

# AGENDA

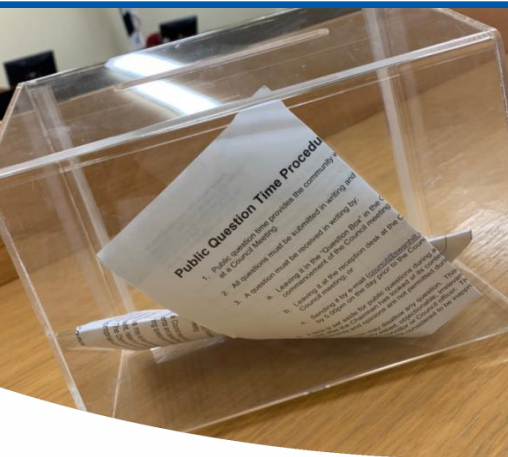
## ORDINARY MEETING OF COUNCIL

Tuesday, 16 April 2019

To be held Swan  
Meet  
McCall



## Governance Rules 2023



## DOCUMENT INFORMATION

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Signed by Mayor

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1.0	August 2020	Initial Release
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Council documents are amended from time to time, therefore you should not rely on a printed copy being the current version.

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## INTRODUCTION

These Governance Rules were adopted in accordance with schedule 60 of the Local Government Act 2020 and commenced on 1 September 2020.

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Local Government Act 2020. These principles are:

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) The municipal community is to be engaged in strategic planning and strategic decision making;
- (e) Innovation and continuous improvement is to be pursued;
- (f) Collaboration with other Councils and Governments and statutory bodies is to be sought;
- (g) The ongoing financial viability of the Council is to be ensured;
- (h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- (i) The transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, Council must take into account the following supporting principles —

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

## REVISION

- (a) In developing or amending these Governance Rules Council will undertake a process of community engagement in accordance with relevant policies;
- (b) In accordance with section 8(3) of the Act, where a change to the Governance Rules involves the adopting or amendment of a rule that only adopts a good practice guideline issued by the Minister under section 87(i) of the act, a process of community engagement is not required to be undertaken.

## DEFINITIONS

### In these Governance Rules:

**Absolute majority** means the number of Councillors which is greater than half the total number of the Councillors of a Council;

**Abstaining from voting** means a Councillor failing or refusing to indicate they are either in favour or opposed to a motion. Abstaining from voting will be counted as being opposed to a motion;

**Act** means the Local Government Act 2020;

**Advisory Committee** means a committee established by the Council, that provides advice to —

(a) the Council; or

(b) a member of Council staff who has been delegated a power, duty or function of the Council;

that is not a Delegated Committee;

**Agenda** means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting;

**Agreement of Council** means indicative agreement of all of the Councillors present, without a vote being conducted. In the event there is any uncertainty about all Councillors agreeing, the matter may be put to a vote;

**Assembly** of Councillors has the same meaning as the Act;

**Audit and Risk Committee** means the Audit and Risk Committee established by a Council under section 53 of the Act;

**Authorised Officer** means a person who is authorised by Council to carry out specific functions under a Local law;

**Chairperson** means the Chairperson of a Meeting and includes acting, temporary and substitute Chairperson;

**Chamber** means any room where the Council holds a Council Meeting;

**Chief Executive Officer** means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office;

**Confidential Business** means business which is conducted In-Camera in accordance with Section 66 of the Act;

**Clear Days** means the number of consecutive whole days referred to, regardless of whether or not any such day falls on a weekend or public holiday;

**Committee Meeting** means a meeting of a Delegated Committee convened in accordance with these Governance Rules and includes a scheduled or unscheduled

meeting (whether held as face-to-face attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance);

**Common Seal** means the Common Seal of Council;

**Council** means Swan Hill Rural City Council;

**Councillor** has the same meaning as the Act;

**Councillor Code of Conduct** means the Councillor Code of Conduct developed under section 139 of the Act;

**Council Meeting** means a meeting of the Council convened in accordance with these Governance Rules and includes a scheduled meeting and unscheduled meeting (whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format that mixes in-person and electronic attendance);

**Delegate** means a member of Council staff to whom powers, functions and duties have been delegated by an instrument of delegation;

**Delegated Committee** has the same meaning as in the Act;

**Delegated Committee Meeting** means a Meeting of a Delegated Committee;

**Deputy Mayor** means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor;

**Director** means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer;

**Disorder** means any disorderly conduct of a member of the Gallery or a Councillor and includes:

- (a) interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;
- (b) making comments that are defamatory, malicious, abusive or offensive;
- (c) refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and the Governance Rules; and
- (d) engaging in any other conduct which prevents the orderly conduct of the Meeting;

**Employee Code of Conduct** means the Code of Conduct developed by Council under section 49 of the Act;

**Foreshadowed Item** means a matter raised in the relevant section of the Council Meeting that a Councillor intends to submit a Notice of Motion for the next Council Meeting;

**In-Camera'** means a meeting or portion of a meeting closed to the public in accordance with Section 66 of the Act;

**Joint Letter** means a document which is addressed to, or is obviously intended for, the Council and is signed by 3 or more people;

**Majority of the Votes** means a majority of Councillors present at the time of a vote voting in favour of a matter;

**Mayor** means the Mayor of Council and any person appointed by Council to be acting as Mayor;

**Meeting** means a Council Meeting or a Delegated Committee Meeting;

**Member** means a member of any committee to which these governance rules apply;

**Minister** means the Minister for Local Government;

**Minutes** means the official record of the proceedings and decisions of a Meeting;

**Motion** means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted;

**Municipal District** means the municipal district of Council;

**Notice of Motion** means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting;

**Notice of Rescission** means a Notice of Motion to rescind a resolution made by Council;

**Officer** means a member of Council staff;

**On Notice** means held or deferred to enable preparation of a response;

**Petition** means a document which is addressed to, or is obviously intended for, the Council and is signed by 10 or more people;

**Point of Order** means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting;

**Procedural Motion** means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

**Quorum** means a majority of the elected Councillors or appointed Delegated Committee members. Under section 61(6A) of the LG Act, for the purposes of these meetings, a Councillor or Delegated Committee member present by electronic means of communication is deemed present for the purposes of a quorum;

**Rule or Sub-rule** means a rule or sub-rule included in these Governance Rules;

**Urgent Business** means a matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting;

**Unscheduled Meeting** means a meeting of the Council convened for a particular purpose that cannot be effectively dealt with in the schedule of Council meetings set by Council;

## **MEETING PROCEDURE**

### **1. Purpose of Council meetings**

- (1) Council holds Scheduled Meetings and, when required, Unscheduled Meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision-making and, in accordance with the Local Government Act 2020, Council and Delegated Committee Meetings are open to the public and the community are able to attend.
- (3) Open to the public means in the case Council and Delegated Committee Meetings:
  - (a) either, attendance in person by a member of the public, or a meeting that is broadcasted live on the council internet site; or
  - (b) a recorded meeting that is published on the council internet site as soon as practicable after the meeting (in the case of a delegated committee only); or
  - (c) any other prescribed means of meeting.
- (4) Meetings will only be closed to members of the public if:
  - (a) there are clear reasons for particular matters to remain confidential; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an orderly manner.

### **2. Format of Council meetings**

Council by resolution can determine the proposed or preferred format style of meetings, whether held as face-to-face (in-person) attendance in a set location or via electronic means (virtual) or in a 'hybrid' or 'parallel' format.

Council has determined that Council Meetings must be held solely face-to-face (in-person) unless they are satisfied that extraordinary circumstances warrant it.

Council has determined Council briefings may be held either in-person or via electronic means, including hybrid or parallel as required.

### **3. Meeting Roles**

#### **3.1. Chairperson and Members**



- (1) The Chairperson, Councillors and members of Delegated Committees will ensure good council decision-making by endeavouring to ensure:
  - (a) Decision making is transparent to members and observers;
  - (b) Meeting members have sufficient information to make good decisions;
  - (c) Every member is supported to contribute to decisions;
  - (d) Any person whose rights are affected has their interests considered;
  - (e) Debate and discussion is focussed on the issues at hand;
  - (f) Meetings are conducted in an orderly manner;
  - (g) Decisions should be made on the merits of the matter.

### **3.2. Mayor to take the Chair**

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present;
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair;
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as Chair of the meeting by resolution;
- (4) All people present at the meeting must comply with a direction given by the Chairperson.

