



MEETING PROCEDURE LOCAL LAW 2014

Local Law No. 1 of 2014

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Contact us:

t: (03) 5734 6200
f: (03) 5734 6222
e: mitchell@mitchellshire.vic.gov.au
w: www.mitchellshire.vic.gov.au

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PART A – INTRODUCTION

1. Title

This Local Law will be known as the "Meeting Procedure Local Law 2014".

2. Purpose of this Local Law

The purpose of this Local Law is to:

- (a) provide for the election of the Mayor;
 - (b) regulate the use of the common seal;
 - (c) prohibit unauthorised use of the common seal or any device resembling the common seal;
 - (d) provide for the procedures governing the conduct of *Council meetings* and *Special Committee* and *Advisory Committee* meetings; and
 - (e) set the rules of behaviour for those participating in or present at *Council meetings* and *Special Committee* and *Advisory Committee* meetings.
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3. Authorising Provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. Commencement and End Dates

This Local Law:

- (a) commences on the day following the day on which notice of making of this Local Law is published in the *Victoria Government Gazette*, and operates throughout the *municipal district*; and
 - (b) ends on the 10th anniversary of the day on which it commenced operation.
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5. Revocation of Local Law No. 4 of 2010

On the commencement of this Local Law, Council's Meeting Procedure Local Law No. 4 of 2010 is revoked.

6. Definitions and Notes

(1) In this Local Law:

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

"*Advisory Committee*" means an advisory committee established by *Council* under section 86(1) of the *Act*;

"*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;

"*authorised officer*" means a member of Council staff who is authorised by *Council* to carry out specific functions under this Local Law;

"*Chair*" means the Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson;

"*Chief Executive Officer*" means the Chief Executive Officer of *Council*;

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

"*Council*" means Mitchell Shire Council;

"*Council meeting*" includes a meeting at which the *Mayor* is elected, an *Ordinary meeting* and a *Special meeting*;

"*Mayor*" means the Mayor of *Council*;

"*minute book*" means the collective record of proceedings of *Council*;

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

"*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"*notice of rescission*" means a *notice of motion* to rescind a resolution made by *Council*;

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

"*Ordinary meeting*" means any meeting of *Council* which is not a *Special meeting*;

"*penalty units*" mean penalty units as prescribed in the *Sentencing Act 1992*;

"*senior officer*" has the same meaning as in the *Act*;

"*Special Committee*" means a special committee established by *Council* under section 86(1) of the *Act*;

"*Special meeting*" means a Special meeting of *Council* convened and held in accordance with section 84, 84A or 85 of the *Act*;

"*visitor*" means any person (other than a Councillor, member of a *Special Committee*, or member of Council staff) who is in attendance at a *Council meeting* or a *Special Committee* meeting;

"*working day*" means a day which is not a Saturday, Sunday or public holiday applicable to the *municipal district* under the *Public Holidays Act 1993*; and

"*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form.

- (2) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART B – ELECTION OF MAYOR

Introduction: This Part is concerned with the annual election of the *Mayor*. It describes how the *Mayor* is to be elected.

7. Election of the *Mayor*

- (1) A meeting to elect the *Mayor* must be held:
 - (a) as soon as practicable after the declaration of the results of a general election of Councillors;
 - (b) as soon as practicable after the fourth Saturday in October, in years between general elections of Councillors; and
 - (c) as soon as practicable after the office of *Mayor* otherwise becomes vacant.
 - (2) The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act*.
-

8. Method of Voting

The election of the *Mayor* must be carried out by a show of hands.

9. Determining the election of the *Mayor*

- (1) The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for a temporary *Chair*.
- (2) If there is more than one nomination, the temporary *Chair* will be elected in accordance with sub-clause (5)(b)-(g) as if that provision applied to candidates for the position of temporary *Chair*.
- (3) The temporary *Chair* must invite nominations for the office of *Mayor*.
- (4) Any nomination for the office of *Mayor* must be seconded.
- (5) Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
 - (a) if there is only one nomination, the candidate nominated is deemed to be elected;
 - (b) if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
 - (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
 - (d) in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;

- (e) if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- (f) in the event of two or more candidates having an equality of votes and one of them having to be declared:
 - (i) a defeated candidate; or
 - (ii) duly electedthe declaration will be determined by lot.
- (g) if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
 - (i) each candidate will draw one lot;
 - (ii) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
 - (iii) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. The word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

10. Election of Deputy Mayor and *Chairs*

Any election for:

- (a) any office of Deputy Mayor; or
- (b) temporary *Chair*, in cases where the *Mayor* and any Deputy Mayor is absent from a *Council meeting*

will be regulated by clauses 7-9 (inclusive) of this Local Law, as if, in the case of any election for Deputy Mayor, the reference to the:

- (c) Chief Executive Officer is a reference to the Mayor; and
- (d) Mayor is a reference to the Deputy Mayor.

