

16/07/2013

REFER DISCLAIMER

1.1.1: GOVERNANCE COMMITTEE

- Proponent** : City of Albany
- Attachment** :
 - Confirmed Minutes of Governance Committee Meeting held on 10 June 2013, and Special Governance Committee Meeting held on 5 June 2013.
 - Item 4.2: Legal Representation Policy from the Governance Committee meeting held 8 July 2013.
- Responsible Officer(s)** : Chief Executive Officer (G Foster)

ITEM 1.1.1: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**MOVED: COUNCILLOR STOCKS**
SECONDED: COUNCILLOR SUTTON**THAT:**

1. The **CONFIRMED** minutes of the Special Governance Committee Meeting held on 5 June 2013, be **RECEIVED**.
2. The **CONFIRMED** minutes of the Governance Committee Meeting held on 10 June 2013, be **RECEIVED**.
3. Council **ADOPT** the Legal Representation for Elected Members, Employees and Volunteers Policy.

CARRIED 8-0
ABSOLUTE MAJORITY



SPECIAL GOVERNANCE COMMITTEE

MINUTES

for the meeting held 5.30pm Wednesday 5 June 2013,
in the Council Chambers, City Office, North Road, Albany

(File Ref: CM.MEE.6/13101699)

Terms of Reference: *The Committee is established under section 7.1A of the Local Government Act 1995 (the Act) and its Regulations. The Committee does not have any delegated authority from Council.*

1.0 ATTENDANCE

| | |
|------------------------------------|---|
| Mayor | D Wellington(Chair) |
| Councillors: | |
| R Hammond | Member |
| D Bostock | Member |
| S Bowles | Member |
| R Sutton | Member |
| A Hortin | Member |
| V Calleja | Member |
| D Dufty | Member |
| C Dowling | Member |
| Y Attwell | Member |
| G Stocks | Member |
| G Gregson | Member |
| Staff: | |
| Minutes | J Williamson |
| Chief Executive Officer | G Foster (Joined the meeting at 6.30pm) |
| Apologies/Leave of Absence: | |
| C Holden | Member |

[5:33:53 PM](#) The Chair declared the meeting open.

2.0 CONFIRMATION OF MINUTES

Nil. To be presented at Governance Committee meeting to be held 10 June 2013.

3.0 STANDING ITEMS

Nil.

4.0 ITEMS FOR DISCUSSION

4.1: Key Performance Areas for the Chief Executive Officer-see report attached.

There was discussion among the Committee regarding the Key Performance Areas and Key Performance Indicators provided to the Committee for review. The Committee requested that Councillor Bowles and Councillor Stocks prepare a new set of KPAs and KPIs which are quantifiable. These new KPAs and KPIs are to be presented to a future Governance Committee for discussion.

These KPA's and KPIs are to be provided to the Chief Executive Officer no later than 3 July 2013.

Councillor Bowles provided a document received from the Department of Local Government for an interim CEO Performance Review. Committee members completed this review and the results were collated by Councillor Stocks and Councillor Bowles during the meeting for discussion by the Committee.

The Committee were also in agreement that Mayor Wellington, Councillor Stocks and Councillor Bowles form a sub-committee of the CEO Performance Appraisal Committee. This sub-committee will evaluate the CEO's performance on a three monthly basis, and report to Council.

6.30pm: Chief Executive Officer joined the meeting. Discussion followed regarding the CEO's Key Performance Indicators for Council.

ITEM 4.1: INDIVIDUAL KEY PERFORMANCE PLAN-CHIEF EXECUTIVE OFFICER

Reporting Officer: Shauna Dale, Manager Human Resources

Objective

To provide the Committee with an overview of the Key Performance Areas and Key Performance Indicators for the Chief Executive Officer.

Background

At the Ordinary Council meeting held on 20 November 2011, Council resolved:

1. Council *APPOINT* Mr Graham Foster as the Acting Chief Executive Officer with the City of Albany commencing on 3 December 2012 for an initial period to 30 June 2013 with subsequent extensions to be negotiated to a maximum period of twelve months.
2. Council *ENDORSES* the Contract of Employment and incorporates a package of \$250,000 per annum, pro rata.
3. For the purposes of effective handover, Council *ENDORSES* a contract extension for Linda Hill to 21 December 2012 under the current contractual terms and conditions.
4. Council *NOTE* the following:
 - a. Local Government Act 1995:

Section 5.36. Local government employees

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* Absolute majority required.

b. Section 5.39. Contracts for CEO and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

1. At the Ordinary Council Meeting held on 19 March 2013, Council resolved:

THAT the Key Performance Indicators for the Acting Chief Executive Officer (as listed below) are ACCEPTED and NOTED as the Key Performance Areas as outlined in the Contract of Employment between the City of Albany and Graham Foster, and in accordance with the Local Government Act 1995.

- *Completion of requirements under the Integrated Strategic Planning framework;*
- *Production of a responsible draft budget for consideration by Council;*
- *Production of a paper on Economic Development in Albany for consideration by Council;*

AGENDA ITEM 1.1.1 REFERS

- *Produce a Parking Policy and Strategy for consideration by Council;*
- *Provide training for Councillors in:*
 - *Meeting procedures*
 - *Roles and Responsibilities*
 - *Town Planning*
- *Provide for better communication and consultation with the Community by producing an Engagement Policy and processes to be followed by officers; and*
- *Contribute to the ANZAC Interpretive Centre Implementation Committee.*

In addition, the following Key Performance Indicator is to be included in the Acting Chief Executive Officer Contract of Employment:

- *Council Training for the CEO Appraisal Committee*

Discussion

Council will be offering Mr Graham Foster a further one year contract as Chief Executive Officer, subject to Council being satisfied that the Key Performance Indicators are being met, and that the setting and review of Key Performance Areas will ensure that the provisions of the Act are met, and that Council believes that "...the person is suitably qualified for that position".

Attachments

- *Proposed Key Performance Plan for Mr Graham Foster*

4.2: Appointment of Chief Executive Officer (Mayor Wellington)

The Committee requested the following draft recommendation be presented to the Special Council Meeting to be held 06 June 2013. This recommendation was not moved, seconded or voted on by the Committee.

ITEM 4.2: DRAFT RECOMMENDATION

1. THAT Mr Graham Foster be offered the position of “Acting Chief Executive Officer” (the position title to be referred to as Chief Executive Officer) for a period of 12 months, commencing on 1 July 2013.
2. That Council develop Key Performance Areas and Key Performance Indicators to be provided by 3 July 2013.

5.0 GENERAL DISCUSSION Nil.

6.0 DATE OF NEXT MEETING: 10 June 2013

7.0 CLOSURE OF MEETING [6:53:14 PM](#) There being no further business the Chair declared the meeting closed.

STATUS REPORT ON DEFERRED ITEMS FROM PREVIOUS MEETINGS

| Meeting Date | Item No. | Details/Status |
|--------------|----------|--|
| 11/03/2013 | 4.1 | <p>STANDING ORDERS LOCAL LAW. Laid on the table.</p> <p>Council is currently operating under Standing Orders Local Law 2009, pending review of Local Law Meeting Procedures 2011 by the Joint Standing Committee on Delegated Legislation. To be discussed at the Governance Committee meeting to be held on Monday 10 June 2013.</p> |



GOVERNANCE COMMITTEE

CONFIRMED MINUTES

for the meeting held 5.30pm Monday 10 June 2013,
in the Council Chambers, City Office, North Road, Albany

(File Ref: CM.MEE.6/AM1331214)

Terms of Reference: *The Committee is established under section 7.1A of the Local Government Act 1995 (the Act) and its Regulations. The Committee does not have any delegated authority from Council.*

1.0 ATTENDANCE

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|---------------------------------------|---------------------------------|
| Mayor | D Wellington(Chair) |
| Councillors: | |
| R Hammond | Member |
| G Stocks | Member |
| D Bostock | Member |
| S Bowles | Member |
| R Sutton | Member |
| A Hortin | Member |
| V Calleja | Member |
| D Dufty | Member |
| G Gregson | Member |
| C Dowling | Member |
| C Holden | Member |
| Staff: | |
| Executive Director Corporate Services | G Adams |
| Manager Compliance | S Jamieson |
| Minutes | J Williamson |
| Guest: | |
| Mr Ross Fenwick | Chief Bush Fire Control Officer |
| Apologies/Leave of Absence: | |
| Y Attwell | Member |

The Chair declared the meeting open at [5:30:07 PM](#)

2.0 CONFIRMATION OF MINUTES

ITEM 2.0: RECOMMENDATION 1

**MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SUTTON**

THAT the minutes of the Governance Committee Meeting held on 9 May 2013, as previously distributed, be accepted as a true and accurate record of proceedings.

CARRIED 12-0

ITEM 2.0: RECOMMENDATION 2

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR BOWLES**

THAT the minutes of the Special Governance Committee Meeting held on 5 June 2013, as previously distributed, be accepted as a true and accurate record of proceedings.

