



MINUTES

of

Notice of Ordinary Council Meeting

held

Tuesday 25 July 2023

in the

Shire of Irwin Council Chambers

I certify that this copy of the Minutes is a true and correct record of the meeting held on Tuesday 25 July 2023

Signed:
Presiding Elected Member

Date:

AGENDA & BUSINESS PAPERS

Welcome to the Ordinary Council Meeting of the Shire of Irwin.

Please be advised that Ordinary Council Meetings during 2023 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, commencing at **6.00pm**.

DATES	
No meeting held in January 2023	27 July 2023
28 February 2023	22 August 2023
28 March 2023	26 September 2023
26 April 2023	24 October 2023
23 May 2023	28 November 2023
27 June 2023	11 December 2023

Members of the public are most welcome to attend the Agenda Briefing, the Councillor Information session, and the Ordinary Council Meeting.

Disclaimer

The Shire of Irwin advises that the purpose of an Ordinary Council Meeting is to discuss and make resolutions about items appearing in the agenda. No person should rely or act on the basis of any decision, advice or information provided by a member or Officer, or on the content of any discussion occurring during the course of the meeting. No person should rely on the decisions made by Council until formal written advice of the Council is received by that person.

The Shire of Irwin expressly disclaims any liability for any loss or damage whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.



Shane Ivers
CHIEF EXECUTIVE OFFICER

Council Meeting Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee, Working Party or Steering group to examine specific subjects and then report to Council.
3. Generally all meetings are open to the public; however, from time to time Council will be required to deal with personal, legal and other sensitive matters. On those occasions Council will generally close that part of the meeting to the public. Every endeavour will be made to do this as the last item of business of the meeting.
4. **Public Question Time:** It is a requirement of the Local Government Act 1995 to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions the period can be extended at the discretion of the Presiding Member. If presenting questions to Council please note the following, as guided by the *Shire of Irwin Meeting Procedures Local Law 2016*:
 - Public Question Time occurs early in the meeting so please arrive at least 5 minutes before the advertised meeting start time (Ordinary Meetings are scheduled for a **6.00pm** start, unless otherwise advised).
 - Record your full name and suburb of residence on the Attendance Form available in the public seating area.
 - When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the minute taker and those present.
 - Only questions can be addressed to Council, not statements.
 - A minimum of 15 minutes is allocated to Public Question Time. A member has 2 minutes to submit a question.
 - You may ask up to 2 questions before other members of the public will be invited to ask their questions to ensure all have an equal and fair opportunity to ask questions.
 - The Presiding Member may elect for written questions to be responded to as normal business correspondence.
 - The Presiding member may decide that a question shall not be responded to where:
 - the same or similar question has been asked at a previous meeting and a response has already been provided;
 - a statement has been made and is not reformed into a question; or
 - a question is offensive or defamatory in nature and is not reformed into a question.
 - A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and a summary will be included in the agenda of the next meeting of Council.
 - Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request system.
 - At a Special Meeting of Council, only questions relating to the purpose of that meeting may be raised.
 - Should you wish to provide written questions prior to the meeting so that an appropriate response can be prepared, please submit them at least 72 hours prior to the Council meeting at which you wish them to be presented.
5. **Councillors** may from time to time have a financial interest in a matter before Council. Councillors must declare an interest and the extent of the interest in the matter on the Agenda. However, the Councillor can request the meeting to declare the matter **trivial, insignificant or in common with a significant number of electors or ratepayers**. The Councillor must leave the meeting whilst the matter is discussed and cannot vote unless those present agree as above.
6. **Members of staff**, who have delegated authority from Council to act on certain matters, may from time to time have a financial interest in a matter on the Agenda. The Officer must declare that interest and generally the Presiding Member will advise the Officer if he/she is to leave the meeting.
7. Agendas are delivered to Councillors within the requirements of the Local Government Act 1995, i.e. seventy-two (72) hours prior to the advertised commencement of the meeting.
8. Agendas for Ordinary Meetings are available to the public from the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au seventy-two (72) hours prior to the meeting.
9. Agenda items submitted to Council will include a recommendation for Council consideration. Electors should not interpret and/or act on the recommendations until after they have been considered by Council and ideally received written confirmation of the outcome. Please note the Disclaimer in the Agenda (page 3).
10. **Public Inspection of Unconfirmed Minutes (Reg 13):** A copy of the unconfirmed Minutes of Ordinary and Special Meetings will be available for public inspection at the Shire of Irwin Administration Centre and on the website www.irwin.wa.gov.au within ten (10) working days after the Meeting.

