



ORDINARY COUNCIL MEETING

MINUTES

Ordinary Meeting of the Council
held in the Council Chambers
2:45 pm Tuesday 28 August 2007

Rob Stewart
CHIEF EXECUTIVE OFFICER

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	3
2	RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	3
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	5
4	PUBLIC QUESTION TIME	5
5	PETITIONS / DEPUTATIONS / PRESENTATIONS.....	5
6	APPLICATIONS FOR LEAVE OF ABSENCE	5
7	CONFIRMATION OF MINUTES.....	6
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	6
9	REPORTS OF COMMITTEES AND OFFICERS.....	7
9.1	EXECUTIVE SERVICES REPORT	7
9.2	CORPORATE SERVICES REPORTS	8
9.2.1	FINANCIAL STATEMENTS – JULY 2007 (EXTRACT)	8
9.2.2	LIST OF PAYMENTS – JUNE (PART 2) 2007	10
9.2.3	BUSH FIRE BRIGADES LOCAL LAW REVIEW.....	11
9.2.4	EXTRACTIVE INDUSTRIES LOCAL LAW REVIEW	15
9.2.5	PARKING AND PARKING FACILITIES LOCAL LAW REVIEW ..	19
9.2.6	LOCAL LAW REPEAL OF OBSOLETE LOCAL LAWS	24
9.3	COMMUNITY SERVICES	28
9.4	TECHNICAL SERVICES.....	29
9.5	DEVELOPMENT SERVICES	30
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	31
11	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING.....	31

11.1	SOUTH MOUNT BARKER FOOTBALL CLUB	32
12	CONFIDENTIAL	34
13	CLOSURE OF MEETING	34
1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	

2.50pm The Presiding Member declared the meeting open.

Mr Stewart read aloud the following disclaimer:

'No responsibility whatsoever is implied or accepted by the Shire of Plantagenet for any act, omission or statement or intimation occurring during Council / Committee meetings or during formal / informal conversations with staff.

The Shire of Plantagenet disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, or statement of intimation occurring during Council / Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation or approval made by a member or officer of the Shire of Plantagenet during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Plantagenet. The Shire of Plantagenet warns that anyone who has an application with the Shire of Plantagenet must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Plantagenet in respect of the application.'

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Present

Cr K Forbes	Shire President - Rocky Gully / West Ward
Cr D Williss	Deputy Shire President - East Ward
Cr M Skinner	East Ward
Cr K Hart	Kendenup Ward
Cr J Moir	South Ward
Cr J Mark	Town Ward
Cr K Clements	Town Ward
Cr B Hollingworth	Town Ward
Mr R Stewart	Chief Executive Officer
Mr J Fathers	Deputy Chief Executive Officer
Mr I Bartlett	Manager Works and Services
Ms N Selesnew	Manager Community Services
Mr P Duncan	Manager Development Services
Mrs K Skinner	Executive Secretary

There were no members of the public present.
There were no members of the media present.

Previously Approved Leave of Absence

Cr J Cameron 23 July to 4 September 2007 (inclusive)

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONSPetition – Mount Barker Library Hours

The Chief Executive Officer read aloud a petition he had received on 24 August 2007. The Petition stated:

'We the undersigned, object to the Council cutting the Mount Barker Library hours by 19 hours which represents a cut of over 40% of the current opening hours.

Further, the proposed hours do not provide the opportunity for those who work fulltime and have sporting commitments on a Saturday the opportunity to access the library at hours outside of 9-5.

Whilst we appreciate that the need to cut costs may mean that the hours in the Library need to be reduced, we request that the council reconsider such severe cuts and that they make allowances for those who work, play sport and have other commitments to be able to access the library outside business hours.'

COUNCIL DECISION

Moved Cr J Moir, seconded Cr M Skinner:

That the Petition relating to Mount Barker Library Hours be received and that a report on the matter be prepared for the next meeting of the Council to be held on 11 September 2007.

CARRIED (8/0)

No. 290/07

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES

Moved Cr D Williss, seconded Cr J Mark:

That the Minutes of the Ordinary Meeting of the Council held 14 August 2007 be confirmed.

