



SPECIAL MEETING OF COUNCIL
AGENDA

27 SEPTEMBER 2012

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CITY OF GREATER GERALDTON
SPECIAL MEETING OF COUNCIL
TO BE HELD ON THURSDAY, 27 SEPTEMBER 2012 2011 AT 5.30PM
QUEENS PARK THEATRE

A G E N D A

DISCLAIMER:

The Chairman advises that the purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25(e)) and Council's Standing Orders Local Laws establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The City of Greater Geraldton expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

1 ACKNOWLEDGEMENT OF COUNTRY

2 DECLARATION OF OPENING

3 ATTENDANCE

Present:

Officers:

Others:

Members of Public:

Members of Press:

Apologies:

Leave of Absence:

Cr R Ashplant

Cr R Ramage

Cr S Van Styn

4 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

5 PUBLIC QUESTION TIME

Questions provided in writing prior to the meeting or at the meeting will receive a formal response.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Existing Approved Leave

From August	From	To (inclusive)
Cr R Ramage	20 August	30 September 2012
Cr R Ashplant	31 August	2 October 2012
Cr N Bennett	29 August	24 September 2012
Cr R Ramage	1 October	9 October 2012
Cr B Hall	28 September	28 October 2012
Request for Leave of Absence		
<i>To be approved at the Council Meeting – 25 September 2012</i>		
<i>Cr P Fiorenza</i>	<i>6 October</i>	<i>12 October 2012</i>
<i>Cr S Van Styn</i>	<i>26 September</i>	<i>10 October 2012</i>
<i>Cr C Gabelish</i>	<i>17 October</i>	<i>4 November 2012</i>
<i>Cr C Gabelish</i>	<i>9 November</i>	<i>19 November 2012</i>
<i>Cr N McIlwaine</i>	<i>18 October</i>	<i>19 November 2012</i>

7 PETITIONS, DEPUTATIONS OR PRESENTATIONS

8 DECLARATIONS OF CONFLICTS OF INTEREST

9 PETITIONS, DEPUTATIONS OR PRESENTATIONS

OP0012 SPECIAL ELECTORS MEETING – CGGRDC MOTIONS

AGENDA REFERENCE:	D-12-48333
AUTHOR:	B Davis, Director Treasury & Finance
EXECUTIVE:	D Granville, acting Director Organisation performance
DATE OF REPORT:	11 September 2012
FILE REFERENCE:	FM/0025
APPLICANT / PROPONENT:	Electors
ATTACHMENTS:	No

SUMMARY:

This report seeks Council consideration of motions from the CGG Ratepayers Demand Change (CGGRDC) group put and carried at the Special Meeting of Electors, held at the Queens Park Theatre on Tuesday the 11th September 2011.

Other motions carried at that meeting are addressed in separate reports to Council (Agenda items OP0013 and OP0014 refer).

PROPONENT:

Electors: Special Meeting of Electors, 11th September 2011.

BACKGROUND:

The City of Greater Geraldton received a petition at the 28th August 2012 Council Meeting calling for a Special Meeting of Electors to discuss the following issues:

1. To ask questions relating to the unjustifiable 2012/13 rate rise and the expenditure of ratepayers money for the 2012/13 financial year and preceding financial years;
2. To address the issue of increased rates for the 2012/13 financial year
3. To object to the rate for the year 2012/13 and put forward concerns.

Section 5.33 (1) and (2) of the *Local Government Act 1995* specifies the requirements for Council to consider decisions made at electors meetings, at the next possible ordinary meeting of Council. Section 5.33 of the Act is cited in the Statutory Implications section of this report.

At the Special Meeting of Electors, the following Electors motion was passed:

The ratepayers of this Special Meeting of Electors of the City of Greater Geraldton insist that the budget be amended and the rates levied for the financial year 2012-13 be reassessed and the 'rate in the dollar' recalculated to reflect a maximum increase in the 'average rate per Property' over the 2011-12 rates according to the following:

- *For Vacant Residential and Residential properties – 7%*

- *For Non Residential and Unoccupiable City Centre Zone properties - 10%*
- *For Agricultural General properties – 7%*
- *For all other property categories - as rated*

Using the CoGG table on page 30 of the Budget Note Book 2012-13 (attached) as a calculation base.

Further, the increase in rates levied against any one individual property be capped to a maximum 50% increase.

*Local Government Act 1995 section 6.2 requires that an annual budget must be prepared and adopted by 31 August in each fiscal year, and completion of the annual budget process, and implementation of the decision of Council, is signified once a copy of the budget formally adopted by Council has been provided to the Department of Local Government in accordance with *Local Government (Financial Management) Regulation 33 – Completion of annual budget.**

The City Budget for 2012-13 was completed, all statutory processes undertaken and complied with, and the Budget (with its rate setting statement) was formally adopted by Council before 31 August 2012, with no requirement to seek extension of that statutory deadline from the Minister. A copy of the adopted budget for 2012-13 was provided to the Department. The Council decision to adopt the Budget was acted upon and implemented. Rates notices were issued and ratepayers thereafter commenced payment of their rates and service charges.

In response to Community feedback, the Council subsequently adopted a policy to broaden the payment options available to ratepayers, to alleviate potential hardship on some ratepayers, introducing the option of payments by direct debit and, subject to a ratepayer not withdrawing from a formal direct debit arrangement, approving the direct debit arrangement without administration or interest charges. As well, the Council resolved to not apply administration or interest charges to the other available options for payment of rates and service charges by two-instalments or four-instalments.

As at date of preparation of this report, about 150 ratepayers had entered into direct debit arrangements for payment of rates and service charges. The number of rateable properties in the City is 19,551.

As at 31 August 2012, City ratepayers had already paid some \$20.7 million dollars or 57% of the estimated \$37 million budgeted for rates revenue.

While recognising that any year in which increases in local government rates, services charges, or fees and charges, may cause a degree of hardship to a proportion of the community, in exactly the same way caused by any increases in Federal or State Government taxes, fees or charges, the very high proportion of rates revenue received before the end of the first quarter of

the financial year suggests that a significant proportion of ratepayers have committed to paying the levels of rates determined necessary by Council.

