



*City of Whittlesea*

**WHITTLESEA CITY COUNCIL**

**PROCEDURAL MATTERS LOCAL LAW**

**(NO. 1 OF 2006)**

# PROCEDURAL MATTERS LOCAL LAW (NO. 1 OF 2006)

## PART 1 - PRELIMINARY

### 1.1 Title

This is Local Law No. 1 of 2006 and is known as the "Procedural Matters Local Law".

### 1.2 Objectives

This Local Law is made for the purposes of -

- (1) regulating -
  - (a) the use and keeping of the common seal; and
  - (b) proceedings at meetings of the Council and its Advisory Committees and Special Committees; and
  - (c) proceedings for the election of the Mayor and Chairpersons; and
- (2) providing for the administration of the Council's powers and functions; and
- (3) generally maintaining the peace, order and good government of the municipal district.

### 1.3 Authorising Provision

This Local Law is made under section 111(1) of the Act.

### 1.4 Commencement

This Local Law commences on the day notice of its making is published in the Victorian Government Gazette.

### 1.5 Revocation of Earlier Local Law

On the commencement of this Local Law, the Council's Meeting Procedure Local Law No.1 of 1996 is revoked.

### 1.6 Cessation of Local Law

Unless this Local Law is earlier revoked, it will cease to operate ten years after the day on which it is made.

### 1.7 Application

This Local Law applies throughout the whole of the municipal district.

### 1.8 Definitions

- (1) In this Local Law -

"Act" means the *Local Government Act* 1989;

"Advisory Committee" means a committee established by the Council under Part 5;

"Advisory Committee meeting" means a meeting of an Advisory Committee;

"agenda" means a document in the form of a notice which specifies the date, time and place of a meeting and the business to be transacted at the meeting and includes any accompanying papers;

"authorised officer" means a person appointed by the Council under section 224 of the Act;

"Chairperson" means the person who chairs a meeting;

"Code of Conduct" means the Code of Conduct approved by the Council under section 76C of the Act;

"common seal" means the common seal of the Council;

"the Council" means Whittlesea City Council;

"Council meeting" means any ordinary or special meeting of the Council;

"delegate" means -

- (a) any member of the Council's staff to whom a delegation has been made under section 98 of the Act; or
- (b) a committee to which a delegation has been made under section 86 of the Act.

"Mayor" means the Mayor of the Council;

"meeting" includes an ordinary meeting, a special meeting, an Advisory Committee meeting and a Special Committee meeting;

"member" means a *Councillor* or a person appointed to an Advisory Committee or a Special Committee who, if it were not for the conflict of interest provisions of the Act, is entitled to vote on matters which are dealt with at the meeting;

"minutes" means the record of the proceedings of a meeting;

"municipal district" means the municipal district of the Council;

"Notice of Motion" means a notice setting out the content of a motion which a member proposes to move at a meeting;

"offence" means an act or default contrary to this Local Law;

"officer" means a person employed on the Council's staff;

"ordinary meeting" means a meeting of the Council at which general business may be transacted;

"penalty unit" has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*;

"petition" means a statement in writing addressed to the Council and signed by not less than three persons of separate addresses setting forth a matter on which a remedy or relief is sought;

"senior officer" has the meaning ascribed to it by the Act;

"Special Committee" means a committee established by the Council under section 86 of the Act;

"Special Committee meeting" means a meeting of a Special Committee;

"visitor" means any person other than a member or an officer who is invited to be present at and addresses a meeting.

- (2) Without affecting clause 1.8(1) or the application generally of the *Interpretation of Legislation Act 1984* to this Local Law, a word appearing in italics in the body of this Local Law and which is not specifically defined in clause 1.8(1) or in the part of the Local Law in which it appears -
- (a) if it is the "Chief Executive Officer" or "Councillor", has the meaning of that word as defined in section 3(1) of the Act; and
  - (b) if it is a word other than "Chief Executive Officer" or "Councillor", has the meaning of that word as defined in section 38 of the *Interpretation of Legislation Act 1984*.
- (3) A reference to a person by way of that person's position with the Council includes-
- (a) a person authorised to carry out the powers, duties and functions of that person at the Council; or
  - (b) a person acting in that capacity; or
  - (c) if the position in the Council ceases to exist, any person exercising any power, duty or function which was previously a power, duty or function of the position.