CARRIED (8/0)

No. 291/07

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 16 August 2007 - Crs Forbes, Williss and Mr Stewart attended a meeting of the Rainbow Coast Regional Council which included a farewell dinner for outgoing Chief Executive Officer Mr Pascoe Durtanovich from the Shire of Denmark.
- 21 August 2007 - Crs Forbes and Hollingworth attended a luncheon with Liberal MLC Nigel Hallett and Senator Helen Coonan in Albany to discuss the Timber industry.
- 22 August 2007 - TIRES Meeting in Albany – Crs Forbes, Williss, Hollingworth and Mr Bartlett attended.
- 24 August 2007 - Cr Forbes and the Chief Executive Officer met with Minister Ravlich at the City of Albany with representatives of the Great Southern Zone for a 1½ hour question and answer session.
- 27 August 2007 - Teleconference Timber Towns Australia to discuss incorporation and constitution.
- 30 August 2007 – Crs Forbes and Hollingworth – Western Power Meeting in Perth representing residents from the western part of the shire.
- 3 September 2007 - Meeting with Forest Hill Denbarker Residents and Peter Duncan on rural planning for the area.
- 4 September 2007 - One Community One College Meeting.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 EXECUTIVE SERVICES REPORT

Nil

9.2 CORPORATE SERVICES REPORTS

9.2.1 FINANCIAL STATEMENTS – JULY 2007 (EXTRACT)

Location / Address:	N / A
Attachments:	Financial Statements – July 2007
Name of Applicant:	N / A
File Reference:	FM/65/1
Author:	John Fathers – Deputy Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	21 August 2007

Purpose

The purpose of this report is to present the financial position of the Shire of Plantagenet for the period ending 31 July 2007.

Statutory Environment

Regulation 34 of the Financial Management Regulations (1996) requires a Statement of Financial Activity to be prepared each month which is to contain the following details:

- (a) annual budget estimates;
- (b) budget estimates to the end of the month;
- (c) actual amounts of expenditure and revenue;
- (d) material variances between comparable amounts in (b) and (c) above; and
- (e) the net current assets at the end of the month to which the statement relates (ie: surplus / (deficit) position).

The statement is to be accompanied by:

- (a) explanation of the composition of net current assets, less committed assets and restricted assets;
- (b) explanation of the material variances; and
- (c) such other information considered relevant by the local government.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr K Clements, seconded Cr K Hart:

That the financial statements for the month ending 31 July 2007 be received.

CARRIED (8/0)

No. 292/07

9.2.2 LIST OF PAYMENTS – JUNE (PART 2) 2007

Location / Address: N / A
Attachments: (1) List of Payments – June (Part 2) 2007
Name of Applicant: N / A
File Reference: FM/65/3
Author: Rayona Evans - Accounts Officer
Authorised By: John Fathers – Deputy Chief Executive Officer
Date of Report: 17 August 2007

Purpose

The purpose of this report is to present the list of payments that were made during the month of June 2007.

Statutory Environment

Regulation 13 of the Local Government (Financial Management) Regulations 1996 defines the reporting requirements to the Council of the list of accounts.

Policy Implications

There are no policy implications for this report.

Financial Implications

There are no financial implications for this report.

Officer Comment

If any Councillor has any questions in relation to the List of Accounts please contact the Deputy Chief Executive Officer prior to the meeting.

Strategic Implications

There are no strategic implications for this report.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr D Williss seconded Cr J Mark:

That the payment of accounts for the month of June 2007 covering electronic payments, cheques 37228 to 37283, totalling \$152,972.54 and trust cheques 164 and 173 to 179 totalling \$3,614.80, be noted.

CARRIED (8/0)

No. 293/07

9.2.3 BUSH FIRE BRIGADES LOCAL LAW REVIEW

Location / Address:	N / A
Attachments: (1)	Bush Fire Brigades Local Law
Name of Applicant:	N / A
File Reference:	LE/98/1
Author:	John Gilfellow - Consultant
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	30 July 2007

Purpose

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Bush Fire Brigades Amendment Local Law and for the Council to adopt the proposed Local Law amendment and to allow for advertising of the local law for public comment.

Background

This local law will remove the provision allowing the Council to amend the Rules Governing the Operation of Bush Fire Brigades as incorporated in the Bush Fire Brigade Local Law, without the due process required in amending a Local Law.

The effect of this local law is to ensure that the community has the opportunity to comment on proposed changes to the Rules Governing the Operation of Bush Fire Brigades before they are introduced.

The principal Bush Fire Brigades Local Law was gazetted on 7 April 2004. This Local Law was amended by Gazettal on 17 March 2006.

The amended local law stated:

2.5 Variation of Rules

- *The local government may vary the Rules in their application to all bush fire brigades or in respect of a particular bush fire brigade.*
- *The Rules, as varied, have effect on and from the date of a decision under subclause (1)*
- *The local government is to notify a bush fire brigade of any variation to the Rules as soon as practicable after making a decision under subclause (1).*

The amendment also incorporated the 'Rules' into the First Schedule of the local law.

The Parliamentary Joint Standing Committee on Delegated Legislation in reviewing the Local Law after the 2006 amendment, advised the Shire that it considered subclauses 2.5(1) and (2) inconsistent with and not authorised by the Bush Fires Act 1954 and the Local Government Act 1995. The Committee was of the view that the subclauses suggested that the local law may be amended by means other than through the making of a valid amendment local law.