CARRIED 12-0

3.0 STANDING ITEMS

3.1 Staff Movements

ITEM 3.0: RECOMMENDATION

**MOVED: COUNCILLOR BOWLES
SECONDED: COUNCILLOR GREGSON**

THAT the Staff Movements Report for May 2013 be NOTED.

CARRIED 12-0

4.0 ITEMS FOR DISCUSSION

4.1: Meeting Procedures Local Law-Manager Compliance

The meeting agreed to deal with Item 4.2 as the first item on the agenda.

**ITEM 4.1: RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR BOWLES**

THAT Council:

- (1) NOTE that Local Law procedures must be restarted to ensure legal validity and compliance with prescribed process.**
- (2) APPROVES the recommended amendments to the proposed Local Law for the purpose of advertising.**
- (3) AGREES to restart the procedure for making the Local Law.**
- (4) In accordance with section 3.12 of the *Local Government Act 1995*, agrees to GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany Standing Orders Local Law 2013.**

CARRIED 12-0

4.2: Local Bushfire Brigade Impact Assessment-**Manager Compliance** (this report will be provided prior to the meeting).

6.10PM Mr Ross Fenwick left the meeting.

ITEM 4.2: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR BOSTOCK**

THAT Council:

- (1) NOTE the concerns raised by the Volunteer Bush Fire Brigade Members with regard to the Emergency Services Review.**
- (2) Prior to any consideration of the transfer of the responsibility for bush fire brigade operations and administration to DFES, a presentation be called for by DFES prior to a Special Council Meeting called for that purpose.**
- (3) AUTHORISE the Chief Bush Fire Control Officer as the Senior City of Albany Volunteer Bush Fire Brigade member to communicate directly with the DFES Legislative Review Project Team.**

CARRIED 12-0

5.0 ITEMS TO BE DISCUSSED AT NEXT MEETING

6.0 GENERAL DISCUSSION

Councillor Bowles asked for an update on the progress of open forums.
The CEO responded that the committee restructure would be a reflection of the City's Community Strategic Plan 2023, and that a paper would be presented in the Agenda for the June Ordinary Council Meeting.

7.0 DATE OF NEXT MEETING: 8 July 2013

8.0 CLOSURE OF MEETING

[6:28:28 PM](#) There being no further business the Chair declared the meeting closed.

| STATUS REPORT ON DEFERRED ITEMS FROM PREVIOUS MEETINGS | | |
|---|-----------------|-----------------------|
| Meeting Date | Item No. | Details/Status |
| | | Nil. |

ITEM 4.1: CITY OF ALBANY STANDING ORDERS LOCAL LAW 2013

Reporting Officer: Stuart Jamieson, Manager Compliance

Objective

Recommence the procedures for making the city of Albany Standing Orders Local Law in accordance with Local Laws-Local Government Operational Guidelines-Number 16 November 2011.

Background

Council at its Ordinary Meeting of 15 November 2011 commenced the process to make the City of Albany Meeting Procedures Local Law.

Final adoption of the Local Law was put on hold until comparable Standing Orders (Meeting Procedures) Local Laws were scrutinised by the Joint Standing Committee on Delegated Legislation (JSCDL).

Whilst the Act does not expressly prescribe a timeframe in which the procedural requirements for making Local Laws are to be completed, the procedures should be undertaken with "all convenient speed" in line with the Interpretations Act 1984.

Discussion

1. As no current staff member was involved in developing the proposed Local Law with Council a further review (additional scrutiny) was conducted which identified that the procedure for making the Local Law must be restarted.
2. Based on comparison to comparable Local Laws that have passed the review of the JSCDL, additional amendments to the proposed Local Law are recommended (detailed in report).
3. Should Council wish to conduct additional scrutiny on the proposed Local Law, Council may consider it appropriate to honour the outstanding written undertaking and amend the current standing orders (City of Albany Standing Orders Local Law 2009) in accordance with the Council's previous resolution (written undertaking), being:

*"THAT Council give a written undertaking that the City of Albany will affect the following amendments within the **next two years** and not rely or use the following clauses and sub clauses in the interim, being:*

- a. Delete clause 4.8 and clause 4.12;*
- b. Amend sub clause 4.15(3) by deleting the words "and must be accepted by the meeting without argument or comment" after the word "final";*
- c. Amend sub clause 4.16(3) by deleting the words "that meeting' after the words "part in" and insert the words "the debate of the item"; and*
- d. Delete sub clause 5.11(3)."*

AGENDA ITEM 1.1.1 REFERS

4. The following draft recommendation has been prepared if that is Council's intent.

ITEM 1.3: DRAFT RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council in accordance with Section 3.12 of the *Local Government Act 1995*:

- (a) RESOLVES TO MAKE the *City of Albany Standing Orders Amendment Local Law 2013* as follows:

LOCAL GOVERNMENT ACT 1995

CITY OF ALBANY

STANDING ORDERS AMENDMENT LOCAL LAW 2013

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the City of Albany Council resolved on *[Insert date]* to make the following Local Law.

2. Citation. This Local Law may be cited as the *City of Albany Standing Orders Amendment Local Law 2013*.
3. Commencement. This Local Law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.
4. Principal Local Law. In this Local Law, the *City of Albany Standing Orders Local Law 2009* as published in the *Government Gazette* on Wednesday, 24 June 2009 is referred to as the principal Local Law.

The principal Local Law is amended as follows:

- (a) Delete clause 4.8 and clause 4.12;
- (b) Amend sub clause 4.15(3) by deleting the words "and must be accepted by the meeting without argument or comment" after the word "final";
- (c) Amend sub clause 4.16(3) by deleting the words "that meeting" after the words "part in" and insert the words "the debate of the item"; and
- (d) Delete sub clause 5.11(3)."

Dated: _____

The Common Seal of the City of Albany was affixed by authority of a resolution of the Council in the presence of:

Graham Foster
Chief Executive Officer

Dennis Wellington
Mayor

- (b) APPROVES giving notice through the placement of a state-wide public notice of the proposed *City of Albany Standing Orders Amendment Local Law 2013*, in order to seek public comment.

PUBLIC CONSULTATION / ENGAGEMENT

5. At the close of the advertising period **no community submissions** were recorded on the proposed Local Law.

GOVERNMENT CONSULTATION

- 6. As required by section 3.12(3)(b) of the *Local Government Act 1995*, a copy of the proposed Local Law was provided to the Minister for Local Government on 5 September 2012.
- 7. Feedback was received from the Department on the proposed NEW City of Albany Standing Orders Local Law 2013 (Meeting Procedures 2011).
- 8. The Manager Compliance conducted an additional review by comparing the proposed Local Law against comparable Local Laws that have been scrutinised by the JSCDL, such as the City of Greater Geraldton and Shire of East Pilbara.

| Feedback/Proposed Amendment | Draft Local Law | Recommendation |
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| <p>Department Feedback:</p> <p>The Department recommended that the proposed NEW Local Law title be changed from City of Albany Meeting Procedures Local Law to City of Albany Standing Orders Local Law. The law defines “Standing Orders Local Laws” as the legal rules that govern meeting procedures.</p> | <p>Part 1 - Preliminary</p> <p>1.1 Citation This Local Law may be cited as the <i>City of Albany Meeting Procedures Local Law 2011</i>.</p> | <p>Amend clause to read:</p> <p>1.1 Citation This Local Law may be cited as the <i>City of Albany Standing Orders Local Law 2013</i>.</p> <p>Reason: Concur with Department’s recommendation.</p> |
| <p>No comment.</p> | <p>1.2 Commencement This Local Law commences on the fourteenth day after it is published in the <i>Government Gazette</i>.</p> | <p>No change.</p> |