## **PART 2 - COUNCIL COMMON SEAL**

### **2.1 Form of Common Seal**

The common seal must be in a form specified by Council resolution but must have included in it the words "Whittlesea City Council".

### **2.2 Common Seal Security**

The *Chief Executive Officer* must make sure that the common seal is kept at the Council's offices in a secure way.

### **2.3 Use**

The common seal must only be used on the authority of -

- (1) the Council and as indicated by resolution; or
- (2) a delegate to whom power to use the common seal has been delegated.

### **2.4 Unauthorised Use**

Unless in accordance with clause 2.3, a person must not use or affix to a document the common seal or any device resembling the common seal.

Penalty: 20 penalty units

### **2.5 Signature to Accompany Common Seal**

- (1) If for the purpose of giving legal force and effect to any document the common seal is used with the authority of any delegate, the document to which it is affixed must be signed by the delegate in the form contained in Schedule 1.
- (2) If for the purpose of giving legal force and effect to any document the common seal is used with the authority of the Council, the document to which it is affixed must be signed by one *Councillor* and the *Chief Executive Officer* in the form contained in Schedule 2.
- (3) If for a purpose other than of giving legal force or effect to a document the common seal is used with the authority of the Mayor or the *Chief Executive Officer* (to whom power to seal any such document on behalf of the Council for such a purpose is here given), the document to which it is affixed must be witnessed by the Mayor or the *Chief Executive Officer* or both.

## **PART 3 - MEETING PROCEDURES**

### **3.1 Code of Conduct**

A *Councillor* must comply with the Code of Conduct during the course of any Council meeting.

### **3.2 Date, Time and Place of Meetings**

- (1) The date, time and place of meetings are to be determined by the Council.
- (2) The Council may alter the date, time and place of any Council meeting that has been fixed and must provide reasonable notice to the public.
- (3) A Council meeting must not proceed beyond 10.30pm on any given day.
- (4) Despite sub-clause (3), the Council may by resolution elect to extend the duration of a Council meeting beyond 10.30pm, but only for intervals of not more than 30 minutes at a time.

### **3.3 Notice of Meetings to Members**

- (1) A copy of the agenda for any meeting must be given to all members not less than 48 hours before the commencement of the meeting.
- (2) The agenda is duly given if, not less than 48 hours before the commencement of the meeting, it is:
  - (a) handed to the member; or
  - (b) delivered to the member's postal or residential address; or
  - (c) transmitted by facsimile or other electronic means to the facsimile number or electronic mail address of the member.
- (3) The obligations in sub-clauses (1) and (2) must be complied with -
  - (a) in the case of a Council meeting by the *Chief Executive Officer*, and
  - (b) in the case of an Advisory Committee meeting or a Special Committee meeting by the Chairperson.

### **3.4 Notice of Meetings to the Public**

- (1) Notice of the date, time and place of an ordinary meeting must be published in a newspaper circulating generally in the municipal district, and as soon as practicable thereafter posted on a public notice board at Council branch libraries and posted on the Council's website.
- (2) Notice of the date, time and place of a special meeting must be published in a newspaper circulating generally in the municipal district unless the timing of the meeting does not allow such notice to be given (in which case notice is to be made by posting a notice on a public notice board at the Council's Civic Centre and as soon as practicable at Council branch libraries and by posting the notice on the Council's website).

### 3.5 Quorum

A quorum for:

- (1) an ordinary meeting or a special meeting is a majority of the number of *Councillors* which the whole Council as constituted comprises; and
- (2) an Advisory Committee meeting or a Special Committee meeting is a majority of the number of members which the whole Advisory Committee or Special Committee as constituted comprises.

### 3.6 Adjournment of Meetings

- (1) If a quorum cannot be formed within 30 minutes after the time fixed in the agenda for the commencement of a meeting, or cannot be maintained due to the absence of members, then the majority of members present, or if there are not any members present, the *Chief Executive Officer* or in the absence of that person any other officer present at the meeting, may adjourn the meeting to another time having regard to the requirements of clause 3.2(3) or another date for a period not exceeding seven days from the date of adjournment.
- (2) Where a quorum cannot be maintained as a result of a declaration of a conflict of interest by a majority of *Councillors*, the Mayor or *Chief Executive Officer* or, in their absence, a senior officer, may adjourn consideration of that item for a length of time sufficient to enable dispensation to be obtained from the Minister administering the Act.
- (3) Where a meeting is adjourned, the *Chief Executive Officer* having regard to the circumstances of the adjournment must make all reasonable efforts to give all members of the meeting and the public notification in a form which in the discretion of the *Chief Executive Officer* is appropriate advising of the adjourned time or adjourned date and time.