PART C – COUNCIL’S COMMON SEAL

Introduction: The common seal is a device which formally and solemnly records the collective will of *Council*. The provisions in this Part are designed to protect the integrity of the common seal, and describe when it may be affixed to a document.

11. Council’s Common Seal

- (1) The *Chief Executive Officer* must ensure the security of *Council’s* common seal at all times.
- (2) The affixing of *Council’s* common seal to any document must be attested to by not less than three persons, comprising both:
 - (a) any two Councillors; and
 - (b) the *Chief Executive Officer*.
- (3) Where *Council* authorises the common seal to be affixed to any document, the *Chief Executive Officer* must cause the sealed document to be allocated a seal register number.
- (4) Where the common seal is affixed to a document on the authority of *Council*, the sealing clause must contain the following words:

The Common Seal of **MITCHELL SHIRE COUNCIL**
was affixed this (no. of day).....(month)
.....(year) in the presence of:

.....Councillor
.....Councillor
.....Chief Executive Officer/Senior Officer

PART D – MEETINGS PROCEDURE

Introduction: This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting.

DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

12. Dates and Times of Meetings

Council must from time to time fix the date, time and place of all *Ordinary meetings*.

13. Council May Alter Ordinary Meeting Dates

Council may change the date, time and place of any *Ordinary meeting* which has been fixed and must provide reasonable notice of the change to the public.

14. Special Meetings

- (1) The *Mayor* or at least 3 Councillors may by a written notice call a *Special meeting*.
- (2) The notice must:
 - (a) specify the date and time of the *Special meeting* and the business to be transacted; and
 - (b) be delivered or sent electronically to the *Chief Executive Officer* in sufficient time to enable reasonable notice of the *Special meeting* to be given to all Councillors.
- (3) The *Chief Executive Officer* must convene the *Special meeting* as specified in the notice.
- (4) Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the notice is to be transacted.
- (5) Subject to any resolution providing otherwise, the order of business of any *Special meeting* must be the order in which such business stands in the *agenda* for the meeting.

Council is also able to call a Special meeting. This must be done by resolution. The Chief Executive Officer can call a Special meeting within 14 days of the result of the Council election being declared.

Apart from this, the only other type of Special meeting that can be convened is a "Call of the Council". This is provided for in section 85 of the Act. It is generally reserved for occasions on which all Councillors are required to attend and remain throughout a Council meeting lest Council be deprived of a quorum and be unable to transact an item of business which has, in the past, not been transacted because of some Councillors absenting themselves from the Chamber and preventing proper consideration of the matter.

15. Notice Of Meeting

- (1) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Ordinary meetings* at least 3 clear days before the meeting.
- (2) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for any *Special meeting* within a reasonable time of the *Special meeting* being called. Generally, this means that a notice of meeting must be delivered to every Councillor at least 48 hours before the meeting. A period less than 48 hours may, however, be justified if exceptional circumstances exist.
- (3) Notwithstanding sub-clauses (1) and (2), a notice of meeting need not be served on any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of his or her absence.
- (4) Reasonable notice of each *Ordinary meeting* must be provided to the public. *Council* may do this for *Ordinary meetings* by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a local newspaper either at various times throughout the year, or prior to each *Ordinary meeting*.
- (5) The *Chief Executive Officer* may include any matter on an agenda of a *Council meeting* which he or she considers, following consultation with the *Chair*, should be dealt with at that following *Council meeting*.

DIVISION 2 – QUORUMS

16. Ordinary Meetings

The quorum for *Ordinary meetings* is the presence of a majority of the Councillors.

17. Special Meetings

The quorum for *Special meetings* is the presence of a majority of the Councillors.

18. Inability To Obtain A Quorum

If after 30 minutes from the scheduled starting time of any *Ordinary* or *Special meeting*, a quorum cannot be obtained those Councillors present or, if no Councillors are present, the *Chief Executive Officer* or (in the absence of the *Chief Executive Officer*) a *senior officer* may adjourn the meeting to a date and/or time to be determined.