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| <p>Department Feedback:</p> <p>Draft clause 1.3: The reference to "These Meeting Procedures contain the rules that apply to the conduct of meetings ... " should be a reference to "This Local Law contains the rules that apply to the conduct of meetings..."</p> | <p>1.3 Application and intent</p> <p>(1) These Meeting Procedures contain the rules that apply to the conduct of meetings of the Council of the City of Albany, and its Committees and to meetings of electors.</p> <p>(2) All Meetings are to be conducted in accordance with the Act, its Regulations and these Meeting Procedures Local Law.</p> <p>(3) These Meeting Procedures are intended to result in:</p> <ul style="list-style-type: none"> (a) better decision-making by Council and its Committees; (b) the orderly conduct of meetings dealing with Council business; (c) better understanding of the process of conducting meetings; and (d) the more efficient and effective use of time at Meetings. | <p>Amend clause to read:</p> <p>1.3 Application and intent</p> <p>(1) This Local Law contains the rules that apply to the conduct of meetings of the Council of the City of Albany, and its Committees, and to meetings of electors.</p> <p>(2) All Meetings are to be conducted in accordance with the Act, its regulations and this Local Law.</p> <p>(3) The meeting procedures defined in this Local Law are intended to result in:</p> <ul style="list-style-type: none"> (a) better decision-making by Council and its Committees; (b) the orderly conduct of meetings dealing with Council business; (c) better understanding of the process of conducting meetings; and (d) the more efficient and effective use of time at Meetings. <p>Reason: Concur with Department's recommendation.</p> |
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| <p>Department Feedback:</p> <p>Draft clause 1.4: The definition for "CEO" has this wording "or the CEO's delegate" which is ambiguous as section 5.44 of the LG Act is talking about the delegating of "powers and functions" of the position of CEO.</p> <p>It is the carrying out of the delegated work to an employee; the "delegate" is not a "CEO". It is clearer when wording like this is used: "or the person acting as CEO for the time being".</p> | <p>Clause 1.4 Interpretation Unless otherwise defined in these Local Laws, terms and expressions used in these Local Laws are to have the meaning given to them in the Act and Regulations...</p> <p>“CEO” means the Chief Executive Officer of the City of Albany, or the CEO’s delegate;</p> | <p>Amend clause to read:</p> <p>From: “CEO” means the Chief Executive Officer of the City of Albany, or the CEO’s delegate;</p> <p>To: “CEO” means the Chief Executive Officer of the Local Government, or the person acting as CEO for the time being;</p> <p>Reason: Concur with Department’s recommendation.</p> <p>Consider also including the following definitions:</p> <p>In this Local Law unless the context requires otherwise—</p> <ul style="list-style-type: none"> • absolute majority has the meaning given to it in the Act; • Regulations means the <i>Local Government (Administration) Regulations 1996</i>; • simple majority means more than 50% of the members present and voting; |
| <p>Compliance Officer Comment: Administrative error.</p> | <p>1.5 Repeal The <i>City of Albany Standing Orders Local Law 2009</i> published in the <i>Government Gazette</i> on [INSERT DATE] is repealed.</p> | <p>Amend clause to read:</p> <p>1.5 Repeal The <i>City of Albany Standing Orders Local Law 2009</i> published in the <i>Government Gazette</i> on 24 May 2009 is repealed.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable local laws.</p> | <p>2.1 Ordinary and special Council Meetings (1) An ordinary Meeting of Council is for the purpose of considering and dealing with the ordinary business of Council and may include any matter the CEO considers should be decided at the Meeting. (2) A special Meeting of Council is held for the purpose of considering and dealing with Council business that is of an urgent nature and for a particular purpose.</p> | <p>No change.</p> |
| <p>No comment.</p> | <p>2.2 Committee Meetings (1) The CEO is to call a Meeting of any Committee when requested: (a) by the Presiding Member of the Committee or (b) In writing, by the majority of Members of that Committee. (2) In convening a Meeting of a Committee, the CEO is to give each Member at least 72 hours notice of the date, time, place and purpose of the Meeting. (3) The Committee Meeting notice may include any matter the CEO considers should be considered at the Meeting</p> | <p>No change.</p> |
| <p>No comment.</p> | <p>2.3 Quorum for Meetings (1) If at any time during a Meeting a quorum is not present the Presiding Member must immediately suspend the Meeting for at least five minutes and not more than 30 minutes. (2) If, at the end of the stated period, there is no quorum, the Presiding Member is to adjourn the Meeting or extend the extension period for a further 30 minutes. (3) If a quorum is not present at the end of the extended period under sub-clause (2), the Presiding Member is to adjourn the Meeting to be resumed at some future time and date. (4) At any Meeting: (a) at which there is not a quorum present; or (b) which is adjourned for want of a quorum, the names of the Members then present are to be recorded in the minutes.</p> | <p>No change.</p> |

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| <p>No comment.</p> | <p>2.3 Quorum for Meetings</p> <ul style="list-style-type: none"> (5) If at any time during a Meeting a quorum is not present the Presiding Member must immediately suspend the Meeting for at least five minutes and not more than 30 minutes. (6) If, at the end of the stated period, there is no quorum, the Presiding Member is to adjourn the Meeting or extend the extension period for a further 30 minutes. (7) If a quorum is not present at the end of the extended period under sub-clause (2), the Presiding Member is to adjourn the Meeting to be resumed at some future time and date. (8) At any Meeting: <ul style="list-style-type: none"> (a) at which there is not a quorum present; or (b) which is adjourned for want of a quorum, the names of the Members then present are to be recorded in the minutes. | <p>No change.</p> |
| <p>Part 3 – Business of a Meeting</p> | | |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>3.1 Business to be specified</p> <ul style="list-style-type: none"> (1) No business is to be transacted at any ordinary Meeting of Council other than that specified in the agenda, without the approval of Council. (2) No business is to be transacted at a special Meeting of Council other than that specified in the agenda. (3) Subject to sub-clause (4), no business is to be transacted at an adjourned Meeting of Council other than that which remains unresolved and is specified in the agenda of the Meeting which had been adjourned. (4) Where a Meeting is adjourned to the next ordinary Meeting of Council then, unless Council resolves otherwise, the business unresolved at the adjourned Meeting is to be dealt with before considering City officer Reports at that ordinary Meeting. (5) The business to be transacted at a Committee Meeting is that specified in the Meeting agenda and any other business approved at the Meeting by the Presiding Member. | <p>No change.</p> |

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| <p>Compliance Officer Comment:</p> <p>Consider the inclusion of the Acknowledgement of Country, noting the City's adopted Statement of Understanding and Commitment, being:</p> <p><i>The City of Albany and its people are committed to working with the Aboriginal people of Albany to establish an accord, which will promote a greater understanding throughout the community of Aboriginal and Non Aboriginal peoples history and culture.</i></p> <p><i>The City of Albany – Aboriginal Peoples Accord will be a living document that promotes reconciliation, provides a process of negotiation and co-operation and results in a mutual sharing of the economic and social prosperity of the City of Albany.</i></p> <p><i>The City of Albany, the people of Albany and the Aboriginal community accept their responsibilities to work together to develop an awareness of our shared history and culture, and to build a partnership based upon mutual respect, understanding, cooperation and trust.</i></p> <p><i>Signed by representatives of the City of Albany, Aboriginal community and wider community. Witnessed by the Minister for Aboriginal Affairs and Minister for Local Government.</i></p> | <p>3.2 Order of business</p> <p>(1) Unless otherwise decided by Council, the order of business at any ordinary Meeting of Council will be:</p> <ol style="list-style-type: none"> 1. Declaration of opening 2. Prayer 3. Record of apologies and leave of absence 4. Disclosures of interests 5. Reports of Members 6. Response to previous public questions taken on notice 7. Public question time 8. Applications for leave of absence 9. Petitions and Deputations 10. Confirmation of minutes 11. Presentations 12. Unresolved business from previous Meetings 13. Minutes and recommendations of Committees 14. New business of an urgent nature introduced by decision of Council 15. Motions of which previous notice has been given 16. Reports of City officers 17. Meeting closed to public 18. Closure <p>(2) The order of business at any special Meeting of Council is to be the order in which that business stands in the agenda of the Meeting.</p> | <p>Comment: Consider amending clause 3.2(1), point 2 to include welcome to country.</p> <p>To read: 2. Prayer and Welcome to Country</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>3.3 Reports of Members At any ordinary Meeting of Council, a Member is not to speak to any report under item 5 of clause 3.2(1) for more than two minutes without the consent of Council which, if given, is not subject to debate.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>3.4 Presentations (1) In this clause, a “presentation” includes the acceptance of a gift or an award by Council on behalf of the City or the community. (2) A presentation may be made to Council or a Committee at a Meeting only with the prior approval of the Presiding Member.</p> | <p>No change.</p> |