### 3.7 Agenda and Minutes

- (1) The *Chief Executive Officer* must determine the form of agenda to be used and minutes to be kept for meetings.
- (2) Despite sub-clause (1), the minutes must record -
  - (a) in the case of an Advisory Committee meeting or a Special Committee meeting, the name of the relevant committee; and
  - (b) the date, time and place of the meeting, the time it commenced and any times it was adjourned and resumed; and
  - (c) the names of the members present and a record of their attendance relative to items considered during the entire meeting; and
  - (d) the names of officers present and their titles; and
  - (e) details of any action taken by any member in compliance with the interests and conflict of interest provisions of the Act; and
  - (f) formal reports by members who report as delegates, or by officers; and

- (g) the names of members -
  - (i) who move and second any motion or amendment; and
  - (ii) who, when a division is called, vote for and against the motion; and
  - (iii) who request that their name be recorded in the minutes as voting against a motion or an amendment; and
- (h) the text of any motion or amendment which is proposed, whether or not it is seconded; and
- (i) whether or not a motion or an amendment which has been proposed and seconded is passed or lost; and
- (j) a reference to any formal submission made verbally by a visitor pursuant to a statutory right; and
- (k) details of any deputations made to the Council; and
- (l) any declaration of an interest or conflict of interest by a *Councillor*; and
- (m) details of failure to achieve a quorum, and a time and reason for any adjournment; and
- (n) any other matter which the *Chief Executive Officer* thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.

### **3.8 Conduct of Business**

- (1) Only the business contained in the agenda for an ordinary meeting, Special Committee meeting or an Advisory Committee meeting may be dealt with at the ordinary meeting, Special Committee meeting or Advisory Committee meeting, unless members who by number constitute a majority of members present at the meeting vote in favour of a matter being dealt with as urgent business.
- (2) The *Chief Executive Officer* may, with the agreement of the Chairperson, withdraw a matter listed on the agenda for an ordinary meeting, Special Committee meeting or Advisory Committee meeting.
  - (a) If a matter listed on the agenda for an ordinary meeting, Special Committee meeting or Advisory Committee meeting is withdrawn in accordance with this section, the *Chief Executive Officer* must provide an explanation for its withdrawal.

#### **(3) Business of Ordinary Meeting**

The business of an ordinary meeting must include -

- (a) confirmation of previous minutes; and
- (b) apologies; and
- (c) declarations of an interest or conflict of interest; and

- (d) presentation of general reports, including reports of a confidential nature where the meeting is closed to the public under section 89(2) of the Act; and
- (e) consideration of petitions submitted by members without notice; and
- (f) Notices of Motion; and
- (g) reports from members appointed by the Council to other bodies; and
- (h) urgent business agreed to be dealt with under clause 3.8(1).

(4) **Business of Special Meeting, an Advisory Committee or a Special Committee Meeting**

The business of a special meeting, an Advisory Committee meeting or a Special Committee meeting must include -

- (a) confirmation of previous minutes; and
- (b) apologies; and
- (c) declarations of an interest or conflict of interest; and
- (d) presentation of general reports, including those of a confidential nature where the meeting is closed to the public under section 89(2) of the Act; and
- (e) urgent business agreed to be dealt with in the case of a special meeting in accordance with section 84(4) of the Act and in the case of any other meeting agreed to be dealt with under clause 3.8(1).

### 3.9 Confirmation of Minutes

- (1) The minutes of a meeting must be confirmed in the following manner:
  - (a) the *Chief Executive Officer* must give a copy of the minutes of the meeting to all members not less than 48 hours before the commencement of the meeting at which the minutes are to be confirmed; and
  - (b) the minutes are duly given if, not less than 48 hours before the date and time fixed for the meeting, they are:
    - (i) handed to the member; or
    - (ii) delivered to the member's postal or residential address; or
    - (iii) transmitted by facsimile or other electronic means to the facsimile number or electronic mail address of the member; and
  - (c) the Chairperson must not allow any discussion on the minutes except concerning their accuracy; and

- (d) if a member does not consider that the minutes are accurate, the member must specify the particular item in the minutes and, after asking any questions to clarify the matter, must move a motion to rectify any errors or inaccuracy in the record; and
- (e) where such a motion is moved it must be dealt with in accordance with clause 3.14; and
- (f) if the minutes are accurate, the Chairperson must accept a motion for their adoption and in the absence of such a motion must declare their adoption; and
- (g) as soon as practicable after they have been confirmed, the Chairperson must sign the minutes as a true record.