19. Inability To Maintain A Quorum

If during any *Ordinary* or *Special meeting* or any adjournment of the meeting, a quorum cannot be maintained then clause 18 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

20. Inability To Achieve Or Maintain A Quorum Due To Conflicts of Interest Of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the *Chair* may:

- (a) defer the item of business in respect of which there is or is likely to be a disclosure of a conflict of interest by one or more Councillors, and direct the *Chief Executive Officer* to include that item of business on an agenda for a future *Council meeting*; or
- (b) adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the *Act*.

21. Adjournments by Council

Council may adjourn any meeting to another date or time but cannot adjourn a meeting in session to another place.

22. Notice of Adjourned Meeting

- (1) The *Chief Executive Officer* must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- (2) If it is impracticable for the notice given under sub-clause (1) to be in writing, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.

23. Time limits for Meetings

- (1) An *Ordinary* and *Special meeting* must not continue for more than 90 minutes unless a majority of Councillors present vote in favour of its continuance.
- (2) Notwithstanding sub-clause (1), a motion to continue the meeting need not be moved until after consideration of that item of business which was before the meeting upon 90 minutes elapsing from the commencement of the meeting.
- (3) A meeting cannot be continued for more than 15 minutes (or a further 15 minutes, if a majority of Councillors has already voted to continue it for 15 minutes).

- (4) In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of clause 22(1) and 22(2) apply.

24. Cancellation or Postponement of a Meeting

- (1) If:
- (a) there is an emergency which necessitates the cancellation or postponement of a *Council meeting* or *Special Committee* meeting; or
 - (b) there is no or insufficient business to be transacted at a *Council meeting* or *Special Committee* meeting
- the Chief Executive Officer may cancel or postpone an Ordinary meeting, a Special meeting or a Special Committee meeting (as the case may be).
- (2) Before the *Chief Executive Officer* exercises the power conferred by sub-clause (1), he or she must, if practicable, consult with the *Mayor*.
- (3) The *Chief Executive Officer* must present to the immediately following *Ordinary meeting* a written report on any exercise of the power conferred by sub-clause (1).

DIVISION 3 – BUSINESS OF MEETINGS

25. The Order Of Business

The order of business is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government. At the commencement of this Local Law it will, for *Ordinary meetings*, be:

- (1) Governance Declaration;
- (2) Apologies and Leave of Absence;
- (3) Disclosure of Conflicts of Interest;
- (4) Confirmation of Minutes of Previous Meeting;
- (5) Petitions and Joint letters;
- (6) Presentations;
- (7) Officers' Reports;
- (8) Delegates' Reports;
- (9) Notices of Motion;
- (10) General Business;
- (11) Urgent Business;
- (12) Confidential Business;
- (13) Date of Next Meeting; and

- (14) Close of Meeting.

26. Change To Order Of Business

Once an *agenda* has been sent to Councillors, the order of business for that meeting may be altered with the consent of *Council*.

27. Agenda Items

The *Chief Executive Officer* may include any matter on the *agenda* which he or she thinks should be considered at the meeting to which the *agenda* relates.

28. Conflicts of Interest

- (1) A Councillor must disclose any conflict of interest which that Councillor has in an item of business at the time specified in the *agenda*.
- (2) Nothing in sub-clause (1) derogates from a Councillor's duty under the *Act* to disclose the existence, nature and class of any conflict of interest which that Councillor has in an item of business immediately before the consideration or discussion of that item of business.

Section 77A of the Act defines when a Councillor will have a conflict of interest. Any Councillor who has a conflict of interest must comply with the requirements of section 79 of the Act.

Among these requirements is the requirement to disclose the existence, nature and class of the conflict of interest. This must be done 'immediately' before the consideration or discussion of the item in which the Councillor has a conflict of interest.

So, even if the Councillor has disclosed the conflict of interest earlier in the meeting, the existence and nature of the conflict of interest must again be disclosed immediately before any consideration or discussion of the agenda item occurs.

29. Reports of Delegates

- (1) A Councillor who is a delegate, nominee or appointee to:
 - (a) an association;
 - (b) a group;
 - (c) working party; or
 - (d) an external bodymay present to *Council* on the deliberations of the external body, association, group or working party (as the case may be).
- (2) In presenting, the Councillor may address *Council* for up to 3 minutes on the contents of any written report (if applicable) which the Councillor has submitted for inclusion in the *agenda* or on any matters otherwise arising out of the deliberations of the:

- (a) association;
- (b) group;
- (c) working party; or
- (d) external body.

