

## **Submissions – Standing Orders Local Law**

Following the public submission period, which closed on Friday 24 October 2005, three (3) submissions were received.

### **Submission 1**

#### **Clause 3.1 – Purpose and Intent**

At 3.1. “Purpose and intent” change “electors” to “public”

Some people at Council meetings may not be electors but still have a right to attend open Council meetings. “Public” gives a wider scope to the standing Orders than “electors”.

#### ***Officer’s Comment***

***The reference to the term ‘electors’ within clause 3.1 refers to meetings of electors as arranged in accordance with the Local Government Act 1995.***

#### **Clause 3.2 (2)(c) – Purpose and Intent**

At 3(2)( c) add “greater”

This will make the Standing Orders more consistent with the intent of the *Local Government Act 1995*, section 1.3 and consistent with the phrasing of 3(2)(a) & (b).

#### ***Officer’s Comment***

***Agreed.***

#### **Clause 3.2(2)(d) – Purpose and Intent**

At 3(2)(d ) add “more”

This will make the Standing Orders more consistent with the *Local Government Act 1995*, section 1.3 and consistent with the phrasing of the rest of this clause.

The intent section of the local law should be worded to give dynamic direction to the local law. It should be worded to show if certain things should be encouraged or discouraged.

#### ***Officer’s Comment***

***Agreed. The Local Government Act 1995 was intended to result in greater community participation in the decisions and affairs of local government.***

### **Clause 13 - Voting**

At 13, Voting, add “(3) The Presiding Member may direct members to cast their vote electronically if devices are provided at a meeting to enable votes to be cast or recorded electronically.”.

Prior to the appointment of the current commissioners, the voting of all elected members was electronically recorded at Council meeting. This was seen by many observers as improving accountability of the Council to their local community.

The electronic recording of all voting of elected members should be re-introduced and the power of the presiding member to ensure that all votes are recorded be giving effective power through the Standing Orders.

#### ***Officer’s Comment***

***The Local Government Act 1995 and its associated regulations requires all members while at a meeting of a Council or committee to cast a vote, except where they he/she has a financial interest as specified by the Local Government Act 1995.***

***The ability to decide on how the votes are recorded should remain flexible while ensuring the requirements of the Act is complied with. To include such a provision within the local law may restrict that flexibility.***

### **Clause 14 – Order of business**

At 14, Order of Business, add “to be altered for that meeting only”.

The “Order of Business” includes several provisions for maintaining open and accountable local government. These provisions should be safeguarded. Restricting Council’s ability to delete these provisions will ensure that the intent of the *Local Government Act 1995* and the intent of this local law will be maintained.

#### ***Officer’s Comment***

***The intent of this clause is to allow flexibility to the Council to alter its order of business to meet the current demands facing the Council and to conduct its business as required.***

### **Clause 14 – Order of business**

At 14, add “questions with due notice”

The greater accountability intent of the *Local Government Act 1995* must be given effective mechanisms. “Questions with due notice” is just one way in which the public can witness their elected members holding the administration and each other publicly accountable.

#### Suggested new clause “Questions with due notice”

“Elected members must submit questions with due notice to the Mayor and CEO at least 48 hours prior to the commencement of the meeting where the questions will be asked. The mayor on the advice of the CEO may order the elected member submitting the questions to re-word the questions to a form that complies with these standing orders and/or the Code of conduct. In the event that the elected member submitting the questions does not agree to the re-word of their questions, the Council, behind closed doors, will decide by absolute majority the words of the questions to be recorded in the minutes.”

The right of elected representatives of the people to ask questions is a cornerstone of democracy. To omit “Questions with due notice” from the agenda for local government greatly reduces the accountability of the local government to its local community. Elected representatives should give the Administration time to give a well-considered answer. Although 48 hours stated a thoughtful elected member would submit the questions earlier than 48 hours.

#### **Officer’s Comment**

***The responses to questions given with due notice are always brief and generally in a ‘yes’ or ‘no’ format, with no discussion on the questions permitted.***

***The publication ‘The Preparation of Agendas and Minutes’ produced by the then Department of Local Government does not include ‘questions with due notice’ in its suggested order of business, as it is believed that such an item of business is not ‘best practice’ when conducting a meeting of the Council. In line with the guide the suggested change is not supported.***

***Any elected member is entitled to ask a question during the debate on an item, which requires clarification.***

#### **Clause 14 – Order of business**

At 14, add “Questions without due notice”

This is another part of the toolbox of accountability tools that enable elected members to provide open and accountable local government. To have an agenda without “questions without due notice” is comparable with a council finding a way to do away with public question time.

