 1998. Included as part of the local laws reviewed were the Standing Orders, which govern the proceedings/practices of Council and Committee meetings.

This review was extensive, commencing in early 2000 with a number of revisions being presented to the established Standing Orders Review Committee. Following the legislative required public consultation period, where one submission was received, Council at its meeting held on 2 July 2002 failed to adopt by the required special majority (12) the first revised Standing Orders Local Law as recommended by the Standing Order Review Committee.

#### **DETAILS**

Recent events relating to rescission motions on the Mullaloo Tavern development application highlight some shortcomings in the current set of Standing Orders. Such shortcomings drew the following comments from the City's legal firm:

*“It is probably opportune for me to confirm that the existing Standing Orders are generally unsatisfactory in a number of respects and should be urgently reviewed and redrafted. For example, the Standing Orders deal, in a number of respects, with matters, which are prescribed by the Act and the Regulations. In some cases provisions of the Act and the Regulations are repeated (without any explanation that the provisions are taken from the Act and Regulations) and in other cases the provisions of the Act or the Regulations are not repeated accurately.*

*The task of reviewing and redrafting the Standing Orders would not be a small task but would nevertheless be an important one given that it deals with the way in which Council conducts its own affairs.*

*It goes without saying that having sound and appropriate risks for the conduct of Council business is a foundation stone for good government.*

## COMMENT

Given the comments by the City's solicitors and the provided issues recently highlighted, it is strongly suggested that the Council urgently reviews its Standing Orders Local Law.

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Patterson, SECONDED Cr O'Brien that the Standing Orders Review Committee recommends to Council that it urgently reviews its Standing Orders Local Law.**

Discussion ensued.

**The Motion was Put and**

**CARRIED**

It was requested that a report be presented to the Council meeting scheduled for 17 December 2002 for Council's consideration of the recommendations of this Committee.

## CLOSURE

There being no further business, the Chairman declared the meeting closed at 1730 hrs.