

AMENDMENTS TO COUNCIL'S MEETING PROCEDURES CODE

12 March 2013

Presenter: Keith Williamson, Manager Governance Services

Purpose and background

1. The purpose of this report is to recommend that Council amend the Council's Meeting Procedures Code (Code) to provide for the following:
 - 1.1. increased opportunities for public questions at meetings of the Future Melbourne Committee (Committee); and
 - 1.2. protocol relating to audio recording of Committee and Council meetings.
2. On 26 February 2013 Council resolved to make audio recordings of open sessions of Committee and Council meetings accessible through the City of Melbourne web site. The Council also sought advice in relation to proposed protocol and potential changes to the Code required to support the arrangement. This report addresses these matters.

Key issues

3. Following a review of the Code by Councillors, a number of changes have been proposed to provide for greater public participation in meetings of the Committee. These include provision for two public question segments at each Committee meeting. It is proposed that each 15 minute segment provide for questions of up to 90 seconds in duration. At present, the Code provides that consideration of public questions is at the discretion of Committee. The proposed changes are outlined in sections 3.15(d) and 3.15(j) of the marked-up copy of the Code included as Attachment 2.
4. Section 3.17(s)(v) of Attachment 2 outlines the protocol relating to audio recordings of Committee and Council meetings. It provides for handling of comments made at meetings which may be considered objectionable, offensive, defamatory or inappropriate. Other aspects supporting implementation of this arrangement will be addressed in an administrative update of the guidelines covering recordings of Committee and Council proceedings.

Recommendation from management

5. That the Future Melbourne Committee:
 - 5.1. resolves that the order of agenda business for its meetings be rearranged to provide an opportunity for public questions before consideration of management reports and as the final item before the conclusion of the open session of meetings;
 - 5.2. resolves that the two public question segments proposed in paragraph 5.1 above shall operate in the following manner:
 - 5.2.1. each segment shall be of a duration of up to 15 minutes; and
 - 5.2.2. individual questions of up to 90 seconds in duration will be permitted.
 - 5.3. recommend to Council that the Meeting Procedures Code be amended by:
 - 5.3.1. removing the discretion provided to a Special Committee to consider public questions;
 - 5.3.2. incorporating the protocol outlined in paragraph 5.2 above in relation to public questions for meetings of Special Committees; and
 - 5.3.3. authorising a Special Committee or Council to resolve that audio recordings of meetings be edited by the deletion of comments from the public which the Committee/Council considers to be objectionable, offensive, defamatory or inappropriate.

Attachments:

1. Supporting Attachment
2. Amended copy of Meeting Procedures Code

SUPPORTING ATTACHMENT

Legal

1. The Code is incorporated by reference into the Council's *Conduct of Meetings Local Law 2010*. If it is amended, notice of the amendment must be published in the Victorian Government Gazette.
2. The publication of recordings of meetings together with the expanded question time gives rise to risk in the areas of defamation (publication by Council of third party comments) as well as the potential to impact on the statutory right of people to make submissions. Legal advice will be provided as required in relation to issues that may arise.

Finance

3. There are no financial implications associated with the recommendations contained in this report.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

5. No external consultation was undertaken in relation to the proposal contained in this report. However, it is anticipated that the proposal will increase opportunities for public participation in the decision-making processes of Council.

Relation to Council policy

6. The protocols covering the operation of Committee and Council meetings are described in the Council's *Conduct of Meetings Local Law and Meetings Procedures Code*

Environmental sustainability

7. There are no significant environmental sustainability issues associated with the proposal in the report.

MEETING PROCEDURES CODE

PART 1

Attachment 2
Agenda Item 5.9
Future Melbourne Committee
12 March 2013

INTRODUCTION

- 1.1 All meetings of Council and its Special Committees are to be conducted in accordance with Council's Conduct of Meetings Local Law and this Meeting Procedures Code.
- 1.2 This Code may be altered from time to time by resolution of Council.