The Council at its meeting held 27 June 2006 resolved that Clause 2.5 would not be enforced and it would be deleted in any future amendment to the local law.

Bush Fire Brigades Local Law Review (Cont.)

Currently the Shire uses Bush Fire Brigade application forms different to those stipulated in the Local Law. It is considered appropriate that application forms not be stipulated in the Local Law and the amendment provides for this.

Statutory Environment

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

Section 3.12(2) of the Local Government Act 1995 also applies. The Local Government (Functions and General) Regulations (Regulation 3) state that for the purpose of Section 3.12(2) of the Act, the person presiding at a Council meeting is to give notice of the purpose of the local law by ensuring that the Purpose and Effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the Council include the Purpose and Effect of the proposed local law.

Consultation

The Shire's intention to review the Bush Fire Brigades Local Law and inviting public submissions was advertised on the 12 May 2007. The submission period was open for forty-two days. No public submissions were received.

A forty-two day public submissions period on the proposed Bush Fire Brigades Amendment Local Law will be advertised State wide once adopted by the Council.

In addition copies of the proposed Amendment Local Law, the principal Local Law, as amended and the National Competition Policy review must be sent to the relevant Minister for comment.

Financial Implications

Funding for the review of the local laws and for statutory advertising has been included in the 2007 / 2008 annual budget.

Officer Comment

See comments under Background in relation to the comments of the Joint Standing Committee on Delegated Legislation in reviewing the Local Law after the 2006 amendment.

The following amendments are proposed for the Bush Fire Brigades Local Law:

1. Clause 1.2 – Definitions

At the definition of 'Rules' delete the wording 'as varied from time to time under clause 2.5'.

2 Clause 2.5 – Variation of Rules

Delete clause 2.5

3. Clauses in Part 2 to be renumbered

Renumber clauses 2.6, 2.7 and 2.8 to 2.5, 2.6 and 2.7 respectively.

4 Clause 3.3 – Delegation of Authority

Substitute the word 'council' with the words 'local government'.

Bush Fire Brigades Local Law Review (Cont.)**5 First Schedule – Rules Governing the Operation of Bush Fire Brigades****5.1 Clause 2.4 Application for membership**

In paragraph (a) of subclause (1) delete the words ‘of that in Appendix I’ and substitute the words ‘determined by the local government from time to time’.

In paragraph (b) of subclause (1) delete the words ‘of that in Appendix II’ and substitute the words ‘determined by the local government from time to time’.

In paragraph (c) of subclause (1) delete the words ‘of that in Appendix III’ and substitute the words ‘determined by the local government from time to time’.

6. Appendices

Delete Appendices I, II and III.

Voting Requirements

Simple majority

OFFICER'S RECOMMENDATION

That the proposed amendments to the Shire of Plantagenet Bush Fire Brigades Local Law, be adopted and advertised for public comment.

COUNCIL DECISION

Moved Cr K Hart, seconded Cr D Williss:

That the proposed amendments to the Shire of Plantagenet Bush Fire Brigades Local Law, as listed below be adopted and advertised for public comment.

1. Clause 1.2 – Definitions

At the definition of ‘Rules’ delete the wording ‘as varied from time to time under clause 2.5’.

2 Clause 2.5 – Variation of Rules

Delete clause 2.5

3. Clauses in Part 2 to be renumbered

Renumber clauses 2.6, 2.7 and 2.8 to 2.5, 2.6 and 2.7 respectively.

4 Clause 3.3 – Delegation of Authority

Substitute the word ‘council’ with the words ‘local government’.

5 First Schedule – Rules Governing the Operation of Bush Fire Brigades**5.1 Clause 2.4 Application for membership**

In paragraph (a) of subclause (1) delete the words ‘of that in Appendix I’ and substitute the words ‘determined by the local government from time to time’.

In paragraph (b) of subclause (1) delete the words ‘of that in Appendix II’ and substitute the words ‘determined by the local government from time to time’.

In paragraph (c) of subclause (1) delete the words ‘of that in Appendix III’ and substitute the words ‘determined by the local government from time to time’.

Bush Fire Brigades Local Law Review (Cont.)

6. Appendices

Delete Appendices I, II and III.

CARRIED (8/0)

No. 294/07

Reason for Change

Councillors included proposed amendments in the motion.

9.2.4 EXTRACTIVE INDUSTRIES LOCAL LAW REVIEW

Location / Address:	N / A
Attachments: (1)	Extractive Industries Local Law
Name of Applicant:	N / A
File Reference:	LE/98/15
Author:	John Gilfellow - Consultant
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	30 July 2007

Purpose

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Extractive Industries Local Law, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

Background

The purpose of this local law is to:

- (a) prohibit the carrying on of an extractive industry unless by authority of a licence issued by the Shire of Plantagenet;
- (b) regulate the carrying on of the extractive industry in order to minimise damage to the environment, road and other peoples' health and property; and
- (c) provide for restoration and reinstatement of any excavation site.