Suggested new clause to go after “Questions without due notice”

“Elected members must submit questions without due notice, in writing, to the Mayor and CEO at least one hour prior to the commencement of the meeting where the questions will be asked. The mayor on the advice of the CEO may order the elected member submitting the questions to re-word the questions to a form that complies with these standing orders and/or the Code of conduct. In the event that the elected member submitting the questions does not agree to the re-word of their questions, the Council, behind closed doors, will decide by absolute majority the words of the questions to be recorded in the minutes.

It shall be competent for the CEO to take “questions without due notice” on notice to be answered at the next meeting of Council.

Notwithstanding the clauses above, an Elected Member may re-state a question or statement put at public question/statement time if the Elected Member is of the opinion that the response provided was inadequate or unhelpful to the member of the public.”

#### ***Officer’s Comment***

***Similar comments are made to the inclusion of such an item of business as ‘questions with due notice.’ It is not supported within the guide produced by the Department, again as it is regarded as not in the interests of a well functioning elected Council.***

### **Clause 14 – Order of business**

At 14 add “Public question/statement time”

The second public question/statement time should be included to enable the elected members and senior staff to explain to the public the decisions that they have made on behalf of their local community.

It must be remembered that the first public question and statement times can only deal with the recommendations of the staff, and not the decisions that the elected members will make at that meeting. The second public question statement times will facilitate communication between elected members and the community in an open and accountable manner.

The second public question is consistent with the intent of the *Local Government Act 1995* and particularly with section 2.8 & 2.10, which states the role of elected members includes “facilitate communication between the community and the council.”

A suggested new clause “Second public question/statement time”

“At the end of every ordinary and special meeting of the Council, and at the end of committee meetings open to the public and briefing sessions open to the public, there will be a minimum of 15 minutes allocated to allow members of the public to ask questions and make statements on the decisions made at that meeting or briefing session.

Members of the public using the Second Public Question/Statement will be allowed to mix their statements with questions.

The Presiding Member shall call upon the mover of the successful motion to answer the question asked. Should the mover of the motion not be available, then the presiding member will call upon the seconder of the motion to answer the question. Should both the mover and seconder be unavailable then the presiding member may call upon any elected member who voted for the motion to answer the question.

The Minutes shall record who spoke and the responses given.”

**Officer's Comment**

***The Act requires every local government to include a period of public question time at Council and Committee (those with delegated authority) meetings, there is no legal requirement for an additional period of public question time.***

***The notion of a second public question time at the end of a Council meeting should not be pursued as Regulation 7(2) of the Local Government (Administration) Regulations 1996 is very clear that the allocation of time to allow members of the public to ask questions during a Council meeting must precede any matter that requires the Council to make a decision on. The second public question time would in fact follow the decisions being made and therefore any questions asked by the public must happen at the commencement of the meeting and not at the end of the meeting, as it is believed that this would conflict with the regulations.***

***A further concern is that if the public question time relates to resolutions passed at the meeting, then there may not be adequate time for the person answering the question to consider the ramifications of the decision, including the steps, which would be required to implement the decision.***

***It is therefore suggested that a second period of public question time not be included in the order of business.***

**Clause 14(2) – Order of business (Committee meetings)**

At 14(2) add, “for that meeting only”.

See the reasons for change number 5, adding, “to be altered for that meeting only” to the order of business for ordinary meetings.

**Officer's Comments**

***See comments above relating to clause 14.***

**Clause 14(2) – Order of business (Committee meetings)**

At 14(2) add “Public question/statement time.

See the reasons for change number 8.

**Officer's Comments**

***See comments above relating to clause 14.***

**Clause 15(7) – Public question time**

At 15 (7) delete, “Notwithstanding clause 14(2) there is to be no public question time in meetings of committees other than a committee to which the local government has delegated a power or duty.”

Replace with “All committee meetings which are open to the public will have public question and statement times at the beginning and end of the meetings.”