30. General Business

- (1) Unless sub-clause (2) applies, business cannot be admitted as General Business without the leave of *Council*.
- (2) An item of General Business can, with the leave of the *Chair*, be admitted if it:
 - (a) requests preparation of a report; or
 - (b) is a motion of congratulations or condolence.

31. Urgent Business

- (1) Business can only be admitted as Urgent Business if *Council* resolves to admit it.
- (2) An item of Urgent Business must be confined to a matter that cannot safely or conveniently be deferred until the next *Ordinary Meeting*.

DIVISION 4 – MOTIONS AND DEBATE

32. Councillors May Propose *Notices Of Motion*

Councillors may ensure that an issue is listed on an *agenda* by lodging a *notice of motion*.

33. Notice Of Motion

- (1) A *notice of motion* must be in writing signed by a Councillor, and be lodged with the *Chief Executive Officer* at least 5 clear days before the *Council meeting* to allow sufficient time for him or her to include the *notice of motion* in agenda papers to be given to each Councillor in accordance with clause 15.
- (2) The *Chief Executive Officer* may reject any *notice of motion* which is:
 - (a) too vague;
 - (b) identical or substantially similar to a *notice of motion* or other motion that has been considered by *Council* in the preceding six months;
 - (c) defamatory;
 - (d) objectionable in language or nature; or
 - (e) outside the powers of *Council*

but must give the Councillor who lodged it an opportunity to amend it before it is rejected and provide such assistance to the Councillor in relation to any amendment as the Councillor reasonably requires.

- (3) The *Chief Executive Officer* must notify any Councillor whose *notice of motion* has been rejected of the rejection and the reasons for the rejection.
- (4) The *Chief Executive Officer* must not accept more than six *notices of motion* from the one Councillor in respect of an *Ordinary Meeting*.
- (5) The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- (6) The *Chief Executive Officer* must cause all *notices of motion* to be numbered, dated and entered in the *notice of motion* register in the order in which they were received.
- (7) Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- (8) If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- (9) If a *notice of motion* is not moved at the meeting at which it is listed, it lapses.

34. Chair's Duty

Any motion which is determined by the *Chair* to be:

- (a) defamatory;
- (b) objectionable in language or nature;
- (c) vague or unclear in intention;
- (d) outside the powers of *Council*; or
- (e) irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

35. Introducing a Report

- (1) Before a written report is considered by *Council* and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:
 - (a) its background; or
 - (b) the reasons for any recommendation which appears.
- (2) A member of Council staff need not read any written report to *Council* in full.

36. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- (a) the mover must read or outline the motion without speaking to it;
- (b) the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- (c) if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- (d) after the mover has addressed the meeting, the seconder may address the meeting or reserve his or her right to address the meeting;
- (e) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- (f) if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

37. Right Of Reply or Closing Statement

- (1) If there has been any opposition to a motion, the mover of a motion has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken the motion must immediately be put to the vote without any further discussion or debate.

38. Moving An Amendment

- (1) Subject to sub-clause (2) a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- (2) A motion to confirm a previous resolution of *Council* cannot be amended.
- (3) An amendment must not be the negative of or substantially contrary to the motion.
- (4) The mover of an amendment cannot exercise any right of reply.

39. Who May Propose and Debate An Amendment

- (1) An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- (2) Any one Councillor cannot, without the leave of the *Chair*, move more than 2 amendments in succession.
- (3) Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.
- (4) Debate on an amendment must be confined to the terms of the amendment.

40. How Many Amendments May Be Proposed

- (1) Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- (2) No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

41. An Amendment Once Carried

- (1) If the amendment is carried, the motion as amended becomes the substantive motion before the meeting.
- (2) The mover of the original motion retains the right of reply to that motion.

42. Foreshadowing Motions

- (1) At any time during debate a Councillor may foreshadow a motion so as to inform *Council* 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 motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- (4) A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

43. Withdrawal Of Motions

- (1) Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- (2) If a majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

44. Separation Of Motions

Where a motion contains more than one part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.

45. Chair May Separate Motions or Allow Motions to be Moved in Block

- (1) The *Chair* may decide to put any motion to the vote in several parts.
- (2) The *Chair* may allow or request Councillors to move “like items” in block.