The effect of this local law is to ensure that extractive industries operating in the Shire of Plantagenet are licensed and their operation is regulated.

The Shire's current Extractive Industries Local Law was gazetted on 11 September 2000. Minor amendments to the Local law were gazetted on 7 May 2004.

It would be an advantage to the Shire to adopt another Shire's Extractive Industries Local Law by reference instead of adopting the amendments to the current local law. It is suggested that the Shire adopt the Shire of Dandaragan's local law as, although only adopted twelve months after the current local law the wording is much clearer and the structure much better. As an example, penalties are clearly defined under the clause to which the penalty applies and not as a general clause at the end of the local law.

The Shire's current Extractive Industries Local Law would have to be repealed.

Statutory Environment

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

Also, Section 3.12(2) of the Local Government Act 1995 applies. The Local Government (Functions and General) Regulations (Regulation 3) state that for the purpose of Section 3.12(2) of the Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the Purpose and Effect of the proposed local law is included in the agenda for that purpose and the minutes of

Extractive Industries Local Law Review (Cont.)

the meeting of the council include the Purpose and Effect of the proposed local law.

Consultation

The Shire's intention to review the Extractive Industries Local Law and inviting public submissions was advertised on the 12 May 2007. The submission period was open for forty-two days. No public submissions were received.

A forty-two day public submission period on the proposed Extractive Industries Local Law will be advertised State wide when adopted by the Council.

In addition, copies of the proposed Local Law, the proposed Local Law as amended, the Local Law adopted by reference and the National Competition Policy review must be sent to the relevant Minister for comment.

Financial Implications

Funding for the review of the local laws and for statutory advertising has been included in the 2007/08 annual budget.

Officer Comment

The following amendments are proposed to the Shire of Dandaragan Extractive Industries Local Law as published in the *Government Gazette* of 9 May 2001:

1. Preliminary

Wherever the 'Shire of Dandaragan' is mentioned in the local law substitute 'Shire of Plantagenet'.

2. Clause 2.3

Substitute subclause (3) of clause 2.3 with the following subclause -

'(3) Where, in relation to a proposed excavation –

(a) the surface area is not to exceed 2000 square metres; and

(b) the extracted material is not to exceed 2000 cubic metres;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraph (b), (d) and (e) of subclause (1).'

A copy of the proposed Extractive Industries Local Law adopting the Shire of Dandaragan Extractive Industries Local law by reference is attached.

A copy of the complete Shire of Plantagenet Extractive Industries Local Law as will apply after adoption is attached.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

Moved Cr B Hollingworth, seconded Cr J Moir:

THAT:

- (1) The proposed Shire of Dandaragan Extractive Industries Local Law as published in the *Government Gazette* of 9 May 2001, with the amendments, and
- (2) The proposed repeal of the Shire of Plantagenet Local Laws Relating to Extractive Industries, published in the *Government Gazette* of 11 September 2000 and the amendment to that Local Law published in the *Government Gazette* of 7 May 2004

be adopted and advertised for public comment.

AMENDMENT

Moved Cr D Williss, seconded Cr K Clements:

That after the word 'amendments' in part 1, add:

'1. Preliminary

Wherever the 'Shire of Dandaragan' is mentioned in the local law substitute 'Shire of Plantagenet'.

2. Clause 2.3

Substitute subclause (3) of clause 2.3 with the following subclause -

'(3) Where, in relation to a proposed excavation –

(a) the surface area is not to exceed 2000 square metres; and

(b) the extracted material is not to exceed 2000 cubic metres;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraph (b), (d) and (e) of subclause (1).'

CARRIED (8/0)

No. 295/07

COUNCIL DECISION:

THAT:

- (1) That the proposed Shire of Dandaragan Extractive Industries Local law as published in the *Government Gazette* of 9 May 2001, with amendments;

'1. Preliminary

Wherever the 'Shire of Dandaragan' is mentioned in the local law substitute 'Shire of Plantagenet'.

Extractive Industries Local Law Review (Cont.)**2. Clause 2.3**

Substitute subclause (3) of clause 2.3 with the following subclause -

'(3) Where, in relation to a proposed excavation –

(a) the surface area is not to exceed 2000 square metres; and

(b) the extracted material is not to exceed 2000 cubic metres;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraph (b), (d) and (e) of subclause (1).' and

- (2) The proposed repeal of the Shire of Plantagenet Local Laws Relating to Extractive Industries, published in the Government Gazette of 11 September 2000 and the amendment to that Local Law published in the Government Gazette of 7 May 2004'.**

be adopted and advertised for public comment.