These changes are consistent with the City’s Strategic Plan, Objective 4.1, “To manage the business in a responsible and accountable manner. And Objective 4.3, “To ensure the City responds to and communicates with the community.”

***Officer’s Comment***

***The Local Government Act 1995 and its associated regulations describe the requirements for public question time at committee meetings. This clause of the Standing Orders Local Law is consistent with the provisions of the Act. See comments above relating to clause 14 – ‘second period of public question time.’***

**Clause 16 – Public statement time**

At 16, **Public Statement Times**, delete, “Notwithstanding clause 14(2) there is to be no public statement time in meetings of committees other than a committee to which the local government has delegated a power or duty.”

Replace with “At the beginning and end of all committee meetings open to the public there will be public statement times.”

This change is consistent with the intent of the *Local Government Act 1995*, section 1.3(2)(b) and the strategic plan objective 4.3.

***Officer’s Comment***

***Public statement time is not a requirement of the Local Government Act 1995 or its associated regulations. It is an additional item under Order of Business that the Council has agreed to as part of its meetings in order to assist in the engagement of members of the public during Council meetings. See comments above relating to clause 15.***

**Clause 22 – Petitions**

At 21 Petitions, add, “(4) Within six months of the presentation of a petition to Council, the CEO shall report to Council what action has been taken to resolve the issues raised in the petition.”

Petitions are to the Council itself, not the CEO and Staff. Accordingly the Council has a responsibility to deal with the petitions. This provision is consistent with the practices of state parliament’s dealing with petitions. This new clause is also in keeping with the Strategic Plan Objective 4.3

***Officer’s Comment***

***The current and proposed Standing Orders Local Laws details the required format of a petition that is to be followed when presenting it to the Council. There are many occasions where a petition is submitted that does not conform with the requirements of the Standing Orders Local Law is presented to the Council as the intent of the petitioners is respected.***

***Where a petition is presented initially to the Council, it is referred to the Chief Executive Officer (CEO) for action. This is done in order to ensure that the matter is promptly dealt with and the relevant action taken rather than waiting for a report to be written to the Council within its meeting cycle. However, where the matter requested by the petitioners requires a decision that can not be dealt with by the CEO, a report is presented to the Council for its determination.***

***A well-structured agenda will provide members the maximum opportunity for debate, set policy and strategy and to plan for the future. It is generally agreed that short, sharp meetings directed towards decisions are ones likely to achieve good results. The concept of including items for information does not support this best practice principle, especially when the action requested in the petition is completed.***

***Where the CEO has taken action, elected members could be advised through other more informal ways.***

***Objective 4.3 of the City's Strategic Plan states 'to ensure the City responds to and communicates with the community.' The reference to the term City does not mean the Council, as the Council is the elected members meeting together to make decisions. Advising petitioners following action by the City without a decision of the Council on the subject matter achieves objective 4.3 of the Strategic Plan.***

## **Clause 22 – Petitions**

At 21, add, "(4) A petition to Council cannot be signed by an Elected Member presenting the petition."

Elected Members have other means of communicating with and ensuring the accountability of the organisation. This new clause will also avoid any abuse of process by Elected Members subverting petitions for their own ends.

Parliament's Standing Orders has a similar provision banning members of parliament signing petitions, clause 65(2) Legislative Assembly Standing Orders and clause 131 Legislative Council standing Orders.

### ***Officer's Comment***

***All members of the Council within their roles as defined by the Local Government Act 1995 are required to represent the interests of electors, ratepayers and residents of the district. There is nothing contained within the legislation that prevents a member of the Council in being a signatory to a petition to be presented to the Council.***

***Elected members are not permitted to ask questions of the Council during the statutory public question time at Council and/or Committee meetings.***

### **Clause 16(1) – Public statement time**

At 15.1, add, “after advertising the proposed changes and giving consideration to any submissions received regarding the proposed changes.”

Any changes to how the Council interacts with its community should be done after consulting the community. Changes to public procedures without consultation have the possibility of creating ill will between the Council and the community.