### **3.10 Public Question Time**

- (1) A member of the public may submit a written question or questions to the Council at an ordinary meeting.
- (2) A question must be received in writing by:
  - (a) leaving it in the "Question Box" in the Council Chamber by 6.30pm on the day of the ordinary meeting; or
  - (b) leaving it at the reception desk in the Council's Civic Centre by 5pm on the day of the ordinary meeting; or
  - (c) sending it by facsimile transmission or e-mail to the Council's general facsimile number or e-mail address by 4pm on the day of the ordinary meeting.
- (3) The answering of questions will be undertaken at the ordinary meeting during the portion of the meeting set aside for public question time.
- (4) Persons submitting written questions to be considered at an ordinary meeting must be present at the ordinary meeting for the question to be answered, and must identify themselves when requested by the Chairperson to do so.
- (5) The Chairperson will decide who (Chairperson, *Councillor* or Officer) will answer each question.
- (6) The Chairperson has the right to decline to take or answer any question, and to take a question on notice.
  - (a) If the Chairperson declines to take or answer any question, the Chairperson must provide reasons for the refusal which will be recorded in the minutes.
  - (b) If the Chairperson, Councillor or Officer elect to answer the question, a verbal answer will be given on a 'without prejudice basis' and a conclusive answer will follow in writing.
  - (c) If the Chairperson, Councillor or Officer takes a question on notice, they must provide a written response.

### **3.11 Petitions and Correspondence**

- (1) All correspondence, including a petition, which is addressed to a member personally and which requires a decision of, or a direction from, the Council must be referred to the *Chief Executive Officer*.
- (2) The *Chief Executive Officer* must determine whether any correspondence addressed to a member personally needs to be included on the agenda.
- (3) The Chairperson must allow a member submitting a petition without notice to read the contents of the petition and to inform the meeting of the number of signatories to the petition.
- (4) A motion to deal with a petition submitted by a member to a meeting without notice, apart from a motion receiving a petition and directing it to the *Chief Executive Officer* for attention, must not be further considered unless resolved to be an item of urgent business.
- (5) Where a petition submitted without notice relates to an item of business already on the agenda for the meeting, the petition is to be referred to that item and considered by the Council as part of its deliberation on that matter.
- (6) Any petition received by any member or officer must be submitted to the Council for consideration.

### **3.12 Listing of Notices of Motion on an Agenda**

- (1) A member may submit to the *Chief Executive Officer* a Notice of Motion for consideration at an ordinary meeting.
- (2) A Notice of Motion which is received by the *Chief Executive Officer*, not less than 7 days prior to the date of the meeting for which the notice is intended, must be included on the agenda for that meeting unless the notice specifies a particular meeting date. If a Notice of Motion is received after that time it must, unless it is withdrawn in writing by the member, be included in the agenda for the next meeting of the same type.
  - (a) Having regard to the requirements of clause 3.3, any withdrawal of a Notice of Motion must be received in writing (facsimile or email accepted) prior to the publication of the agenda for which the Notice of Motion was intended to be included. Otherwise, the item must be dealt with at the meeting or a motion put to the meeting to withdraw the item.
- (3) The *Chief Executive Officer* must arrange for every Notice of Motion received to be endorsed with the date and time of its receipt and for it to be kept or entered, in the order received, in a register.
- (4) Additionally, the *Chief Executive Officer* may include on the agenda any comments which provide information about the issues dealt with in the Notice of Motion.
- (5) Where a member who has given a Notice of Motion is not present at the meeting at the time the matter is due to be dealt with, any other member

may move the motion and if it is not moved and seconded the motion will lapse.

