

7.3 SUPPLEMENTARY STANDING ORDERS

Submitting Councillor: The Mayor

MOTION

That Council:

1. *Resolves to significantly improve the standard of behaviour at Council meetings and to ensure that meetings function more effectively in future and in line with community expectations.*
2. *Identifies the following matters as requiring a particular focus:*
 - a. *the unreasonable behaviour of a small number of Councillors and the need for all Councillors to:*
 - i. *observe the requirements of Council's Local Law No 1 on Meeting Procedures (Local Law No 1); and*
 - ii. *abide by and follow the requests, directions or orders of the Chairperson;*
 - b. *the unreasonable behaviour of a small number of persons in the Public Gallery and the need for all persons in the Public Gallery to:*
 - i. *observe Council meetings in silence;*
 - ii. *refrain from interjecting at all times;*
 - iii. *observe the requirements of Local Law No 1; and*
 - iv. *abide by and follow the requests, directions or orders of the Chairperson;*
 - c. *the finishing time of Council meetings, noting that the last three ordinary meetings of Council have finished unreasonably late at midnight, 3.00 am and 11.30 pm respectively;*
 - d. *the rehashing of matters which have previously been largely considered by Council;*
 - e. *the unreasonable and negative reflections on Council officers by a Councillor;*
 - f. *the making of Points of Order and the moving of Procedural Motions which are often presented in a disruptive, combative and aggressive way;*
 - g. *the way that Conflicts of Interest are declared which sometimes do not include all of the matters required to be disclosed by the Act;*
 - h. *the way that Councillor Reports are occasionally used unreasonably and unfairly to raise controversial matters which go further than reporting on an Advisory Committee of Council, an external body which the councillor has been appointed to by Council or the Councillor's attendance or participation in a civic event or community event; and*
 - i. *the process for making a Personal Explanation which often causes confusion.*

3. *Resolves to adopt the ‘Supplementary Standing Orders for Monash Council Meetings’ (Supplementary Standing Orders) (attached) to directly address these past problems, to lift standards of behaviour and to improve the efficiency of Council meetings.*
4. *Resolves to appoint former City of Waverley Mayor and Councillor Russell Hannan as an independent ‘Governance and Behaviour Monitor’ (Monitor) to attend all remaining Council meetings for this Council term and to provide monthly reports to Council about:*
 - a. *the implementation of the Supplementary Standing Orders;*
 - b. *the behaviour of individual Councillors – including identifying and reporting on any conduct which falls short of the requirements of Local Law No 1, the Supplementary Standing Orders and the Local Government Act 1989 (the Act);*
 - c. *the behaviour of persons in the Public Gallery – including identifying and reporting on any conduct which falls short of the requirements of Local Law No 1, the Supplementary Standing Orders and the Act;*
 - d. *the way that the Mayor or Chairperson chairs each meeting and whether:*
 - i. *the Mayor or Chairperson has been fair and consistent in applying the requirements of Local Law No 1, the Supplementary Standing Orders and the Local Government Act 1989 (the Act);*
 - ii. *the Mayor or Chairperson has been biased in his or her treatment of any Councillor or any person in the Public Gallery;*
 - iii. *the Mayor or Chairperson has been unreasonable in any way in his or her approach to any person in making any request, direction or order of them; and*
 - iv. *any Councillor or any member of the Public Gallery has been unreasonable in how they have responded to any request, direction or order of the Mayor or Chairperson;*
 - e. *any recommendations which the Monitor believes would lift the standards of behaviour at Council meetings or the efficient functioning of meetings.*
5. *Provides a general warning to all people attending this and further meetings of Council that by entering or remaining in the Council Chamber, and upon the passing of this resolution, all persons (whether they be councillors, officers or persons in the Public Gallery) will be held to the standards of behaviour required by Council’s Local Law No 1 and these Supplementary Standing Orders and that any breach, or disregard of any direction or order of the Chairperson, will result in the person being held to account which may include being removed from the Council Chamber and/or being charged with an offence for breaching Local Law No 1.*