#### ***Officer’s Comment***

***The preparation of the protocols relating to public question and statement time was subject to an extensive public consultation process.***

***The intent of the Standing Orders Local Law is to establish a set of procedures to assist in the good conduct of Council, Committee and electors meetings. The procedure followed in establishing procedures for public question and statement times is separate to procedures contained within the Standing Orders. If the Council of the day decides to alter the protocols relating to public question and statement time it should at that time determine the process to be followed.***

### **Clause 26 – Motions of which previous notice has been given**

At 25, ‘Motions of which previous notice has been given’, sub-clause 9 (c), the Mayor and CEO are swapped.

Meeting of Council are under the control of the Elected Members and the Presiding Member. The role of the CEO is to advise the Council, a local law cannot give away Council’s responsibility to make decisions.

#### ***Officer’s Comment***

***It is agreed that the conduct of a Council or Committee meeting rests with the Presiding person. The role granted to the CEO in determining if a notice of motion was to be ruled out of order was done so as the decision would need to be done outside the convened meeting of the Council (generally at the time of the preparation of the agenda papers and in some circumstances waiting until the Council meeting to rule a notice of motion out of order may have some ramifications such as defamation as it would have already been printed on the agenda papers).***

***With the exception of some emergency powers granted to the Mayor, it is not possible to delegate powers to individual members of the Council. To be consistent with the Local Government Act 1995, the clause has been worded that the CEO is required to liaise with the Mayor.***



## **Clause 29(2) – Seating**

At 29, Seating, sub-clause 2 & 3 are changed to allow the Deputy Mayor to decide where the Deputy Mayor sits.

This change is required to allow the deputy mayor control the Mayor from abusing the right of inviting guests to Council meetings with the intent of self-promotion within the interest group represented by the invited guest.

Records of Council meetings will reveal that a former mayor was attempting to use inviting guests as a means of electioneering.

### ***Officer's Comment***

***This was a past practice of the former City of Wanneroo for the deputy Mayor to sit to the immediate right of the Mayor.***

***The Mayor of the City of Joondalup is elected by the electors and the deputy Mayor is elected by the Council and fulfils the role of Councillor as defined under the Local Government Act 1995. It is common practice amongst local governments for the deputy Mayors in their role as Councillor and as the Council has resolved to elect them as 'their' deputy Mayor, and then they should sit with their fellow Councillors representing the people of their ward and the district as a whole.***

## **Clause 30 – Distinguished visitor seating**

At 29, distinguished visitor seating, delete the words "beside the presiding person".

This change is required as at Council and committee meetings Elected Members now use computers and it is impractical to shift members around on the whim of the Mayor.

### ***Officer's Comment***

***The intent of this clause was to ensure that where a distinguished visitor of a relative high standing Governor, Minister or Member of Parliament, Mayor of a Sister City, etc.) was to attend, it would be deemed appropriate protocol for them to accompany the Mayor at the head table. If this seat was to be occupied by another elected member it could cause a degree of embarrassment to the Council.***

## **Clause 50 (2) – No opposition to motions**

At 50. No opposition to motions, sub-clause 2, delete "may then take the vote without debate" and replace it with "will declare the motion carried unanimously".

This change is required to stop elected members forming majority factions and agreeing before a meeting not to support a motion but avoid being accountable by not debating their reasons for not supporting a motion.

**Officer's Comment**

***This clause is a relative standard clause for Standing Orders for local governments and exists within the current Standing Orders Local Law for the City of Joondalup.***

***The intent of the clause is to improve the efficiency of the meeting. It only requires one member to indicate an opposition to the motion and therefore the matter is subject to the rules of debate under the Standing Orders. There is no requirement for any or all members to debate every motion before the Council.***

***If this clause is invoked, then the motion will be recorded as carried unanimously as no member had signified opposition.***

**Clause 50(3) – No opposition to motions**

At 50(3), delete “the motion shall be dealt with according to this local law”, and replace it with “but no speaker rises to debate in opposition to the motion, then the presiding person may declare the motion carried unanimously.”

This change is required for the same reason as change number 19.

**Officer's Comment**

***See comments above relating to clause 50(2).***

**Clause 66 – Meeting be now closed – effect of motion**

At 66, Meeting be now closed, add the words “other than the second public question/statement time”.

There is a danger that the motion “the meeting be now closed” is abused to avoid being accountable at the second public question/statement.