### **3.3. Delegated Committee Chairperson**

- (1) At the Meeting at which Council establishes a delegated committee it must also appoint a Chairperson;
- (2) The Chair of a delegated committee must be a Councillor;
- (3) For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act.

### **3.4. The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any Motion, question or statement which is:
  - (a) vague or ambiguous;
  - (b) defamatory, malicious, abusive or objectionable in language or substance; or
  - (c) outside the powers of Council;
- (2) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
- (4) may direct that a vote be recounted to be satisfied of the result; and

- (5) must decide on all points of order.

### **3.5. Chief Executive Officer**

- (1) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson;
- (2) The Chief Executive Officer should:
  - (a) Immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) Advise if there are operational, financial or risk implications arising from a proposed resolution;
  - (c) Help clarify the intent of any unclear resolution to facilitate implementation;
  - (d) On request, assist with procedural issues that may arise.

### **3.6. Councillors and members of Delegated Committees**

- (1) Councillors and members of Delegated Committees contribute to good governance and decision making by:
  - (a) Seeking views of community members and reading the agenda prior to the meeting;
  - (b) Demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
  - (c) Attending meetings and participating in debate and discussion;
  - (d) Demonstrating respect for the role of the Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
  - (e) Being courteous and orderly;
  - (f) Not divulging the contents of confidential matters considered by Council whether at a meeting of the Council or at an Assembly.

### **3.7. Community**

- (1) Community members may only participate in Council meetings in accordance with these Governance Rules.
- (2) Council will adopt policies, protocols or guidelines to ensure opportunities exist for community input, beyond formal consultation processes.
- (3) Community members are encouraged to participate in Council's engagement forums.
- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.
- (5) Community members can contact Council or be informed of Council issues by making direct contact with Council via phone, the Council website, email or by attending Council offices in person.

### **3.8. Apologies and absences**

- (1) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
  - (a) In writing to the Chairperson, who will advise the meeting; or
  - (b) By seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf.
- (2) An apology submitted to a meeting will be recorded in the minutes.
- (3) A Councillor intending to take a leave of absence must request that leave of absence in writing to the Mayor.
- (4) If the leave of absence is requested by the Mayor it will be lodged with the Chief Executive Officer.
- (5) The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- (6) A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- (7) Council will not unreasonably withhold its approval of a leave of absence request.
- (8) A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.
- (9) If a Councillor leaves a Council meeting, other than a temporary absence due to a Conflict of Interest, for an extended leave of absence or does not mean to return to the meeting, the Councillor must request a leave of absence from the Council.
- (10) A leave of absence requested during a meeting will only be granted at the end of a motion.
- (11) A leave of absence must not be requested or granted during a debate apart from illness or any other matter deemed urgent by the Chairperson and the Councillor then may not return until conclusion of the debate.

## **4. Notice of meetings and availability of agenda**

### **4.1. Date, time and place of Council Meetings**

- (1) At or before the last Meeting each calendar year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings and may also appoint any council representatives to advisory committees for the following calendar year.
- (2) Council by resolution can determine the proposed or preferred format style of meetings (in-person, electronic- including hybrid or parallel) noting the criteria and process available for a member who wishes to request approval to attend by electronic means.
- (3) Council has determined that Council Meetings must be held solely face-to-face (in-person) unless they are satisfied that extraordinary circumstances warrant it.
- (4) Council has determined Councillor Assemblies may be held either in-person or via electronic means, including hybrid or parallel as required.
- (5) Date, times and locations of urgent out of schedule Councillor Assemblies will be determined by the CEO in consultation with the Mayor.
- (6) Council by resolution may change the date, time and place of, or cancel, any Meeting which has been fixed and must provide 7 days notice and a reason of the change to the public.

### **4.2. Postponement**

- (1) In the case of an emergency, the Chief Executive Officer or in the absence of the Chief Executive Officer, a Director, may postpone a Council Meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.
- (2) The Chief Executive Officer, or in their absence a Director, must submit a full written report of the circumstances requiring their action in respect of the emergency postponement at the next Scheduled Meeting.

### **4.3. Unscheduled Meetings**

- (1) Council may by resolution call an Unscheduled Meeting of the Council.
- (2) The Mayor or three Councillors may, by written notice, call an Unscheduled Meeting of the Council.
- (3) The CEO, following consultation with the Mayor, may call an Unscheduled Meeting.
- (4) A written notice to call an Unscheduled Meeting must:
  - (a) specify the business to be transacted;
  - (b) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with clause 3.4.
- (5) The Chief Executive Officer must determine the time and date for the meeting, giving consideration to:
  - (a) the urgency of the business to be transacted;

- (b) the availability of Councillors;
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- (6) The Chief Executive Officer must arrange for notice of the meeting on Council's website.
  - (7) Any resolution of Council to call an Unscheduled Meeting must specify the date and time of the Unscheduled Meeting and the business to be transacted. The date and time of the Unscheduled Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
  - (8) The Chief Executive Officer must call an Unscheduled Meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
  - (9) The Unscheduled Meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
  - (10) Only the business specified in the Council resolution, or written notice, may be considered at an Unscheduled Meeting, unless all Council, by unanimous resolution determine to admit another matter.

#### **4.4. Notice of Meetings**

##### **Council Meetings:**

- (1) A notice of a Meeting, that is not an Unscheduled Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least 4 clear days before the Meeting. A period of less than 4 clear days may be justified if exceptional circumstances exist.
- (2) Circulation of the Agenda may be by hand or postal delivery to a Councillors nominated address, by email or other electronic means or by placing the Agenda at a designated collection point within the Municipal Offices.
- (3) An Agenda for each Council Meeting, that is not an Unscheduled Meeting, will be made available on Council's website no less than 48 hours before the Council Meeting.
- (4) A schedule of Council Meetings must be prepared and published to ensure it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council meetings must also be available from Council's Customer Service Centres.

##### **Unscheduled Meetings:**

- (5) Notice of an Unscheduled Meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.
- (6) An Agenda for an Unscheduled Meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.

- (7) An Agenda for an Unscheduled Council Meeting will be made available on Council's website no less than 24 hours before the Council Meeting.

#### **4.5. Quorum**

- (1) Meetings must commence within 30 minutes of the scheduled starting time.
- (2) If, after 30 minutes from the scheduled starting time of any Meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Director, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (3) If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Director, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment. The Chairperson may defer an 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 that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting.
- (4) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
  - (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - (b) determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.
- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) by the Chief Executive Officer; or
  - (b) by a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (6) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.
- (7) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (8) Where it is not practicable because time does not permit notice in accordance with clause 4.4(6) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.

- (9) Notice of an adjournment to another date or time must be published on Council's website as soon as practicable.

## **5. Election of Mayor**

### **5.1. Chief Executive Officer to set time and date for election of Mayor**

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in Division 4 of the Act.

### **5.2. Role and Election of Deputy Mayor**

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Governance Rules relating to the Deputy Mayor have no effect.