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| <p>Department Feedback:</p> <p>Draft clause 3.5(4): The reference to "a Town Planning Scheme ..." needs to be corrected to read "a local planning scheme ..." without the use of capital letters.</p> <p>The new <i>Planning and Development Act 2007</i> (the PDA) makes reference to a "local planning scheme" throughout the Act, but refers to the "town" planning schemes in transitional provisions, this means that references to any "local" planning schemes include references to previous town planning schemes adopted during the time of the old <i>Town and Planning Development Act 1928</i> (the TPDA).</p> <p>The TPDA was repealed by the new PDA. The old TPDA provided for towns to be built. The new PDA provides for all areas within the district of the local govt.</p> <p>The capital letters in a Town Planning Scheme is used when it is the specific name of a specific scheme, for example "City of Albany Town Planning Scheme No. 2" for specifically identified land lots in a specific plan(s).</p> | <p>3.5 New business of an urgent nature</p> <p>(1) In cases of extreme urgency, matters may, on a motion:</p> <p>(a) by a Member that the matter should be considered by Council at the Meeting because of its urgency, and</p> <p>(b) carried by absolute majority of Council that the matter is urgent, be raised without notice and decided at the Meeting.</p> <p>(2) In sub-clause (1), "cases of extreme urgency" means matters that:</p> <p>(a) have arisen after the publication of the agenda that are considered by Council to be of such importance and urgency that they are unable to be dealt with administratively by the CEO and</p> <p>(b) must be considered and dealt with by Council before the next ordinary Council Meeting.</p> <p>(3) In considering an urgent matter without notice, Council must have available to it sufficient information to make an informed decision, and if Council considers such information is not available, it must adjourn the matter.</p> <p>(4) Despite sub-clause (1), exercise of a discretion or a legislative power under a local planning scheme cannot be considered as an urgent matter under clause 3.4.</p> | <p>Amend clause 3.5(4):</p> <p>Despite sub-clause (1), exercise of a discretion or a legislative power under a Town Planning Scheme local planning scheme cannot be considered as an urgent matter under clause 3.4.</p> <p>Reason: Concur with Department's recommendation.</p> |
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| <p>Compliance Officer Comment: Administrative amendment, to ensure consistent terminology.</p> | <p>3.6 Motions of which previous notice has been given</p> <ul style="list-style-type: none">(1) A notice of motion under item 15 of clause 3.2 (1) is to be given no less than ten days before the Meeting at which the motion is moved.(2) A notice of motion for a special Council Meeting is to be given no less than 48 hours before the Meeting at which the motion is moved.(3) The CEO:<ul style="list-style-type: none">(a) may, with the concurrence of the Presiding Member, exclude from the Council papers any notice of motion which is, or is likely to involve, a breach these Meeting Procedures or any other law;(b) will inform the Member making the motion the reasons for any such exclusion;(c) may provide to Council relevant facts, information and circumstances pertaining to the notice of motion.(4) A motion of which notice has been given will lapse unless the Member who gave notice of it moves the motion when called on. | <p>Amend clause 3.6(3)(c) to read:</p> <ul style="list-style-type: none">(c) may, with the concurrence of the Presiding Member, exclude from the Council papers any notice of motion which is, or is likely to involve, a breach this Local Law or any other law. <p>Reason: Consistent terminology.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>Similar to current Standing Orders Local Law 2009, with the inclusion of 4.1(3)(a).</p> | <p>4.1 Meetings closed to the public</p> <ul style="list-style-type: none">(1) A motion to close a Meeting to members of the public may be made without notice.(2) The CEO may, at any time, recommend that a Meeting or part of a Meeting be closed to members of the public.(3) If a Meeting is to be closed to members of the public:<ul style="list-style-type: none">(a) the Presiding Member is to direct everyone to leave the Meeting except:<ul style="list-style-type: none">(i) the Members;(ii) the CEO;(iii) any officer specified by the CEO;and(b) the Meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the Meeting to the public, Council or the Committee decides otherwise.(4) A person who fails to comply with a direction under sub-clause (3) may, by order of the Presiding Member, be removed from the Meeting.(5) Once the Meeting is reopened to members of the public, the Presiding Member is to ensure:(6) any resolution made while the Meeting was closed to the public is read out;(7) the vote of Members is included in the minutes. | <p>No change.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>4.2 Procedures for public question time</p> <ul style="list-style-type: none">(1) A member of the public who raises a question or makes a statement during question time must:<ul style="list-style-type: none">(a) first state their name and address;(b) direct the question or statement to the Presiding Member;(c) ask the question briefly and concisely; and(d) limit any preamble to matters directly relevant to the question or statement.(2) A question may be taken on notice by the Presiding Member or CEO for a response no later than seven days after the Meeting.(3) When a question is taken on notice, the CEO is to ensure that:<ul style="list-style-type: none">(a) the response is given to the member of the public in writing; and(b) The response is included in the papers of the next Meeting.(4) A response to a question:<ul style="list-style-type: none">(a) is to be brief and concise; and(b) is not to be the subject of any discussion except that, if in the opinion of a Member or the CEO, false information or adverse reflection is contained in any question asked or statements made by a member of the public, then the Member or CEO may correct or clarify the matter. | <p>No change.</p> |
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| <p>No comment.</p> | <p>(5) The Presiding Member may decide that a public question shall not be responded to where:</p> <ul style="list-style-type: none"> (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided; (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory. <p>(6) The total time allowed for public question time will be no more than thirty minutes.</p> <p>(7) Each member of the public shall have up to two minutes in total to ask questions or make statements.</p> <p>(8) Council may agree to extend public question time.</p> <p>(9) Where a public question is asked or a statement given at a Meeting, a summary of the question or statement and any answer is to be included in the minutes.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>4.3 Distinguished visitors If a distinguished visitor is present at a Meeting, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the Meeting, and the presence of that visitor shall be recorded in the minutes.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>4.4 Deputations</p> <ul style="list-style-type: none">(1) Any person or group wishing to be received as a deputation by Council or a Committee is to apply in writing to the Presiding Member for approval at least seven days prior to the Meeting.(2) The Presiding Member may either:<ul style="list-style-type: none">(a) approve the request and invite the deputation to attend the Meeting; or(b) refer the request to Council or the Committee to decide whether or not to receive the deputation.(3) Unless Council or the Committee resolves otherwise, a deputation invited to attend a Meeting:<ul style="list-style-type: none">(a) is not to exceed five persons, only two of whom may address the Meeting, although all five may respond to specific questions from Members;(b) is not to address the Meeting for a period exceeding eight minutes without the agreement of Council or the Committee; and(c) may only address the Meeting on matters included in the agenda.(4) Any matter which is the subject of a deputation to Council is not to be decided by Council until the deputation has completed its presentation. | <p>Comment: Consider amending 4.4(1) to 24 hours.</p> <p>Reason: Provides better public (community) access to Council.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>4.5 Petitions</p> <ul style="list-style-type: none">(1) A petition is to:<ul style="list-style-type: none">(a) be addressed to the CEO or the Presiding Member;(b) be made by at least fifty electors of the City;(c) state the request and contain a summary of the reasons for the request on each page of the petition;(d) contain the name, address and signature of each elector making the request, and the date each elector signed; and(e) state the name of the person to whom, and an address at which, notice to the petitioners can be given.(2) Upon receiving a petition, the CEO is to submit the petition to the next ordinary Meeting of Council.(3) The CEO may provide to Council relevant facts, information and circumstances pertaining to the petition.(4) At any Meeting, Council is not to vote on any matter that is the subject of a petition presented to that Meeting, unless:<ul style="list-style-type: none">(a) the matter is the subject of a Report included in the agenda; and(b) Council has considered the issues raised in the petition. | <p>No change.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>Consider the inclusion of a clause that supports the hearing of public submissions. (Reference: City of Greater Geraldton Local Law, clause 5.13):</p> | <p>4.6 Participation at Committee Meetings</p> <ul style="list-style-type: none">(1) Without the consent of the Presiding Member, a person who is not a member of that Committee, cannot address a Committee Meeting.(2) The Presiding Member of a Committee will determine the length of time any person addressing the Committee will be given to speak.(3) A person who fails to comply with any reasonable direction of the Presiding Member may, by order of the Presiding Member, be removed from the Committee room. | <p>No change. Comment: Consider the inclusion of:</p> <p>Council may meet to hear public submissions</p> <ul style="list-style-type: none">(1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.(2) The CEO and the Mayor shall set the time and date of the meeting to provide the opportunity to be heard.(3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member shall—<ul style="list-style-type: none">(a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;(b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 5.9 to make a deputation on the issue; and(c) cause minutes to be kept of the meeting to provide the opportunity to be heard.(4) A meeting held under subclause (1) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard. |
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| <p>Continued.</p> | <p>Continued.</p> | <p>(5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.</p> <p>(6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the presiding member.</p> <p>(7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.</p> <p>(8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.</p> <p>(9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).</p> <p>Reason: Provide better public (community) access to Council, openness and transparency.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws and regulations.</p> | <p>4.7 Confidentiality of information withheld</p> <p>(1) Information withheld by the CEO from the public is to be:</p> <ul style="list-style-type: none"> (a) identified in the agenda of a Meeting under the item “Matters for which Meeting may be closed”; (b) marked “Confidential” in the agenda; and (c) kept confidential by City officers and Members until Council resolves otherwise. <p>(2) A Member or a City officer who has:</p> <ul style="list-style-type: none"> (a) confidential information under sub-clause (1); (b) information that is provided or disclosed during a Meeting or part of a Meeting that is closed to the public, must not to disclose that information to any person other than another Member or the CEO to the extent necessary for the purpose of carrying out their duties. <p>(3) Sub-clause (2) does not prevent a Member or City officer from disclosing information:</p> <ul style="list-style-type: none"> (a) at a Meeting closed to the public; (b) to the extent specified by Council and subject to such other conditions as Council decides; (c) that is already in the public domain; (d) to the Minister; (e) to a legal practitioner for the purpose of obtaining legal advice; or (f) if the disclosure is required or permitted by law. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>If CEO does not grant approval, to a member’s request, the matter shall be referred to Council for resolution.</p> | <p>4.8 Recording of Meetings</p> <p>(1) No person other than the Meeting secretary is to use any recording device or instrument to record Meetings without the written permission of the Presiding Member.</p> <p>(2) When a Meeting is closed to the public, the recording of the Meeting will cease.</p> <p>(3) Subject to the approval of the CEO, Members and City officers may have reasonable access to listen to the recordings of Meetings for purposes relevant to the performance of their role.</p> <p>(4) All recordings are to be retained as part of the City’s records in accordance with the State Records Act 2000 and other archival legislation.</p> | <p>No change.</p> <p>Comment: Consider additional clause 4.8(4), being:</p> <p><i>If the CEO does not grant approval, to a member’s request, the matter shall be referred to Council for resolution.</i></p> <p>Reason: Transparency of decision to refuse an elected members request.</p> |