**Officer's Comment**

***The intent of all procedural motions is to ensure a course of action is taken, generally without debate. With clause 66 being a procedural motion to close the meeting, if that is carried then that should be where the meeting closes if the meeting so decides. Any outstanding business is then carried forward to the next ordinary meeting of the Council.***

***The number of procedural motions in the draft Standing Orders Local Law is reduced compared to the current Standing Orders Local Law. Procedural motions have certain safeguards included to ensure individual members do not abuse them.***

***It is not proposed that a second period of public question or statement time be included in the draft Standing Orders Local Law.***

## **Clause 76 – Meetings closed to the public**

At 76, Meetings closed to the public, delete “closed” in the title and text of the clause, and replace it with “open”.

This change is required to affirm Council commitment to open and accountable local government.

### ***Officer’s Comment***

***The Local Government Act 1995 details which Committees are to be open to the public.***

## **Clause 81 – Cases not provided for in the standing orders**

At 81, Cases not provided for in the standing orders, add “and may refer to section 18 of the Interpretations Act 1984, the Standing Orders of the Parliament of Western Australia and /or the intent of the *Local Government Act 1995*.”

Many Standing Orders have a provision that where cases are not provided in the Standing Orders then the Standing Orders of the next level of government may be used to find a solution to the problem. There is no reason given in the report or explanatory notes to the advertised proposed Standing Orders that explains why it is recommended that this be deleted.

Referring to the intent of the Local Government Act is also advisable under the Interpretations Act 1984 Section 18.

### ***Officer’s Comment***

***It is agreed that the conduct of Council or Committee meetings rests with the Presiding person. If a case arises that is not provided for in the Standing Orders then the discretion of the Presiding person should be relied upon. If it would assist to include such references then the clause can be amended to reflect this.***

## **Clause 82 – Enforcement**

At 82, Enforcement, add the following clauses:

“(2) The Council by absolute majority may vote to instruct the CEO to prosecute for any offence committed under this Local Law.

(3) The motion to commence proceedings for prosecution must be given in accordance with clause 26 and be signed by at least five elected members.

(4) Notwithstanding sub-clauses 2& 3, any member of the public who believes that an offence has been committed under this Local Law may present to the Audit Committee their reasons for the Audit Committee to recommend to Council commencement of proceeding to prosecute under this Local Law.”

Section 9.24 (2) (b) requires a person who is authorised to do so by the local government or regional government that made the local law to commence a prosecution for an offence under a local law. The proposed standing orders have not provided for any persons to be authorised to commence prosecution.

The suggested additional clauses correct the omission and also provide a procedure that should prevent any malicious prosecutions under the local law whilst still empowering the public to keep their local government accountable.

***Officer's Comment***

***The current Standing Orders Local Law has a very wide encompassing enforcement clause which allows for any breach of any clause of the local law may lead a penalty if convicted by a court. Technically this allows for any breach of the Standing Orders (including such things as speaking twice on a motion or not containing debate to the motion before the Council) to be subject to a prosecution if a case is made.***

***The intent of the revised Standing Orders Local Law is that only specific clauses are subject to prosecution if breached and an action is taken against that person.***

***Like the Local Government Act 1995, any person may bring an action against another person for an alleged breach of the Standing Orders Local Law, which is then determined by a court. If the Council desired to prosecute for a breach of Standing Orders it would have to initiate an action by a properly worded decision of the Council.***

**Submission 2 - (Department of Local Government and Regional Development**

**Clause – Heading**

Insert on the first line of the heading of the proposed local law the words "*Local Government Act 1995*".

***Officer's Comment***

***Agreed – this has been corrected.***

**Clause 5 – Definitions**

(i) In the definition of the word "Act" the words "*Local Government Act 1995*" should be in italics.

(ii) In the definition of the word "Regulations" the words "*Local Government (Administration) Regulations 1996*" should be in italics.

***Officer's Comments***

***Agreed – this has been corrected.***

**Clause 7(2) – Notice of meeting and notice of adjournment**

The words "*Interpretation Act 1984*" should be in italics.

***Officer's Comments***

***Agreed – this has been corrected.***

**Clause 14(1) & (2) – Order of business**

All items listed in sub clause (1) and (2) should be alphabetically coded; separated with semicolons and in the second last item, the word "and" should be inserted after the semicolon; and the last item should end with a full stop ".".