6. *Directs the Chief Executive Officer to ensure that these Supplementary Standing Orders be published on Council's website and also reproduced in all Council agenda papers until the end of this Council term.*
7. *Further directs the Chief Executive Officer to prepare and display in an appropriate manner a notice readily visible to all persons entering the Public Gallery which outlines the relevant requirements contained in Local Law No 1 and the Supplementary Standing Orders which all persons in the Public Gallery are required to observe, along with the possible consequences of breaching these requirements or ignoring the directions or orders of the Chairperson.*
8. *Requests the Chief Executive Officer to do all things necessary, and authorises her to spend all funds necessary, to implement a new and improved audio system for Council meetings effective from the June Council meeting which includes the following:*
 - a. *significantly improved amplification for the proceedings;*
 - b. *reduction in the occasional feedback which is sometimes experienced;*
and
 - c. *a central switch available to the Chairperson to switch off all microphones other than the Chairperson's microphone in the instance of disorderly conduct.*

INTRODUCTION

Past meetings of Council have seen a pronounced decline in behavioural standards amongst a small group of Councillors and persons in the Public Gallery. This has led to meetings being unacceptably unruly, disruptive and unpleasant. In particular, there have been a number of instances where these Councillors or persons in the Public Gallery have completely disregarded the rulings or directions of the previous Mayor. A number of complaints have been made in response to this conduct.

Further, the last three ordinary meetings of Council have finished at midnight, 3.00 am and 11.30 pm, respectively, which are well past the latest finishing time contemplated by Local Law No 1 of 10.00 pm. This concerning trend of excessively late finishing times indicates that Council is not managing the business being transacted at its meetings as effectively as possible.

It is important that Council takes action to restore its authority over the conduct of its meetings. It is also important that Council better manage the transaction of business at its meetings to ensure that meetings are not finishing at such unreasonably late times.

This motion, following on from the report to the Special Meeting of Council, proposing a strengthened new Councillor Code of Conduct, proposes a number of proactive approaches to how Council might better manage these issues.

BACKGROUND

Upon my election to fill the vacancy in the position of Mayor three weeks ago, I signalled to Council and the community that restoring the orderly and respectful functioning of Council meetings would be my main focus in the role. In my acceptance speech I said:

Ensuring the orderly, respectful and efficient transaction of Council business will be my chief focus over the few short months that I will occupy this role.

Everyone can expect to see some immediate changes to how our meetings are conducted. Changes for the better to ensure Council's responsibilities to govern effectively are realised rather than thwarted and disregarded.

The following will have no place in this chamber from this point forward:

- 1. Disorderly conduct from either Councillors or members of the public gallery;*
- 2. Ignoring Council's meeting procedures or the rulings of the chair;*
- 3. Personal attacks on others – particularly on Council officers; and*
- 4. Council meetings extending well past reasonable finishing times.*

It will be my aim, starting tonight, to lift the standards of our meetings to the sort of conduct which those who have elected us to serve them around this table rightly expect.

As foreshadowed in my acceptance speech, this motion now presents a bold and comprehensive approach to Council for tackling these past issues and ensuring that these problems are eliminated from this point forward.

DISCUSSION***Approach adopted for making these changes***

As changing Local Law No 1 is a long process and would not be possible to achieve before the end of this Council term because of statutory requirements, I am proposing to Council that it endorse a number of measures supplementary to Local Law No 1 which I have presented as 'Supplementary Standing Orders'. This enables Council to immediately improve its meeting processes.

The *Local Government Act 1989* and Local Law No 1 make it clear that Council is able to resolve on matters of governing its meeting procedure which are not otherwise dealt with. I am proposing that Council do this through the enactment of these Supplementary Standing Orders. Upon the adoption of this report, these requirements will apply from that point forward and all Councillors and persons in the Public Gallery will be required to abide by them.

Any councillor or person in the Public Gallery who does not abide by Local Law No 1, these Supplementary Standing Orders (once adopted) or directions or orders of the Chairperson, can expect to receive appropriate sanction which may include removal from the Council Chamber and/or being charged with an offence pursuant to Local Law No 1.

It would be appropriate for Council to consider the matters dealt with by the Supplementary Standing Orders further when it reviews Local Law No 1 in the next Council term and whether some or all of these provisions might be better included in a renewed Local Law No 1.