### **5.3. Method of Voting**

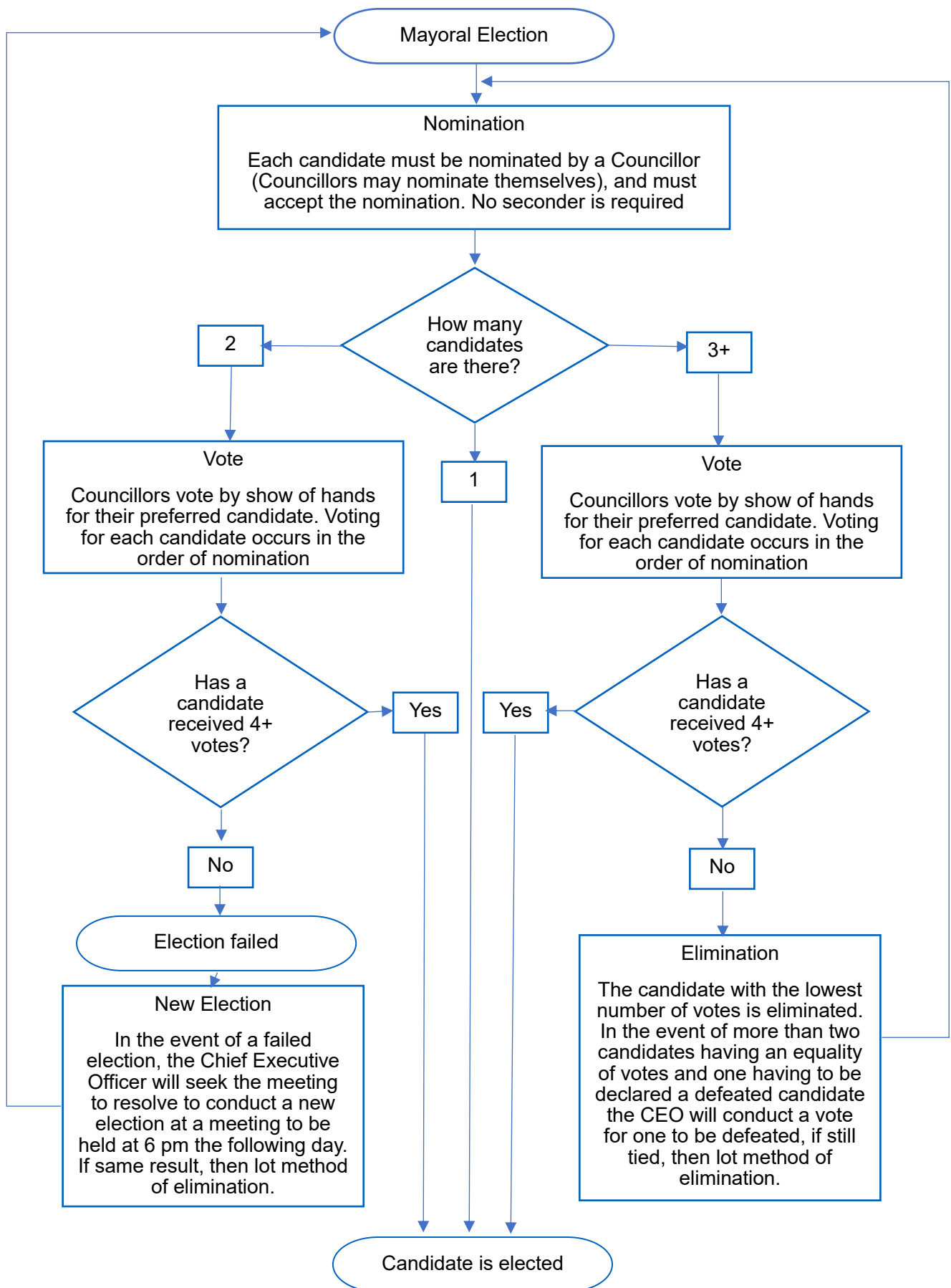
- (1) The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 9.2(1), an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.

### **5.4. Determining the Election of Mayor / Deputy Mayor**

- (1) The Chief Executive Officer will chair the election of the Mayor.
- (2) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee, and call for a Councillor to second the nomination. All Councillors are eligible to stand for election to the office of Mayor.
- (3) Candidates for the election of Mayor may address Council for up to five minutes prior to the election of Mayor being conducted in order of their nomination.
- (4) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated:
    - I. a vote must be taken and the candidate who receives the absolute majority of the Councillors votes must be declared elected;
    - II. two candidates have been nominated and no candidate receives the absolute majority of the Councillors votes, then a second vote will be conducted;

- III. after a second vote, where two candidates have been nominated and no candidate receives the absolute majority of the Councillors votes, the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day; this process to continue until resolved.
- (c) more than two candidates have been nominated and no candidate receives the absolute majority of the Councillors votes, then:
- I. the candidate with the fewest number of votes received must be eliminated;
  - II. the names of the remaining candidates must be put to the vote again; and
  - III. the procedure in I and II above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause (b) of this clause.
  - IV. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes), the Chief Executive Officer will conduct a vote for one candidate to be defeated.
- (d) If Council resolves to have the office of Deputy Mayor, the provisions of sub- rules (2) and (4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.





## **5.5. Appointment of Councillors to Committees, Boards and Advisory Committees**

- (1) At the Council Meeting to elect the Mayor, or at the direction of Council, the next meeting, Council must appoint Councillors to Delegated Committee positions, board positions, and Advisory Committee positions.
- (2) The Mayor must call for nominations from the Councillors for the positions referred to in clause 6.5(1) and in the event that two or more Councillors nominate for the one position, the procedure for the election of the Mayor shall be followed for the filling of that position.
- (3) If a casual vacancy occurs of any of the positions referred to in clause 6.5(1), the procedure in clause 6.5(2) will be followed to fill each casual vacancy at the Scheduled Council Meeting then occurs immediately after the casual vacancy occurs.
- (4) Notwithstanding clause 6.5(3) if a casual vacancy to a position referred to in clause 6.5(1) occurs as a result of a vacancy of one of more Councillors, the Council may elect to defer fulfilling the casual vacancy to positions referred to in clause 6.5(1) until after the vacant Councillor positions have been filled.

## **5.6. Ceremonial Mayoral Speech**

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The ceremonial Mayoral speech may include outlining priorities for the year ahead based on the adopted Council Plan.

## **6. Business of Meetings**

### **6.1. Business at Meetings**

- (1) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which they think should be considered at the Meeting to which the Agenda relates.
- (2) No business can be dealt with at a Meeting unless it is:
  - (a) Contained on the Agenda; or
  - (b) Admitted as Urgent Business in accordance with clause 7.4.

### **6.2. Time Limits for Meetings**

- (1) A Meeting must start within 30 minutes of the advertised start time.
- (2) A Meeting must not continue after three hours from the time it commences unless a majority of Councillors/members present vote in favour of its extension in accordance with this clause.
- (3) Extensions of a Meeting will be in block periods of 30 minutes.
- (4) After the initial 30-minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (5) A Meeting may only be continued for a maximum of two 30-minute extensions.
- (6) In the absence of such extensions as provided for in sub-clauses (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to a time determined by the Council.
- (7) Notwithstanding sub-clause (5), the Chairperson may seek the Agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

### **6.3. Chairperson may temporarily adjourn a Meeting exceeding two hours**

- (1) For a 10 minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding sub-rule (1), the Chairperson may seek the Agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

#### **6.4. Order of business is to be determined by the Chief Executive Officer**

- (1) The normal order of business will follow the example set out below:
  - (a) Welcome;
  - (b) Acknowledgement of Country;
  - (c) Reflection;
  - (d) Apologies/Leaves of Absence; if apologies received must move and second;
  - (e) Confirmation of Minutes of previous Meetings;
  - (f) Disclosures of conflicts of interest;
  - (g) Petitions;
  - (h) Public question time;
  - (i) Open forum;
  - (j) Council reports;
  - (k) Notices of motion;
  - (l) Foreshadowed Items;
  - (m) Urgent business;
  - (n) To consider and order on Councillor reports;
  - (o) Confidential business.

#### **6.5. Change to order of business**

- (1) Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered by a resolution of Council.

#### **6.6. Urgent Business**

- (1) If the Agenda for a Meeting makes provision for Urgent Business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:
  - (a) the matter does not:
    - I. substantially affect the levels of Council service;
    - II. commit Council to significant expenditure not included in the adopted budget;
    - III. establish or amend Council Policy; or
    - IV. commit Council to any contractual arrangement.
  - (b) it relates to or arises out of a matter which has arisen since distribution of the Agenda; and
  - (c) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - (d) the item involves a matter of urgency as determined by the Chief Executive Officer; and
  - (e) it cannot be addressed through an operational service request process.
- (2) A Councillor proposing a matter be admitted as Urgent Business must lodge it in writing to the Chief Executive Officer no later than 10:00am on the day of the Meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter that they determines appropriate for Council to consider admitting as Urgent Business.

## **Question of Council**

### **7. Community questions and submissions**

#### **7.1. Open Forum and Questions Of Council Time To Be Held**

- (1) The Council will hold Open Forum and Questions of Council Time for up to 30 minutes duration at the beginning of each Scheduled Meeting to allow public submissions and questions of Council. Extension of time may be granted by resolution of Council.
- (2) Open Forum is an opportunity for the general public to present to Council on a matter listed on the Agenda or any other matter.
- (3) Questions of Council are an opportunity for the general public to submit a question prior to the Scheduled Meeting and receive a response from Council in the Questions of Council time.
- (4) Council meetings are recorded and broadcasted to the public; this includes community questions and submissions.