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| <p>Department Feedback: Boxed Notes (shaded in grey) at the bottom of draft clause 4.9: The JSCDL had concerns over the inclusion of boxed notes in Local Laws published in the Gazette.</p> <p>The boxed notes do NOT form part of the law - they were placed in drafts for the purpose of giving some background info.</p> <p>The boxed notes should be placed in meeting procedures manuals that provide the background info.</p> <p>Comment: Consistent with comparable Local Laws.</p> | <p>4.9 Prevention of disturbance</p> <ol style="list-style-type: none"> (1) A person addressing Council or a Committee shall extend due courtesy and respect to Council or the Committee, and its Members, and the processes under which it operates, and shall comply with any direction by the Presiding Member. (2) A person shall not create a disturbance at a Meeting. (3) In this clause, “create a disturbance” includes – <ol style="list-style-type: none"> (a) using insulting, offensive or threatening language; (b) behaving in an insulting, offensive or threatening manner; (c) behaving in a disorderly way; (d) acting in a manner that brings the Council or Committee into disrepute; or (e) disrupting, disturbing, interfering with, or interrupting the Meeting (4) A person shall ensure that their mobile telephone and audible pager cannot be heard during any Meeting. (5) If a person who fails to comply with this clause, the Presiding Member may warn that person to so comply. (6) If, after being warned by the Presiding Member under sub-clause (5), a person: <ol style="list-style-type: none"> (a) again acts contrary to this clause, or to these Meeting Procedures; or (b) refuses or fails to comply with a direction by the Presiding Member, the Presiding Member may order the person to leave the room. (7) A person who is ordered to leave the Meeting room under sub-clause (5) and fails to do so may, by order of the Presiding Member, be removed from the Meeting and from the premises. (8) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code. <p>Note: Detailed under clause 4.9 (shaded grey box): Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years. [Section 75 of the Criminal Code]</p> | <p>Amend draft Local Law by deleting the following note:</p> <p><i>Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years. [Section 75 of the Criminal Code]</i></p> <p>Reason: Concur with Department’s feedback.</p> |
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| Part 5 – Questions By Members | | |
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| <p>Compliance Officer Feedback: Not consistent with comparable Local Laws, such as the City of Great Geraldton’s Local Law, which states:</p> <p>(1) Members may ask questions relating to an item on the agenda or on matters related to the good governance of persons in the district.</p> <p>(2) At any time during the debate on a motion before the motion is put, a member may ask a question and, with the consent of the presiding member, may ask one or more further questions.</p> <p>(3) A member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that Officer or another Officer present at the meeting.</p> <p>(4) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that the answer to the question be given to the member who asked it within 5 days.</p> <p>(5) Every question and answer— (i) is to be brief and concise; and (ii) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.</p> <p>(6) In answering any question, an Officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.</p> | <p>(1) Members may ask questions relating to an item on the agenda.</p> <p>(2) The CEO or a City officer shall endeavour to answer the question to the best of their knowledge, however, if the information is unavailable or the answer requires research or investigation, the CEO will provide, on the request of and to the Member who asked the question, the answer to the question within seven days.</p> <p>(3) Every Member question and answer: (a) is to be brief and concise; and (b) is not to be accompanied by argument or expression of opinion except to the extent necessary to explain the question or answer.</p> <p>(4) In answering any question, the CEO and any City officer may qualify their answer and may at a later time in the Meeting, or at a subsequent Meeting, alter, correct, add to or otherwise amend the original answer.</p> | <p>Comment: Consider the additional clauses and amendments as follows:</p> <p>Amend Part 5: clause (1) to read: (1) Members may ask questions relating to an item on the agenda or on matters related to the good governance of persons in the district.</p> <p>Insert additional clauses: (2) At any time during the debate on a motion before the motion is put, a member may ask a question and, with the consent of the presiding member, may ask one or more further questions.</p> <p>(3) A member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that Officer or another Officer present at the meeting.</p> <p>Insert new Clause 4 to read: (4) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that the answer to the question be given to the member who asked it within 5 days.</p> <p>Re-number clause (4) to (5) – No change.</p> <p>Re-number clause (4) to (6) – No change.</p> <p>Reason: Facilitates better transparency, member participation, scrutiny of information being presented.</p> |