### **3.13 Reports of Mayor and Representatives**

- (1) At an ordinary meeting, the Mayor and any *Councillor* who is a delegate or representative of the Council on another body may report to the meeting about an issue which is important to the Council, despite the report not being on the agenda.
- (2) A copy of any such report may be submitted to the Chairperson before the close of the meeting and included in the minutes.
- (3) Unless resolved to be an item of urgent business, the Chairperson must only accept a motion to receive the report.
- (4) The presentation of a report by a *Councillor* under this clause must not exceed five minutes, unless the Chairperson allows an extension in any case.

### **3.14 Form of Motions**

- (1) A motion or an amendment which is proposed by a member at a meeting must -
  - (a) be expressed clearly and unambiguously; and
  - (b) not be defamatory or objectionable in nature; and
  - (c) be relevant to an item on the agenda unless it is urgent business.
- (2) A motion or amendment which differs in wording from a recommendation or Notice of Motion which is on the agenda may be written out by the proposer and given to the Chairperson. A copy of the motion or amendment may be given to all members present or otherwise displayed so that members can read it before any further debate takes place or the vote on it is taken.
- (3) The Chairperson may reject a motion or amendment which does not conform with these requirements.

### **3.15 Procedures for Moving Motions and Amendments**

- (1) The procedure upon any motion or amendment is as follows.
  - (a) The mover must state the motion.
  - (b) The Chairperson must call for a seconder unless the motion is a call to enforce a point of order.
  - (c) If there is no seconder the motion lapses.
  - (d) If there is a seconder, the chairperson must invite the mover to speak to the motion.
  - (e) After the mover has addressed the meeting the seconder may address the meeting.

- (f) After the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting) the Chairperson must call upon any member who wishes to speak for or against the motion.
  - (g) Any member except the mover or the seconder of the original motion may move or second an amendment.
  - (h) A member may speak once on the motion and once on any amendment and the mover of the original motion (not of an amendment) has a right of reply prior to the motion (or amendment) being put to a vote.
  - (i) A member may be permitted by the Chairperson to speak more than once to explain that the member has been misrepresented or misunderstood.
  - (j) Before any motion is put to the vote it may be withdrawn with leave of the Council. If any member objects to the withdrawal of the motion, it may not be withdrawn.
  - (k) If any member indicates opposition to a motion or amendment which has been seconded, the mover may then address the meeting.
  - (l) A member calling the attention of the Chairperson to a point of order is not regarded as speaking to a motion or an amendment.
  - (m) No motion or amendment may be withdrawn without the consent of the mover or seconder of any motion or amendment and without the further consent of the meeting.
  - (n) Amendments must be dealt with one at a time.
  - (o) Any subsequent amendments must not be consequently dealt with until the preceding amendment is decided upon.
- (2) The ruling of the Chairperson on any procedural matter arising under this clause or clause 3.19, or the conduct of Council business generally, is final and binding.

### **3.16 Recording Opposition to Vote**

At any meeting a member may ask that the member's name be recorded in the minutes as having voted in the negative immediately after the Chairperson has put any motion or amendment to the vote and has announced the result of that vote.

### **3.17 Division**

- (1) The calling of a division sets aside the result of the voting announced by the Chairperson and voting by division determines whether the question, motion or amendment is carried or lost.

### **When a Division is Permitted**

- (2) Immediately after a motion or amendment has been put to a meeting but before the next item of business is commenced, a member may call for a division.

### **Procedure for a Division**

- (3) Where a division is called for the Chairperson must -
  - (a) first ask each member wishing to vote in the affirmative to raise a hand and, upon such request being made, each member so wishing must show a hand and the Chairperson must then state the names of those members so voting; and
  - (b) next ask each member wishing to vote in the negative to raise a hand and, upon such request being made, each member so wishing must show a hand and the Chairperson must then state the names of those members so voting; and
  - (c) then record the names of members voting in the affirmative and in the negative in the minutes of the meeting.
- (4) The Chairperson must announce to the meeting the result of the voting immediately after the division has been taken.

### **3.18 Foreshadowed Motions**

- (1) At any time during a debate, a member may foreshadow a motion so as to inform the meeting of his or her intention to move a motion at a later stage in the meeting but this does not extend any special right to the foreshadowed motion.
- (2) A foreshadowed motion may be prefaced with a statement that in the event of a particular motion being resolved in a certain way, the member intends to move an alternative or additional motion.
- (3) A motion foreshadowed has no procedural standing and is merely a means to assist in the flow of the meeting.
- (4) The *Chief Executive Officer* is not required to record in the minutes a foreshadowed motion, but may do so if it is thought appropriate.