Appointment of an independent monitor

At part 4 of my recommendations to Council, I am proposing to Council that an Independent Governance and Behaviour Monitor be appointed by Council to observe all remaining Council meetings of this term. This is an accountability measure designed to monitor adherence by Councillors and others attending Council meetings of the behavioural standards required of all persons attending Council meetings. In particular, it is intended to monitor adherence to the increased accountability requirements introduced by the Supplementary Standing Orders.

I am recommending that Council appoints Russell Hannan as the Independent Governance and Behaviour Monitor. Russell Hannan is impeccably qualified for this role. He is a former Councillor and Mayor of the City of Waverley, where he served as a Councillor for 15 years. He is highly regarded in the local community and has previously consulted to other councils. Russell is a former President of the Victorian Liberal Party and continues to serve as its State Treasurer.

I am not aware of any other council ever voluntarily choosing to appoint such a monitoring position before and I urge Council to show its commitment to improving our meetings by embracing such a purposeful accountability mechanism. I propose that the Monitor will provide monthly reports to Council, will be available to attend a Council briefing meeting following each formal Council meeting to discuss the meeting further with Councillors and will provide insight and comment on the following:

- the implementation of the Supplementary Standing Orders;
- the behaviour of individual Councillors – including identifying and reporting on any conduct which falls short of the requirements of Local Law No 1, the Supplementary Standing Orders and the Act; and
- the behaviour of persons in the Public Gallery – including identifying and reporting on any conduct which falls short of the requirements of Local Law No 1, the Supplementary Standing Orders and the Act.

I am also proposing that the Monitor will be asked to monitor and comment specifically on my performance as Chairperson of Council meetings and whether I have been:

- fair and consistent in applying the requirements of Local Law No 1, the Supplementary Standing Orders and the Local Government Act 1989 (the Act);
- biased in my treatment of any councillor or any person in the Public Gallery; or
- unreasonable in any way in my approach to any person in making any request, direction or order of them.

It is important to hold me as Chairperson of our meetings to account for taking a fair and unbiased approach to the running of Council's meetings. I believe that past Mayors have been fair and unbiased in their management of Council meetings. However, I am aware that they have often been accused of being otherwise. The Monitor is an independent way of verifying this in future and I hope this will help to fortify the confidence which everyone can have in Council's meeting processes going forward.

Finally, I am also proposing that the Monitor be invited, through his monthly report, to make any recommendations to Council which the Monitor believes would lift standards of behaviour at Council meetings or the efficient functioning of meetings.

Late finishing times for Council meetings

Regrettably, the experience of late has been for Council meetings to extend well past 11.00 pm – and on one occasion until 3.00 am. This is unreasonable for everyone – particularly members of the public who have an interest in a matter on Council's agenda, for local media who have an important role to play in covering our meetings and for Council officers who, in some instances, have been at work since prior to 7.00 am on the morning of a Council meeting and need to return again just a few hours later following the meeting.

Council has occupational health and safety obligations to ensure that our staff, as well as councillors, are not put at unreasonable risk because of the meeting practices which we adopt. It is not difficult to imagine how an unspeakable tragedy could arise when fatigued members people are travelling home from their workplace in such circumstances.

Accordingly, I am proposing that Council agree that while 10.00 pm will continue be the desired latest time by which future meetings will conclude, 11.00 pm will be the absolute latest time that any meeting will be permitted to run until. If a meeting is not finished by 11.00 pm, any business remaining will be adjourned until the following Tuesday.

But it is my responsibility as Mayor in managing Council meetings to ensure that this does not occur. That is why I am proposing in the Supplementary Standing Orders that Council resolves, up front, an intent to take proactive steps in certain situations which have frustrated meetings in recent times, in order to better manage our meetings.