PART 2

PURPOSE

- 2.1 The purpose of this Code is to provide comprehensive guidelines for the conduct of meetings of Council and Special Committees, which can be amended from time to time to best suit Council's circumstances; to provide for the orderly, efficient and equitable conduct of meetings; and to provide for peace, order and good government of the municipal district of the City of Melbourne.
- 2.2 Definitions of words used in the Conduct of Meetings Local Law (the Local Law) shall apply to this Code.

PART 3

COUNCIL AND SPECIAL COMMITTEE MEETINGS

Time in which quorum must be present

- 3.1 If a quorum is not present within 45 minutes of the time appointed for the commencement of a Council or Special Committee meeting, the meeting shall be deemed to have lapsed.
- 3.2 If a Council or Special Committee meeting lapses, the Chairperson must convene another Council or Special Committee meeting and ensure that the Agenda for such meeting is identical to the Agenda for the meeting which is deemed to have lapsed.
- 3.3 The Chief Executive Officer must give all Councillors notice of the meeting convened by the Chairperson.

Notice of meeting for Councillors

- 3.4 The Chief Executive Officer must ensure that the Agenda for all Council or Special Committee meetings, together with all available reports and the like to be considered at the meeting, is sent to every Councillor at least 48 hours before the Council or Special Committee meeting.
- 3.5 No business can be transacted at a Council or Special Committee meeting unless it appears on the Agenda, except in instances where a majority of councillors present resolve that the matter:
 - (a) relates to or arises out of a matter which has arisen since distribution of the Agenda; and

- (b) cannot safely or conveniently be deferred until the next Council or Special Committee meeting.

3.6 A matter of an urgent nature which has arisen since circulation of the Agenda may be considered under Urgent Business.

Open meetings

3.7 Subject to paragraph 3.8, all meetings of Council or Special Committees must be open to members of the public.

3.8 Council or a Special Committee may resolve that its meeting be closed to members of the public if the meeting is discussing any of the following:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which Council considers would prejudice Council or any person; or
- (i) a resolution to close the meeting to members of the public.

3.9 If Council or a Special Committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

Minutes

- 3.10 The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must record the minutes of each meeting and those minutes shall include:
- (a) the date, place, time and nature of the meeting;
 - (b) the names of the Councillors and whether they are present, an apology or on leave of absence (please note – if no apology has been received and the Councillor is not in attendance, the Councillor will not be listed);
 - (c) details of any disclosure of interest made by a Councillor and the time the Councillor left the room and returned to the room;
 - (d) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - (e) the mover and seconder of each motion or amendment;
 - (f) the vote cast by each Councillor;
 - (g) each motion carried or lost;
 - (h) in relation to resolutions recorded in the minutes, relevant reports or a summary of the relevant reports considered in the decision making process;
 - (i) details of any submissions received;
 - (j) the time of any adjournment of the meeting and resumption, or suspension of standing orders;
 - (k) details of failure to achieve or maintain a quorum;
 - (l) where applicable, the reason/s for moving into closed session; and
 - (m) the time the meeting concluded.
- 3.11 The Council must keep minutes of each meeting of the Council and Special Committees.
- 3.12 The minutes of a Council meeting or Special Committee meeting must be submitted to the next meeting of Council or Special Committee for confirmation.
- 3.13 If the minutes are confirmed, the Chairperson at the meeting must sign the minutes and certify that they have been confirmed.
- 3.14 Minutes of Council meetings will be signed by the Lord Mayor or person from time to time acting in that position.

Manner of dealing with order of business

3.15 The following items listed on an Agenda should be dealt with in the manner described:

(a) APOLOGIES

(i) Apologies shall be read by the Chairperson.

(b) CONFLICTS OF INTEREST

(i) In every case where a Councillor discloses a conflict of interest at a meeting, a statement recording the type and nature of the interest and the time the Councillor left and returned to the room shall be included in the minutes (refer paragraph 3.17(a)).