### **3.19 Points of Order**

- (1) A member may take a point of order at any time during the course of a meeting by stating briefly that which is the subject of the point of order.
- (2) Where a point of order is taken any member speaking at the time must stop until the Chairperson rules upon it.
- (3) The Chairperson may adjourn the meeting to consider a point of order and must rule upon it as soon as possible and before the meeting continues.
- (4) When ruling upon a point of order, the Chairperson must state the basis of and give reasons for the ruling.

### **3.20 Dissent from Chairperson's Ruling**

- (1) A member may move a motion to the effect that the meeting dissent from the Chairperson's ruling.
- (2) A motion of dissent in the Chairperson's ruling shall, if seconded, be given priority.
- (3) When a motion of dissent is moved and is seconded, the following process must be followed:
  - (a) the Chairperson must leave the Chair and a temporary Chairperson must take his or her place;
  - (b) the temporary Chairperson must invite the mover of the motion of dissent to outline the reasons for his or her dissent and the Chairperson must reply;
  - (c) the temporary Chairperson invites debate on the ruling and the matter is then decided by a majority vote; and
  - (d) following a decision on the motion of dissent, the Chairperson will resume the Chair for the remainder of the meeting.

### **3.21 Rescission of or Variation to Previous Resolution**

- (1) Unless a resolution has already been put into force or its passing has caused a person benefiting by it to incur expense, a motion to rescind or to vary a previous resolution may be made by -
  - (a) Notice of Motion; or
  - (b) a recommendation in an officer's report which is on the agenda.
- (2) A motion to propose a rescission of, or a variation to, a previous resolution or which has that effect or the effect of nullifying or conflicting with that resolution must be included on the agenda for the meeting at which it is to be considered and cannot be proposed as an item of urgent business.
- (3) A further motion to rescind or vary a previous resolution must not be considered by the Council until a period of three months has elapsed since the date of the meeting at which the earlier motion to rescind or vary was considered.

### **3.22 Speaking Times**

- (1) Unless a motion for an extension of time has been carried, the speaking times during a meeting must not exceed -
  - (a) for the mover of a motion or an amendment - five minutes; and
  - (b) for the mover of a motion in exercising a right of reply - two minutes; and
  - (c) for any other member on any other matter - three minutes.

### **3.23 Extension of Speaking Time**

- (1) An extension of speaking time may be granted by resolution of the Council but only one extension for each speaker is permitted.
- (2) Any extension of speaking time must not exceed two minutes.
- (3) A motion for an extension must not be accepted by the Chairperson if another speaker has commenced speaking.

### **3.24 Manner of Address**

- (1) In addressing a meeting a person must -
  - (a) do so through the Chairperson; and
  - (b) refer to the Chairperson as Mr Mayor, Madam Mayor, Mr Chairperson or Madam Chairperson; and
  - (c) refer to another member as *Councillor* [surname] or for members who are not *Councillors* as Mr, Mrs, Ms or Miss [surname]; and
  - (d) refer to an officer by that officer's position with the Council; and
- (2) refer to any other person in a courteous manner.

### **3.25 Additional Rules of Debate**

- (1) A member must not make any defamatory, indecent, abusive, offensive or disorderly statement or comment, or personally criticise a *Councillor*, officer or other person during a meeting.
- (2) The Chairperson may require a member to withdraw any such statement or comment and if required a member must immediately and unreservedly do so.
- (3) The Chairperson must decide the order in which members may speak.
- (4) Where debate is adjourned by a motion, the member moving the adjournment has the right to speak first when the debate is resumed.
- (5) A member must not be interrupted while speaking except by the Chairperson or upon a point of order being taken.
- (6) The Chairperson may speak on any matter under discussion.
- (7) When exercising a right of reply a member must not introduce additional matters.
- (8) Unless allowed by the Chairperson, a resolution must not be discussed after it has been dealt with.

## **PART 4 ELECTION OF THE MAYOR**

### **4.1 Nominations**

- (1) A nomination for the Mayor -
  - (a) may be made by any *Councillor* for another *Councillor* or for that *Councillor* personally; and
  - (b) must be accepted and does not require seconding.