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ORDINARY COUNCIL MEETING

Held on

Tuesday 25 July 2023

at 6.00pm

MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M T Smith	President
Councillor I Scott	Deputy President
Councillor A J Gillam	
Councillor G Eva	
Councillor M Leonard	
Councillor B Wyse	
Councillor H Palmer	
Councillor E Tunbridge	

Staff

Mr S D Ivers	Chief Executive Officer
Mr M Connell	Manager Development Services
Mr P Bracegirdle	Manager Community Services
Miss P Machaka	Manager Finance
Mr M Jones	Acting Manager Operations
Ms J Morgan	Executive Assistant (minute taker)

Apologies

Approved Leave of Absence

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question 1: Chaz Craggs, Bonniefield Road East, Bonniefield 6525
Please explain small holdings, are they being applied?

Response:

In considering an application for development approval, cl. 67(2) of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 requires a local government to have due regard to certain matters that are relevant to the application. One of those matters is the objectives of the Rural Smallholdings zone, which was detailed in the report presented to Council.

Question 2: John Evans, Mount Horner Road West, Bookara 6525

The gazetted road runs by the side of my property, the land adjacent hasn't been maintained, why isn't it maintained and who do I send the bill to?

Response:

Dividing fences are governed by the Dividing Fences Act 1961 (WA) and local government by-laws. Where the adjoining land is owned by the Commonwealth, State or local government and is used for public purposes, the Crown is not required to contribute to the costs of erecting or maintaining the fence under this Act. The reserve is crown land vested as a road reserve but is undeveloped and therefore is not maintained.

Question 3: Sam May, Brand Highway, Dongara 6525

3 or 4 weeks ago I emailed with 5 or 6 concerns I have and to date I haven't received a reply, when can I expect an acknowledgment?

Response:

The submission raised concerns regarding water quality, hours of operation, traffic and amenity. All of these matters were addressed in the report presented to Council. All people who made a submission were advised of when the matter would be presented to Council and all submissions were provide to Council for consideration.

Question 4: Sam May, Brand Highway, Dongara 6525

If the recourse, of the items I raised, then come to fruition, where to from there?

Response:

If there are any breaches to the conditions imposed on the development approval then the Shire has the ability to undertake enforcement and/or legal proceedings in accordance with the Planning and Development Act 2005.

Question 5: Bruce Baskerville, Brand Highway, Bonniefield 6525,

To consider amending the recommendation, Part 2(c) to require the landscaping plan: to revegetate the landscape back to the original York Gum/Jam tree/Melaleuca/Acacia woodlands and native grasslands that covered the site before the 1860's and otherwise use plant species with a historical provenance to the Dongara Flat and Bonniefield Bottoms?

Response:

Council took into consideration the question and determined the matter without modification to condition (c).

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. PETITIONS AND DEPUTATIONS

7. CONFIRMATION OF MINUTES

7.1. Minutes of the Ordinary Council Meeting

A copy of the previous Minutes of the Ordinary Council Meeting have been provided to all Councillors under separate cover.

COUNCIL DECISION 010723:

MOVED:

SECONDED

That Council by Simple Majority, adopts the Minutes of the Ordinary Council Meeting, held 27 June 2023, as previously circulated, be adopted as a true and accurate recording of that meeting.

VOTING DETAILS:

Carried: 8/0

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

9. REPORTS

9.1. Officer Reports

CORPORATE AND COMMUNITY		CC01-07/23
Subject:	CC01-07/23 Accounts for Payment	
Author:	S Clarkson, Acting Senior Finance Officer	
Responsible Officer:	P Machaka, Manager Finance	
File Reference:	2.00057	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive** The substantial direction setting and oversight role of the Council e.g. performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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- Review** When Council reviews decisions made by Officers.
- Quasi-judicial** When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g. local planning applications, building permits, other permits/licences (e.g. under Health Act, Dog Act or local laws) and other decisions that may be appealable to the State Administrative Tribunal (SAT).