***Officer's Comments***

***Agreed – this has been corrected.***

### **Submission 3**

#### **Clause 3 – Purpose and intent**

The word electors should be changed to “electors, ratepayers, residents of the District and general public” to specifically meet the Councillors role and to permit persons of the general Public to be involved in the City’s affairs.

##### ***Officer’s Comments***

***The reference to the term ‘electors’ within clause 3.1 refers to meetings of electors as arranged in accordance with the Local Government Act 1995.***

#### **Clause 14 – Order of business**

Questions with due notice and Questions without due notice should remain.

##### ***Officer’s Comments***

***The responses to questions given with or without due notice are always brief and generally in a ‘yes’ or ‘no’ format, with no discussion on the questions permitted.***

***The publication ‘The Preparation of Agendas and Minutes’ produced by the then Department of Local Government does not include ‘questions with due notice’ or ‘questions without due notice’ in its suggested order of business, as it is believed that such an item of business is not ‘best practice’ when conducting a meeting of the Council. In line with the guide the suggested change is not supported.***

***Any elected member is entitled to ask a question during the debate on an item, which requires clarification.***

#### **Clause 14 – Order of business**

Second Public Question time should form Order of Business for Council and Committee Meetings.

##### ***Officer’s Comments***

***The Act requires every local government to include a period of public question time at Council and Committee (those with delegated authority) meetings, there is no legal requirement for an additional period of public question time.***

***The notion of a second public question time at the end of a Council meeting should not be pursued as Regulation 7(2) of the Local Government (Administration) Regulations 1996 is very clear that the allocation of time to allow members of the public to ask questions during a Council meeting must precede any matter that requires the Council to make a decision on. The second public question time would in fact follow the decisions being made and therefore any questions asked by the public must happen at the commencement of the meeting and not at the end of the meeting, as it is believed that this would conflict with the regulations.***

***A further concern is that if the public question time relates to resolutions passed at the meeting, then there may not be adequate time for the person answering the question to consider the ramifications of the decision, including the steps, which would be required to implement the decision.***

***The Local Government Act 1995 and its associated regulations describe the requirements for public question time at committee meetings. This clause of the Standing Orders Local Law is consistent with the provisions of the Act. See comments above relating to clause 14 – ‘second period of public question time.’***

***It is therefore suggested that a second period of public question time not be included in the order of business.***

#### **Clause 76 – Meetings closed to the public**

All Committee Meetings should be open to the Public and include First and Second Question & Statement Times.

##### ***Officer’s Comments***

***The Local Government Act 1995 details which Committees are to be open to the public. See comments relating to clause 14 – Order of business.***

#### **Clause 22 – Petitions**

Time limitations should be placed on the actioning of Petition requests by the administration to ensure petitions are acted upon promptly.

##### ***Officer’s Comments***

***All requests made to the City of Joondalup are dealt with as expeditiously as possible, regardless of whether the request is in the form of a petition. It would not be possible to place a definitive timeframe within the Standing Orders Local Law on dealing with all petitions as some request by petitioners and require a degree of research and the matter may require to be listed for consideration in future capital works programs or budget deliberations.***

#### **Clause 26 – Motions of which previous notice has been given**

Mayor should decide if a Motion of Previous Notice should be rejected after consultation with the CEO.

##### ***Officer’s Comments***

***It is agreed that the conduct of a Council or Committee meeting rests with the Presiding person. The role granted to the CEO in determining if a notice of motion was to be ruled out of order was done so as the decision would need to be done outside the convened meeting of the Council (generally at the time of the preparation of the agenda papers and in some circumstances waiting until the Council meeting to rule a notice of motion out of order may have some ramifications such as defamation as it would have already been printed on the agenda papers).***

***With the exception of some emergency powers granted to the Mayor, it is not possible to delegate powers to individual members of the Council. To be consistent with the Local Government Act 1995, the clause has been worded that the CEO is required to liaise with the Mayor.***

#### **Clause 50 – No opposition to motions**

If no debate occurs to oppose a motion the motion should be carried unanimously.