Firstly, I am proposing that if Council reaches 9.00 pm at any meeting and it looks from the business remaining that the meeting will not be finished by 10.00 pm, that the time limit for all speakers be reduced from five minutes to three minutes for the remainder of that meeting. This aims to strike a balance between allowing opportunity for contribution and debate, while also ensuring that the business of the meeting can be completed that night. I note that Local Law No 1 currently provides for speaker time limits of five minutes so I have expressed this as an 'intent' rather than a requirement so it is not at odds with Local Law No 1. Accordingly, if this measure is adopted by Council, and in the event of it arising at a future meeting, if a Councillor insists on speaking

longer than three minutes, I am proposing that this will be dealt with by the Chairperson of the meeting proposing a Procedural Motion that the speaker no longer be heard (as is currently possible under Local Law No 1). It is then a matter for councillors to either vote up or down that Procedural Motion as it sees fit. However, if Council supports this 'intent' being included in the Supplementary Standing Orders to give effect to Council's determination to improve the efficient operation of our meetings, I would urge councillors to support such a Procedural Motion whenever it should arise in future to ensure consistency.

Secondly, I am proposing that Council also resolves its intention to refuse to consider any matters placed before Council which have previously been largely dealt with by Council, unless a majority of Councillors specifically want the matter reconsidered. The belligerent re-hashing and re-litigating of past decisions which have been duly determined by Council has been a consistent theme in recent meetings which have drifted long past 10.00 pm. It is time for these distractions from transacting the business of this Council stop. Similarly to time limits, it is proposed that this matter will be dealt with by a Procedural Motion that a particular offending motion or amendment not be considered by Council.

Finally, I also note that Council has separately decided that, from the July meeting onwards, all Council meetings will commence 30 minutes earlier at 7.00 pm rather than the usual start time of 7.30 pm which will also help to achieve reasonable finishing times.

The raising of Points of Order and the moving of Procedural Motions

In my view, one of the key contributors to disorder and disruption at recent Council meetings has been the aggressive and belligerent way in which some Councillors assert Points of Order or raise Procedural Motions. These interventions during a meeting are typically raised in a fairly disruptive way with the councillor raising the Point of Order or Procedural Motion by standing up in their place, often demanding to be heard in a raised voice and more times than not straying off the Point of Order being raised or going beyond simply moving the Procedural Motion by entering into debate. In particular, the councillor making such interventions has also tended to be argumentative and has regularly made a point of heckling the Mayor's ruling or treatment of their Point of Order or Procedural Motion. This conduct has sometimes extended to other councillors as well who have at times interjected to comment on or criticise the approach proposed by the moving Councillor or the way that the Mayor treats with it.

The Supplementary Standing Orders make it clear that such conduct is disorderly and will no longer be tolerated. The Supplementary Standing Orders deal with both processes in an attempt to take the theatrics and pontification out of these processes. I am proposing that no longer will a Councillor stand in their place to either raise a Point of Order or move a Procedural Motion as I believe the act of standing over the meeting when raising one of these interventions contributes to the argumentative and disruptive way that these are often presented by some councillors.

Instead, I am proposing that these matters be raised by a councillor silently signalling their desire to raise a Point of Order or move a Procedural Motion. In the case of a Point of Order, this will be done by placing both hands on their head. In the case of a Procedural Motion, it will be done by placing one hand on their head.

The advantage of these approaches is that it denies a Councillor intent on using these interventions in an unruly way from having that effect. The signalling process means that it is immediately apparent what it is the Councillor is wishing to raise – i.e. a Point of Order or a Procedural Motion – and the Chairperson is placed in the position of being able to immediately and specifically engage the Councillor on the matter they are raising.

These measures are designed to make Points of Order and Procedural Motions more of an exception than the norm. I am not concerned in the slightest if requiring someone to put their hands on their head does dis-incentivise a councillor from moving these a little – as we are getting far too many of these interventions than is warranted. By way of observation, I suspect we are now getting more Points of Order and Procedural Motions raised at a single meeting on average than what was experienced across the entire previous four year Council term.

The Supplementary Standing Orders provide that if the Chairperson is not aware of a councillor who has placed one or both hands on his or her head, the Councillor may say ‘Mayor’ or ‘Chairperson’ in a manner which is appropriate to get the Chairperson’s attention. However, the Councillor must not shout this out unnecessarily loud, say it repetitively or speak aggressively.