CARRIED (8/0)

No. 296/07

9.2.5 PARKING AND PARKING FACILITIES LOCAL LAW REVIEW

Location / Address:	N / A
Attachments: (1)	Parking and Parking Facilities Local Law
Name of Applicant:	N / A
File Reference:	LE/98/16
Author:	John Gilfellow - Consultant
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	30 July 2007

Purpose

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Parking and Parking Facilities Local Law, for the Council to adopt the proposed Local Law and to allow for advertising of the proposed Local Law for public comment.

Background

The purpose of this local law is to:

- (a) constitute a parking region;
- (b) enable the Shire to regulate the parking of vehicles within the parking region;
and
- (c) provide for the management and operation of parking facilities occupied by the Shire.

The effect of this local law is that all persons parking a vehicle within the parking region are to comply with the provisions of this Local Law.

The current Parking and Parking Facilities Local Laws 1998 was gazetted on 16 April 1999.

The Road Traffic Code 1975 was repealed in the year 2000 and was replaced with the Road Traffic Code 2000. The new Road Traffic Code replaced the term 'No Standing' with 'No Stopping' as well as altering parking distance from pedestrian crossings and railway level crossings. Parking in relation to person with ACROD stickers was also introduced about this time.

The current Local Law would require significant amendments to take into the changes under the Road Traffic Code, ACROD as well as other wording.

The existing Local Law is difficult to use as it has no headings and some related matters are separated and spread throughout the Local Law. Apart from the need to modernise some of the wording there is nothing that prevents the Local Law from remaining in place. The fact that the Local Law is rarely used may be the reasons that the difficulties in reading the law have not been an issue.

The Shire of Boddington gazetted its Parking and Parking Facilities Local Law in April this year. The Boddington Local Law could be adopted by reference and the current Local Law repealed at a similar cost to the amendments required to the current Local Law. However the Shire will have a more easily understood and modernised Local Law by adopting Boddington's.

Parking & Parking Facilities Local Law Review (Cont.)

No significant difference was found between the two Local Laws. The Boddington Local Law addresses all but one of the matters addressed in the current Local Law. The one not addressed which relates to parking at railway level crossings has been included in the gazettal by reference.

The Shire of Boddington local law is substantially the same as the Western Australian Local Government Association (WALGA) model Parking and Parking Facilities Local Law.

In addition Shire Officers have advised that there are no marked motorcycle parking stalls within the Shire. In fact clause 4.1(4) makes it an offence for a person to park a motorcycle without sidecar or trailer in a parking stall unless the stall is marked 'M/C'.

Clauses relating to the parking of motor cycles have been deleted from the proposed Local Law.

Statutory Environment

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) apply. For the purpose of Section 3.12(2) of the Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the Purpose and Effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the Purpose and Effect of the proposed local law.

Consultation

The Shire's intention to review the Parking and Parking Facilities Local Law and inviting public submissions was advertised on the 12 May 2007. The submission period was open for forty-two days. No public submissions were received.

A forty-two day public submission period on the proposed Parking and Parking Facilities Local Law will be advertised State wide when adopted by the Council.

In addition, copies of the proposed Local Law, the proposed Local Law as amended and the Local Law adopted by reference and the National Competition Policy review must be sent to the relevant Minister for comment.

Financial Implications

Funding for the review of the local laws and for statutory advertising has been included in the 2007/08 annual budget.

Officer Comment

The following amendments are proposed to the Shire of Boddington Local Law Relating to Parking and Parking Facilities 2007:

1. Preliminary

- (a) On construing the following modifications, where a modification requires the renumbering of a Part, clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.

Parking & Parking Facilities Local Law Review (Cont.)

- (b) Where the 'Shire of Boddington' is mentioned in the Local Law substitute 'Shire of Plantagenet'.
- (c) Where the 'Local Laws Relating to Parking and Parking Facilities 2007' or Local Laws Relating to Parking and Parking Facilities' is mentioned in the Local Law substitute 'Parking and Parking Facilities Local Law'.

2. Repeal

Add the following new clause –

1.2 Repeal

The Shire of Plantagenet Parking and Parking Facilities Local Laws 1998 as published in the *Government Gazette* of 16 April 1999 are hereby repealed'.

3. Clause 2.2 - Interpretation

Delete the words –

'parking region' means the area within the Boddington townsite boundaries and any subsequent extension of the Boddington townsite boundaries;'

and substitute the words –

'parking region' means the whole of the Shire of Plantagenet excluding any roads which come under the control of the Commissioner of Main Roads;

4. Clause 2.4 – Application and Pre-Existing Signs

In subclause (4) of clause 2.4 delete the words 'Schedule 4' and substitute 'Schedule 3'.