46. Priority of address

In the case of competition for the right of speak, the *Chair* must decide the order in which the Councillors concerned will be heard.

47. Motions In Writing

- (1) The *Chair* must require any motion to be in writing.
 - (2) *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.
-

48. Repeating Motion and/or Amendment

The *Chair* may request the *Chief Executive Officer* or another member of *Council* staff to read the motion or amendment to the meeting before the vote is taken.

49. Debate Must Be Relevant To The Motion

- (1) Debate must always be relevant to the motion before the Chair, and, if not, the *Chair* must request the speaker to confine debate to the motion.
 - (2) If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to not speak further in respect of the motion then before the Chair.
 - (3) A speaker to whom a direction has been given under sub-clause (2) must comply with that direction.
-

50. Speaking Times

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by *Council*:
 - (a) the mover of a motion or an amendment: 3 minutes;
 - (b) the seconder of a motion or an amendment: 3 minutes;
 - (c) any other Councillor: 3 minutes;
 - (d) the mover of a motion exercising a right of reply: 3 minutes.
 - (e) a Councillor when answering a question asked by another Councillor: one minute; and
 - (f) a Councillor when clarifying a matter or giving a personal explanation: one minute.
- (2) Only one extension is permitted for each speaker.
- (3) Unless moved immediately before the speaker speaks for the first time, a motion to extend the speaking time cannot be moved:

- (a) until the original speaking time has expired; and
 - (b) once another speaker has commenced speaking,
and must be seconded.
- (4) Any extended speaking time must not exceed 3 minutes.

51. Addressing the Meeting

If the *Chair* so determines:

- (a) any person addressing the *Chair* must refer to the *Chair* as:
 - (i) Madam Mayor; or
 - (ii) Mr Mayor; or
 - (iii) Madam Chair; or
 - (iv) Mr Chairas the case may be;
- (b) all Councillors, other than the Mayor, must be addressed as
Cr.....(family name).
- (c) all members of Council staff, must be addressed as Mr or Ms
.....(family name) as appropriate or by their official title.

52. Right to Ask Questions

- (1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chair*.
- (2) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

53. Procedural Motions

- (1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) Procedural motions require a seconder.
- (3) Notwithstanding any other provision in this Local Law, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> , (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

DIVISION 6 – RESCISSION MOTIONS

54. Notice of Rescission

- (1) A Councillor may propose a *notice of rescission* provided:
- (a) it has been signed and dated by at least 2 other Councillors;
 - (b) it sets out the reasons why the rescission is sought;
 - (c) the resolution proposed to be rescinded has not been acted on; and
 - (d) the *notice of rescission* is delivered or sent electronically to the *Chief Executive Officer* no later than noon on the first *working day* immediately following the meeting at which the resolution proposed to be rescinded was made. It must set out:
 - (i) the resolution to be rescinded; and
 - (ii) the meeting and date when the resolution was made.

It should be remembered that a notice of rescission is a form of notice of motion.

Accordingly, all provisions in the Local Law regulating notices of motion equally apply to notices of rescission.

- (2) A resolution will be deemed to have been acted on if:
- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - (b) a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- (3) The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a *notice of rescission* which has been delivered or sent electronically to the *Chief Executive Officer* in accordance with sub-clause (1)(c)

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with

until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).

In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.

Clause 54(3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

55. If Lost

If a motion for rescission is lost, an identical or a similar motion may not be put before *Council* for at least six months from the date it was last lost, unless *Council* resolves that the notice of motion be re-listed at a future meeting.

56. If Not Moved

If a motion for rescission is not moved at the meeting at which it is listed, it lapses and a similar motion may not be put before *Council* for at least six months from the date on which it lapsed.

57. May Be Moved By Any Councillor

A motion for rescission listed on an *agenda* may be moved by any Councillor present but may not be amended.

58. When Not Required

- (1) Unless sub-clause (2) applies, a motion for rescission is not required where *Council* wishes to change policy.
- (2) The following standards should apply if *Council* wishes to change policy:
 - (a) if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*; and
 - (b) any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.
- (3) A motion for rescission is not required if *Council* adopts a recommendation in a written report from a member of *Council* staff that a previous decision be reversed or altered.