An initial estimate of potential impact of the changes to rates per the CGGRDC motion is to reduce rates revenues to \$30.8M, a decrease of about \$6.21M or 16.8% reduction in rates revenue in 2012-13 relative to the adopted budget of \$37.0097M. The effect would be to increase revenues by only \$1.7M above 2011-12 rates budget of \$20.098M – an overall increase of only 5.8%. That would not even cover the inflationary impact on the operating budget, estimated at \$4.25M for 2012-13 taking into account CPI increase of 3.5% and both Labour Cost and Construction Cost index increases of 4.5%.

Such a major reduction in rates revenue would require radical re-formulation of the operating and capital budgets for 2012-13 and assuming Council would persist with its Budget deliberation position of maintaining operational services at least at 2011-12 levels, would require major reductions in municipal fund contributions to activities including asset renewal. Alternatively, Council would be obliged to consider reducing City municipal fund contributions towards projects that attract matching Grant funds – thus reducing the grant funding available and potentially jeopardising important projects.

These would be considerations for Council if was possible to act on the electors' motion. However, regardless of the above considerations, as noted under the Statutory Implications, section of this report, advice received is that the electors' motion cannot be acted upon.

Note that 6.47 of the *Local Government Act 1995* provides power for a Council (subject to requirements of the *Rates and Charges (Rebates and Deferments) Act 1992*) to waive or grant concessions in relation to a rate or service charge. Legal advice to the City suggests that waiving or granting a concession cannot be applied generally so as to have the effect of amending a rate across a whole class of rateable properties – hence there are constraints on the scope of this power to grant concessions. However, subject to legal advice on a case by case basis, this section of the Act may afford Council opportunity in future to consider granting concessions in cases (for example) of demonstrated hardship in respect of which other possible solutions to alleviate genuine hardship appear inappropriate to the circumstances or where exemptions or variations are sought by not for profit or community groups.

COMMUNITY CONSULTATION:

Community consultation occurred through the Special Electors Meeting.

COUNCILLOR CONSULTATION:

There has been no Councillor consultation on this matter.

STATUTORY IMPLICATIONS:

Local Government Act 5.33

Decisions made at electors' meetings

-
- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
- a) at the first ordinary council meeting after that meeting; or*
 - b) at a special meeting called for that purpose, whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Local Government Act Part 6 Division 2: Annual Budget.

Local Government Act 1996 section 5.25(1)(e) and Local Government (Administration) Regulation 10: Revoking or changing Council Decisions.

Meeting Procedures Local Law 2011 15.2: Limitations on powers to revoke or change decisions:

- (1) *Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—*
- a) where, at the time the motion is moved or notice is given, any action has been taken under clause 15.3 to implement the decision; or*
 - b) where the decision is procedural in its form or effect.*
- (2) *The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1) (a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.*

Advice received from the Department of Local Government 10th September 2012:

“The proposed electors’ motion cannot be acted upon.

There are only 3 circumstances in which a local government can impose a rate in the dollar.

1. When adopting the annual budget (s 6.32(1)(a)); or
2. In an emergency to impose a supplementary general rate(s 6.32(3)(a)); or
3. After a rate has been quashed by SAT or a Court (s 6.32(3)(b)).

The rates have been imposed at budget adoption and the City has therefore complied with the Act in doing so.

There is no ‘emergency’ and in any event a supplementary rate would add an additional amount to existing rates.

SAT has not quashed rates and therefore this does not apply.”

POLICY IMPLICATIONS:

Support for the CGGRDC motion by Council would be inconsistent with Council's Financial Sustainability Policy.

FINANCIAL AND BUDGET IMPLICATIONS:

Council support for the CGGRDC motion passed at the Special Electors Meeting would require revocation of the 2012-13 Budget adopted by absolute majority of Council, reduction of rates revenue of \$6.21 million, and would therefore require complete re-formulation of the 2012-13 Budget.

Ministerial approval would be required to enable Council to develop and adopt a budget at a later after the 31 August deadline specified in section 6.2 of the Local Government Act 1995.

Noting that, to end August 2012, some \$20.7M in rates and service charges revenue has already been paid (57% of the budget estimate of \$37.0096M), striking new rates would require complex adjustment to every rateable property account to determine refunds for ratepayers who already paid 100%, and residual instalment amounts for other ratepayers across the balance of the financial year. It would also require restructuring of all existing direct debit payment arrangements.

Regardless, the advice received, is that the electors' motion cannot be acted upon, because it would be contrary to the provisions of the Local Government Act 1995 indicated in that advice in relation to powers of a Council to strike a rate.

STRATEGIC & REGIONAL OUTCOMES:**Strategic Community Plan Outcomes:**

- | | |
|-----------------|--|
| Goal 5: | Leading the Opportunities. |
| Outcome 5.1: | Citizen and stakeholder focussed services. |
| Strategy 5.1.1: | Ensure economic, efficient and effective delivery of services. |

Regional Outcomes:

There are no regional outcomes from the consideration of this matter.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:**Economic:**

There are no economic impacts associated with this matter.

Social:

There are no social impacts associated with this matter.

Environmental:

There are no environmental impacts associated with this matter.

Cultural & Heritage:

There are no cultural or heritage impacts associated with this matter.

RELEVANT PRECEDENTS:

There are no relevant precedents associated with this matter.

DELEGATED AUTHORITY:

There is no delegated authority.

VOTING REQUIREMENTS:

Simple majority is required for Options 1 or 2.

OPTIONS:**Option 1:**

As per Executive Recommendation in this report.

Option 2:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES to:

1. RECEIVE the motions by the CGGRDC group as put and carried at the special meeting of electors held on 11 September 2012, addressed in this report;
2. DEFER consideration of the motions until the next ordinary meeting of Council scheduled for October 2012 as permitted by sub-section 5.33(1)(a) of the Act; and
3. NOTE that Council considers that it is not practicable to consider the motions carried at the special meeting of electors held on 11 September 2012, addressed in this report, at the September 2012 ordinary meeting of Council for the following reasons:
 - a. The scheduled September Ordinary Meeting of Council meeting being held in Mullewa makes it difficult for petitioners and attendees of the Special Electors Meeting to attend and make presentation to the Council meeting where their motions are being considered.

Explanatory notes:

The thrust of section 5.33 of the Act is that decisions taken at an Elector's Meeting "*..are to be considered at the next ordinary council meeting..*" unless that is not practicable.

Option 2 could be adopted by Council if Council is of the view that consideration of the motions at the ordinary meeting of Council scheduled for September 2012 is "not practicable".