Report Purpose:

For Council to receive the list of accounts paid under delegated authority during June 2023.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of June 2023.

Officer's Comment:

Nil

Consultation:

Nil

Statutory Environment:

The *Local Government (Financial Management) Regulations 1996* provides as follows:

13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*
- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared*
- (a) *the payee's name;*
- (b) *the amount of the payment;*
- (c) *the date of the payment; and*
- (d) *sufficient information to identify the transaction.*
- (3) *A list prepared under sub-regulation (1) or (2) is to be*

- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

Policy Implications:

Under Delegation CEO101 Council has delegated authority to the Chief Executive Officer to authorise payments from the municipal or trust fund.

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future – Strategic Community Plan 2021 – 2031
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles.
Strategy 4.3.2 Adopt and follow better practice processes.

Attachment:

Attachment Booklet – July 2023

CC01-07/23 Attachment 1: Accounts for Payment – June 2023

Officer Recommendation:

COUNCIL DECISION 020723:

MOVED:

SECONDED:

That Council, by Simple Majority, receives the Accounts paid during June 2023 as contained in CC01-07/23 Attachment 1 of the Attachment Booklet – July 2023, represented by:

Payment Type/Numbers	Total Amount
EFT 30501 – 30715	\$1,165,262.47
Muni Cheques – 32153 – 32157	\$6,217.28
Direct Debit – Telstra	\$3,882.32
Direct Debit – WA Treasury Corporation	\$146,988.89
Direct Debit – Solar Panel Repayments	\$1,947.66
Direct Debit – Credit Card	\$24,133.19
Direct Debit – N-Able Pty Ltd	\$673.50
Direct Debit – Australian Phone Company	\$1,332.69
Direct Debit – Vestone Capital Pty Ltd	\$10,884.20
Direct Debit – Superannuation	\$48,213.16
Grand Total	\$1,409,535.36

VOTING DETAILS:

Carried 8/0

CORPORATE AND COMMUNITY		CC02-07/23
Subject:	CC02-07/23 Irwin Recreation Centre Request for Tender	
Author:	P Bracegirdle, Manager Community Services	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.0254	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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Report Purpose:

For Council to note the outcome of the Request for Tender RFT01-2022/23 for the Irwin Recreation Centre Management Services.

Background:

The Irwin Recreation Centre has been operated by the Shire of Irwin since its opening in 1984 and has delivered the local community a range of sporting and recreational programs. The Centres facilities were further enhanced by a major centre redevelopment which was completed in 2009 and delivered the Shire a multi-court recreation centre that would not be out of place in a large regional centre.

In further developing and delivering sports, community programs and services the overall management of the centre was reviewed, examining a range of management options to operate the centre and further deliver to the community improved services and programs. In exploring options and their potential benefits it was decided to ‘test the market’ through the development of a detailed Request for Tender (RFT) documentation.

Officer’s Comment:

The Shire of Irwin advertised the Request for Tender seeking interest from suitably qualified recreation management service providers to manage the operations of the Irwin Recreation Centre for an initial period of three years with an additional two-year option available. Officers were seeking to explore an alternative to the existing in-house management scenario with the aim to improve the overall efficiency of the centre and the services currently provided at the facility.

In developing the tender documentation, Officers followed established processes in accordance with s.3.57 r.11(1), of the Local Government (Functions and General) Regulations 1996 and under CEO01 Delegated Authority, a public tender was called for RFT01-2022/23 Irwin Recreation Centre Management Services. As per the Local Government (Functions and General) Regulations 1996 s.3.57 r.14(1) and r.14(3) State-wide public notice was given in The West Australian on Saturday 10 June 2023, with the tender closing date of 4 July 2023. Two requests were made for the tender document. Three

members of staff were present for the opening of tenders and all information has been recorded in a tender register in accordance with r.17 and Council's record keeping policy.

No tenders for the management of the centre were received with the Centres current operational model to remain in place.