### **4.2 Temporary Chairperson for the Election of the Mayor**

Until the Mayor is elected, the *Chief Executive Officer* must be the temporary Chairperson of the meeting and the returning officer for the election of the Mayor but does not have any voting rights.

### **4.3 Method of Voting**

Subject to section 90(2) of the Act, unless the Council resolves that the election of the Mayor is to be carried out by secret ballot, the election of the Mayor must be by a show of hands.

### **4.4 Procedure for Election**

- (1) The election of the Mayor must be in accordance with the following procedures –
  - (a) the *Chief Executive Officer* must determine the most appropriate time and date for the election of the Mayor; and
  - (b) the *Chief Executive Officer* must call for nominations; and
  - (c) if only one candidate is nominated the *Chief Executive Officer* must declare as the Mayor the *Councillor* so nominated; and
  - (d) if more than one candidate is nominated and if the Council has not resolved that the election is to be carried out by secret ballot then -
    - (i) where two nominations have been received the candidate with the absolute majority of votes cast must be declared elected as the Mayor, if there is an equal number of votes cast the candidate whose name is drawn by lot will be declared elected; and
    - (ii) where more than two nominations have been received the candidate with the fewest number of votes cast must be eliminated (and if more than one of them have the same fewest number of votes the candidate to be determined by lot) and the names of the remaining candidates must be put to the vote again. This procedure must be repeated until there are only two candidates remaining and when that occurs the *Councillor* with the majority of votes cast must be declared elected as the Mayor; and
  - (e) the *Chief Executive Officer* will conduct the lot.

- (2) If more than one candidate is nominated and the Council has resolved that the election is to be carried out by secret ballot then -
- (a) the *Chief Executive Officer* must arrange for ballot papers to be prepared with the names of all *Councillors* nominated listed in the order in which they were nominated; and
  - (b) the ballot papers must then be distributed to all *Councillors* present at the meeting; and
  - (c) each *Councillor* must clearly mark the ballot paper by writing the number "1" to the right of the name of the candidate being voted for; and
  - (d) the *Chief Executive Officer* must collect all the marked ballot papers, count the votes and announce the results of the ballot; and
  - (e) if the *Chief Executive Officer* considers that a ballot paper does not clearly indicate which candidate is being voted for, it must be disregarded in the final count; and
  - (f) where after the ballot a candidate receives an absolute majority of votes cast, the *Chief Executive Officer* must declare elected as the Mayor that *Councillor*; and
  - (g) where after the ballot no candidate receives an absolute majority of the votes cast, the *Chief Executive Officer* must hold a second ballot but the candidate who received the fewest number of votes in the first ballot must be excluded from the second ballot; and
  - (h) where two or more candidates each received the same fewest number of votes in the first ballot then the candidate to be excluded must be determined by lot; and
  - (i) the second ballot must then be conducted but the name of the candidate who has been excluded must not appear on the ballot paper; and
  - (j) where after the second ballot a candidate receives an absolute majority of votes cast, the *Chief Executive Officer* must declare elected as the Mayor that *Councillor*; and
  - (k) where after the second ballot no candidate receives an absolute majority of votes cast, the relevant procedures contained in the preceding sub-paragraphs must be repeated until only two candidates remain and the candidate who receives the majority of votes cast must be declared elected as the Mayor.

#### **4.5 Division not Allowable**

If an election of the Mayor is held by secret ballot any request for a division must not be accepted.

#### **4.6 Chairperson**

- (1) After the election of the Mayor is determined, the Mayor assumes the position of Chairperson.

- (2) The Mayor must Chair all Council meetings at which he or she is present.
- (3) Where the Mayor is absent from a Council meeting the *Chief Executive Officer* must take the Chair and invite nominations for a temporary Chairperson.
- (4) If there is more than one nomination for a temporary Chairperson under sub-clause (3):
  - (a) the *Chief Executive Officer* will act as the returning officer for the election of a temporary Chairperson; and
  - (b) the procedure for determining the temporary Chairperson will be in accordance with clause 4.4.