CONCLUSIONS

The advice received from the department of Local Government is that the electors' motion cannot be acted upon. Accordingly, the option of supporting the electors' motion is not available to Council.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES TO:

1. RECEIVE the resolution moved by the CGGRDC group as put and carried at the Special Electors Meeting held on the 11 September 2012.
2. NOTE that it has CONSIDERED the resolution moved by the CGGRDC group and carried at the Special Electors Meeting held on the 11 September 2012.
3. NOTE that the electors' motion carried at the Special Electors Meeting held on the 11 September 2012 cannot be acted upon.
4. REFER for consideration in the 2013/14 Budget process the principles detailed in the electors motion including:-
 - a. Setting the 'rate in the dollar' to reflect a maximum increase in the 'average rate per Property' over the previous year's rates according to the following:
 - i. For Vacant Residential and Residential properties – 7%
 - ii. For Non Residential and Unoccupiable City Centre Zone properties - 10%
 - iii. For Agricultural General properties – 7%
 - iv. For all other property categories - as rated
 - v. Further, the increase in rates levied against any one individual property be capped to a maximum 50% increase.

OP0013 SPECIAL ELECTORS MEETING – MWCCI MOTION

AGENDA REFERENCE:	D-12-48335
AUTHOR:	B Davis, Director Treasury & Finance
EXECUTIVE:	D Granville, acting Director Organisation Performance
DATE OF REPORT:	12 September 2012
FILE REFERENCE:	FM/0025
APPLICANT / PROPONENT:	Electors of the City of Greater Geraldton
ATTACHMENTS:	Yes

SUMMARY:

This report seeks Council consideration of a motion from the Mid West Chamber of Commerce and Industry (MWCCI) put and carried at the Special Meeting of Electors, held at the Queens Park Theatre on Tuesday the 11th September 2011.

Other motions carried at that meeting are addressed in separate reports to Council. (Agenda items OP0012 and OP0014 refer).

PROPONENT:

Electors: Special Meeting of Electors, 11th September 2011

BACKGROUND:

The City of Greater Geraldton received a petition at the 28th August 2012 Council Meeting calling for a Special Meeting of Electors to discuss the following issues:

1. To ask questions relating to the unjustifiable 2012/13 rate rise and the expenditure of ratepayers money for the 2012/13 financial year and preceding financial years;
2. To address the issue of increased rates for the 2012/13 financial year
3. To object to the rate for the year 2012/13 and put forward concerns.

Section 5.33 (1) and (2) of the *Local Government Act 1995* specifies the requirements for Council to consider decisions made at electors meetings, at the next possible ordinary meeting of Council. Section 5.33 of the Act is cited in the Statutory Implications section of this report.

At the Special Meeting of Electors, the following motion from the MWCCI comprising four points was put and carried:

1. *Council immediately caps operational expenditure at CPI and engages an appropriate and experienced consultant to undertake an urgent independent review of all major items of planned expenditure.*
2. *Council resolves to abandon the approach of taking the increase in aggregated valuations as a rates increase in future Budget considerations.*
3. *The City of Greater Geraldton commissions research of the capacity of the community and local businesses of the district to*

meet future rate costs, incorporating a transparent consultative process, following which these factors are incorporated into the City's Financial Sustainability Policies.

4. *The City of Greater Geraldton writes to the Department of Local Government seeking its advice on the process of consultation, public advertising and budget setting and deliberations it has undertaken for the 2012/13 Budget, how this complies with the Local Government Act, Regulations, Policies and Practices; and advice on best practice recommended by the Department on these matters.*

Information and advice to Council is provided below, addressing each of the four points in turn.

Point 1: Council immediately caps operational expenditure at CPI and engages an appropriate and experienced consultant to undertake an urgent independent review of all major items of planned expenditure.

As noted by Council during its Budget deliberations for 2012-13, use of the Consumer Price Index (CPI) alone to forecast impacts of inflation on the costs of delivery of Council services and projects, for the purposes of framing estimates for an annual Budget, is considered inappropriate in contemporary financial management practice.

No private entity or Government Department involved in the same or related service delivery and industry segments that Local Governments are involved in would frame inflation impact estimates on the basis of CPI alone – and expect to maintain viability. Exactly the same issues confront Local Governments as confront businesses and government agencies. In addition to considering forecast movements in CPI for those components of a budget that are affected by the range of cost elements actually measured as part of the CPI, businesses, government departments and local governments have absolutely no option than to take into account movements in the Labour Costs and Construction Costs indexes for Western Australia. These indexes are demonstrably relevant to both the operational and capital budgets of every Council in WA. That is why WALGA publishes them for reference by Councils.

The forecast shift in CPI for WA for 2012-13 is only 3.5%. The forecast shift for both Labour Costs and Construction Costs in 2012-13 is **4.5%**. Applying the three separate indexes to the Budget components to which they are relevant enabled formulation of realistic estimates of inflationary impacts on the costs required to maintain current levels of operational services required by the community.

As well, and very significantly – just as is the case for every household and every business - the City has *no option* than to pay the externally imposed increases in costs of essential utilities including electricity, water and gas. The City for example currently has thousands of streetlights, and cannot elect to turn off street lighting, without compromising the safety and security of the

community. To maintain 2011-12 levels of service, inflationary impacts were estimated at \$4.25 million for 2012-13.

At this stage, the City believes it would be imprudent and contrary to the strategic interests of the City and its Community to adopt annual forecast movements in the CPI alone as a basis for capping operational expenditure in the budget process. Maintenance of levels of required services to the community takes precedence.

As well, Section 5.56 of the Local Government Act 1995 requires a local government to plan for the *future* of its district and section 6.2 obliges a local government to have regard to that plan for the future of its district in preparing its Annual budget. Maintaining and renewing its infrastructure and facilities assets – currently worth some \$425 million – is a top priority issue in budget setting for both today and the future.

A copy of the Financial Sustainability Policy adopted by the Council is attached to this report. It will be reviewed in 2013, taking into account the Community Strategic Plan, and the obligatory Ten Year Assets Management Plan, and Ten Year Financial Plan, required to be developed by 1 July 2013, preparatory to formulation of the 2013-14 Budget.