5. Clause 4.1 – Restrictions on parking in particular areas

(a) Delete the whole of paragraph (c) of subclause (3).

(b) Delete the whole of clause (4).

(c) Renumber clause (5) to clause (4).

6. Clause 4.3 - General prohibitions on parking –

Delete the whole of subclause (3) and substitute –

'(3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side or 20 metres of the approach side of a pedestrian crossing.'

Add the new subclause –

'(4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the departure or approach side of the nearest rail of a railway level crossing.'

7. Clause 6.9 Stopping on a carriageway with motor cycle parking sign

(a) Delete the whole of clause 6.9.

(b) Renumber clause 6.10 to clause 6.9.

A copy of the proposed Parking and Parking Facilities Local Law is attached.

A copy of the complete Parking and Parking Facilities Local Law, with the proposed amendments incorporated, is attached.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

THAT:

- (1) The proposed Shire of Boddington Local Law Relating to Parking and Parking Facilities 2007, with the amendments, and
- (2) The proposed repeal of the Shire of Plantagenet Parking and Parking Facilities Local Laws 1998 as published in the *Government Gazette* of 16 April 1999

be adopted and advertised for public comment.

COUNCIL DECISION

Moved Cr K Clements, seconded Cr D Williss:

THAT:

- (1) **The proposed Shire of Boddington Local Law Relating to Parking and Parking Facilities 2007, with amendments as follow:**

- '(a) On construing the following modifications, where a modification requires the renumbering of a Part, clause, subclause or paragraph, subsequent modifications have been drafted on the basis that the renumbering has been effected.**
- (b) Where the 'Shire of Boddington' is mentioned in the Local Law substitute 'Shire of Plantagenet'.**
- (c) Where the 'Local Laws Relating to Parking and Parking Facilities 2007' or Local Laws Relating to Parking and Parking Facilities' is mentioned in the Local Law substitute 'Parking and Parking Facilities Local Law'.**

2. Repeal

Add the following new clause –

'1.2 Repeal

The Shire of Plantagenet Parking and Parking Facilities Local Laws 1998 as published in the *Government Gazette* of 16 April 1999 are hereby repealed'.

3. Clause 2.2 - Interpretation

Delete the words –

'parking region' means the area within the Boddington townsite boundaries and any subsequent extension of the Boddington townsite boundaries;'

and substitute the words –

Parking & Parking Facilities Local Law Review (Cont.)

‘parking region’ means the whole of the Shire of Plantagenet excluding any roads which come under the control of the Commissioner of Main Roads;

4. Clause 2.4 – Application and Pre-Existing Signs

In subclause (4) of clause 2.4 delete the words ‘Schedule 4’ and substitute ‘Schedule 3’.

5. Clause 4.1 – Restrictions on parking in particular areas

(a) Delete the whole of paragraph (c) of subclause (3).

(b) Delete the whole of clause (4).

(c) Renumber clause (5) to clause (4).

6. Clause 4.3 - General prohibitions on parking –

Delete the whole of subclause (3) and substitute –

‘(3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side or 20 metres of the approach side of a pedestrian crossing.’

Add the new subclause –

‘(4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the departure or approach side of the nearest rail of a railway level crossing.’

7. Clause 6.9 Stopping on a carriageway with motor cycle parking sign

(a) Delete the whole of clause 6.9.

(b) Renumber clause 6.10 to clause 6.9. and

(2) The proposed repeal of the Shire of Plantagenet Parking and Parking Facilities Local Laws 1998 as published in the *Government Gazette* of 16 April 1999.’

be adopted and advertised for public comment.

CARRIED (8/0)

No. 297/07

Reason For Change

Councillors included proposed amendments in the motion.

9.2.6 LOCAL LAW REPEAL OF OBSOLETE LOCAL LAWS

Location / Address:	N / A
Attachments: (1)	Local Laws
Name of Applicant:	N / A
File Reference:	LE/98/6, LE/98/5, LE/98/8, LE/98/9, LE/98/16
Author:	John Gilfellow - Consultant
Authorised By:	John Fathers - Deputy Chief Executive Officer
Date of Report:	30 July 2007

Purpose

The purpose of this report is to allow the Presiding Person to give notice to the meeting of the purpose and effect of the proposed Local Law Repeal of Obsolete Local Laws, for the Council to adopt the proposed Local Law and to allow for advertising of the Local Law for public comment.

Background

The purpose of this local law is to repeal those obsolete local laws that no longer have relevance.

The effect of this local law is to ensure that no irrelevant local laws are in force within the Shire of Plantagenet.

CONTROL AND STORAGE OF OLD AND DISUSED MOTOR VEHICLES AND MACHINERY

This local law was gazetted on 28 February 1975.