(c) MINUTES

Open Council or Special Committee meeting:

- (i) When the minutes of a Council or Special Committee meeting are to be confirmed, they shall be taken as read unless there is a motion to the contrary.
- (ii) No discussion shall be permitted on a motion for confirmation of the minutes, except as to their accuracy as a record of proceedings.
- (iii) Once the minutes are confirmed they shall be signed by the Chairperson. The minutes of meetings will be made available for inspection by members of the public at Council offices during business hours and on the City of Melbourne website at www.melbourne.vic.gov.au

Closed Council or Special Committee meeting:

- (iv) The minutes of a closed Council or Special Committee meeting shall not be made available to members of the public.
- (v) The minutes of closed Council or Special Committee shall be confirmed in closed Council or Special Committee.

(d) PUBLIC QUESTIONS (only applies to Special Committee Meetings)

- (i) Members of the public may ask questions at Ordinary Special Committee Meetings
- (ii) A 15 minute period shall be provided for questions which should not be greater than 90 seconds in duration.
- (iii) The Chairperson may call on a Council officer to answer the question or elect to answer the question him/herself or may take the question on notice to seek additional information on the issue.
- (iv) The Chairperson of the meeting may disallow any question on the ground that it is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature, is asked to embarrass a Councillor or member of Council staff.
- (v) No provision for questions from members of the public will be made at meetings of the Council.

(d)(e) REPORTS

Committee reports (only applies to Council meetings)

- (i) Matters considered by a Special Committee which cannot be dealt with under delegation, must proceed to Council for decision.

Reports from management

- (ii) Management shall present their reports to a Special Committee or Council in the order in which they appear on the Agenda, unless the meeting resolves to change the order of the Agenda.

(e)(f) SUBMISSIONS FROM MEMBERS OF THE PUBLIC

Requests to be heard at a Special Committee meeting

- (i) A person may request to be heard at a Special Committee meeting in relation to a matter listed on the Agenda for that meeting.
- (ii) A person wishing to be heard at a Special Committee meeting must make a written request to the Chief Executive Officer or his/her nominee by no later than noon on the day of the meeting. The request should specify the name and contact details of the person requesting to be heard and identify the item/s on the Agenda to which he or she wishes to speak.
- (iii) Any person wishing to be heard at a Special Committee meeting shall be granted a period of three minutes to speak.
- (iv) No provision is made for members of the public to address Council meetings.

Items of correspondence (applies to Council and Special Committee meetings)

- (v) A person may submit an item of correspondence in relation to a matter listed on a Council or Special Committee meeting Agenda.
- (vi) A person wishing to have an item of correspondence considered by Council or a Special Committee meeting must submit the correspondence to the Chief Executive Officer or his/her nominee by no later than noon on the day of the meeting (to give Councillors sufficient time to read). The correspondence should specify the name and contact details of the person and identify the item/s on the Agenda to which the correspondence relates.

(f)(g) GENERAL BUSINESS

- (i) General Business may include Notices of Motion from Councillors, Post Travel Reports by Councillors or receipt of petitions.
- (ii) General Business may also include Questions without Notice from Councillors at the discretion of the Chairperson.
- (iii) A Notice of Motion from a Councillor may only be included on a published Agenda where it is received by the Office of the Chief Executive Officer no later than 3pm on the Friday before the scheduled meeting.

(g)(h) PETITIONS AND JOINT LETTERS

- (i) A petition is a document signed by a group of people requesting the Council take some action in relation to a particular issue. Traditionally petitions commence with a prayer and contain the name, address and signature of at least one person.

- (ii) A joint letter is an item of correspondence signed by more than one person. Whilst a joint letter does not commence with a prayer, it should contain the name, address and signatures of the persons identified.
- (iii) Petitions or joint letters must be tabled by a Councillor at an ordinary Council or Special Committee meeting. A Councillor must move a motion that the petition or joint letter be received.
- (iv) It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of the petition or joint letter and ensure it is not derogatory or defamatory.
- (v) Following a meeting at which a petition or joint letter is received, the Chief Executive Officer will determine whether a report will be prepared for consideration at the next Council or Special Committee meeting or whether a briefing note will be prepared for Councillors.