The City rejects the MWCCI suggestion of engaging an appropriate and experienced consultant to undertake an urgent independent review of all major items of planned expenditure. The City now has on its Executive and Management staff highly qualified professionals across the key disciplines, including multiple accounting and finance professionals with CA/CPA qualifications, and with senior professional backgrounds extending across the private sector, other spheres of government, and including amongst them staff with professional consultancy experience. The MWCCI appears not to appreciate the professional rigor applied by the City in respect of every major expenditure proposal. As and when necessary, the City already commissions consultants to undertake studies, and all significant projects are subject to business case preparation and significant scrutiny. Further – the Council is elected to make decisions on priorities for projects, and to allocate resources via the budget process for the major projects that Council determines will proceed.

The City has also made itself available to discuss any operational or budget matter in detail with MWCCI. It is noted that during the extensive advertising period, despite publishing in the Guardian of its intention to meet and make a submission, MWCCI failed to do so. Also since the adoption of the budget, MWCCI has not taken any opportunity to meet to specify any of their detailed concerns or query specific options within the budget.

Point 2: Council resolves to abandon the approach of taking the increase in aggregated valuations as a rates increase in future Budget considerations.

The Council *does not have* a fixed policy or strategy in relation to how it may address the rate setting process in relation to future property revaluation years. Hence there is no fixed approach to “abandon”.

The Financial Sustainability Policy adopted by Council provides the current framework for budget formulation. It is silent on the matter of periodic property revaluations. Annual budgets are framed based on expenditure needs as assessed by Council, having proper regard to future planning for the district – a statutory obligation.

The City notes, the Department of Local Government will issue Financial Sustainability indicators against which every Council in WA will be obliged to report, with benchmarks for assessment of financial sustainability. Model financial sustainability indicators with preliminary benchmarks were previously released. This important reform is associated with the Integrated Planning Framework for Local Government in WA, and the financial sustainability indicators – which include measurement of and benchmarking for funding committed to asset renewal – will strongly influence framing of obligatory ten year finance plans for every Council. Development of that plan will address alternative scenarios – and they may include options for integrating the periodic property revaluation process.

A whole-of-City needs-driven approach underlies finance strategy and budget formulation processes. The current Council *cannot* pre-empt budget decision making processes of future Councils because the Local Government Act requires Annual budgets, and the regulations prescribe what should be taken into account in annual budget setting. Hence the current Council *cannot* commit the City to adopting an annual budget in a future revaluation year that – for example – either increases or decreases the rate-in-the-dollar. Such decisions will always be the province of the elected Council of the day, and will be taken in the context of community needs at that time – along with obligatory requirements that must be met under both Federal and State Acts and Regulations.

Point 3: The City of Greater Geraldton commissions research of the capacity of the community and local businesses of the district to meet future rate costs, incorporating a transparent consultative process, following which these factors are incorporated into the City's Financial Sustainability Policies.

The City sees merit in the suggestion from electors of commissioning research into capacity of the future capacity of the general community and the business community to pay local government rates and charges, to enhance the processes of informing Council as part of its deliberations when framing the required ten year financial plan.

The City sees obvious merit in the Federal and State Governments doing the same, undertaking and publishing research on assessed capacity of the community to pay - to inform their budgetary processes and their deliberations

on setting of taxes and Government fees and charges. The City would be able to utilise such research if it was available.

Framing and subsequent periodic reviews of the Community Strategic Plan requires extensive community consultation, for compliance with requirements of the mandatory Integrated Planning Framework, and the associated ten year asset plans and financial plans provide the context for budget formulation.

Year to year, given elapse time between periodic conduct of full Census projects by ABS, and their interim data collection activities, availability of accessible and appropriate data presents challenges, however ABS data - localised with assistance from competent statisticians (for example as retained for the Mid West Invest-ability study) - may prove a useful input in framing of the ten year financial plan.

Whether or not the City may consider commissioning research on an *annual* basis will largely depend on obtaining professional advice on the nature, scope and means for associated data collection, the viability of methodology for assessment and analysis of information, and for necessary forecasting associated with affordability criteria thresholds – which require definition. Costs and benefits of such research need to be identified and considered prior to Council considering whether or not to commit to conduct of such research annually – or every few years, aligned with plan reviews required under the Integrated Planning Framework.

Point 4: The City of Greater Geraldton writes to the Department of Local Government seeking its advice on the process of consultation, public advertising and budget setting and deliberations it has undertaken for the 2012/13 Budget, how this complies with the Local Government Act, Regulations, Policies and Practices; and advice on best practice recommended by the Department on these matters.

The thrust of this motion point is on compliance with the Local Government Act 1995, Local Government Regulations, and Department of Local Government Policies and recommended practices.

The Budget is already subject to assessment by the Department of Local Government. *Local Government (Financial Management) Regulation 33* requires a copy of the adopted Budget to be provided to the Department of Local Government within 30 days of its adoption by the Council. The Department undertakes a review of compliance, advises the City of any issues requiring attention, and requires the City to action necessary changes. The City submitted its Budget to the Department and to date has received no advice from the Department of any compliance issues or actions required.

The City is confident that it has complied fully with Part 6 of the Local Government Act 1995 and with Part 3 of the Local Government (Financial Management) Regulations 1996 – as amended, in relation to its budget formulation, advertising and public consultation process, and budget adoption process.

In compliance with section 6.36 of the Act, public notices were repeatedly advertised of intention to impose differential general rates and minimum payments, with care taken to ensure multiple channels for access to the associated objects of and reasons for each proposed rate and minimum payments.

The City has also complied with relevant Guidelines issued by the Department of Local Government in relation to meetings, forums and workshop deliberations of the Council.

The City does not need to write to the Department of Local Government to invite it to appraise City compliance with Statutory, Regulatory or State Policy requirements, in relation to its Budget – noting budget submission obligations per *Local Government (Financial Management) Regulation 33*, or in relation to statutory and regulatory compliance with any other element of its operations or processes. Pursuant to the *Local Government (Audit) Regulations 1996* the City is required to submit a compliance audit return to the Department, after review of the compliance audit return by the City's Audit Committee, and the City is subjected every year to a compliance review by the Department.