DIVISION 7 – POINTS OF ORDER

59. Valid Points of Order

A point of order may be raised in relation to anything which:

- (a) is contrary to this Local Law;
- (b) irrelevant to the matter under consideration;
- (c) is outside the powers of *Council*;
- (d) constitutes improper behaviour;
- (e) is offensive;
- (f) constitutes a tedious repetition of something already said; or
- (g) is an act of disorder.

Expressing a difference of opinion or contradicting a speaker is not a point of order.

60. Procedure For Point Of Order

A Councillor raising a point of order must:

- (a) state the point of order; and
 - (b) state any section, clause, paragraph or provision relevant to the point of order
- before resuming his or her seat.

61. Chair To Decide

The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

62. Chair May Adjourn To Consider

- (1) The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

The *Chair* may need a brief adjournment in order to reflect on how he or she will rule on the point of order. It is expected that, before adjourning the meeting, the *Chair* will indicate the duration of the adjournment and the time at which the meeting will resume.

- (2) All other questions before *Council* are suspended until the point of order is decided.

63. Effect of Ruling

If the *Chair*:

- (a) rules in favour of the point of order, the speaker may continue and no Councillor must do or say anything which would cause another like point of order to be raised; or
- (b) rules against the point of order the speaker may continue.

64. Dissent From *Chair's* Ruling

- (1) A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving a motion of dissent.
- (2) When a motion in accordance with this clause is moved and seconded, the *Chair* must preside over the election of a temporary *Chair* before leaving the *Chair*.
- (3) The temporary *Chair* must then take the *Chair* and invite the mover to state the reasons for his or her dissent. The *Chair* may then reply.
- (4) The temporary *Chair* must put the motion of dissent.
- (5) If the vote is in the negative, the *Chair* resumes the *Chair* and the meeting proceeds.
- (6) If the vote is in the affirmative, the *Chair* must then resume the *Chair*, reverse or vary (as the case may be) his or her previous ruling and proceed.
- (7) The defeat of the *Chair's* ruling is in no way a motion of censure or non-confidence in the *Chair*, and should not be so regarded by the meeting.

DIVISION 8 – PUBLIC PARTICIPATION

65. Public Submissions, Questions and Presentations

- (1) Members of the public do not have a right to address *Council* at a *Council meeting* and may only do so with the consent of *Council*.
- (2) A committee (including a *Special Committee* established to perform a function under section 223 of the *Act*) may regulate its own procedure for hearing from members of the public.
- (3) *Council* must ensure that adequate provision is made at:

- (a) *Ordinary meetings; or*
- (b) meetings of a *Special Committee*

for a public participation forum at which members of the public can submit questions or make presentations.

- (4) Public participation forums will be conducted in accordance with any guidelines adopted by *Council* from time to time.

DIVISION 9 – PETITIONS AND JOINT LETTERS

66. Petitions and Joint Letters

- (1) Unless *Council* determines to consider it in conjunction with a report already listed on the *agenda*, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Ordinary meeting* after that at which it has been presented.
- (2) It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council* and that the contents do not violate any Local Law of *Council*.
- (3) Every Councillor presenting a petition or joint letter to *Council* must:
 - (a) for identification purposes ensure that his or her name appears at the top of the petition or joint letter; and
 - (b) confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the petition or request.
- (4) Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 5 people.
- (5) Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- (6) Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- (7) Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- (8) Electronic petitions or joint letters must comply with sub-clause (4), (5) and (6) and include the name and e-mail address of each petitioner (this functions as the 'signature' of a petitioner);
- (9) If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

DIVISION 10 – VOTING

67. How Motion Determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.

68. Silence

Voting must take place in silence.

69. Recount

The *Chair* may direct that a vote be recounted to satisfy himself or herself of the result.

70. Casting Vote

- (1) In the event of a tied vote, the *Chair* must, in accordance with the *Act*, exercise the casting vote in accordance with the *Act*.

There are some circumstances in which the *Chair* does not have a casting vote and the matter is to be determined by lot. These are to be found in sections 90(2) of the *Act*.

- (2) The *Chair* may adjourn a *Council meeting* to consider how his or her casting vote will be cast.

The *Chair* may need a brief adjournment in order to reflect on his or her casting vote. It is expected that, before adjourning the meeting, the *Chair* will indicate the duration of the adjournment and the time at which the meeting will resume.

71. By Show Of Hands

- (1) Voting on any matter is by show of hands.
- (2) A Councillor who is physically unable to vote by show of hands can vote by stating "I".
-

72. Procedure For A Division

- (1) Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.