Consultation:

Nil

Statutory Environment:

Local Government Act 1995

Local Government (Functions and General) Regulations 1996 s.3.57 r.11(1) s.3.57 r.14(1) and r.14(3)

Policy Implications:

Nil

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future - Strategic Community Plan 2021 – 2031

Strategy 1.1.1 Identify and support services, events and programs for building capacity, social inclusion, and wellbeing.

Strategy 1.2.2 Support the strong sporting culture that shapes the Shire of Irwin's identity and lifestyle.

Strategy 3.1.3 Identify, provide, and manage Shire assets (including community infrastructure, Shire controlled reserves and freehold land) in accordance with agreed service levels.

Attachments:

Attachment Booklet – July 2023

CC02-07/23 Attachment 1: Irwin Recreation Centre Request for Tender

Officer Recommendation:

COUNCIL DECISION 030723:

MOVED:

SECONDED:

That Council, by Simple Majority, notes that no tenders were received for the Irwin Recreation Centres RFT01-2022/23 Irwin Recreation Centre Management Services.

VOTING DETAILS:

Carried by Absolute Majority 8/0

OFFICE OF CEO	CEO01-07/23
Subject:	CEO01-07/23 Local Government Elections 2023
Author:	M McAuley, Governance Officer
Responsible Officer:	S Ivers, Chief Executive Officer
File Reference:	3.00342
Voting Requirements:	Absolute Majority

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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Report Purpose:

For Council to consider appointing the Western Australian Electoral Commissioner (WAEC) to conduct a postal election for the 2023 local government elections, together with any other election or polls which may be required.

Background:

Local government ordinary elections are held on the third Saturday in October every two years. The next local government ordinary elections will be held on 21 October 2023. The Shire has the option of facilitating a voting in person on election day or running the election via postal vote.

The Electoral Commissioner is responsible for conducting all local government postal elections in Western Australia and can also conduct voting in person elections on request under the *Local Government Act 1995*. By making the Electoral Commissioner responsible for these elections, the Shire of Irwin ensures that elections are conducted independently and with impartiality.

For the Shire to facilitate a voting in person election day, several local government staff plus externally appointed staff would be required to host the election at the Irwin Recreation Centre on the specified election date for residents to cast their vote in person.

Postal elections for local government in WA were first trialled by four (4) local governments in 1995. This has increased over the years to 90 local governments in 2021.

For the Shire to run a postal election, a local Returning Officer will need to be appointed and at least two local government staff members will be required to work in the polling place on election day. All eligible electors will receive a postal voting package around three weeks prior to polling day. The package will include a list of candidates, ballot papers, instructions on how to vote and a declaration.

The current procedure required by the *Local Government Act 1995* is that written agreement must be obtained before the vote by Council is taken to appoint the Electoral Commissioner to conduct the

election. To facilitate the process the Electoral Commissioner has provided correspondence serving as agreement to be responsible for the conduct of the ordinary elections in 2023 for the Shire of Irwin in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. This agreement is subject to the proviso that the Shire of Irwin also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

Officer's Comment:

Postal voting historically has a much higher participation rate (response rate for previous Shire of Irwin postal election being 52.4%) than election days with voting in person, as postal voting is more convenient for many electors.

It is recommended that Council agree to the Electoral Commissioner running the 2023 Shire of Irwin ordinary election, and other required election or poll via postal vote due to the experience of the WAEC, their independence and impartiality in the process, and convenience and participation rates for voters. Advantages are outlined below.

Advantages for electors

- Convenience of casting a vote in their own homes – particularly for disabled and aged voters and those without access to transport.
- Provision of candidate profiles to each elector to assist in their decision-making.
- Time to contact candidates and make an informed decision.
- Reduced costs in time and travel in casting a vote.

Advantages for candidates

- Availability of an experienced Returning Officer “at arm’s length” from Local Government business.
- Detailed candidates’ guides prepared by the Electoral Commission.
- An opportunity to reach all eligible electors at no cost through the candidate profile.
- Confidence that the election is being run by the State’s independent Electoral Commission.
- Elected candidates have an increased support base.