#### **Open forum and questions of council guidelines**

**7.2.** Questions of Council time and Open Forum will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.

**7.3.** Submissions as part of Open Forum and Questions of Council may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) relates to confidential information as defined under the Act;
- (c) relates to the personal hardship of any resident or ratepayer; or
- (d) relates to any other matter which the Council considers would prejudice the Council or any person;
- (e) If a person has submitted more than 2 questions to a meeting, the third and further questions may, at the discretion of the Chairperson be deferred until all other person who have asked a question have had their questions asked and answered and not be asked if the time allotted for public question time has expired.

**7.4.** Where the Mayor does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.

**7.5.** The Mayor reserves the right to cease a submission as part of Open Forum if they deem the submission inappropriate.

**7.6.** Where possible Copies of all questions allowed by the Mayor will be provided in writing to all Councillors.

**7.7.** A submission or question submitted in writing by a member of the public, which has been disallowed by the Mayor will be provided to any Councillor on request.

## **Open forum**

- 7.8.** For any member of the public who wishes to be heard at Open Forum they must give prior notice:
- (a) in written form;
  - (b) contain the name, address and email or contact telephone number of the person to be heard;
  - (c) by online request <https://www.swanhill.vic.gov.au/>;
  - (d) in a letter to the Chief Executive Office, 45 Splatt Street, Swan Hill, Vic 3585; or
  - (e) in an email [council@swanhill.vic.gov.au](mailto:council@swanhill.vic.gov.au); or
  - (f) hand delivery to the Council's Office, 45 Splatt Street, Swan Hill or 72 Herbert Street, Robinvale.
- 7.9.** It is preferable for any group or association that wishes to be heard at Open Forum to nominate a spokesperson for an issue upon which the group or association may wish to be heard.

## **Open Forum Procedure**

### **7.10. Public addressing the Meeting**

- (1) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
- (2) Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.

**7.11.** The Chair will allocate a maximum of 3 minutes to each person who wishes to address Council.

**7.12.** The Chair will first invite any person who has given prior notice to present to Council.

**7.13.** The Chair will then invite members of the gallery who would like to present to Council.

**7.14.** The Chair has the discretion to alter the order of persons to be heard.

**7.15.** The person in addressing the Council:

- (a) must confine their address to the 3-minute allocation of time;
- (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
- (c) shall take direction from the Chair whenever called upon to do;
- (d) There will be no discussion or debate with the attendees to Open Forum however Councillors may ask questions of clarification of the attendee;
- (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.

## Questions of Council

### Prior notice of Questions of Council

Council must receive prior notice of Questions to be heard as part of Questions of Council time.

**7.16.** Questions must be received exactly as intended to be read.

**7.17.** Questions submitted to the Council must be:

- (a) in written form;
- (b) contain the name, address and email or contact telephone number of the person submitting the question;
- (c) in a form approved or permitted by the Council (Template available on Council's website <https://www.swanhill.vic.gov.au/about/council/meetings-agendas-and-minutes/>);
- (d) addressed to the Chief Executive Officer; and
- (e) received no later than 10:00am on the day prior to the Meeting by:
  - letter to the Chief Executive Office, 45 Splatt Street, Swan Hill, Vic 3585 or
  - email to [council@swanhill.vic.gov.au](mailto:council@swanhill.vic.gov.au) or
  - hand delivery to the Council's Offices at 45 Splatt Street, Swan Hill or 72 Herbert Street, Robinvale.

### Response

**7.18.** Response to a submission or question raised during the submission in Open Forum may be provided immediately as part of the Open Forum time at the discretion of the Council.

**7.19.** The matter will be referred to the relevant Officer for investigation and response if required.

**7.20.** Council officers will respond acknowledging the question and providing procedural advice and/or the response within 10 working days of the Scheduled Meeting of Council.

**7.21.** Petitions and joint letters

- (1) All petitions and joint letters either received directly or via Councillors must be presented to the Chief Executive Officer who will list the item on the agenda for the next available Council Meeting.
- (2) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing;
  - (b) is clear and on each page the matter and action sought from council is stated;
  - (c) not be derogatory, defamatory or objectionable in language or nature;
  - (d) not relate to matters outside the powers of Council; and
  - (e) include the names, addresses and original signatures of at least 10 people.

- (3) Where a petition has been signed by less than 20 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.
- (4) The Chief Executive Officer must present all petitions and joint letters to Council in accordance with the Agenda and is responsible for ensuring that:
  - (a) they are familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (5) Unless sub-clauses (5) or (6) apply, the only Motions that may be considered by Council on any petition are:
  - (a) that the petition be received; and
  - (b) that the petition be referred to the Chief Executive Officer or relevant Director for consideration and response; or
  - (c) that the petition be referred to the Chief Executive Officer or relevant Director for a report to a future Council Meeting.
- (6) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (7) If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (8) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council Meeting. An online or electronic petition may be submitted to a Council Meeting.
- (9) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council Meeting.
- (10) An online or electronic petition will not be presented to a Council Meeting if it contains signatures that are false or misleading.

#### **7.22. Display of placards and posters**

- (1) Subject to sub- rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting or objectionable item or words; or
  - (b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held; or
  - (c) obstruct the view or physically impede any person.



- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

#### **7.23. Chairperson May Remove**

- (1) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- (2) If a person, other than a Councillor, interjects or gesticulating offensively during the Council Meeting, the Mayor may direct:
  - (a) the person to stop interjecting or gesticulating offensively; and
  - (b) if the person continues to interject or gesticulate offensively, the removal of the person.
- (3) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.
- (4) In causing a person's removal under sub-clause (b), or the removal of an object or material under sub--rule (3), the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.

## **8. Voting**

### **8.1. How a matter is determined**

- (1) To determine a Motion at a Meeting, the Chairperson 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.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote. The Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute Majority of Councillors.

### **8.2. Voting must be seen**

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.
- (2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

### **8.3. When a division is permitted**

- (1) A division may be requested by any Councillor on any vote.
- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- (3) When a division is called for the Chairperson must:
  - (a) first ask each Councillor wishing to vote in favour of the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (b) then ask each Councillor wishing to vote against the Motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (c) A Councillor abstaining from voting will be recorded in the division as voting against the motion; and
  - (d) finally, declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the Motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

### **8.4. No discussion once a vote has been declared**

- (1) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:

- (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 9.3; or
- (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded;
- (c) the Chairperson may make a statement in relation to a motion presented by a Council indicating the next steps in the process or thanking those present for their participation or attendance.

## **9. Addressing the Meeting**

### **9.1. Councillor allowed to speak uninterrupted**

- (1) A Councillor who has the floor must not be interrupted unless called to a Point of Order, or given notice by the Chairperson that their speaking time has elapsed or is about to elapse, when they must remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with.

### **9.2. Addressing the Meeting**

- (1) If the Chairperson so determines:
  - (a) any person addressing the Chairperson must refer to the Chairperson as:
    - Mayor; or
    - Chairperson;as the case may be;
  - (b) all Councillors, other than the Mayor, must be addressed as Cr.....(surname); and
  - (c) all Council staff, must be addressed as Mr or Ms (name) as appropriate or by their official title.
- (2) Except for the Chairperson and Chief Executive Officer, any person who addresses the Meeting must direct all remarks through the Chairperson.

## **10. Motions and Debate**

### **10.1. Moving a motion**

A resolution must be capable of standing alone, that is, a person reading the decision of Council in the minutes will be able to understand what Council is seeking to achieve without reference to other sources. This usually means it should include specifics about the action to be taken, the timing of the action to be taken, the details of any other organisation.

The procedure for moving any Motion is:

- (1) the mover must state the Motion without speaking in support of it;
- (2) the Motion must be seconded by a Councillor other than the mover;
- (3) if a Motion is not seconded, the Motion lapses for want of a seconder;
- (4) if there is a seconder, then the Chairperson must call on the mover to speak to the Motion;
- (5) after the mover has spoken to the Motion, the seconder may also speak to the Motion;
- (6) after the seconder has spoken to the Motion (or after the mover has spoken to the Motion if the seconder does not speak to the Motion), the Chairperson must call on any Councillor who wishes to speak against the Motion, then on any Councillor who wishes to speak for the Motion, after waiting until all Councillors wishing to speak to the Motion have spoken; and
- (7) if no Councillor wishes to speak against the Motion, then the Chairperson may put the Motion or call on any other Member to speak.
- (8) the Chairperson can not move or second any Motion
  - (a) with the leave of the meeting the Chairperson may join the debate providing a temporary Chairperson is elected to chair the meeting whilst the Chairperson is speaking.

