



City of
KINGSTON

Special Council Meeting

Notice is given that a Special Meeting of the Kingston City Council will be held at 7.00pm on Monday 20 May 2013 at 1230 Nepean Highway, Cheltenham.

- 1 Apologies**
- 2 Disclosure by Councillors, Officers or Contractors of any Conflict of Interest**
- 3 Items of Business**

**City of Kingston
Special Meeting of Council**

Agenda

20 May 2013

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Business will be as follows:

- 1. Apologies**
- 2. Disclosure by Councillors, Officers or Contractors of any Conflict of Interest**
- 3. Items of Business**

P 69 Meeting Procedure (Amendment) Local Law No. 8

Special Council Meeting

20 May 2013

Agenda Item No: P 69

MEETING PROCEDURE (AMENDMENT) LOCAL LAW NO. 8

Contact Officer: Phil De Losa

Purpose of Report

This report is presented for Council to adopt Meeting Procedure (Amendment) Local Law No. 8 and complete the legislative requirements for making the Local Law.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

Recommendation

That, having completed the procedure referred to in section 119(2) of the Local Government Act 1989 and noting that no submissions were received in response to the public notice indicating that Council proposed to make Meeting Procedure (Amendment) Local Law No 8, Council:

1. make the Meeting Procedure (Amendment) Local Law No 8 as attached in Appendix 1 (the Local Law);
2. authorise the affixing of the common seal to the local Law; and
3. authorise the Chief Executive Officer to:
 - a) give public notice of the making of the Local Law; and
 - b) send a copy of the Local Law to the Minister for Local Government

1. Executive Summary

The Meeting Procedures Local Law is a very significant part of the Governance Framework setting out the rules and processes that regulate proceedings at Council meetings and special committee meetings. Council is required to have such a Local Law under the Local Government Act.

Council has previously discussed making changes to its current Meeting Procedures Local Law No. 7 to make the operation of the Local Law more effective and to respond to changes made to the Local Government Act 1989 (the Act) in 2012.

The process to make changes to the Meeting Procedures Local Law is specified in the Act. Council was required to advertise its intention of making / amending the Local Law and invite submissions on the proposed changes. No submissions were received from the public by the closing date. Council can now adopt Local Law No. 8 to effect changes to its Meeting Procedures Local Law No. 7.

2. Background

Council's Meeting Procedures Local Law was originally prepared in 2005 and amended in 2009.

Councillors considered a briefing paper at the Governance Workshop held in November 2012 detailing areas of concern in relation to meeting procedures.

The changes to the Local Law address:

- issues experienced by Council involving notices of motion, including rescission motions, and
- amendments to the Local Government Act that came into effect on 31 October 2012 which enabled a Councillor to abstain from voting.

A report was presented to Council on 25 February 2013 outlining the changes proposed to be made to the Local Law. Council resolved to

1. *approve the changes as shown in Appendix 1 (text marked in red), subject to the following changes:*

That Clause 21(1)(a) be amended as follows:

(a) A notice of motion must be in writing, signed by two (2) councillors, lodged with the Chief Executive Officer by midday five (5) clear days before the date of the meeting nominated in the notice of motion.

That Clause 22(1)(c) be amended as follows:

(c) the notice of motion to rescind or alter a previous resolution is delivered, in writing, to the Chief Executive Officer no later than 5.00pm on the second working day following the meeting of the Council at which the resolution proposed to be rescinded or altered was made.

- That Clause 22(1)(a) be amended as follows:

A Councillor may propose a notice of motion to rescind or alter a previous resolution provided:

(a) the notice has been signed by three (3) Councillors and dated.

2. *receive the proposed Meeting Procedure (Amendment) Local Law No. 8 (the proposed Local Law) as shown in Appendix 2;*

3. *authorise commencement of the statutory process for the making of the proposed Local Law, in accordance with Part 5 of the Local Government Act 1989 (the Act), by giving public notice of its intention to make the proposed Local Law and inviting submissions under section 223 of the Act;*

4. *determine to appoint a committee, in accordance with section 223 of the Act, comprising of the Mayor and Councillors Peulich, Staikos and Eden to hear the submissions in relation to the proposed Local Law.*

Council did not receive any submissions to the proposed Local Law therefore the section 223 Committee was not required.

3. Discussion

3.1. Council Plan Alignment

Goal 5 – Efficient and Innovative Stewardship of the Organisation and Resources

Strategy 5.2 – An organisation with transparent, innovative and robust business and financial processes facilitating strong accountability to the community.

An effective Meeting Procedures Local Law helps to ensure that the forum of a Council meeting is respected as a decision making forum which is accountable to the community.

3.2. Consultation/Internal Review

A formal consultation process was undertaken in accordance with section 223 of the Act following the Council decision to proceed with the process however, no submissions were received.

Councillors have been through a thorough process of identifying, considering and proposing changes to the Meeting Procedures Local Law commencing at the Governance Workshop in November 2012 to this point.