~~(h)~~(i) URGENT BUSINESS

- (i) Business must not be admitted as urgent business unless it:
 - (A) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
 - (B) cannot safely or conveniently be deferred until the next Council or Special Committee meeting.

~~(j)~~(i) PUBLIC QUESTIONS (only applies to Special Committee meetings)

- (i) ~~At the discretion of the Special Committee, m~~Members of the public may ask questions at Ordinary Special Committee meetings.

~~(ii)~~ A 15 minute period shall be provided for questions which should not be greater than 90 seconds in duration.

~~(j)~~(iii) The Chairperson may call on a Council officer to answer the question or elect to answer the question him/herself or may take the question on notice to seek additional information on the issue.

~~(j)~~(iv) The Chairperson of the meeting may disallow any question on the ground that it is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature, is asked to embarrass a Councillor or member of Council staff.

~~(iv)~~(v) No provision for questions from members of the public will be made at meetings of the Council.

~~(j)~~(k) CONFIDENTIAL BUSINESS

- (i) Confidential business may be transacted in a meeting which is closed in accordance with the Act and paragraph 3.8 of this Code.

Availability of meeting documentation

- 3.16 Documentation for Council and Special Committee meetings:
- (a) will be circulated internally to Councillors and executives six days prior to a scheduled meeting; and
 - (b) will be available to members of the public electronically, via Council's website, and in hard copy, from noon four days prior to a scheduled meeting.

Conduct of Meetings

3.17 Meetings shall be conducted in the following manner:

- (a) CONFLICTS OF INTEREST
 - (i) In accordance with section 79 of the Act, if a Councillor has a conflict of interest in a matter which is to be, or is likely to be, considered or discussed at a meeting of the Council or Special Committee, the Councillor must:
 - (A) make a full disclosure of that interest by advising of the type and nature of the interest, to either the Council or Special Committee immediately before the matter is considered at the meeting, or in writing to the Chief Executive Officer. Where the disclosure is made to the Chief Executive Officer in writing, the Councillor must only disclose the type of interest to the meeting, immediately before the matter is considered;
 - (B) while the matter is being considered or any vote taken, the Councillor must leave the room (after notifying the Chairperson he or she is doing so), remain outside the room or gallery or other area in view or hearing of the room and only return after the matter has been considered and the vote taken.
- (b) MOTIONS IN MEETINGS
 - (i) A motion must:
 - (A) be moved and seconded;
 - (B) relate to the powers or functions of Council;
 - (C) be in writing, if requested by the Chairperson; and
 - (D) except in the case of urgent business, be relevant to an item of business on the Agenda.
 - (ii) A motion must not be defamatory or objectionable in language or nature.
 - (iii) The procedure upon any motion is that:
 - (A) the mover shall read the motion without speaking to it and shall briefly state its nature and intent;
 - (B) if a motion is seconded, the Chairperson shall allow Councillors to speak to the motion;

- (C) with the exception of the mover who has a right of reply, all other Councillors may only speak once to the motion; and
- (D) the Chairperson must then put the motion to the vote.
- (iv) The mover or seconder of a motion cannot move an amendment to it.
- (v) A motion can only be withdrawn by the mover.
- (c) AMENDMENTS
 - (i) No notice need be given of any amendment to a motion.
 - (ii) An amendment to a motion must:
 - (A) be moved and seconded;
 - (B) relate to the powers or functions of Council;
 - (C) be in writing, if requested by the Chairperson; and
 - (D) not be in opposition to the intent of the motion on the table.
 - (iii) The mover of an amendment has no right of reply.
 - (iv) An amendment can only be withdrawn by the mover.
 - (v) The procedure upon any amendment to a motion is that:
 - (E) the mover shall read the amendment and speak to it;
 - (F) if the amendment is seconded, the Chairperson shall allow Councillors to speak to it;
 - (G) the mover has no right of reply and Councillors may only speak once to it; and
 - (H) the Chairperson must then put the amendment to the vote.
 - (vi) A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of.
 - (vii) If an amendment is adopted, the amended motion becomes the substantive motion and is dealt with in accordance with paragraphs 3.17(b)(iii)(B),(C) and (D).
 - (viii) A Councillor cannot move more than two amendments in succession.