### **10.2. Chairperson's duty**

The Chairperson must not accept any Motion which:

- (1) is defamatory; or
- (2) is objectionable in language or nature; or
- (3) is vague or unclear in its intention; or
- (4) is outside the powers of Council; or
- (5) is not relevant to an item of business on the Agenda and has not been admitted as urgent business; or
- (6) purports to be an amendment but is not.

### **10.3. Right of reply**

- (1) The mover of a Motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) No new matters may be raised in the right of reply.
- (3) If no Councillor has spoken against a Motion, there will be no right of reply.
- (4) After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.

### **10.4. Moving an amendment**

- (1) A Motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the Motion.
- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;
  - (b) a Councillor may speak on any amendment once, whether or not they have spoken to the Motion, but debate must be confined to the terms of the amendment;
  - (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. 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 and voted on;
  - (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
  - (e) the mover of an amendment does not have right of reply.

### **10.5. 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 Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.

- (3) A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
- (4) The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

#### **10.6. Withdrawal of motions**

- (1) Before any Motion is put to the vote, it may be withdrawn with the Agreement of Council.

#### **10.7. Separation of motions**

- (1) Where a Motion contains more than one part, a Councillor may request the Chairperson to put the Motion to the vote in separate parts.
- (2) The Chairperson may decide to put any Motion to the vote in separate parts.

#### **10.8. Motions moved in a block**

- (1) The Chairperson may allow like Motions to be moved, or request Councillors to move like items, in a block (en bloc), only if the Motions note actions already taken and will not commit Council to further action, spending or changes to policy.

#### **10.9. Motions in writing**

- (1) All Motions, except procedural Motions, may be submitted in writing or read out by the Councillor submitting the motion. All motions will be recorded by the minute taker.
- (2) The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.
- (3) The Chairperson may request the person taking the minutes of the meeting to read the motion or amendment to the meeting before debate on the motion or the vote is taken.

#### **10.10. Debate must be relevant to the motion**

- (1) Debate must always be relevant to the Motion before the Meeting, and, if not, the Chairperson must request the speaker to confine debate to the Motion.
- (2) If, after being requested by the Chairperson to confine debate to the Motion before the Meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to not speak further in respect of the Motion before the Chairperson. The speaker must immediately comply with any such direction.

### **10.11. Adequate and sufficient debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- (2) A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all Councillors or Members the debate would be regarded as sufficient.
- (4) Councillors or members may only speak once to each Motion except for the Mover who has a right of reply.

### **10.12. Speaking times**

- (1) Unless a Motion for an extension of speaking time has been carried, the maximum speaking times are:
  - (a) the mover of a Motion or amendment - five minutes;
  - (b) the mover of a Motion when exercising his or her right of reply - two minutes; and
  - (c) any other speaker - three minutes.
- (2) A Motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- (3) A Motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.
- (4) Only one extension of speaking time is permitted for each speaker.
- (5) Any extension of speaking time must not be more than two minutes.
- (6) The Chairperson will determine when speaking times have elapsed but a Councillor or member can raise a Point of Order to challenge a Chairpersons ruling.

### **10.13. Procedural motions**

- (1) Unless otherwise prohibited, and subject to sub- rule (3), a Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural Motions require a seconder.
- (3) The Chairperson may reject a Procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other provision in these Governance Rules, a Procedural Motion must be dealt with in accordance with the Procedural Motions table.



- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a Procedural Motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a Procedural Motion must not be amended.
- (8) Procedural Motions table:

<b>Motion</b>	<b>Form</b>	<b>Mover/ Second</b>	<b>When prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted</b>
<b>Deferral of a matter (to a future meeting)</b>	‘That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)’...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a <i>Chairperson</i> ; or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
<b>Closure (of debate)</b>	‘That the motion now be put’	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a <i>Chairperson</i>	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>Laying a motion on the table (pausing debate)</b>	‘That the motion be laid on the table’	A Councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
<b>Take a motion from the table (resume debate on a matter)</b>	‘That the motion in relation to xx be taken from the table’	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b>Alter the order of business</b>	‘That the item listed at xx on the agenda be considered before/after the item listed as xy’	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>Agenda</i>	No

Motion	Form	Mover/ Second	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Suspension of Standing Orders</b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
<b>Resumption of Standing Orders</b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
<b>Consideratio n of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item <i>xx is confidential as it relates to [insert reason]</i>	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
<b>Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

#### 10.14. Notices of Motion

- (1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- (2) A Notice of Motion must be in writing, signed by the Councillor, and be lodged with the Chief Executive Officer to allow sufficient time for them to include the motion in the Agenda.
- (3) Councillors should ensure that they have sufficient information about the legal and cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion.
- (4) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - impacts the levels of Council service;
  - commits Council to expenditure greater than \$10,000 that is not included in the adopted Council Budget;
  - proposes to establish, amend or extend Council policy;
  - proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - commits Council to any contractual arrangement; or
  - concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any Notice of Motion which:
  - (a) is too vague;
  - (b) is defamatory;
  - (c) may be prejudicial to any person or Council;
  - (d) is objectionable in language or nature;
  - (e) is outside the powers of Council;
  - (f) is submitted during the Election Period.
- (7) The Chief Executive Officer may reject a proposed Notice of Motion that
  - (a) relates to a matter that can be addressed through the operational service request process; or
  - (b) Relates to a matter that has been previously resolved by Council or is acted upon.
- (8) If rejecting a Notice of Motion, the Chief Executive Officer must
  - (a) inform the Councillor who lodged it of that rejection and the reasons for the rejection in order to give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so;
  - (b) Notify in writing all the Councillors of the rejection and reasons for the rejection;

- (c) A Councillor can request the Mayor to review the CEO determination and the Mayor can override that determination.
- (9) The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- (10) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- (11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda or at the Council Meeting considering the Notice of Motion.
- (12) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- (13) Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- (14) The Motion moved must not be substantially different to the Motion published in the Agenda, however, may be amended by resolution of the Council.
- (15) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- (16) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

#### **10.15. Notices of Rescission**

- (1) A notice of rescission is a form of Notice of Motion. Accordingly, all provisions in these Governance Rules regulating Notices of Motion equally apply to notices of rescission.
- (2) Motions to rescind or alter a previous resolution of Council can be made by:
  - (a) A notice of rescission delivered by a Councillor in accordance with sub-clause (11.14); or
  - (b) A recommendation contained in an officer's report included in the Agenda.
- (3) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
  - (a) the previous resolution has not been acted on; and a notice is delivered to the Chief Executive Officer or Delegate setting out:
    - (i) the relevant previous resolution to be rescinded or altered; and
    - (ii) the Meeting and date when the relevant previous resolution was carried.

- (b) The decision to be rescinded does not involve the use of a statutory power conferred on a member of Council Staff under any Act or Council Local Laws.
- (4) A notice of rescission must be in writing, signed by a Councillor and be delivered to the Chief Executive Officer or Delegate within three (3) working days after the meeting at which the notice of intention was given.
- (5) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it; or
  - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- (6) Notwithstanding sub- rule (5), the Chief Executive Officer or 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 to the Chief Executive Officer in accordance with sub-clause rule (2), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.
- (7) If a Motion for rescission is lost, a similar Motion may not be put before Council for at least two months from the date it was last lost, unless Council resolves that the notice of rescission be re-listed at a future Meeting.
- (8) If the motion is subsequently lost again, it may not be brought to Council for consideration for at least twelve months from the date it was lost.
- (9) If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- (10) A notice of rescission listed on an Agenda may be moved by any Councillor present but be moved in the form it was listed and must not be amended.
- (11) At the request of the Mayor or at least three Councillors a Recession Motion can be considered at an Unscheduled Council Meeting called for that purpose. If not considered at a preceding Unscheduled Council Meeting a Recession Motion must be considered at the next Scheduled Council Meeting.

#### **10.16. Change of Council Policy**

- (1) Subject to sub- rule (2), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (2) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

#### **10.17. Foreshadowed Items**

- (1) At the time designated in the Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed Notice of Motion.
- (2) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- (3) No discussion or debate is allowed on a Foreshadowed Item.
- (4) A Foreshadowed Item will have no further formal status at that Council Meeting.
- (5) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- (6) If a Councillor does not submit a Notice of Motion for the next Council Meeting, no further action on a Foreshadowed Item will occur.

## **11. Points of Order**

- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any section, clause, paragraph or provision relevant to the Point of Order.
- (2) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- (3) The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.
- (4) All other matters before Council are suspended until the Point of Order is decided.