The local law required that no person shall, within townsites in the Shire, store a disused motor vehicle, old motor vehicle body or any old machinery, or dismantle or break up a disused motor vehicle, an old motor vehicle or any old machinery, unless inside a building, or within an area fenced to screen all vehicles and machinery from the street or neighbouring properties.

Amendments to Clause 5A of Schedule 3.1 of the Local Government Act 1995 provides that the Shire under S3.25(1) of the Act may give a person who is the owner of land a notice in writing requiring the person to do anything specified in the notice.

Under Clause 5A the notice may require the owner to 'ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy'. Disused material is specified as 'including disused motor vehicles, old motor vehicle bodies and old machinery'.

If the purpose of the local law is to allow the Shire to require landowners clean up their properties it can be effectively achieved under the Local Government Act 1995 and there is no requirement for the local law.

DRAFT MODEL BY-LAW RELATING TO CARAVAN PARKS NO. 2

The Shire's adoption of the Draft Model By-Law was published in the Government Gazette on the 18 February 1965. The Draft Model By-Law was gazetted on 28

Local Law Repeal Of Obsolete Local Laws (Cont.)

September 1961. The Model By-law controlled all aspects of caravan parks from the establishment, design, ablution facilities and behaviour of the tenants.

The Caravan Parks and Camping Grounds Act 1995 and the Caravan Parks and Camping Grounds Regulations 1997 include all the controls necessary for the establishment, design and facilities provided at Caravan Parks. A copy of the Caravan Parks and Camping Grounds Regulation 1997 are attached.

The above legislation controls caravan parks and camping grounds whether owned privately or by the local government.

The proposed Local Government Property Local Law provides the head of power for controlling the behaviour of tenants in local government caravan parks.

SHIRE OF PLANTAGENET (LOCAL GOVERNMENT) LOCAL LAWS

This local law was published in the Government Gazette on the 15 July 1997. The local law deals with the following matters:

Part III - Swimming Pool (Management and Control)

The Local Government Property Local Law in the following provisions addresses the behaviour of persons on all local government property which includes swimming pools and addresses refusal of admission.

Part IV - Halls, Equipment and Property (Management and Control)

The Local Government Property Local Law in the following provisions addresses the requirements for the hire of a local governments building and equipment and the responsibility of the hirer.

Part V - Camping on any land

Caravan Parks and Camping Grounds Regulations 1997 addressed issues relating to camping on land not designated for the purpose.

PART VI - Parking

Parking specifically addressed in the Parking and Parking Facilities Local Law adopted by the Council in April 1999.

Part VII - Control of Traffic of Reserve Land

The Local Government Property Local Law in provision 3.13(1)(g) addresses the issue of persons driving a vehicle on reserve land. Speed of vehicles on local government property can be controlled through 'Determination' under the Local Government Property Local Law. The Local Government Local Law limited speed to 16kms per hour where the Determination under the Local Government Property Local Law limits it to 20kms per hour.

Part VIII - Removal and Disposal of Obstructing Vehicles or Animals

The Activities in Thoroughfares and Public Places and Trading Local Law in the following provisions address the issues of obstructing vehicles and animals.

Statutory Environment

Section 3.16(1) of the Local Government Act 1995 requires a local government to review each of its local laws within an eight year period since its adoption or last review.

Local Law Repeal Of Obsolete Local Laws (Cont.)

Section 3.12(2) of the Local Government Act 1995 and the Local Government (Functions and General) Regulations (Regulation 3) which states that for the purpose of Section 3.12(2) of the Local Government Act the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the Purpose and Effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the Purpose and Effect of the proposed local law.

Consultation

The Shire's intention to adopt a local law repeal of obsolete local laws and inviting public submissions was advertised on the 12 May 2007. The submission period was open for forty-two days. No public submissions were received.

A forty-two day public submission period on the proposed Local Law Repeal of Obsolete Local laws will be advertised State wide when adopted by the Council.

In addition copies of the proposed Local Law, the principal Local Laws being repealed and the National Competition Policy review must be sent to the relevant Minister for comment.

Financial Implications

Funding for the review of the local laws and for statutory advertising has been included in the 2007 / 2008 annual budget.

Officer Comment

The repeal of the following Local Laws is proposed:

- Shire of Plantagenet By-Law relating to the Control and Storage of Old and Disused Motor Vehicles and Machinery as published in the Government Gazette on 28 February 1975.
- Shire of Plantagenet Local Government Draft Model By-law Relating to Caravan Parks No 2 – as published in the Government Gazette on 18 February 1965.
- Shire of Plantagenet (Local Government) Local Laws – as published in the Government Gazette on 15 July 1997

A copy of the proposed Local Law Repeal of Obsolete Local laws is attached.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION / COUNCIL DECISION

Moved Cr J Moir, seconded Cr B Hollingworth:

That the proposed repeal of the following Local laws:

- (a) Shire of Plantagenet By-Law relating to the Control and Storage of Old and Disused Motor Vehicles and Machinery as published in the Government Gazette on 28 February 1975;**
 - (b) Shire of Plantagenet Local Government Draft Model By-law Relating to Caravan Parks No 2 – as published in the Government Gazette on 18 February 1965;**
 - (c) Shire of Plantagenet (Local Government) Local Laws – as published in**
-

Local Law Repeal Of Obsolete Local Laws (Cont.)