The Department of Local Government does not proscribe nor provide “advice” on the processes, on *how* a Council should consult its community on annual budgets, or other matters, beyond the provisions in the Act and Regulations. Best practice information for Local Governments tends to come from studies (often Federal and/or State Government funded) by the Australian Local Government Association (ALGA) or WA Local Government Association (WALGA). The City already utilizes relevant best practice material from ALGA and WALGA – and accesses a wide range of materials from other Councils across Australia, and overseas, as it pursues continuous improvement.

Is it the case that a Council could improve its approach and processes for informing the community, and public consultation? Of course – improvement is always possible. The City has been criticized because of the focus in its statutory advertising on Rate-in-the-Dollar. Unfortunately, the City has no option than to advertise proposed rate-in-the-dollar – because that is mandatory, explicitly stipulated in the regulatory obligations of Council. That is why, in good faith, in addition to the statutory advertising obligations inviting public submissions on the proposed rates and charges, the City published extensive information in the Mid West Times and the Guardian, and on its website with the view to properly informing the wider community on Budget issues and challenges. That was a “first” for this City.

Despite that effort, the City still received *no (nil) public submissions* in response to the published intended rates or their objects/purposes.

The City notes that, from subsequent feedback, particularly following issue of rates notices, and having regard to matters raised through the Special Electors meeting, there is clearly room for improvement in the process of informing the community. Councillors and Executives have learned valuable

lessons on the kinds of information – and the ways it might be presented and communicated - that would enhance community understanding of the wide range of services that Council is responsible for, why the City delivers particular things, and how operations and capital projects are financed. It will always be a challenge to present complex issues in simple terms able to be understood and absorbed across the whole spectrum of our community, but City energy will be directed to improve communication to the community.

General lack of appreciation and understanding across both the general community and the business community of the minority role of rates revenues in financing operations and capital programs of the City, and misunderstanding of the broader finance structure of the City including access to and use of grant and loan funding, surprised and concerned Councillors and City Executives. Future budget information processes will address the clear need to better educate our community on the functions of Local Government, and how services and projects are financed and delivered.

This City has demonstrated its willingness and capacity to improve public consultation processes, through its internationally acclaimed *2029 Sustainable Future City* project, with extensive and sustained effort in community engagement. The required Community Strategic Plan required under the obligatory Integrated Planning Framework required for all Local Governments in WA from 1 July 2013, is framed from the input of ideas, aspirations, needs and priorities as expressed by the very large number of community members and the business community members who participated across the 2010-12 period. Going forward, the community will have further opportunity to provide input to review of the Community Strategic Plan, which will drive the business operating plans for the City.

COMMUNITY CONSULTATION:

Community consultation occurred through the Special Electors Meeting.

COUNCILLOR CONSULTATION:

There has been no Councillor consultation on this matter.

STATUTORY IMPLICATIONS:

Local Government Act 5.33:

Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
 - a) *at the first ordinary council meeting after that meeting; or*
 - b) *at a special meeting called for that purpose, whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

In relation to reviews of compliance with statutory and regulatory requirements by the Department of Local Government, Section 7.13(1) of the *Local Government Act 1995* and the *Local Government (Audit) Regulations 1996* require all Councils each year to submit a Compliance Audit Return to the Department of Local Government. Regulation 14 requires that the local government's Audit Committee must review the Compliance Audit Return and report the results of that review to the Council prior to adoption by Council and subsequent submission to the Department.

POLICY IMPLICATIONS:

There are no policy implications.

FINANCIAL AND BUDGET IMPLICATIONS:

There are no financial implications.

STRATEGIC & REGIONAL OUTCOMES:

Strategic Community Plan Outcomes:

- | | |
|-----------------|--|
| Goal 5: | Leading the Opportunities. |
| Outcome 5.1: | Citizen and stakeholder focussed services. |
| Strategy 5.1.1: | Ensure economic, efficient and effective delivery of services. |

Regional Outcomes:

There are no regional outcomes from the consideration of this matter.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:

Economic:

There are no economic impacts associated with this matter.

Social:

There are no social impacts associated with this matter.

Environmental:

There are no environmental impacts associated with this matter.

Cultural & Heritage:

There are no cultural or heritage impacts associated with this matter.

RELEVANT PRECEDENTS:

There are no relevant precedents associated with this matter.

DELEGATED AUTHORITY:

There is no delegated authority.

VOTING REQUIREMENTS:

Simple majority is required.

OPTIONS:**Option 1:**

As per Executive Recommendation in this report.

Option 2:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES to:

1. RECEIVE the motions by the MWCCI as put and carried at the special meeting of electors held on 11 September 2012, addressed in this report;
2. DEFER consideration of the motions until the next ordinary meeting of Council scheduled for October 2012 as permitted by sub-section 5.33(1)(a) of the Act; and
3. NOTE that Council considers that it is not practicable to consider the motions carried at the Special Meeting of Electors held on 11 September 2012, addressed in this report, at the September 2012 ordinary meeting of Council for the following reasons:
 - a. The schedules September Ordinary Meeting of Council meeting being held in Mullewa makes it difficult for petitioners and attendees of the Special Electors Meeting to attend and make presentation to the Council meeting where their motions are being considered.

Explanatory notes:

The thrust of section 5.33 of the Act is that decisions taken at an Elector's Meeting "*..are to be considered at the next ordinary council meeting..*" unless that is not practicable.

Option 2 could be adopted by Council if Council is of the view that consideration of the motions at the ordinary meeting of Council scheduled for September 2012 is "not practicable".

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES TO:

1. RECEIVE the motions from the MWCCI as put and carried at the Special Electors Meeting held on the 11 September 2012;
2. NOTE that it has CONSIDERED the resolutions moved by the MWCCI and carried at the Special Electors Meeting held on the 11 September 2012 related to matters, including use of CPI as a base for capping operational budgets, suggested use of consultants to review major projects, rate setting in revaluation years, suggested research on capacity of the community to pay, and review of statutory and regulatory compliance by the Department of Local Government;

3. NOTE that it considers forecasts of CPI movements alone to be inappropriate as a basis for determining inflationary impacts on budgets required to maintain service levels, and considers use of WA forecasts for Labour Costs and Construction costs, and forecasts of externally imposed costs of utilities, to also be necessary in formulation of budget estimates;
4. NOTE that the City already commissions external consultants as required for major projects, has highly qualified and experienced professional staff competent to appraise project proposals, and applies strong business case methods in developing major expenditure proposals;
5. NOTE that the Council does not have a fixed policy position in relation to rate setting in revaluation years, is obliged to set its budget each year having regard to the needs it identifies for the community and its local government district, and is obliged under the Local Government Act to also have regard to plans for the future or its district when framing annual budgets;
6. NOTE that it sees merit in the suggestion of research on capacity of the general community and the business community to pay local government rates and services charges, and sees opportunity for such research and consultation to be integrated into the processes required for formulation and periodic review of the required ten year financial plan for the city; and
7. NOTE that the annual budget, when adopted, is already required under Local Government (Financial Management) Regulations 1996 to be submitted to the Department of Local Government, and that under Local Government (Audit) Regulations 1996 the Council is required to submit an annual Compliance Audit Return, after its examination by the City Audit Committee, for scrutiny by the Department of Local Government.