(d) FORESHADOWED MOTIONS

- (i) When a motion is being debated, any Councillor may give notice that they intend to move an alternative motion in the event that the substantive motion fails. This notification is deemed to be a foreshadowed motion and will only be considered if the substantive motion fails.
- (ii) No debate is allowed on a foreshadowed motion.
- (iii) A foreshadowed motion does not require a seconder.

(e) RESCISSION MOTIONS

- (i) No resolution at any meeting of the Council or Special Committee shall be revoked or altered in any subsequent meeting unless notice of the intention to propose such revocation or alteration is given to each Councillor at least 48 hours before the meeting.
- (ii) A notice to rescind or alter a previous resolution cannot be submitted more than three months following the resolution, except after a general election in which case no more than six months.
- (iii) A notice of motion to rescind or alter a previous resolution of Council or a Special Committee:
 - (A) must be given to the Chief Executive Officer in sufficient time to enable the Chief Executive Officer to give at least 48 hours notice to all Councillors prior to the meeting;
 - (B) must be signed by four Councillors;
 - (C) shall be deemed to have been withdrawn if not moved at the next meeting at which such business may be transacted; and
 - (D) if it is a second or subsequent notice to revoke or alter an earlier resolution, it must not be accepted by the Chief Executive Officer until a period of one month has elapsed since the date of the meeting at which the first or last motion for revocation or alteration was dealt with.

(f) TIME LIMIT FOR MEETINGS

- (i) A Council or Special Committee meeting must not continue after 11pm unless a majority of Councillors present vote in favour of its continuance.
- (ii) In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be then and there announced by the Chairperson.
- (iii) The Chief Executive Officer must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

(g) INTERRUPTIONS, INTERJECTIONS AND RELEVANCE

- (i) A Councillor must not be interrupted except by the Chairperson or upon a point of order or personal explanation.
 - (ii) If a Councillor is interrupted by the Chairperson or upon a point of order or personal explanation, he or she must remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given (as appropriate).
 - (iii) A Councillor must not digress from the subject-matter of the motion or business under discussion.
 - (iv) The mover of a motion must not introduce fresh matter when exercising any right of reply.
- (h) PRIORITY OF ADDRESS
- (i) In the case of competition for the right to speak, the Chairperson must decide the order in which the Councillors concerned will be heard.
 - (ii) Except that the mover of a motion (other than a motion amending another motion) has the right of reply and that any Councillor may take a point of order or offer a personal explanation, no Councillor may speak more than once to the same motion or amendment.
- (i) RESUMPTION OF ADJOURNED DEBATE
- (i) If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless he or she has already spoken to the motion or amendment.
- (j) TIME LIMITS
- (i) Unless granted an extension by the meeting:
 - (A) a Councillor may speak to a motion or amendment for no longer than three minutes; and
 - (B) the mover of a motion, who has a right of reply, may speak for no longer than a total of five minutes.
- (k) REPEATING MOTION
- (i) Before any matter is put to the vote, a Councillor may require that the motion or amendment be read again.