**the Government Gazette on 15 July 1997;
be adopted and advertised for public comment.**

CARRIED (8/0)

No. 298/07

9.3 COMMUNITY SERVICES

Nil

9.4 TECHNICAL SERVICES

Nil

9.5 DEVELOPMENT SERVICES

Nil

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr Clements gives notice pursuant to Clause 3.7 of Standing Orders that he intends to move, at the meeting of the Council to be held on 14 September 2007, the following motion:

'That existing Mount Barker Library hours be amended to:

1. 11.00am to 5.00pm on Tuesdays and Fridays
2. 11.00am to 6.30pm on Thursdays.
3. Other hours to remain unchanged.

Councillor comment

The later opening hours on Thursday will coincide with late night shopping and therefore will be of some convenience to those in Mount Barker. Also, this will coincide with sports training for many different sports and will therefore provide convenience to many people.

Further, there will be no extra hours so costings will not change.

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Moved Cr K Clements, seconded Cr J Mark:

That new business of an urgent nature, namely:

- **South Mount Barker Football Club**

be introduced to the meeting.

CARRIED (7/1)

No. 299/07

11.1 SOUTH MOUNT BARKER FOOTBALL CLUB

Location / Address:	N / A
Name of Applicant:	N / A
File Reference:	DB/79/1
Author:	Rob Stewart - Chief Executive Officer
Authorised By:	Rob Stewart - Chief Executive Officer
Date of Report:	28 August 2007

Purpose

The purpose of this report is to bring to the attention of the Council further correspondence from Thompson Legal who are the advisers to the South Mount Barker Football Club.

Background

For several months negotiations have been ongoing regarding the finalisation of a lease between the South Mount Barker Football Club and the Council for the buildings situated on Sounness Park known as the Club Rooms and the Change Rooms.

Statutory Environment

Regulation 5 of the Local Government (Financial Management) Regulations 1996 provides that (among other things) efficient systems and procedures are to be established by the Chief Executive Officer of a local government for the proper collection of all money owing to the local Government.

Consultation

Consultation between the Council's Legal Advisers and the Chief Executive Officer has been ongoing.

Policy Implications

There are no policy implications for the report.

Financial Implications

Councillors will recall that the extensive reporting and correspondence on this issue refers to a large outstanding debt for ground rental by the South Mount Barker Football Club.

Strategic Implications

One of the Council's aims within its Infrastructure Key Result Area is to:

'Manage public open space and natural resources to equitably meet the community's social and economic needs in an environmentally responsible manner.'

By finalising issues with the South Mount Barker Football Club, especially with regard to ownership of assets, there will be the opportunity for the Council to adequately plan for the future of not only Sounness Park but also Frost Park.

Local Law Repeal Of Obsolete Local Laws (Cont.)**Officer Comment**

The legal advisers for South Mount Barker Football Club have confirmed that the club is unable to obtain insurance for the fixture and fittings and internals of the building. This was a condition of the lease required by resolution of the Council dated 24 April 2007.

The club now seeks an extension of the term of the lease as well as insurance to be arranged by the Council.

Although there is no doubt that the Council has sympathy for the plight of the club and acknowledges the good work that it has done in the past, there is little to be gained from any further negotiation and, given the amount of time that the club has had to arrange for the lease, nothing is to be gained from any extension.

Voting Requirements

Simple Majority

OFFICER'S RECOMMENDATION

That the Council's legal advisers be instructed that with regard to the South Mount Barker Football Club, the Council is not prepared to amend the resolution vary the terms of the 24 April 2007 resolution regarding the proposed lease of buildings at Sounness Park.

COUNCIL DECISION

Moved Cr K Clements, seconded Cr D Williss:

That the Council's legal advisers be instructed that with regard to the South Mount Barker Football Club, the Council is not prepared to amend or vary the terms of the 24 April 2007 resolution regarding the proposed lease of buildings at Sounness Park which had been adopted after mediation by the State Administrative Tribunal.

CARRIED (8/0)

No. 300/07

12 CONFIDENTIAL

Nil

13 CLOSURE OF MEETING

4.40pm The Presiding Member declared the meeting closed.

CONFIRMED: CHAIRPERSON _____ DATE:...../...../.....