### **11.1. Dissent in Chairperson's ruling**

- (1) A Councillor may move that the meeting disagree with the Chairperson's ruling on a Point of Order, by moving:

"That the Chairperson's ruling (setting out that ruling or part of that ruling) be dissented from".
- (2) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the Motion is being considered.
- (3) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.
- (4) The temporary Chairperson must put the motion in the following form:

"That the Chairperson's ruling be dissented from".
- (5) If the vote is in the negative, the Chairperson resumes the chair and the meeting proceeds.
- (6) If the vote is in the affirmative, the Chairperson 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 Chairperson's ruling does not constitute, and must not be recorded in the Minutes as a motion of censure or a motion of no confidence in the Chairperson.

### **11.2. Valid points of order**

- (8) A Point of Order may be raised in relation to:
  - (a) a Motion which has not been accepted by the Chairperson;
  - (b) a question of procedure;
  - (c) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of Disorder.



### **11.3. Contradiction or opinion**

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

### **11.4. Disorderly Conduct**

- (1) The conduct of Councillors and Members at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

### **11.5. Chairperson may adjourn disorderly Meeting**

- (1) The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:
  - (a) the behaviour at the Council table or in the gallery is significantly disrupting the Meeting; or
  - (b) when a Meeting has been in progress for longer than 2 hours.
- (2) The break referred to in sub-clause (1) is an adjournment.
- (3) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
  - (b) The Mayor, under section 19 of the Act, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.
- (4) Where Council suspends a Councillor under sub- rule (1)(a), or the Mayor directs a Councillor to leave the meeting under sub-rule (1)(b) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- (5) If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

## **12. Minutes**

### **12.1. Keeping of Minutes**

- (1) The Chief Executive Officer or Delegate is responsible for the keeping of Minutes on behalf of Council. Those Minutes must record:
  - (a) the date, place, time and nature of the Council Meeting;
  - (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - (c) the titles of the members of Council staff present who are not part of the gallery;
  - (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
  - (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
  - (f) every Motion and amendment moved (including procedural Motions);
  - (g) the outcome of every Motion moved;
  - (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
  - (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the question;
  - (j) details of any failure to achieve or maintain a quorum;
  - (k) a summary of any question asked and the response provided as part of public question time;
  - (l) details of any petitions made to Council;
  - (m) the time and reason for any adjournment of the Meeting or suspension of standing orders;
  - (n) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
  - (o) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

### **12.2. Confirmation of Minutes**

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
  - (a) Councillors, within 7 business days;
  - (b) members of the public, by publishing them on Council's website, within 9 business days of the Council Meeting they relate to.
- (2) At every Council Meeting the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
  - (a) a Motion will be moved to confirm the Minutes in the following terms:  
'That the Minutes of the .....Meeting held on  
.....20.....be confirmed.';

- (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in sub-clause (2) (a) ‘...subject to the following alteration(s).....’.
- (3) no debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;
- (4) once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed; and
  - (a) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively;
  - (b) the confirmed Minutes are then to be placed on Council’s website.

### **12.3. Recording of Proceedings**

- (1) The proceedings of a Council meeting will be recorded by Council. The Chief Executive Officer (or other person authorised by the Chief Executive Officer) must record on suitable audio-visual recording equipment all the proceedings of the Council meeting.
- (2) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- (3) The consent of the Chairperson may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease.
- (4) The Council or the Chairperson may determine that live or recorded video of a meeting may occur. Such video will be controlled by a person appointed by the Chief Executive Officer.
- (5) Video of a meeting will be suspended for items to be considered “in-camera” and may be suspended for any other item(s) at the discretion of the Chairperson.

### **13. Suspension of Standing Orders**

- (1) Council may, upon the motion of a Councillor or request of the Chairperson or Chief Executive Officer, decide to suspend the Council meeting to discuss the issues surrounding the item.
- (2) A Councillor wishing to suspend the standing orders must move: "That standing order be suspended to enable discussion on....."
- (3) Following suspension of the standing orders before any further motion can be put; a motion to resume the standing orders must be made by a Councillor moving: "That standing orders be resumed."
- (4) Any Councillor moving, or Chairperson or Chief Executive Officer requesting, the suspension of standing orders must only do so where they consider that the question before the Council is better dealt with without the formalities of the meeting procedure.
- (5) Both the motion to suspend and resume standing orders requires a seconder and will be dealt with in accordance with the voting procedures in these Governance Rules.
- (6) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council.
- (7) No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- (8) No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

## **14. Council's Common Seal**

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 as required by Section 14(2) (c) of the Act.

- (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 the signatures of:
  - (a) The Mayor, one Councillor and the Chief Executive Officer; or
  - (b) in the absence of the Mayor, by two Councillors and the Chief Executive Officer or any other member of Council staff authorised by Council; or
  - (c) in the absence of the Chief Executive Officer any two Directors can sign in substitution for the Chief Executive Officer.
- (3) Any use of the Common Seal must be reported to the next available Scheduled Council meeting.
- (4) A person must not use the Common Seal or any device resembling the Common Seal in contravention of any applicable Local Law.

The Common Seal is to be used only on the authority of the Council in respect of any legal matter (contract, mortgage, loan, etc.) and in respect to any reference (or other ceremonial matter). Such authority may take the form of direction or confirmation resolution.

Apart from the official use of the Seal as outlined, no person may use the Common Seal or any device resembling the Common Seal without the authority of the Council. Any person or organisation who wishes to seek the authority of the Council shall do so in writing.

### **14.1. Guidelines for the Use of the Common Seal**

The seal shall be appended to any of the following documents;

- Contract for sale or purchase of land.
- Where contractor requires contract to be executed under seal.
- Any contract documentation (supplied by a tender) which includes terms and conditions of trade, and any formal deed.
- Ceremonial documents (such as Citizen of the Year Award).
- Where funding body requires funding agreements to be executed under seal.
- Any document that changes Council's legal position including;
  - Borrowings (including changes to overdraft facilities).
  - Significant contract variations.
- Where required by other legislative authorities (ie. on certification of residency for overseas pension).
- Any other legal documents Council is required to affix the seal to from time to time.

## **15. Delegated Committees**

- (1) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- (2) For the purpose of sub- rule (1):
  - (a) a Council meeting is to be read as a reference to a Delegated Committee Meeting;
  - (b) a Councillor is to be read as a reference to a Member of the Delegated Committee; and
  - (c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

## **16. Community Asset Committees**

- (1) The Governance Rules may apply to any Community Asset Committee established by Council.
- (2) Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules apply but as a minimum must include Chapters 13 (Minutes).
- (3) A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- (4) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation and any Terms of Reference adopted by Council.

## **17. Audit and Risk Committee**

The Act provides for Council to establish an Audit and Risk committee to provide oversight.

- (1) The Governance Rules will apply to the Audit and Risk Committee established by Council unless otherwise provided in the Audit and Risk Charter.
- (2) Council may resolve, in establishing an Audit and Risk Committee that the meeting procedure chapter of these Governance Rules does not apply.
- (3) An Audit and Risk Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- (4) An Audit and Risk Committee must act in accordance with its adopted Charter adopted by Council.



## **18. Election Period**

- (1) Council will have in place an election period policy that:
  - (a) Governs decision making during a local government election period, including what may be considered at a Council meeting;
  - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
  - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
  - (f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- (5) Any outstanding Delegate's Reports may still be reported to an ordinary meeting of Council during this period.
- (6) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

### **18.1. Election Period Policy**

#### **18.1.1. Purpose**

The Act requires Council to include an Election Period Policy (Policy) in its Governance Rules.

The purpose of this Policy is to ensure that the business of Council continues throughout an election period in a responsible and transparent manner, and in accordance with statutory requirements.

This Policy has been developed in order to ensure that general elections for Council are conducted in a manner that is fair and equitable to all candidates and is publicly perceived as such.

### **18.1.2. Scope**

This Policy applies to all Councillors and employees of Council.

The provisions in this policy apply throughout the Election Period unless otherwise stated. The Act defines the Election Period as the period that starts at the time that nominations close on nomination day and ends at 6pm on Election Day and covers:

- (a) decisions that are made by Council, a special committee of Council, or a delegate of Council;
- (b) any material that is published by Council;
- (c) attendance and participation in functions and events;
- (d) the use of Council resources;
- (e) access to Council information; and
- (f) media services.