- (l) VOTING
 - (i) Each Councillor present at a meeting of the Council or a Special Committee who is entitled to vote:
 - (A) is entitled to one vote; and
 - (B) the vote must be by show of hands.
- (m) CASTING VOTE
 - (i) Subject to section 90 of the Act, if there is an equal division of votes upon any question, the Chairperson at such meeting shall, in addition to his or her own vote as a Councillor, have a second or casting vote.
- (n) DECLARATION OF VOTE
 - (i) The Chairperson must declare the result of the vote as soon as it is taken.
- (o) RECORDING OF OPPOSITION TO MOTION
 - (i) Any Councillor may ask that his or her reasons for opposition to a motion adopted by the meeting be recorded in the minutes.
- (p) POINTS OF ORDER
 - (i) A point of order is an objection that the motion, amendment or statement made is any of the following:
 - (A) contrary to the Conduct of Meetings Local Law and this Code;
 - (B) defamatory or disloyal;
 - (C) irrelevant, irreverent or obscene; or
 - (D) outside Council's legal powers.
 - (ii) A point of order can be called against any Councillor (including the Chairperson).
 - (iii) If called to order, a Councillor must remain silent until the point of order is decided unless he or she is requested by the Chairperson to provide an explanation.
 - (iv) The Chairperson may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
 - (v) The Chairperson must when ruling on a point of order give reasons for the ruling.
 - (vi) The Chairperson is the arbiter on all points of order, including points of order against the Chair.
 - (vii) The Chairperson's ruling shall be final.

(q) CHAIRPERSON MAY SPEAK

- (i) The Chairperson may address a meeting upon any matter under discussion.
- (ii) The Chairperson may vacate the Chair for the duration of any item under discussion whereupon a temporary Chairperson, either the deputy chair or in the deputy's absence a member elected by the meeting, shall take the Chair.

(r) PERSONAL EXPLANATION

- (i) A Councillor may, at a time convenient to the Council or Special Committee meeting, make a brief personal explanation.

(A) A personal explanation is used to:

- correct statements a Councillor has made in debate;
- apologise to the meeting for inappropriate comments or actions;
- explain when the media have misquoted the Councillor;
- explain how another Councillor misrepresented the Councillor; or
- explain how any public comment made personally affects the Councillor.

(B) A personal explanation:

- is required to be in writing on a template as approved from time to time by the Chief Executive Officer;
- must contain a clear explanation of what affect the statement made had on the Councillor giving the personal explanation;
- is not to be used to make argument or comment or to raise new issues;
- must be provided in written form to all Councillors and the Manager Governance Services at the meeting where the personal explanation is to be made and read out word for word;
- is to be no longer than three minutes in duration;
- will be appended to the minutes of the meeting at which the personal explanation is made without the need for further commentary in the minutes.

(s) CRITICISM OF MEMBERS OF COUNCIL STAFF

- (i) A member of Council staff is entitled to briefly address a meeting of Council or a Special Committee in respect of any statement made affecting him or her as a member of council staff or any member of

Council staff under his or her control when such statement is made at a Council or Special Committee meeting, or in the media.

- (ii) A statement under sub-clause (i) must be made at such time and during such meeting at which the member of council staff desires to bring it forward and as the Chairperson thinks appropriate.

(t) ORDERING WITHDRAWAL OF REMARK

- (i) The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature.
- (ii) A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

(u) SUSPENSIONS

- (i) The Chairperson may suspend from a meeting, and for the balance of the meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct.

(v) RECORDING PROCEEDINGS

- (i) The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may record on suitable audio recording equipment the proceedings of a Council or Special Committee meeting.

~~(ii)~~ Audio recordings may be destroyed after the minutes are confirmed. Audio recordings of Special Committees and Council meetings shall be made available through the City of Melbourne website www.melbourne.vic.gov.au.

~~(ii)~~(iii) The Council and Special Committee is authorised to resolve that audio recordings of meetings be edited by the deletion of comments from the public which the Committee/Council considers to be objectionable, offensive, defamatory or inappropriate.

Variation to Code for purposes of a particular meeting

3.18 A meeting of Council or a Special Committee may resolve to vary or modify this Code for the purposes of a particular meeting, as circumstances require, by majority vote of the meeting.

This document is issued by the Melbourne City Council.

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Dr Kathy Alexander
Chief Executive Officer
and the Melbourne City Council's duly appointed delegate.