##### ***Officer's Comments***

***This clause is a relative standard clause for Standing Orders for local governments and exists within the current Standing Orders Local Law for the City of Joondalup.***

***The intent of the clause is to improve the efficiency of the meeting. It only requires one member to indicate an opposition to the motion and therefore the matter is subject to the rules of debate under the Standing Orders. There is no requirement for any or all members to debate every motion before the Council.***

***If this clause is invoked, then the motion will be recorded as carried unanimously as no member had signified opposition.***

#### **Clause 13 – Voting**

All voting divisions – those for and against - should be recorded and minuted.

##### ***Officer's Comments***

***The Local Government Act 1995 stipulates the voting requirements to be followed at Council and Committee meetings and is referenced as a footnote as part of the proposed Standing Orders Local Law.***

#### **Clause 57 – Revocation motions**

The CEO when advised by the Mayor or Councillor that a recession motion is pending shall not action the Councils resolution pertaining to that matter.

##### ***Officer's Comment***

***Sub clause 6 of this clause details the procedure to be followed when a properly drafted revocation motion has been submitted.***

#### **Clause 80 – Meeting of electors**

A schedule for the layout and wording for Special Electors Meeting should be attached with the Petition Schedule.



**Officer's Comment**

***The intent of the Standing Orders is not to duplicate or be inconsistent with the Local Government Act 1995 or any other written law. The procedure for requesting electors meetings is detailed with the Act.***

**New clause**

Motions of Urgent Necessity should be included in the Permissible Procedural Motions.

**Officer's Comment**

***Such a motion was not included in the draft Standing Orders Local Law as inconsistency may apply to the interpretation of what is deemed 'urgent.'***

***The proposed local law has been drafted after considerable consideration to ensure effective meeting practices, in particular a focus on requiring certain procedures to be followed when members desire to submit motions for consideration by the Council. Including such a clause allowing urgent business to be raised may allow for such procedures to be dispensed with. It was also considered that the Local Government Act included the necessary provisions for Special meetings of the Council to be arranged at very short notice to deal with such urgent business.***

**Clause 76 – Meetings closed to the public**

Delete clause 76 - All meetings of committees not required to be opened to the public under *the Act* are to be closed to the public unless the Council decides otherwise.

**Officer's Comments**

***The Local Government Act 1995 details which Committees are to be open to the public.***

**Clause 48 – Adoption of recommendations en bloc**

En Bloc voting should be deleted.

**Officer's Comment**

***The current Standing Orders Local Law does not clearly detail the procedures to follow where recommendations are to be considered en bloc. This clause clearly details the procedures and allows the option if the Council of the day desires to allow en bloc voting.***

**New clause**

Reference to the Code of Conduct should be made.

**Officer's Comment**

***The only reference to the Code of Conduct relates to the requirement for members to declare interests that may affect his/her impartiality. The Code of Conduct is regarded as a separate document that all members and employees sign prior to assuming office or employment with the City of Joondalup.***

***The Standing Orders Local Law set procedures to assist in the good conduct of Council, committee and electors meetings. The Code of Conduct stipulates the required levels of behaviours of members and employees during and beyond Council or Committee meetings.***

***Some local governments include a statement at the commencement of all meetings that relate to an affirmation of civic duty and responsibility.***

**New clause**

Agree with the removal of Suspension of Standing Orders.

**Officer's Comment**

***No comment.***

**Clause 82 – Enforcement**

Disagree with the removal of “Any person who fails to do anything required by these Local Laws or who does something contrary to the provisions of the Local Laws, shall commit a breach of the Local Laws and is liable to a penalty not exceeding \$5,000”. (Clause 8.3 of current Standing Orders Local Law).

**Officer's Comments**

***The current Standing Orders Local Law has a very wide encompassing enforcement clause which allows for any breach of any clause of the local law may lead a penalty if convicted by a court. Technically this allows for any breach of the Standing Orders (including such things as speaking twice on a motion or not containing debate to the motion before the Council) to be subject to a prosecution if a case is made.***

***The intent of the revised Standing Orders Local Law is that only specific clauses are subject to prosecution if breached and an action is taken against that person.***

***Like the Local Government Act 1995, any person may bring an action against another person for an alleged breach of the Standing Orders Local Law, which is then determined by a court. If the Council desired to prosecute for a breach of Standing Orders it would have to initiate an action by a properly worded decision of the Council.***