### **18.1.3. Policy**

In the lead up to a general election, the Local Government sector adopts a caretaker period to avoid actions and decisions that may be interpreted as inappropriate nor will it make inappropriate use of resources during the election period that appear to influence voters or bind an incoming Council.

Council will establish written procedures for managing the business of Council during an election period. Councillors and employees must comply with the requirements of the procedures.

During the election period, section 69 of the Act prohibits any Council and Delegated Committees from making a decision that:

- (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
- (b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- (c) the Council considers could be reasonably deferred until the next Council is in place; or
- (d) the Council considers should not be made during an election period.

During the election period:

- a) Councillors do not use Council resources to assist a candidates election campaign;
- b) Councils public consultation during is limited to fulfilling Statutory obligations only;
- c) Council events will be kept to a minimum and will not include funding announcements or events likely to influence voting intentions; and
- d) Council media releases and comment will be limited to providing statutory information and information relating to the election process only;
- e) Information and briefing material prepared by Council staff for Councillors will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.

The Chief Executive Officer must ensure as far as possible that:

- (1) No later than 30 days prior to the commencement of the Election Period:
  - (a) all Councillors, Managers and Council officers are informed of the requirements and application of this policy; and
  - (b) a copy of this policy is given to all Councillors.
- (2) Matters of Council business requiring significant decisions are scheduled for Council to consider prior to the commencement of the election period, or deferred where appropriate for determination by the incoming Council.
- (3) All Candidates are familiar with the policy.

**18.1.4.** Further details can be found in the Swan Hill Rural City Council Election Period (Caretaker) Procedure PRO/GOV016.

## **19. Conflict of Interest**

### **19.1. Obligations with regard to conflict of interest:**

- (1) Councillors, members of Delegated Committees and Council staff are required to:
  - Avoid - all situations which may give rise to conflicts of interest;
  - Identify - any conflicts of interest; and
  - Disclose – or declare all conflicts of interest;

### **19.2. Councillors and Members of Delegated Committees**

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.
- (4) Council will maintain a Conflict of Interest Register which will be made available on Council's website.

### **19.3. Procedure at a Council or Delegated Committee Meeting**

- (1) At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
  - (a) The item for which they have a conflict of interest; and
  - (b) Whether their conflict of interest is general or material; and
  - (c) The circumstances that give rise to the conflict of interest.
- (2) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- (3) A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- (4) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

### **19.4. Procedure at other meetings organised, hosted or supported by Council**

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.

- (4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to Executive Support for recording in the register of Conflicts of Interest.
- (7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the Meeting.
- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

#### **19.5. Council staff**

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 6.6 and the Employee Code of Conduct.

#### **19.6. Procedure for disclosures of conflicts of interest by Council Staff**

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - (c) The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
  - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

## **20. Joint council meetings**

Regional collaboration provides benefits through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in the Act.

- (1) Council may resolve to participate in a Joint Council meeting to consider:
  - (a) Matters subject to discussion
  - (b) Collaborative projects
  - (c) Collaborative procurement
  - (d) Emergency Response
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on Governance Rules with the participating Councils.
- (3) Where Swan Hill Rural City Council is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting
- (4) At a majority of Councillors will be appointed to represent Council at a Joint Council meeting.
- (5) Consistent information will be provided to Councillors prior to any Joint Meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.
- (6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

## APPENDIX 1 - Public Question Time Form



### PUBLIC QUESTION TIME FORM

Please see the back of this form for more information about question time.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (AH) \_\_\_\_\_ (BH) \_\_\_\_\_

### Question (one question per form)

Please note that statements or opinions are not permitted during question time and will not be read.

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Privacy Statement:

Council is collecting your name and address so that it may provide you with a written response if required to your question. If you do not provide this information, Council will be unable to provide you with a written response. Your telephone contact details are optional and may assist Council in seeking clarification from you on the information you are seeking. You may access or correct your personal information by contacting Council.

Your name will appear in the Council minutes along with details of the question and the Council response. The other personal information on the form will only be disclosed to Councillors' and Council Officers and will be retained on Council files until destroyed in accordance with the Public Records Act 1973.

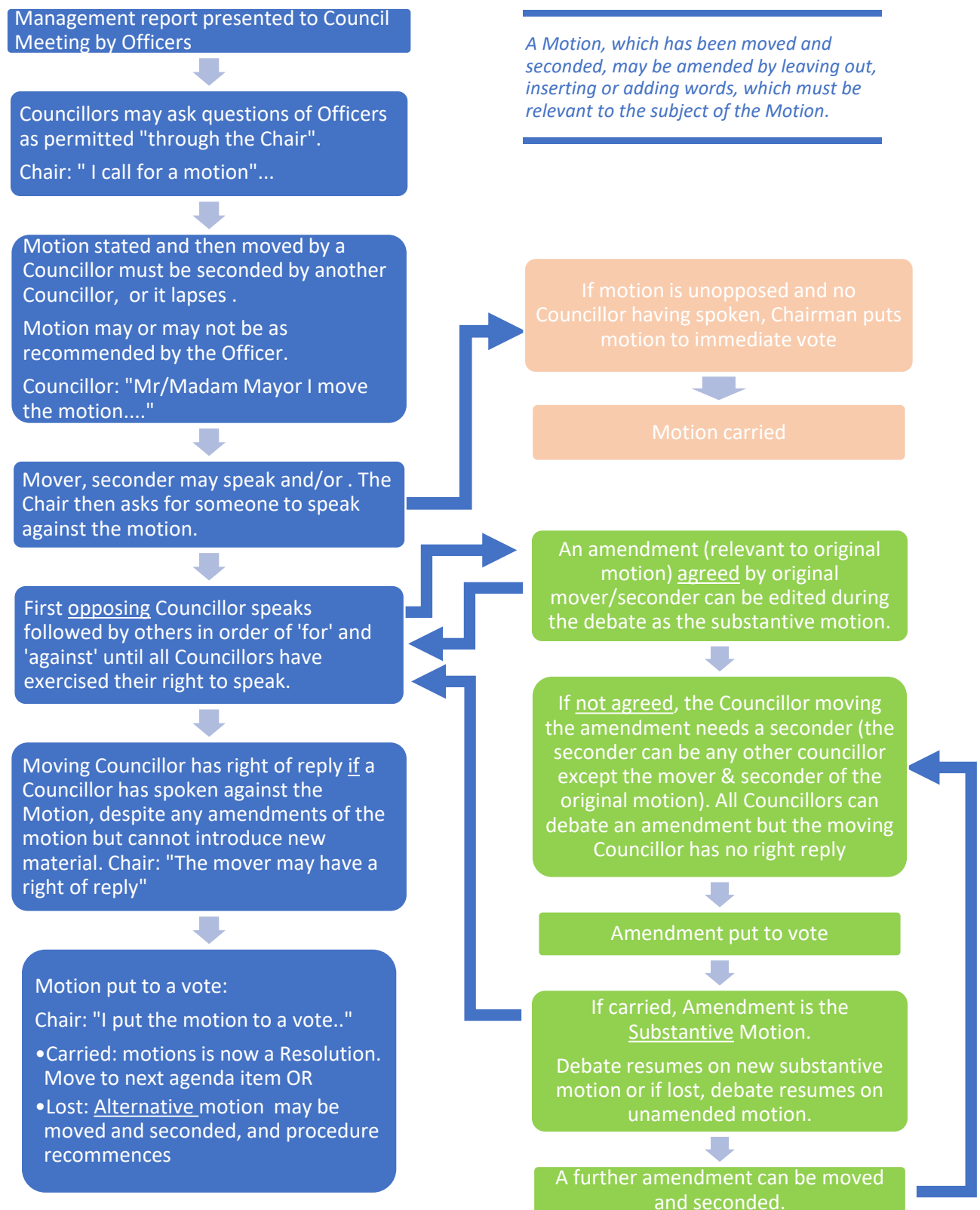
Council regularly seeks input from the public on a range of Council matters including preparation of the Community Plan which sets Council's key strategic direction for the next four years. If you wish to be consulted in future on Council's Community Plan, please tick this box ☐.