The advantage of knowing what a Councillor seeks to raise – be it either a Point of Order or a Procedural Motion – through introducing the signalling method proposed, is that the Chairperson can then immediately engage the Councillor on that matter and focus the councillor quickly and succinctly on describing their Point of Order or Procedural Notice so it can be efficiently dealt with.

For example, I see the process as unfolding in this manner:

- **Point of Order:** A councillor places two hands on their head signalling a wish to raise a Point of Order. The Chairperson asks any other councillor who is addressing the meeting to resume their seat. The Chairperson acknowledges that the councillor in question wishes to raise a Point of Order by saying something to the effect of:

Ok, Cr X has a Point of Order. Cr X, which of the five grounds of Point of Order does your Point of Order relate to?

Cr X then responds by indicating which of the five grounds his or her Point of Order relates to and the Chairperson can then ask any further questions from there of the Councillor to understand the basis of the Point of Order. The Chairperson is then in a position to rule on the Point of Order.

- **Procedural Motion:** A councillor places one hand on their head signalling a wish to raise a Procedural Motion. The Chairperson asks any other Councillor who is addressing the meeting to resume their seat. The Chairperson acknowledges that the Councillor in question wishes to raise a Procedural Motion by saying something to the effect of:

Ok, Cr X wishes to move a Procedural Motion. Cr X, which category of Procedural Motion are you wishing to move?

Cr X then responds by nominating the category of Procedural Motion, such as by nominating 'Category (e) that the question now be put'. The Chairperson is then in a position to put the Procedural Motion which Local Law No 1 makes clear is put to the meeting without debate.

In the case of Points of Order, the other advantage of this approach is that it treats Points of Order in a fairly clinical way with an aim of ensuring consistent, impartial and clear rulings. I have drafted the Supplementary Standing Orders to also require all Points of Order raised to be clearly and comprehensively recorded in the minutes, including the Chairperson's ruling and the reasons for their ruling. As when I was Mayor in 2013/14, I will do my best to be very clear in explaining my reasons for upholding or refusing a Point of Order which during that term appeared to assist with reducing the number of Points of Order being raised. By ensuring that these are set out fully and recorded in the minutes, this will assist with ensuring a consistent and fair approach is achieved.

Councillor Reports

In the past, occasionally we seen have Councillors use the 'Councillor Reports' section of the agenda to report on controversial matters, to make political statements or to attack other Councillors. Such use of this part of the agenda is an abuse of process.

It has always been the intention since the commencement of the present version of Local Law No 1 that the 'Councillor Reports' part of the agenda is for a Councillor to report on:

- the operations, findings and decisions of an Advisory Committee of Council or an external body which the Councillor has been appointed to by the Council; or
- other non-controversial matters relating to the Councillor's attendance or participation in a civic event or community event.

It is not fair or reasonable for a councillor to use this part of the agenda to raise matters of controversy because a Councillor Report cannot be debated and it denies other Councillors who have a conflicting view to also contribute to discussion on the matter.

If a matter is controversial, it would be more appropriate to raise it by way of a Notice of Motion or as a Matter of Council Importance in order to allow debate on the matter (which is not permitted with Councillor Reports). The Supplementary Standing Orders provide that if a controversial issue is raised as a Councillor Report in this way, that the

Chairperson is to direct the Councillor to resume his or her seat and to raise the matter at a future meeting by way of a Notice of Motion or as a Matter of Council Importance.

Personal Explanations

There has been confusion in the past in relation to how Personal Explanations may be taken. The Supplementary Standing Orders seek to clarify this by setting out the process to be followed when a councillor wishes to make a Personal Explanation.

The Supplementary Standing Orders require that prior to the councillor providing a personal explanation, the Chairperson is to ask the councillor to specifically identify the statement or statements that the councillor believes has affected the councillor in his or her role as a Councillor and how this statement has, or these statements have, affected the councillor in her or his role as a councillor. The councillor is to identify the statement or statements and provide a succinct explanation as to how the councillor has been affected in her or his role as a councillor. Providing the Chairperson is satisfied that there is reasonable grounds for the making of a Personal Explanation, the Chairperson must then allow the Councillor to provide a brief Personal Explanation in relation to the statement/s.