| Part 6 – Conduct Of Members | | |
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| <p>Compliance Officer Comment: Not Consistent with comparable Local Laws.</p> <p>Consider amending clause 6.1(1) to read:</p> <p>At the first meeting held after each election day, the CEO is to allot a position at the Council table to each member.</p> | <p>6.1 Seating Position of Members</p> <p>(1) The CEO is to allot a position at the Council chamber to each Member.</p> <p>(2) Each Member is to occupy their allotted position at each Council Meeting.</p> | <p>Amend clause 6.1(1) to read:</p> <p>(1) <i>At the first meeting held after each election day</i>, the CEO is to allot a position at the <i>Council table</i> to each member.</p> <p>Reason: Consistency with comparable Local Laws.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.2 Titles to be used</p> <p>A speaker, when referring to the City of Albany Mayor or Deputy Mayor, Presiding Member, a Member or City officer, is to use the title of that person’s office.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p><i>Note: Regulation 11 (b) of the Regulations requires the content of minutes of meeting of a Council or committee to include—</i> <i>“(b) where a member enters or leaves a meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting..”</i></p> | <p>6.3 Advice of entry or departure</p> <p>During the course of a Meeting, a Member is not to enter or leave the Meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time of entry or departure.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.4 Members to indicate their intention to speak</p> <p>A Member who wishes to speak is to indicate their intention by raising their hand or by another method agreed by the Presiding Member.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.5 Priority of speaking</p> <p>(1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.</p> <p>(2) A decision of the Presiding Member under sub-clause (1) is not open to discussion or dissent.</p> <p>(3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>Administrative amendment required change reference to Meeting Procedures to Local Law.</p> | <p>6.6 Presiding Member may take part in debates The Presiding Member may take part in the discussion of any matter at a Meeting, subject to compliance with these Meeting Procedures.</p> | <p>Amend clause 6.6 to read:</p> <p>The Presiding Member may take part in the discussion of any matter at a Meeting, subject to compliance with these Local Laws.</p> <p>Reason: Consistency of terminology.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.7 Relevance A Member is to restrict their remarks to the motion or any amendment of it under discussion, or to a personal explanation or point of order.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.8 Speaking twice (1) A Member is not to address a Council Meeting more than once on any motion or amendment except: (a) as the mover of a substantive motion, to exercise a right of reply; or (b) to raise a point of order. (2) A Member who asks a question under Part 5 has not addressed the Meeting for the purposes of this clause.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.9 Duration of speeches (1) A Member is not to speak on any matter at a Council Meeting for more than four minutes without the consent of Council which, if given, is not subject to debate. (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed eight minutes.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.10 No speaking after conclusion of debate A Member is not to speak on, or ask questions in respect of, any motion or amendment after the mover has replied.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.11 No interruption</p> <ul style="list-style-type: none"> (1) A Member is not to interrupt another Member who is speaking except to: <ul style="list-style-type: none"> (a) raise a point of order; (b) call attention to the absence of a quorum; (c) make a personal explanation under clause 6.13; or (d) move a procedural motion that the Member be no longer heard under Part 7(1)(e) (e) call attention to irrelevant or repetitious statements by the speaker. (2) The Presiding Member may direct the Member who was speaking, to discontinue speaking, and the Presiding Member will address the matter raised under sub-clause (1). (3) A Member is to comply with the direction of the Presiding Member under sub-clause (2) by immediately ceasing to speak. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.12 Personal explanations</p> <ul style="list-style-type: none"> (1) A Member who wishes to make a personal explanation relating to a matter raised by another Member who is then speaking, is to indicate to the Presiding Member their intention to make a personal explanation. (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member. (3) A Member making a personal explanation is to confine their observations to a succinct statement relating to a specific part of the speech at which they may have been misunderstood. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.13 No reopening of discussion</p> <p>A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.14 Presiding Member to preserve order</p> <ul style="list-style-type: none"> (1) The Presiding Member is to preserve order, and whenever they consider necessary, may call any Member to order. (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that they wish to speak, is to preserve strict silence so that the Presiding Member may be heard without interruption. (3) Sub-clause (2) is not to be used by the Presiding Member to exercise the right provided in clause 6.6, but to preserve order. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.15 Point of order</p> <ul style="list-style-type: none"> (1) A Member may object, by way of a point of order, only to a breach of any of these Meeting Procedures or any other law. <p><i>Note: examples of valid points of order are where a speaker's:</i></p> <ul style="list-style-type: none"> <i>a) remarks not being relevant to the motion or amendment being debated</i> <i>b) use of expressions is offensive or objectionable.</i> <ul style="list-style-type: none"> (2) Despite anything in these Meeting Procedures to the contrary, a point of order: <ul style="list-style-type: none"> (a) takes precedence over any discussion; and (b) until determined, suspends the consideration or discussion of any other matter. | <p>Amend reference to Meeting Procedures and change to Local Laws.</p> <p>Reason: Consistency of terminology.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.16 Procedures on a point of order</p> <ul style="list-style-type: none"> (1) A Member interrupted on a point of order is to cease speaking until: <ul style="list-style-type: none"> (a) the Member raising the point of order has been heard; and (b) the Presiding Member has ruled on the point of order and, if permitted, the Member who has been interrupted may then proceed. (2) The Presiding Member is to rule on any point of order which is raised, by either upholding or rejecting the point of order. (3) A ruling by the Presiding Member on a point of order: <ul style="list-style-type: none"> (a) is not to be the subject of debate or comment; and (b) is to be final unless by an absolute majority vote, on a motion moved immediately after the ruling, to dissent from the ruling. (4) Subject to a motion of dissent being carried under sub-clause (3), if the Presiding Member rules that: <ul style="list-style-type: none"> (a) any motion, amendment or other matter before the Council or Committee is out of order, it is not to be considered further; (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <ul style="list-style-type: none"> (5) If a Member: <ul style="list-style-type: none"> (a) persists in any conduct that the Presiding Member had ruled is out of order under sub-clause (4); or (b) fails or refuses to comply with a direction from the Presiding Member the Presiding Member may direct the Member to refrain from taking any further part in that Meeting, other than by voting, and the Member is to comply with that direction. | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.17 Right of Presiding Member to adjourn</p> <ul style="list-style-type: none"> (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the Meeting for a period of up to 15 minutes. (2) On resumption, the debate is to continue at the point at which the Meeting was adjourned. (3) If, at any one Meeting, the Presiding Member adjourns the Meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to another time on the same day or to another day. | <p>No change.</p> |
| <p>Compliance Officer Comment: The City of Albany must comply with the <i>Town Planning Regulations 1972</i>, it does not need to be restated in the Standing Orders.</p> | <p>6.18 Substantive motions</p> <ul style="list-style-type: none"> (1) A Member who wishes to move a substantive motion or an amendment to a substantive motion: <ul style="list-style-type: none"> (a) is to state the substance of the motion before speaking to it; and (b) if required by the Presiding Member, is to put the motion or amendment in writing. (2) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded. (3) A decision required under regulations 17(2) and 18 of the Town Planning Regulations (as amended) requires that Council pass a motion which either: <ul style="list-style-type: none"> (a) adopts the motion with or without modification; or (b) resolves that Council does not wish to proceed with the matter, and states a summary of the reasons why the Council does not wish to proceed with the matter. | <p>Amend clause 6.18 by deleting sub-clause (3). Clause to read:</p> <p>6.18 Substantive motions</p> <ul style="list-style-type: none"> (1) A Member who wishes to move a substantive motion or an amendment to a substantive motion: <ul style="list-style-type: none"> (a) is to state the substance of the motion before speaking to it; and (b) if required by the Presiding Member, is to put the motion or amendment in writing. (2) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded. <p>Reason: Not required.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.19 Only one substantive motion to be considered at a time When a substantive motion is under debate at a Meeting, no further substantive motion is to be accepted.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.20 Order of call in debate Subject to clause 6.19, the Presiding Member is to call speakers to a substantive motion in the following order: (a) the mover to state the motion; (b) a seconder to the motion; (c) the mover to speak to the motion; (d) the seconder to speak to the motion; (e) a speaker against the motion; (f) other speakers for and against the motion, alternating where possible; and (g) the mover for a right of reply which closes debate.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>Noting that if a member disagrees with the Presiding Members ruling a procedural motion can be moved: <i>that the ruling of the Presiding Member be disagreed with.</i></p> | <p>6.21 Limit of debate The Presiding Member may offer the right of reply and put a substantive motion to the vote at any time if they believe that sufficient discussion has taken place on an item, even though all Members may not have spoken.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.22 Consent of seconder required for alteration The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.</p> | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.23 Order of amendments Any number of amendments may be proposed to a substantive motion, but when an amendment is moved, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>For clarity consider breaking down as follows:</p> <ul style="list-style-type: none">• Form of an amendment. An amendment must add, delete, or substitute words to the substantive motion.• Amendment must not negate original motion. An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.• Relevance of amendments. Each amendment is to be relevant to the motion in respect of which it is moved.• Mover of motion may speak on amendment. Any member may speak during debate on an amendment.• Effect of an amendment. If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved. | <p>6.24 Amendment to motions</p> <ol style="list-style-type: none">(1) An amendment must add, delete, or substitute words to the substantive motion, but not to such an extent that the amendment is substantive in its own right, or negates the original motion or the intent of the original motion.(2) Each amendment is to be relevant to the motion in respect of which it is moved.(3) If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved. | <p>Amend clause 6.24 to read:</p> <p>6.24 Amendment to motions</p> <ol style="list-style-type: none">(1) Form of an amendment. An amendment must add, delete, or substitute words to the substantive motion.(2) Amendment must not negate original motion. An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.(3) Relevance of amendments. Each amendment is to be relevant to the motion in respect of which it is moved.(4) Mover of motion may speak on amendment. Any member may speak during debate on an amendment.(5) Effect of an amendment. If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved. <p>Reason: Improve presentation of information.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.25 Withdrawal of motion or amendment</p> <ul style="list-style-type: none"> (1) Subject to sub-clause (2), Council may, without debate, approve the withdrawal of a motion or amendment, on the request of the mover of the motion or amendment, and with the approval of the seconder. (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by agreement of Council, until the amendment proposed has been withdrawn or lost. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>6.26 Right of reply</p> <ul style="list-style-type: none"> (1) The mover of a substantive motion or any amendment to a substantive motion has the right of reply. (2) The right of the reply may only be exercised: <ul style="list-style-type: none"> (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments. (3) After the mover of the substantive motion has commenced their reply, there is to be no further discussion on, or any further amendment to, the motion. (4) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced. (5) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote. | <p>No change.</p> |

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| <p>Compliance Officer Comment: Not Consistent with comparable Local Laws.</p> <p>Clause 6.27(4), may expose Council to litigation by aiding the promulgation of defamatory comments.</p> <p>Consider the intent of sub-clause (4), being: If a Member or the CEO specifically requests (immediately after their use) that any particular words stated by them be recorded in the minutes: (a) the Presiding Member is to cause the words used to be taken down and read to the Meeting for verification; and (b) the minutes are to record those words.</p> | <p>6.27 Appropriate Member Behaviour</p> <ul style="list-style-type: none">(1) After a motion is decided, a Member is not to adversely comment on the decision either during the Meeting or at any other time, except at a Meeting considering a motion that the decision be revoked.(2) A Member is not during debate to:<ul style="list-style-type: none">(a) adversely comment on the character of another Member or City officer;(b) impute any improper motive to a Member or City officer;(c) use offensive or objectionable expressions in reference to any Member, City officer or other person.(3) A Member who, in the opinion of the Presiding Member, uses an expression or language, or makes a statement, which:<ul style="list-style-type: none">(a) reflects adversely on the character of another Member or City officer;(b) imputes any improper motive to a Member or City officer; or(c) could reasonably be considered:<ul style="list-style-type: none">(i) irrelevant, repetitious, offensive or insulting;(ii) disrespectful to another Member, including the Presiding Member;(iii) a breach of order or decorum by a Member;must, when directed by the Presiding Member, withdraw the expression, language or statement, and make an apology satisfactory to the other Member or City officer.(4) If a Member or the CEO specifically requests (immediately after their use) that any particular words stated by them be recorded in the minutes:<ul style="list-style-type: none">(c) the Presiding Member is to cause the words used to be taken down and read to the Meeting for verification; and(d) the minutes are to record those words. | <p>Amend clause 6.27 by deleting sub clause 6.27(4).</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>(5) If a Member fails to comply with a direction of the Presiding Member under sub-clause (4) the Presiding Member may refuse to hear the Member further and call on the next speaker.</p> | <p>No change.</p> |
| <p>Part 7 – Procedural Motions</p> | | |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> <p>Consider the inclusion of the following conditions through amendment:</p> <p>(b)That the item be referred or adjourned;</p> <p>Reason: Facilitates the item being referred to a Committee of Council for further scrutiny.</p> <p>(c)That the Meeting now adjourn;</p> <p>Reason: The term “now” means to take effect immediately.</p> | <p>(1) A Member may move the following procedural motions:</p> <ul style="list-style-type: none"> (a) that the Meeting proceed to the next item of business; (b) that the item be adjourned; (c) that the Meeting be adjourned; (d) that the motion be now put; (e) that the Member be no longer heard; (f) that the ruling of the Presiding Member be disagreed with; or (g) that the Meeting be closed to the public [clause 4.1]. | <p>Amend Part 7 – Clause (1) to read:</p> <p>(1) A Member may move the following procedural motions:</p> <ul style="list-style-type: none"> (a) that the Meeting proceed to the next item of business; (b) that the item be referred or adjourned; (c) that the Meeting now adjourn; (d) that the motion be now put; (e) that the Member be no longer heard; (f) that the ruling of the Presiding Member be disagreed with; or (g) that the Meeting be closed to the public [clause 4.1]. <p>Reason: Facilitates the item being referred to a Committee of Council for further scrutiny.</p> <p>Reason: The term “now” means to take effect immediately.</p> |