## **PUBLIC QUESTION TIME PROCEDURE**

1. Public question time provides the community with the opportunity to ask questions directly of Council at a Council Meeting.
2. All questions must be submitted in writing and legible (one question per form).
3. A question must be received in writing by:
  - a. Letter to the Chief Executive Office, 45 Splatt Street, Swan Hill, Vic 3585 received by 10:00am on the day prior to the Council meeting; or
  - b. Leaving it at the reception desk at the Council Offices by 10:00am on the day prior to the Council meeting; or
  - c. Sending it by E-mail ([council@swanhill.vic.gov.au](mailto:council@swanhill.vic.gov.au)) or facsimile transmission (Fax: 5036 2340) by 10:00am on the day prior to the Council meeting.
4. A time is set aside for public questions during a Council meeting at which time each question will be read after the Chairperson has looked at its contents and determined that the question is appropriate. Statements and opinions are not permitted during question time and will not be read to the meeting.
5. The Chairperson may disallow any question. This may be because the question is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature or is asked to embarrass a Councillor or Council officer. The Chairperson will provide reasons where a question is disallowed. Questions considered to be inappropriate will be made available to Councillors on request.
6. The Chairperson will nominate the appropriate Councillor or Council officer to answer the question or elect to answer it himself/herself. No debate or discussion of the questions or answers is permitted.
7. The Chairperson may elect to take a question on notice in which case a written response will generally be provided within five (5) working days.
8. A summary of the text of the question and the response will be recorded in the minutes of the Council meeting.



## 9. APPENDIX 2 – Process of Conducting a Debate



*A motion is a proposal that is put before a meeting for discussion and a decision. If a motion is passed it becomes a resolution. Resolutions are binding and must be recorded in the minutes of the meeting.*

**Please Note:**

1. *Only a Councillor who has not already spoken can move an Amendment.*
2. *If there is no Seconder the Motion or Amendment Lapses.*

**APPENDIX 3 – Conducting a Mayoral and Deputy Mayoral Election**

**B.xx.xx ELECTION OF MAYOR 2022/23**

(Mayor) Mayor opens the meeting and introduces the report on the “Mayoral Term of Office” the CEO presents the report to determine the term of the mayor for one or two years and that the CEO conducts the Mayoral Election.

- Moved
- Seconded

**Mayoral Election**

CEO assumes the Chair (mayoral seat)

- (CEO) Thankyou Councillors. Let us commence the Mayoral Election as per report Bxx.xx. It is customary that the outgoing Mayor or Acting Mayor speaks to their achievements in the Mayoral Position prior to this election.

(CEO) Can I have a Motion Councillors to suspend standing orders for the Acting Mayor’s speech?

- Moved by a Councillor
- Seconded by a Councillor

Otherwise motion lapses and meeting moves to resume standing orders.

*The Mayor’s speech for the past 12 months*

- *CEO may initiate applause*

(CEO) Can I have a Motion, Councillors, to resume standing orders?

- Moved a Councillor
- Seconded by a Councillor

**(CEO) I will now outline of the Election Process**

- I will call for nominations and ask the nominee whether or not that they accept the nomination.
- Each nominees, in order of nomination, may speak for up to 5 minutes, prior to commencement of the Election Process.
- For the election process, voting is carried out with a clear show of hands in accordance with Council’s Governance Rule, so it may be seen here in the Council Chambers and through the electronic livestream broadcast, to see who a Councillor has voted for at the time the vote is taken.
- **If Council receives one (1) nomination**, that candidate must be declared elected;
- **If we Council receives two (2) nominations:**
  - I. A vote must be taken and the candidate who receives the absolute majority of votes number of votes of the Councillors (4) of the Council must be declared elected;
  - II. two candidates have been nominated and neither candidate receives the number of votes greater to half the Councillors of the Council (4), THEN a second vote will be conducted;
  - III. After a second vote, where two candidates have been nominated and **no candidate receives an absolute majority of votes (4) of the Councillors**, the I will seek the meeting to resolve to

conduct a new election at a meeting to be held at 6 pm the following day as per the LGA 2020 25(5).

*"If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date."*

- IV. If a new election results in the same outcome as the day before and **no candidate receives an absolute majority of votes (4) from the Councillors**, the I will seek the meeting to resolve to conduct a Ballot process to determine the Councillor who does not win the vote.
- **If we receive more than two (2+) nominations, and no candidate receives the absolute majority (4) of Councillors votes, then:**
  - I. the candidate with the fewest votes received must be eliminated;
  - II. the names of the remaining candidates must be put to the vote again; and
  - III. the procedure in I and II above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause (b) of this clause in the Rules (2 nominations).
  - IV. in the event of two or more candidates having an equality of the lowest number of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes), the Chief Executive Officer will conduct a vote by lot for one candidate to be defeated.

#### The Lot Process

(1) If a lot is required, the CEO will conduct the lot and the following provisions will apply:

(a) The order of drawing lots shall be determined by the alphabetical order of the surname of the Councillors who received an equal number of votes, except that if two (2) or more such Councillors surnames are identical, the order shall be determined by the alphabetical order of the Councillor's first name;

(b) As many identical pieces of paper as there are Councillors who receive an equal number of votes shall be placed in a receptacle provided by the CEO;

(c) Each candidate will draw one (1) lot; if the lot is being conducted to determine which candidate is to be duly excluded, the word "Excluded" shall be written on one (1) of the pieces of paper and the Councillor who draws the paper with the word "Excluded" written on it shall be declared to have been excluded.

(d) If more than one candidate remains, a further drawing of lots will be conducted until one candidate remains and declared the Mayor.

Thankyou.

#### **(CEO) The Election Process Commences**

(CEO) I now call forward nominations for the position of Mayor of Swan Hill Rural City Council

Nominations must be moved by a Councillor (which can be themselves) and accepted by the nominee either in person or in writing and seconded by another Councillor;

- I <<Cr name>> nominate Cr XXXXX
- Chair then ask Cr XXXX – do you accept the nomination: Y/N
- Chair then calls for a Councillor to second the nomination
- I <<Cr name>> second the nomination for Cr XXXXX

(CEO) Are there any further nominations? Y/N

Each nominees, in alphabetical order, may speak for up to 5 minutes, prior to commencement of the Election Process.

#### **(CEO) Lets**

## **Election Process**

At the Council Meeting to elect the Mayor, or at the direction of Council, the next meeting, Council must appoint Councillors to Delegated Committee positions, board positions, and Advisory Committee positions.

**(CEO) Congratulations to the new Mayor and Deputy Mayor of Swan Hill Rural City Council. I will step out of the Chair for the new Mayor.**

**(CEO) Can I have a Motion Councillors to suspend standing orders to robe the Mayor (Nominating Councillor and former Mayor to robe the newly elected Mayor)**

Moved:

Seconded:

Photos

Resume standing orders

- Moved
- Seconded
- **New Mayor assumes the Chair.**

**(New Mayor)** Next report (B.xx.xy) to determine whether Council wishes to appoint a Deputy Mayor.

**Can I have a Motion Councillors, for the CEO to conduct the election for Deputy Mayor?**

- Moved
- Seconded

The position of Deputy Mayor is considered necessary to facilitate the smooth and uninterrupted civic, statutory and policy-making functions of Council in the absence of the Mayor.

Swan Hill Rural City Council "Governance Rules 2020", Section 5.2 stipulates that the procedure for the election of Deputy Mayor shall be the same as that for the Mayor.

Division 3 20B of the Local Government Act provides that:

- If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor.
- An acting Mayor may perform any function or exercise any power conferred on the Mayor. It would be appropriate for the Deputy Mayor to act as Acting Mayor for the purposes of

The election of the Deputy Mayor will follow the same process as the election of the Mayor except that the Mayor will conduct the process, as per Section 27 of the LGA.

**Can I have a Motion Councillors** that Council Elect a Deputy Mayor, and the Mayor conduct the election of Deputy Mayor

- Moved
- Seconded

OR Lapsed – which means there will not a deputy Mayor and that an Acting Mayor may appointed if needed.

*If moved; Thankyou Councillors. As mentioned the election of Deputy Mayor to be conducted by the Mayor, is the same as the Mayoral election process.*

I now call forward nominations and seconders for the position of Deputy Mayor of Swan Hill Rural City Council

- I nominate Cr XXXXX. Chair then ask Cr XXXX – do you accept the nomination? Y/N

(If Yes) I call for a Councillor to second the nomination

- I second the nomination for Cr XXXXX.

Are there any further nominations? Y/N

Each nominees, in alphabetical order, may speak for up to 5 minutes, prior to commencement of the Election Process.

#### **Election Process**

**See above.**

**(Mayor) Congratulations to the new Deputy Mayor of Swan Hill Rural City Council.**