Advantages for the Local Government

- All eligible electors are given information about the election.
- Electors can vote more easily as there are virtually no barriers to voting.
- Elections are seen to be conducted by the impartial Western Australian Electoral Commission.
- The workload for the CEO is reduced in an area that is not core business.
- The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner.
- Economies of scale can reduce some of the costs (advertising).
- Elected Councillors have a high level of support from the local community.

Consultation:

Nil

Statutory Environment: Local Government Act 1995

Section 4.20(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

** Absolute majority required.*

Local Government Act 1995 Section 4.61(2) The local government may decide to conduct the election as a postal election.*

** Absolute majority required.*

Policy Implications:

Nil

Financial/Resource Implications:

The Commission is required to conduct local government elections on a full cost recovery basis which may vary depending on factors such as the cost of materials and number of replies received.

The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election the Shire will be advised as early as possible.

The actual costs for the 2021 Elections were \$22,244 inc. GST. It has been recommended by the Electoral Commission that the estimated costs for the 2023 elections, would be \$28,000 inc. GST, pm based on the following assumptions:

- 2,850 electors
- response rate of approximately 55%
- 3 vacancies
- count to be conducted at the offices of the Shire of Irwin
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of the election packages.

Costs not incorporated in this estimate include:

- An additional amount of \$625 will be incurred if the Council decides to opt for the Australia Post Priority Service
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- a minimum of two local government staff members to work in the polling place on election day and any additional postage rate increase by Australia Post

Strategic Implications:

Strategic Community Plan 2017 – 2027

Strategy 4.2.4 Promote programs to encourage participation in elections.

Attachments:

Attachment Booklet – July 2023

CEO01-07/23 Attachment 1: Correspondence WA Electoral Commission

Officer Recommendation:

COUNCIL DECISION 040723:

MOVED:

SECONDED:

That Council by Absolute Majority;

- 1) Declares, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2023 ordinary elections together with any other elections or polls which may be required; and**
- 2) Decides, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.**

VOTING DETAILS:

Carried by Absolute Majority 8/0

REGULATORY SERVICES		ID01-07/23
Subject:	ID01-07/23 Delegated Authority Report – Development, June 2023	
Author:	M Connell, Manager Development	
Responsible Officer:	S Ivers, Chief Executive Officer	
File Reference:	3.00125	
Voting Requirements:	Simple Majority	

Council Role:

- Advocacy** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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Report Purpose:

For Council to receive the Delegated Authority Report – Development, June 2023.

Background:

Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning, and community leadership, with the organisation focussing on the day-to-day operations of the Shire.

The use of delegated authority means the large volume of routine work can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

Officer's Comment:

This report presents the details of development functions made under delegated authority for the month of June 2023, with 3 building permits and 10 applications for development approval having been issued.

Consultation:

Nil

Statutory Environment:

Local Government Act 1995
Local Government (Administration) Regulations 1996

Policy Implications:

Nil

Financial/Resource Implications:

Nil

Strategic Implications:

Our Brilliant Future – Strategic Community Plan 2021 – 2031

Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles.

Strategy 4.3.2 Adopt and follow better practice processes

Attachments:

Attachment Booklet – July 2023

ID01-07/23 Attachment 1: Delegated Authority Report – Development, June 2023

Officer Recommendation:

COUNCIL DECISION 050723:

MOVED:

SECONDED:

That Council, by Simple Majority, receives the Delegated Authority Report – Development, June 2023 as contained in ID01-07/23 Attachment 1 of the Attachment Booklet – July 2023.

VOTING DETAILS:

Carried by Absolute Majority 8/0

9.2. Committee Reports

9.2.1 Audit Committee 2022/23 OAG Entrance Meeting

COUNCIL DECISION 060723:	
MOVED:	SECONDED:
That Council receives the Minutes of the Audit Committee entrance meeting 2022/23 held on 27 June 2023.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

9.2.2 Audit Committee 2021/22 OAG Exit Meeting

COUNCIL DECISION 070723:	
MOVED:	SECONDED:
That Council receives the Minutes of the Audit Committee exit meeting 2021/22 held on 3 May 2023.	
VOTING DETAILS:	Carried by Absolute Majority 8/0

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN
12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION
13. MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC
14. CLOSURE