It will continue to be at the Chairperson's discretion whether a Personal Explanation is to be received during the course of the meeting or at the end of the meeting when the 'Personal Explanations' part of the agenda is reached.

Application to Assembly of councillors meetings

The Supplementary Standing Orders provide that at the discretion of the Chairperson, the Supplementary Standing Orders can be invoked to apply at any Assembly of Councillors (i.e. a council briefing meeting closed to the public) and with any relevant modification to reflect the typical lesser formality of such meetings.

This is being proposed to deal proactively with any future situation arising, as it has unfortunately in the past, of a Councillor being disruptive and disrespectful during a briefing meeting. In the event of disorderly behaviour by one or more Councillors at an Assembly of Councillors meeting, the Chairperson may invoke the application of the Supplementary Standing Orders and the powers they confer to that assembly of councillors' meeting.

In that event, the Chairperson is to clearly announce to the meeting in question that he or she is invoking the application of the Supplementary Standing Orders to the meeting from that point forward, and that the conduct of councillors for the remainder of the meeting must be consistent with the Supplementary Standing Orders.

Audio system

The amplification and audio system in the Council Chamber is showing its age and is in need of renewal. I am proposing that Council officers as a matter of priority implement

improvements to the quality of the audio system so that amplification of proceedings is improved for all persons in the Public Gallery (including outside the glass wall).

As part of these improvements, I am also requiring that the system include a switch available for the Chairperson which can be used to switch off all other microphones, other than the Chairperson's microphone, in the event of disorderly conduct. In my view this will further contribute to the resurrection of order and control at Council meetings by preventing an unruly Councillor from being able to speak over the Chairperson and the rest of the proceedings.

Consequences of bad behaviour

I intend to take a zero tolerance to future bad behaviour by either Councillors or persons in the Public Gallery. In particular, disregard for the lawful directions and orders of the Chairperson will no longer be tolerated. Any councillor or person in the Public Gallery who disregards the requirements of Local Law No 1, the Supplementary Standing Orders or any direction or order of the Chairperson, can expect consequences.

Disorderly conduct is an offence against Local Law No 1 and is liable to penalty either with or without a prior warning from the Chairperson. Without limitation, this may include removal of a Councillor or person in the Public Gallery from the Council Chamber pursuant to Clause 41 of Local Law No 1 or prosecution for an offence pursuant to Clause 42 of the Local Law (or both). In the case of a person in the Public Gallery who refuses to leave the Council Chamber when directed to do so (for whatever reason, including a belief that they have been incorrectly signalled out for an interjection), the person is also liable to be banned from attending all future meetings of Council for a period of six months.

Financial implications

The proposed appointment of an independent Governance and Behaviour Monitor through to the end of the current Council term will have a cost implication for Council. This is estimated to be approximately \$10,000 over the course of five months to cover the Monitor's time to attend the monthly Council meeting, provide reports to Council and attend any briefing meetings with Councillors to discuss any aspects of the Monitor's reports, conclusions or recommendations.

Consultation

Given the acuteness of the problems which have arisen at recent meetings, it is not practical to consult more widely on these changes as such behaviour warrants immediate corrective action. These changes are designed to immediately restore the effective and orderly functioning of Council meetings, consistent with the objectives of Local Law No 1, and as such it is not necessary or possible for there to be any public consultation on these new measures. However, I note that there will be substantial public consultation in the next Council term when the Council reviews Local Law no 1.

CONCLUSION

Council's challenge over the next five months is to significantly improve its meeting performance. Every councillor has a role to play in achieving this and all Councillors will be held to account for their individual actions. People attending Council meetings in the Public Gallery are also an important part of the effective functioning of Council meetings. The Public Gallery is a valued part of Council's meetings, but insults and verbal outbursts from a small number of people in the Public Gallery have no place in the Council Chamber and such interjections must stop and will no longer be tolerated, excused or ignored.

These Supplementary Standing Orders together with Local Law No 1, will be applied without fear or favour by me, to the best of my ability, and in the interests of lifting the governance performance of Council. I seek everyone's cooperation to assist in Council meeting the expectations of our community over the meetings remaining in this Council term.