OP0014 SPECIAL ELECTORS MEETING – MOTIONS FROM THE FLOOR

AGENDA REFERENCE:	D-12-48336
AUTHOR:	B Davis, Director Treasury & Finance
EXECUTIVE:	D Granville, Acting Director Organisation Performance
DATE OF REPORT:	12 September 2012
FILE REFERENCE:	FM/0025
APPLICANT / PROPONENT:	Electors of the City of Greater Geraldton
ATTACHMENTS:	Yes

SUMMARY:

This report seeks Council consideration of three motions from the floor carried at the Special Meeting of Electors, held at the Queens Park Theatre on Tuesday the 11th September 2011.

Other motions carried at that meeting are addressed in separate reports to Council. (Agenda items OP0012 and OP0013 refer).

PROPONENT:

Electors: Special Meeting of Electors, 11th September 2011.

BACKGROUND:

The City of Greater Geraldton received a petition at the 28th August 2012 Council Meeting calling for a Special Meeting of Electors to discuss the following issues:

1. To ask questions relating to the unjustifiable 2012/13 rate rise and the expenditure of ratepayers money for the 2012/13 financial year and preceding financial years;
2. To address the issue of increased rates for the 2012/13 financial year
3. To object to the rate for the year 2012/13 and put forward concerns.

Section 5.33 (1) and (2) of the *Local Government Act 1995* specifies the requirements for Council to consider decisions made at electors meetings, at the next possible ordinary meeting of Council. Section 5.33 of the Act is cited in the Statutory Implications section of this report.

At the Special Meeting of Electors, in addition to written motions submitted (and addressed in separate reports to Council), three additional motions were moved from the floor and carried. These three motions are set out below with associated relevant information for Council.

Motion – Investing in a Local Community Bank

“Council considers investing in a local community bank, which is dedicated to contributing to their local community rather than investing in high risk schemes”.

As noted under **Statutory Implications - Investments**, Local Government Act 1995 section 6.14 and Local Government (Financial Management) Regulation 19C specify what a local government may, and *may not* do, in relation to investment of monies. The Act and regulations effectively prohibit

investment in “high risk” schemes and tightly constrain the types of investments Councils may make.

It is noted that the Financial Management Regulations were amended by the State Government as a consequence of failure of a range of investments entered into by many Councils, prior to the Global Financial Crisis, notwithstanding that particular investments, at the time entered into, were AAA-rated. In the case of a number of Collateral Debt Obligation (CDO) investments made by the [then] City of Geraldton in 2005, the City still holds a number of those legacy investments at a written down value. Of the \$3.5 million invested in 2005, about \$1 million has been recovered to date and the balance of about \$2.45 million is held at a current written down value of \$881,000 with maturity dates varying out to 2014.

No such investments in CDOs were made by the City of Geraldton-Greenough created following the amalgamation between the Geraldton and Greenough Councils, nor have any such investments been made by the City of Greater Geraldton following the most recent amalgamation with Shire of Mullewa.

A copy of current **Council Policy CP011 Investments** is attached to this report for reference. This policy represents best practice thinking for investments management in Local Government, with strong emphasis on investment benchmarking and risk management. The City is able to reassure its Community that it does not invest in “high risk schemes”.

Council *may* give consideration to investment in a local community bank, if and when “a local community bank” is able to satisfy the requirements set out in:

- Section 6.14 of the Local Government Act 1995, with reference to allowable Institutions, and with reference to types of investment consistent with the purposes for which trust funds may be invested under the *Trustees Act 1962* Part III;
- Local Government (Financial Management) Regulations 19C (1) and (2); and
- *Council Policy CP011 Investments*.

The City notes that tenders are called periodically for provision of Banking Services to the City, with the Commonwealth Bank currently providing banking services. If a ‘local community bank’ is able to submit a fully compliant tender, then it could be considered for appraisal under the competitive process required under Local Government tendering and procurement requirements.

Motion – Pool Inspection Fees

“That the pool inspection fee be amended to reflect the maximum rate of \$55 over a four year period, as per State Government legislation, and all payments charged over and above state legislation be refunded to relevant ratepayers”.

This matter is covered by Regulation 53 of the *Building Regulations 2012*: Inspections of pool enclosures. The regulation is detailed under the later section of this report, Statutory Implications – Pool Inspection Fees.

Advice to the City in relation to application of pool inspection charges is as follows:

“Any fee imposed in a given financial year will be payable by each owner or occupier of land on which there is a swimming pool in the local government’s district, *irrespective of whether the owner’s or occupier’s swimming pool is in fact inspected in that financial year.*

This means that local governments that carry out a program of inspections in every year, so that each pool is inspected every (say) 4 years, will charge an *annual fee* to each pool owner which is the estimated average cost of carrying out all inspections in that financial year. A local government that only carries out pool inspections in some but not all years cannot charge a fee *in years in which it does not inspect any pools* but can charge a fee, being the estimated average cost of inspections in those financial years but not greater than the amount prescribed by Regulation.

To calculate the estimated average cost of conducting inspections in that financial year, divide the estimated cost of inspections *for that year* by the total number of pools in the local government area.

Example: a local government runs a program of inspections every year and has 10,000 swimming pools in its district. It inspects 2,500 pools every financial year. The cost of conducting these inspections is \$200,000 *in that year*. Therefore the local government may fix a charge on each owner or occupier of the 10,000 pools an amount of up to \$20 in that financial year, which is calculated as shown below:

$$\frac{\$200,000}{10,000} = \$20/\text{year (which is less than the maximum allowable \$55)}$$

Irrespective of whether or not a pool inspection is carried out in a particular year, or only once across the 4 year period in which at least one inspection is mandatory, provided that the local government does undertake a proportion of inspections in each year, then the annual charge (up to a maximum of \$55/year) may be levied each year on each property with a pool requiring inspection within the 4 year period.