## **PART 5 - ADVISORY COMMITTEES AND SPECIAL COMMITTEES OF COUNCIL**

### **5.1 Establishment of Committees**

- (1) The Council may establish Advisory Committees or Special Committees comprised of *Councillors*, officers or other persons, or any combination of them.
- (2) The terms of reference for, or the roles and responsibilities of, Advisory Committees and Special Committees which the Council establishes must be clearly defined by the Council.
- (3) An Advisory Committee or a Special Committee must only deal with matters which are within its terms of reference or its role and responsibility.
- (4) An Advisory Committee or a Special Committee must otherwise meet at times and places which it determines unless otherwise directed by the Council.
- (5) Advisory Committee meetings are not open to the public unless the Council or the Advisory Committee otherwise determines.
- (6) An Advisory Committee may appoint a Chairperson.

## **PART 6 - MISCELLANEOUS**

### **6.1 Compliance with Meeting Procedures**

- (1) If during a meeting the *Chief Executive Officer* becomes aware of any non-compliance with the meeting procedures contained in this Local Law or other applicable legislation, rule, custom or practice relating to meeting procedures, the *Chief Executive Officer* must immediately inform the Chairperson about the requirements of the law or other applicable legislation, rule, custom or practice relating to meeting procedures.
- (2) The Chairperson must allow the *Chief Executive Officer* to advise the meeting of any such breach or likely breach of the law, and the meeting must take account of the advice given by the *Chief Executive Officer*.

### **6.2 Behaviour at Meetings**

- (1) Silence must be observed by the gallery at all times during a meeting.
- (2) If a person is called to order by the Chairperson for any improper or disorderly conduct and does not comply with the direction, the person may be ordered by the Chairperson to leave the meeting.
- (3) Where the Chairperson is of the opinion that disorder in the Council Chamber or in the gallery makes it desirable to adjourn the meeting, the Chairperson may adjourn the meeting in the same manner as prescribed in clause 3.6(3).

### **6.3 Suspension of Standing Orders**

- (1) The Council, an Advisory Committee or a Special Committee may by resolution suspend for all or part of a meeting the provisions of Part 3 of this Local Law.
- (2) Despite sub-clause (1), standing orders must not be suspended in relation to a quorum and to the procedures for the election of the Mayor.

### **6.4 Offences**

- (1) It is an offence -
  - (a) if a person fails to withdraw a remark which is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature and does not satisfactorily apologise where not less than twice called upon by the Chairperson to do so.  
  
Penalty: 20 penalty units
  - (b) if a person other than a member who has been called to order for any improper or disorderly conduct fails to leave a meeting when requested by the Chairperson to do so.  
  
Penalty: 20 penalty units
  - (c) if any person fails to obey a direction of the Chairperson relating to the orderly conduct of a meeting.

Penalty: 20 penalty units

- (2) The Chairperson has a discretion to suspend and cause the removal of any person including a member who commits an offence under this clause or otherwise disrupts a meeting or fails to comply with a direction of the Chairperson.
- (3) For the purposes of securing the proper removal of any person under sub-clause (2), the Chairperson may request any member of the police force or any authorised officer of the Council to remove such person from the meeting and the member of the police force or the authorised officer must remove such person accordingly.

THE COMMON SEAL of )  
WHITTLESEA CITY COUNCIL )  
is affixed in the presence of: )

..... Councillor

..... Chief Executive Officer

**SCHEDULE 1**

Clause 2.5(1)

THE COMMON SEAL of            )  
WHITTLESEA CITY COUNCIL    )  
is affixed in the presence of:  )

..... Delegate

**SCHEDULE 2**

Clause 2.5(2)

THE COMMON SEAL of )  
WHITTLESEA CITY COUNCIL )  
is affixed in the presence of: )

..... Councillor

..... Chief Executive Officer

**PROCEDURAL MATTERS LOCAL LAW**  
(NO. 1 OF 2006)

I certify that this is a true copy of the Procedural Matters Local Law (No. 1 of 2006) made by the Whittlesea City Council on 9 May 2006 in accordance with the requirements of the Local Government Act 1989.

The notices required to be given by section 119(2) of that Act appeared in Government Gazette No.44 on 3 November 2005 at page 2436 and in the Whittlesea Leader newspaper on 31 October 2005.

The notices required to be given by section 119(3) of that Act were given in the Government Gazette No. G20 on 18 May 2006 at page 939 and in the Whittlesea Leader newspaper on 16 May 2006. A copy of this Local Law was sent to the Minister for Local Government on 26 May 2006.

The Local Law commenced operation on 29 May 2006 and will expire on 28 May 2016.

.....  
*Chief Executive Officer*