- (2) When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- (3) When a division is called for, the *Chair* must:
 - (a) first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the affirmative;
 - (b) then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative;
 - (c) next ask each Councillor abstaining from voting to raise a hand and, upon such request being made, each Councillor abstaining from voting must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors abstaining from voting; and
 - (d) finally declare the result of the division.

73. No Discussion Once Declared

Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

- (a) a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- (b) foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

For example, clause 73 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, clause 73 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in clause 73(b), to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 11 – MINUTES

74. Confirmation of Minutes

At every meeting of *Council* the minutes of the preceding meeting(s) must be dealt with as follows:

- (a) a copy of the minutes must be delivered or sent electronically to each Councillor who requests them, no later than 48 hours before the next meeting;
- (b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
- (c) if a Councillor indicates opposition to the minutes:
 - (i) he or she must specify the item(s) to which he or she objects;
 - (ii) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
 - (iii) the Councillor objecting must move accordingly without speaking to the motion;
 - (iv) the motion must be seconded;
 - (v) the *Chair* must ask:
"Is the motion opposed?"
 - (vi) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in clause 74(c)(xi);
 - (vii) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
 - (viii) after the mover has addressed the meeting, the seconder may address the meeting;
 - (ix) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
 - (x) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
 - (xi) the *Chair* must, after all objections have been dealt with, ultimately ask:
"The question is that the minutes be confirmed" or
"The question is that the minutes, as amended, be confirmed",
and he or she must put the question to the vote accordingly;

- (d) a resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chair of the meeting at which they have been confirmed;
- (e) the minutes must be entered in the minute book and each item in the minute book must be entered consecutively;
- (f) unless otherwise resolved or required by law, minutes of a Special Committee requiring confirmation by Council must not be available to the public until confirmed by Council; and
- (g) the Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council meeting, and those minutes must record:
 - (i) the date, place, time and nature of the meeting;
 - (ii) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - (iii) the names of the members of Council staff present;
 - (iv) any disclosure of a conflict of interest made by a Councillor;
 - (v) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - (vi) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - (vii) the vote cast by or abstention from voting of each Councillor upon a division;
 - (viii) the vote cast by or abstention from voting of any Councillor who has requested that his or her vote or abstention be recorded in the minutes;
 - (ix) questions asked in Public Question Time and any answer given;
 - (x) the failure of a quorum;
 - (xi) any adjournment of the meeting and the reasons for that adjournment; and
 - (xii) the time at which standing orders were suspended and resumed.

75. No Debate on Confirmation Of Minutes

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

76. Deferral Of Confirmation Of Minutes

Council may defer the confirmation of minutes until later in the meeting or until the next meeting if considered appropriate.

DIVISION 12 – BEHAVIOUR

77. Recording Of Meetings

- (1) The Chair at the commencement of a *Council* or *Special* meeting, must announce that any audio or visual recording equipment is to be switched off.
- (2) A person must not, without the prior approval of the *Chair*, operate any audio or visual recording equipment at any *Council meeting*.
- (3) Nothing in sub-clause (1) and (2) applies to:
 - (a) any member of Council staff operating any recording device for the purpose of preparing draft minutes of the meeting; or
 - (b) any security camera installed in any place in which a *Council meeting* is held.
- (4) If the *Chair* gives approval under sub-clause (2), the *Chair* must, as soon as practicable after opening the *Council* meeting, announce the giving of the approval and advise those who are present in the gallery that their images and/or voices are liable to be recorded during the course of the *Council* meeting.

78. Public Addressing Meeting

- (1) Any member of the public addressing *Council* or a committee must extend due courtesy and respect to *Council* or the committee (as the case may be) and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- (2) A member of the public present at a *Council meeting* or a meeting of a committee must not interject during the meeting.

79. Chair May Remove

The *Chair* may order and cause the removal of any person, not being a Councillor, who disrupts any meeting or fails to comply with a direction.

It is intended that this power be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.