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| <p>Continued.</p> | <ul style="list-style-type: none">(2) The motion “that the Meeting proceed to the next item of business”, if carried, has the effect that:<ul style="list-style-type: none">(a) the debate on the substantive motion or amendment ceases immediately;(b) no decision is made on the substantive motion;(c) The Meeting moves to the next item of business; and(d) there is no requirement for the matter to be raised again for consideration.(3) A motion “that the item be adjourned”:<ul style="list-style-type: none">(a) is to state a time and date to which the debate is to be adjourned; and(b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time and date stated in the motion.(4) A Member is not to move or second more than one motion “that the Meeting be adjourned” during the same Meeting, but if a Member’s motion that “the Meeting be adjourned” is carried, the Meeting is adjourned to a time and date specified by the Presiding Member.(5) A Meeting adjourned under sub-clause (8) is to continue from the point at which it was adjourned, unless the Presiding Member determines otherwise. | <ul style="list-style-type: none">(6) Meeting to proceed to the next business. The motion “that the Meeting proceed to the next item of business”, if carried, has the effect that:<ul style="list-style-type: none">(a) the debate on the substantive motion or amendment ceases immediately;(b) no decision is made on the substantive motion;(c) The Meeting moves to the next item of business; and(d) there is no requirement for the matter to be raised again for consideration.(7) Item to be referred or adjourned. A motion “that the item be adjourned”:<ul style="list-style-type: none">(a) is to state a time and date to which the debate is to be adjourned; and(b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time and date stated in the motion.(8) Meeting now adjourn. A Member is not to move or second more than one motion “that the Meeting be adjourned” during the same Meeting, but if a Member’s motion that “the Meeting be adjourned” is carried, the Meeting is adjourned to a time and date specified by the Presiding Member.(9) A Meeting adjourned under sub-clause (8) is to continue from the point at which it was adjourned, unless the Presiding Member determines otherwise. |
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AGENDA ITEM 1.1.1 REFERS

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| <p>Continued.</p> | <p>(10) If a motion "that the motion be now put": (a) is carried during debate of a substantive motion or an amendment, the Presiding Member is to put the motion or amendment to the vote without further debate; or (b) is lost, debate is to continue. (11) If the motion "that the Member be no longer heard" is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if they are the mover of the substantive motion. (12) If the motion "that the ruling of the Presiding Member be disagreed with" is carried, that ruling is to have no effect and the Meeting is to proceed accordingly.</p> | <p>(10) If a motion "that the motion be now put": (a) is carried during debate of a substantive motion or an amendment, the Presiding Member is to put the motion or amendment to the vote without further debate; or (b) is lost, debate is to continue. (11) Motion to be put. If the motion "that the Member be no longer heard" is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if they are the mover of the substantive motion. (12) Member to be no longer heard. If the motion "that the ruling of the Presiding Member be disagreed with" is carried, that ruling is to have no effect and the Meeting is to proceed accordingly.</p> <p>Reason: Improve presentation of information.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>7.1 Method of taking vote (1) In taking the vote on any motion or amendment the Presiding Member: (a) is to ask for a show of hands, first in the affirmative, and then in the negative; (b) may ask for a show of hands as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes; (c) is to count and determine the votes of Members in any way that enables a record of Members' votes; (d) the result of the vote is to be determined on the count of raised hands; and (e) is, subject to this clause, to declare the result including the names of those Members who voted in the minority.</p> | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>7.2 Confirmation of minutes</p> <ul style="list-style-type: none"> (1) The CEO is to distribute to each Member: <ul style="list-style-type: none"> (a) The unconfirmed minutes of each Council Meeting within 14 days after the Meeting; and (b) The unconfirmed minutes of a Committee Meeting within seven days after the Meeting. (2) When minutes of an ordinary Meeting of Council are distributed and a Member is dissatisfied with the accuracy of those unconfirmed minutes, the Member shall provide the CEO with a written copy of alternative wording to amend the minutes no later than ten days before the next ordinary Meeting of Council. (3) At the next ordinary Meeting of Council, any Member who provided alternative wording to amend the minutes shall, at the time for confirmation of minutes – <ul style="list-style-type: none"> (a) state the item or items with which they are dissatisfied; and (b) propose a motion clearly outlining the alternative wording to amend the minutes. (4) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of Meetings. | <p>No change.</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>7.3 Meeting may be adjourned</p> <p>Any Meeting may be adjourned:</p> <ul style="list-style-type: none"> (a) to a later time on the same day; or (b) to any other time on any other day, including a time which coincides with the conclusion of another Meeting or event. | <p>No change.</p> |

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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>7.4 Effect of adjournment Where any matter, motion, debate or Meeting is adjourned under these Meeting Procedures: (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; (b) debate is to be resumed at the next Meeting at the point where it was interrupted; and (c) the provisions of clause 6.8 [speaking twice] apply when the debate is resumed.</p> | <p>No change.</p> |
| <p>Part 8 - Limitations on powers to revoke or change decisions</p> | | |

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| <p>Compliance Officer Comment: Not Consistent with comparable Local Laws.</p> <p>Recommend replacing clause in entirety from a comparable local law that has passed the scrutiny of the JSCDL (City of Greater Geraldton).</p> <p>The inclusion of clause 3 & 4 ensure Council is fully aware of decisions that will be implemented with immediate effect.</p> <p>Reason: Good governance, transparency of decision process and action.</p> | <p>8.1 Implementing a Decision</p> <p>(1) Council is not to consider a motion to revoke a decision of Council:</p> <p>(a) where, at the time the motion is moved or notice is given, action has been taken under sub-clause (2) to implement the decision; and</p> <p>(b) unless a statement of impact has been provided by the CEO to Council, of the legal, financial and other risks and consequences of the proposed revocation; or</p> <p>(c) where the decision is procedural in its form or effect.</p> <p>(2) In this Part 8:</p> <p>(a) "action" includes the issuing of a licence, permit, approval or other means of authorising a person to do anything;</p> <p>(b) "implement" any decision includes:</p> <p>(i) communicating notice of the decision to a person affected by, or with an interest in, the decision; or</p> <p>(ii) taking any other action to give effect to the decision.</p> <p>(3) Council may, by resolution carried at the same Meeting at which a decision was made, direct the CEO to delay implementing the decision until a certain date and time.</p> <p>(4) A decision made at a Meeting is not to be implemented by the CEO:</p> <p>(a) if, before implementing the decision, the CEO is given a valid notice of a revocation motion; or</p> <p>(b) the revocation motion has been determined by Council.</p> | <p>Amend Clause 8.1 to read: Implementing a decision</p> <p>(1) In this clause—</p> <p>(a) "authorisation" means a licence, permit, approval or other means of authorising a person to do anything;</p> <p>(b) "implement", in relation to a decision, includes—</p> <p>(i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and</p> <p>(ii) take any other action to give effect to the decision.</p> <p>(2) "valid notice of revocation motion" means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Local Laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.</p> <p>(3) Subject to subclause (4), and unless a resolution is made under subclause (4), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.</p> <p>(4) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.</p> <p>(5) A decision made at a meeting is not to be implemented by the CEO or any other person—</p> <p>(a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and</p> <p>(b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.</p> <p>(6) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—</p> <p>(a) is to take effect only in accordance with this clause; and</p> <p>(b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.</p> |
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| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>8.2 Suspension of Local Laws</p> <ul style="list-style-type: none"> (1) A Member may at any time during a Meeting move that the operation of one or more of these Meeting Procedures be suspended. (2) A Member moving a motion under sub-clause (1) is to state the reason for the motion but no other discussion is to take place. (3) A motion under sub-clause (1) which if carried by an absolute majority, suspends the operation of clauses of these Meeting Procedures to which the motion relates, for the duration of the Meeting, unless Council or the Committee earlier resolves otherwise. | <p>Amend clause 8.2 to read:</p> <p>8.2 Suspension of Local Laws</p> <ul style="list-style-type: none"> (1) A Member may at any time during a Meeting move that the operation of one or more of these Local Laws be suspended. (2) A Member moving a motion under sub-clause (1) is to state the reason for the motion but no other discussion is to take place. (3) A motion under sub-clause (1) which if carried by an absolute majority, suspends the operation of clauses of these Local Laws to which the motion relates, for the duration of the Meeting, unless Council or the Committee earlier resolves otherwise. <p>Reason: Consistence use of terminology (meeting procedures to Local Law).</p> |
| <p>Compliance Officer Comment: Consistent with comparable Local Laws.</p> | <p>8.3 Where Local Laws do not apply or are silent</p> <ul style="list-style-type: none"> (1) In situations where: <ul style="list-style-type: none"> (a) clauses of these Meeting Procedures have been suspended; (b) a matter is not regulated by the Act, its Regulations or these Meeting Procedures, (c) these Meeting Procedures are silent as to procedure the Presiding Member is to decide questions relating to the conduct of a Meeting. (2) The decision of the Presiding Member under sub-clause (1) is final. | <p>Amend clause 8.3 to read:</p> <p>8.3 Where Local Laws do not apply or are silent</p> <ul style="list-style-type: none"> (1) In situations where: <ul style="list-style-type: none"> (a) clauses of these Local Laws have been suspended; (b) a matter is not regulated by the Act, its Regulations or these Local Laws, (c) these Local Laws are silent as to procedure the Presiding Member is to decide questions relating to the conduct of a Meeting. (d) The decision of the Presiding Member under sub-clause (1) is final, except where a motion is moved and carried under Part 7, clause (1)(f). <p>Reason: Consistency of terminology and ensuring that an appropriate reference is made to the applicable procedural motion.</p> |