The City does undertake pool inspections under a program designed to cover all pools across the 4 year period.

The City sets its *annual* charge on all properties with a pool, based on the costs of undertaking its programmed inspections of about a quarter of all pools in each year, within a program of inspection of all pools at least once in each four year period. The charge per pool is determined applying the formula noted above.

The resolution carried at the Special Electors Meeting reflects misunderstanding of the way the regulation is framed and operates. It does not specify a charge of \$55 per pool spread across four years. The \$55 is the capped maximum amount that a Council may charge per year. The charge set by Council is lower than the upper cap allowed under the regulation, and is compliant with the regulation.

No ratepayer with a pool on their property has been overcharged, and accordingly no refunds are due.

Motion – Permanent Carryover of Amended Rates Instalment Fees

“That the amended fee structure adopted for the 2012-2013 financial year be carried over permanently”.

As clarified by the proponent – this motion relates to the decision of Council at its 28 August 2012 ordinary meeting not to impose penalty or interest charges for payment of rates by ratepayers electing payment under the available two-instalments or four-instalments options.

Agenda report TF019 Special Direct Debit Payment Arrangements for Rates refers:

MOVED CR VAN STYN, SECONDED CR MIDDLETON

That Council by Absolute Majority, in accordance with Section 5.20 of the Local Government Act 1995 RESOLVES to:

- 1. ADOPT CP051 Special Direct Debit Payment Arrangements for Rates as attached.*
- 2. Extend the effective date for the commencement of this arrangement to all ratepayers by 14 days after the first instalment due date of 28th August 2012.*
- 3. For the 2013 financial year waive all instalment fees and instalment interest payable by those ratepayers who elect to pay by instalment using either option 2 (two instalments) or option 3 (four instalments).*
- 4. The waiving of instalment fees and instalment interest is to be affected by reducing the final instalment payable under the instalment method selected by the ratepayer, by the amount of instalment interest fees and instalment interest levied under the instalment arrangement.*
- 5. Only ratepayers who meet all instalments by the due dates listed on the rates notice will be eligible for the reduced final instalment.*

CARRIED 14/0

The intent of the motion carried at the Special Electors' meeting, as understood by the City, is that the effect of the Council decision not to impose administration fees or interest charges on payments via the available two-instalment or four-instalment rates payment options (per clause 3 of the Council resolution) ought not be confined just to the 2012-13 financial year, but should apply 'permanently'- that is, to all future years.

Council Policy CP051 does not address the two-instalment or four-instalment rates payment options and is confined in scope to payments under the Special Direct Debit Arrangement program, under which payment is by equal instalments between August and May, with no administration or interest charges, provided the ratepayer does not cancel the special direct debit

arrangement once commenced. This policy, along with all other Council policies, *must be reviewed annually*. It has been framed for the 2012-13 financial year, and must be reviewed for the 2013-14 year. This will be done as part of the process of formulating the Budget for 2013-14.

Fees and charges are required to be incorporated in Annual Budgets, under section 6.2(4)(c) of the Local Government Act 1995. Sub-section 6.45(3) empowers a Council to impose an additional *charge*, including an interest *charge*, where Council agrees to payment of rates or service charges by instalments. This provision in the Act recognises that it costs a Council (as a result of non-availability of total rates revenue in its bank account, and thus loss of interest earnings) to allow payment of rates and services via instalments, rather than in a single payment when due. The State Government regulates the upper percentage limit of an interest charge able to be charged by a local government. Recent action by the Government to confirm the interest rate level able to be charged by Councils under s.45(3) reflects how significant a cost issue this is for many Councils in WA. Waiving of such charges by Council for 2012-13 cost the City in excess of \$240,000.

The Council can only make a determination on whether or not it will impose a charge for a *future* financial year, and the level of such a charge, when it adopts the fees and charges proposed to be imposed, as part of the Budget for that financial year. Thus Council *cannot* lawfully make a determination now about whether or not it will impose administration and/or interest charges (per section 6.45(3) of the Act) where Council agrees in future years to allow payment of rates or service charges under two-instalment or four-instalment options. Such determinations must be made by the elected Council in the Budget *for each future financial year*.

This is consistent with the accepted principle that a Council should not make decisions that pre-empt the legitimate Budget decisions of future Councils, which are required to be made in compliance with *Part 6 Division 2 of the Local Government Act 1995* and the related *Part 3 of Local Government (Financial Management) Regulations 1996* – as amended. Compliance is mandatory.

The only course available to Council is to undertake to consider the matter further as part of its process of formulating each future financial year budget. Council may choose to do that, for example, when framing the 2013-13 Budget.

Council will have opportunity to consider this matter in the broader context of framing the ten year financial plan, required under the new integrated planning framework which becomes mandatory on all Councils from 1 July 2013.

COMMUNITY CONSULTATION:

Community consultation occurred through the Special Electors Meeting.

COUNCILLOR CONSULTATION:

There has been no Councillor consultation on this matter.

STATUTORY IMPLICATIONS:

Local Government Act section 5.33

Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable -*
 - a) *at the first ordinary council meeting after that meeting; or*
 - b) *at a special meeting called for that purpose, whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Statutory Implications - Investments

The power of Councils to invest money derives from section 6.14 of the *Local Government Act 1995*, and is constrained by Regulation 19C of the *Local Government (Financial Management) Regulations 1996* as follows:

Local Government Act 1995 section 6.14: Power to invest

- “(1) Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the *Trustees Act 1962* Part III.
- (2A) A local government is to comply with the regulations when investing money referred to in subsection (1).
- (2) Regulations in relation to investments by local governments may —
- (a) make provision in respect of the investment of money referred to in subsection (1); and
 - [(b) *deleted*]
 - (c) prescribe circumstances in which a local government is required to invest money held by it; and
 - (d) provide for the application of investment earnings; and
 - (e) generally provide for the management of those investments.”