80. Offences

(1) It is an offence for:

- (a) a person to use the *common seal* or any device resembling the *common seal* without the authority of *Council*;

Penalty: 5 penalty units

- (b) a person to inscribe upon a petition or joint letter a name or signature purporting to be the name or signature of another person;

Penalty: 5 penalty units

- (c) a person to whom clause 77(2) applies to act contrary to that sub-clause, by operating any audio or visual recording equipment at a *Council meeting* without the prior approval of the *Chair*;

Penalty: 5 penalty units

- (d) a Councillor to not withdraw an expression considered by the *Chair* to be offensive or disorderly, and apologise when called on twice by the *Chair* to do so;

Penalty: 2 penalty units

- (e) any person, not being a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the *Chair* to do so;

Penalty: 5 penalty units

- (f) any person, not being a Councillor, to fail to comply with a direction of the *Chair* in relation to the conduct of the meeting and the maintenance of order;

Penalty: 2 penalty units

- (g) any person to display any placard or poster in the Council Chamber or any part of the building in which a *Council meeting* is being held; or

Penalty: 5 penalty units

- (h) any person to obstruct the entrance to the Council Chamber or the building in which a *Council meeting* is being held.

Penalty: 5 penalty units

The penalty units set out in this sub-clause represent the maximum amount which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-clause (2).

- (2) An *authorised officer* may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations requirements to any person who has committed an offence against this Local Law.
- (3) The fixed penalty in respect of an infringement notice served on a person is the amount set out in Schedule 1.

81. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of clause 22(1) and 22(2) apply.

82. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Local Law and whom the *Chair* has ordered to be removed from the gallery under clause 79 of this Local Law.

DIVISION 13 – ADDITIONAL DUTIES OF CHAIR

83. The Chair's Duties And Discretions

In addition to the duties and discretions provided in this Local Law, the *Chair*:

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and
- (b) must call to order any person who is disruptive or unruly during any meeting.

DIVISION 14 – SUSPENSION OF STANDING ORDERS

84. Suspension of Standing Orders

- (1) To expedite the business of a meeting, *Council* may suspend standing orders.

The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.

Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.

- (2) Standing orders can only be suspended upon a duly moved and seconded motion being carried.

- (3) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:
- "That standing order be suspended to enable discussion on....."
- (4) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- (5) Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- "That standing orders be resumed."

DIVISION 15 – MISCELLANEOUS

85. Procedure not provided in Local Law

In all cases not specifically provided for by this Local Law, *Council* may determine the matter by resolution.

86. Policies and Guidelines

Council may adopt any policies or guidelines from time to time for the purpose of exercising any discretions conferred by this Local Law.

DIVISION 16 – SPECIAL AND ADVISORY COMMITTEES

87. Application to Some *Special Committees*

- (1) If *Council* establishes a *Special Committee* composed solely of Councillors, all of the provisions of Divisions 1-15 of this Local Law apply to meetings of the *Special Committee*.
- (2) For the purposes of clause 87(1), a reference in Division 1-15 of this Local Law to:
- (a) a *Council meeting* is to be read as a reference to a meeting of the *Special Committee*;
 - (b) a Councillor is to be read as a reference to a member of the *Special Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Special Committee*.

88. Application to Other Special Committees

If *Council* establishes a *Special Committee* that is not composed solely of Councillors:

- (a) *Council* may; or
- (b) the *Special Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-15 is or are (as appropriate) not to apply to meetings of the *Special Committee*, whereupon that provision or those provisions will not apply until *Council* resolves, or the *Special Committee* with the approval of *Council* resolves, otherwise.

89. Application to Advisory Committees Specifically

If *Council* establishes an *Advisory Committee*:

- (a) *Council* may; or
- (b) the *Advisory Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-15 is or are (as appropriate) to apply to meetings of the *Advisory Committee*, whereupon that provision or those provisions will apply until *Council* resolves, or the *Advisory Committee* with the approval of *Council* resolves, otherwise.

90. Adoption of Recommendation

If a recommendation of an *Advisory Committee* or a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.

The Common Seal of MITCHELL SHIRE COUNCIL was affixed this 15th day of December 2014 in the presence of:

.....
.....
.....

)
)
)



Councillor

Councillor

Chief Executive Officer

Schedule 1

Meeting Procedure Local Law No. 1 of 2014 Penalties Fixed for On the Spot Infringements

Local Law Provision	Offence	Penalty Units
80(1)(a)	Using the Common Seal or replica without authority	5
80(1)(b)	Fraudulently signing a petition or joint letter	5
80(1)(c)	Recording meeting without prior approval	5
80(1)(d),(e) and (f)	Call to Order – Failing to comply with a direction of the Chair	2
80(g) and (h)	Displaying placards or posters in or obstructing entrance to Council Chamber or building	5