Council Policy - Legal Representation for Elected Members, Employees and Volunteers

1. Policy Statement:

Under the *Local Government Act 1995*, the City's 'good government' powers allow it, in appropriate circumstances, to pay for the Legal Representation Costs of an individual Elected Member or Employee.

2. Objective

This Policy sets out guidelines and procedures to assist the Council in determining when it is appropriate to pay Legal Representation Costs.

3. Scope

This Policy does not cover legal representation provided to, or on behalf of, the City.

4. Procedure & Guidelines

(1) Payment Criteria

There are three major criteria for determining whether the City should pay the Legal Representation Costs of an Elected Member or Employee. These are:

- (a) the Legal Representation Costs must relate to a matter that arises from the performance, by the Elected Member or Employee, of his or her functions;
- (b) the Legal Representation Costs must be in respect of Legal Proceedings that have been, or may be, commenced; and
- (c) in performing his or her functions, to which the Legal Representation relates, the Elected Member or Employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

(2) Examples of Legal Representation Costs that may be approved

- (a) If the criteria in **clause 4(1)** are satisfied, the City may approve the Payment of Legal Representation Costs:
 - (i) where proceedings are brought against an Elected Member or Employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Elected Member or Employee; or
 - (ii) for involvement in a statutory or other inquiry that requires information to be given, or to which information is given, by an Elected Member or Employee in connection with his or her functions.

- (b) This policy does not relate to situations where legal proceedings are commenced by an Elected Member or Employee and there is a presumption that the City will not pay for legal representation costs in these circumstances. However this policy does not preclude such a request being submitted and considered by the Council for extenuating circumstances where the Elected Member or Employee is the subject of threatening behaviour by another person.
- (c) The City will not approve the Payment of Legal Representation Costs to an Elected Member or Employee for a defamation action, or a negligence action, instituted by the Elected Member or Employee.

(3) Application for payment

- (a) An Elected Member or Employee who seeks assistance under this Policy is to make an application(s) for Payment of Legal Representation Costs.
- (b) The application:
 - (i) is to be made in writing to the Council; and
 - (ii) is to give details of:
 - a. the matter for which Legal Representation is sought;
 - b. how that matter relates to the functions of the relevant Elected Member or Employee;
 - c. the lawyer (or law firm) who is to be asked to provide the Legal Representation;
 - d. the nature of Legal Representation to be sought (such as advice, representation in court, preparation of a document etc); and
 - e. the estimated cost (if known) of the Legal Representation.
 - (iii) is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates; and
 - (iv) so far as possible, is to be made before seeking the Legal Representation to which the application relates.
- (c) The application is to be accompanied by a written statement by the applicant that he or she:
 - (i) has read, and understands, the terms of this Policy;
 - (ii) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 4(7) and any other conditions to which the approval is subject; and
 - (iii) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of clause 4(7).
- (d) An application is also to be accompanied by a report prepared by or on behalf of the CEO or, where the CEO is the applicant, by the Executive Director Corporate Services.

(4) Legal Representation Costs – limit

- (a) Unless otherwise determined by the Council, payment of Legal Representation Costs in respect of a particular application is not to exceed \$10,000.
- (b) An Elected Member or Employee may make a further application to the Council in respect of the same matter.

(5) Council's powers

- (a) The Council may:
 - (i) refuse;
 - (ii) grant; or
 - (iii) grant subject to conditions, including a financial limit, an application for payment of Legal Representation Costs.
- (b) A condition under clause 4 (5a) may include a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of Legal Representation Costs.
- (c) In assessing an application, the City may have regard to any insurance benefits that may be available to the applicant under the City's Councillors and Officers insurance policy (or its equivalent).
- (d) The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of Legal Representation Costs.
- (e) The Council may, subject to clause 4 (5f), determine that an Elected Member or Employee whose application for Legal Representation Costs has been approved has, in respect of the matter for which Legal Representation Costs were approved:
 - (i) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (ii) given false or misleading information in respect of the application.
- (f) A determination under clause 4 (5e) may be made by the Council only on the basis of, and consistently with, the findings of a court, tribunal or inquiry.
- (g) Where the Council makes a determination under clause 5(e), it may also determine that all or part of the Legal Representation Costs paid by the City are to be repaid by the Elected Member or Employee in accordance with clause 4 (7).

(6) CEO's powers

- (a) In cases of urgency, the CEO, subject to clause 4 (6b), may exercise, on behalf of the Council, any of the powers of the Council under clauses 4 (5a) and 4 (5b), to a limit of \$10,000, where a delay in approving an application would be detrimental to the legal rights of an Elected Member or Employee.
- (b) Where the CEO is the applicant, the powers in clause 4 (6a) are to be exercised by the Executive Director Corporate Services.
- (c) An application approved by the CEO under clause 4 (6a), or by the Executive Director Corporate Services under clause 4 (6b), is to be submitted to the next meeting of the Council which may exercise any of its powers under this Policy, including its powers under clause 4 (5d).

(7) Repayment of Legal Representation Costs

- (a) An Elected Member or Employee whose Legal Representation Costs have been paid by the City is to repay the City:
 - (i) all or part of those costs – in accordance with a determination by the Council under clause 4 (5g); or
 - (ii) as much of those costs as are available to be paid by way of offset – where the Elected Member or Employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the Legal Representation Costs.
- (b) The City may take action in a court of competent jurisdiction to recover any monies due it under this Policy.

(8) Definitions (Explanation of Key Terms):

Approved Lawyer is to be:

- (a) 'certificated practitioner' under the *Legal Practice Act 2003*; and
- (b) approved in writing by the Council.

Elected Member or Employee means a current or former Commissioner, Elected Member, and Employee (which includes a registered and inducted volunteer with the City of Albany administration).

Legal Proceedings may be civil, criminal or investigative (including an inquiry under any written law).

Legal Representation is the provision, to or on behalf of an Elected Member or Employee, by an Approved Lawyer of Legal Services that are in respect of:

- (a) a matter or matters arising from the performance of the functions of the Elected Member or Employee; and
- (b) Legal Proceedings involving the Elected Member or Employee that have been, or may be, commenced.

Legal Representation Costs are the costs, including fees and disbursements, properly incurred in providing Legal Representation.

Legal Services includes advice, representation or documentation that is provided by an Approved Lawyer.

Payment by the City of Legal Representation Costs may be either by:

- (a) a direct payment to the Approved Lawyer (or the relevant law firm); or
- (b) a reimbursement to the Elected Member or Employee.

Version Control

| Version | Date | Status | Distribution | Comment |
|---------|----------|--|----------------------|--|
| 01 | 3/7/2013 | Draft 1 – Distributed for review by Council. | Governance Committee | Author: Stuart Jamieson Based on previous Council Policy, rescinded by Council on 15/11/2011 Item 1.1.1 and comparable policy adopted by the City of Joondalup. |

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