Financial Management Regulation 19C (1):

“**authorised institution** means –

- (a) an authorised deposit-taking institution as defined in the *Banking Act 1959* (Commonwealth) section 5; or
- (b) the Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986*”

Financial Management Regulation 19C (2):

“When investing money under section 6.14(1), a local government may **not** [emphasis added] do any of the following –

- (a) deposit with an institution except an authorised institution;
- (b) deposit for a fixed term of more than 12 months;
- (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;

- (d) invest in bonds with a term of maturity of more than 3 years;
 (e) invest in foreign currency.”

Statutory Implications – Pool Inspection Charges

Building Regulations 2012 - Regulation 53: Inspections of pool enclosures:

“(1) The local government for the district in which a private swimming pool containing water that is more than 300 mm deep is located must arrange for an authorised person to inspect the pool enclosure at intervals of no more than 4 years for the purpose of monitoring whether the provisions in regulations 50 and 52 are being complied with.

(2) A local government may, for a financial year, fix the charge to be imposed on each owner or occupier of land on which there is a private swimming pool containing water that is more than 300 mm deep, to meet the estimated cost in that financial year of carrying out the inspections mentioned in sub regulation (1), but the charge fixed —

(a) must not exceed the estimated average cost to the local government of carrying out inspections in that year; and

(b) must not exceed \$55.”

[Regulation 53 amended in Gazette 15 Jun 2012 p. 2515.]

Statutory Implications – Charges and Interest on Rates Payment by Instalments

Section 6.2 of the *Local Government Act 1995* requires the local government to prepare an Annual budget.

Sub-section 6.2(4) specifies what the Budget *must* incorporate, with clause 6.2(4)(c) requiring the budget to include fees and charges to be imposed for the financial year.

Section 6.45 of the Act makes provision for options for payment of rates or service charges, and sub-section 6.45(3) empowers a Council to impose an additional charge, including an interest charge, where payment of rates or service charges is by instalments.

POLICY IMPLICATIONS:

There are no policy implications.

FINANCIAL AND BUDGET IMPLICATIONS:

There are no financial implications.

STRATEGIC & REGIONAL OUTCOMES:

Strategic Community Plan Outcomes:

Goal 5: Leading the Opportunities.

Outcome 5.1: Citizen and stakeholder focussed services.

Strategy 5.1.1: Ensure economic, efficient and effective delivery of services.

Regional Outcomes:

There are no regional outcomes from the consideration of this matter.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:**Economic:**

There are no economic impacts associated with these matters.

Social:

There are no social impacts associated with these matters.

Environmental:

There are no environmental impacts associated with these matters.

Cultural & Heritage:

There are no cultural or heritage impacts associated with these matters.

RELEVANT PRECEDENTS:

There are no relevant precedents associated with these particular matters.

DELEGATED AUTHORITY:

There is no delegated authority.

VOTING REQUIREMENTS:

Simple majority is required.

OPTIONS:**Option 1:**

As per Executive Recommendation in this report.

Option 2:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES to:

1. RECEIVE the three motions from the floor and carried at the special meeting of electors held on 11 September 2012, addressed in this report; and
 2. DEFER consideration of the motions until the next ordinary meeting of Council scheduled for October 2012 as permitted by sub-section 5.33(1)(a) of the Act.
 3. NOTE that Council considers that it is not practicable to consider the three motions from the floor carried at the special meeting of electors held on 11 September 2012, addressed in this report, at the September 2012 ordinary meeting of Council for the following reasons:
 - a. The scheduled September Ordinary Meeting of Council meeting being held in Mullewa makes it difficult for petitioners and attendees of the Special Electors Meeting to attend and make presentation to the Council meeting where their motions are being considered.
-

The thrust of section 5.33 of the Act is that decisions taken at an Elector's Meeting "...are to be considered at the next ordinary council meeting..." unless that is not practicable.

Option 2 could be adopted by Council if Council is of the view that consideration of the motions at the ordinary meeting of Council scheduled for September 2012 is "not practicable".

CONCLUSIONS:

Having regard to the related relevant Statutory requirements referred to in this report, the Council is *not able* to adopt any of the three resolutions as worded and put from the floor and carried at the Special Meeting of Electors.

While Council is *not able* to adopt the resolutions from the floor carried at the special meeting of electors held on 11 September 2012, as noted in this report, the Executive Recommendation does provide means for Council to further consider two of the matters, at least pursuing the spirit of the Electors resolutions - *but within the statutory constraints that Council must comply with.*

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to section 5.33 of the Local Government Act 1995 RESOLVES TO:

1. RECEIVE the resolutions carried at the Special Electors Meeting held on the 11 September 2012;
2. NOTE that it has CONSIDERED the resolutions carried at the Special Electors Meeting held on the 11 September 2012 related to investment in a local community bank, pool inspection fees, and non-application of any administrative and interest charges on rates and services charges payments via two or four instalments in future years;
3. NOTE that, in relation to potential for investments in a local community bank, Council may in future give consideration to investments in "a *local community bank*" if and when such a local community bank fully satisfies requirements set out in:
 - a. Section 6.14 of the Local Government Act 1995, with reference to allowable institutions, and with reference to types of investment consistent with the purposes for which trust funds may be invested under the *Trustees Act 1962* Part III; and
 - b. Local Government (Financial Management) Regulations 19C (1) and (2);
 - c. *Council Policy CP011 – Investments*
4. NOTE that, in relation to the Pool Inspection Charge, the current charge and its annual imposition on all properties with a pool complies with *Building Regulations 2012 - Regulation 53*, and that there has been no overcharging of property owners;
5. NOTE that, in relation to whether or not administration and interest charges will apply in future years to the option of election by a ratepayer to make payment of rates and services charges via two or

four instalments, Council may not make a determination other than in accordance with section 6.2 of the Local Government Act 1995 which requires that all fees and charges must be incorporated within each Annual Budget, hence Council cannot lawfully make a decision regarding fees and charges or their levels that are to apply in any future year budget; however, Council will take this matter into consideration as part of the process of formulating the 2013-14 Budget; and

6. NOTE that Council already has in place its policy *CP051 Special Direct Debit Payment Arrangements for Rates* that provides alternative payment arrangements for ratepayers without impost of administrative or interest charges, subject to compliance with the special direct debit payment arrangements.

11 CLOSURE

APPENDIX 1 – ATTACHMENTS AND REPORTS TO BE RECEIVED

Attachments and Reports to be Received are available on the City of Greater Geraldton website at: <http://www.cgg.wa.gov.au/your-council/meetings>