Maddocks Lawyers have reviewed the proposed amendments to the Local Law to ensure compliance with legislative requirements.

3.3. Operation and Strategic Issues

A public notice in relation to the amendment Local Law was published in the Leader newspapers on 10 April 2013 and the Government Gazette on 11 April 2013 and posted on the Council's website. Additionally, copies of the proposed Local Law were made available at Council's customer service centres.

Following the expiration of the 28 day notice period no submissions have been lodged.

The proposed changes to the Local Law address the following issues

3.3.1. Notices of Motion (NoM)

The major issues that have been experienced by Council include;

- the consideration of a NoM being limited to Ordinary Meetings of Council.
- having enough time to consider the subject matter of a NoM that has been generally lodged just prior to the deadline of 12.00 midday on the Wednesday preceding a Council Meeting.
- the number of Councillors required to sign a NoM

Proposed changes

Clause 21 of the Local Law is proposed to be amended to

- Specify that a NoM can be considered at any Council meeting
- The lodgment of a NoM is to be 12.00 midday 5 clear days before a meeting
- 2 Councillors required to sign a NoM.
- Other minor changes clarifying motions can be withdrawn before a meeting and can be amended at a Council meeting.

3.3.2. Motions to revoke/rescind or alter a previous resolution

The major issues that have been experienced by Council include;

- A rescission motion has the effect of placing the original resolution on hold. This has implications for resolutions that need to be actioned quickly due to a pending deadline, a statutory requirement or other priority. The rescission motion effectively puts on hold the actioning of a Council decision.
- A rescission motion is generally lodged by less than a majority of Councillors who voted for the resolution. In some cases a rescission has

been lodged where only one or two Councillors have opposed the resolution. This can create delay in carrying out the resolution and may not respect the majority will of the Council.

Proposed changes

Clause 22 of the Local Law is proposed to be amended to

- Require that a NoM to rescind or alter a previous resolution must be signed by three (3) Councillors;
- Require that a NoM to rescind or alter a previous resolution must be delivered by 5.00pm on the second working day following the meeting of the Council at which the resolution proposed to be rescinded or altered was carried

3.3.3. Voting

Amendments to the Local Government Act removed the requirement of a Councillor to vote at a Council or Special Committee meeting. This means that a Councillor can abstain from voting. This requires a process to be outlined in the Meeting Procedures Local Law.

Proposed changes

Clauses 33 and 34 of the Local Law are proposed to be amended to

- Require that a Councillor indicate to the Chairperson when abstaining from voting;
- Record any Councillor abstaining when a Division is called

4. Conclusion

All statutory requirements have been completed up to this point where Council can determine to adopt or not adopt Meeting Procedure (Amendment) Local Law No 8.

The proposed amendments to the Local Law have been extensively considered by Council through a process commencing in November 2012. Given there are no submissions from the community Council is now in a position to adopt the Local Law.

4.1. Environmental Implications

Not applicable

4.2. Social Implications

The proposed Local Law does not impact on the requirements of the Charter of Human Rights

4.3. Resource Implications

Not applicable

4.4. Legal / Risk Implications

The adoption of the proposed Local Law No 8 would require the amendments to be consolidated with the current Meeting Procedures Local Law No 7.

Section 119 of the Local Government Act requires after a Local Law is made Council must give notice in the Government Gazette and a public notice specifying –

- (a) the title of the Local Law; and
- (b) the purpose and general purport of the Local Law; and
- (c) that a copy of the Local Law may be inspected at the Council office.

After a Local Law is made Council must send a copy to the Minister.

5. Appendices

5.1. Appendix 1 – Meeting Procedure (Amendment) Local Law No 8 (Trim No 13/23355)

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City of
KINGSTON

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MEETING PROCEDURE (AMENDMENT) LOCAL LAW NO. 8

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MEETING PROCEDURE (AMENDMENT) LOCAL LAW NO. 8**PART 1
INTRODUCTION****1. Title**

This Local Law will be known as the “Meeting Procedure (Amendment) Local Law No. 8”.

2. Purpose Of This Local Law

The purpose of this Local Law to:

- (1) amend **the Council’s** Meeting Procedure Local Law in various respects; and
- (2) give effect to provisions introduced into the *Local Government Act 1989* by the *Local Government Legislation Amendment (Miscellaneous) Act 2012*.

3. Authorising Provision

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

4. Operation Date

This Local Law operates from the day after the day upon which it is made by **the Council**.

5. Revocation

Unless sooner revoked, this Local Law ceases to operate on the same day on which **the Council’s** Meeting Procedure Local Law (being Local Law No. 7 of 2009) ceases to operate.

6. Application

This Local Law applies and has operation throughout the whole of the municipal district.

7. Interpretation

Unless the contrary intention appears in this Local Law, the following words and phrases are defined as indicated:

“**the Council**” means Kingston City Council.

“**Principal Local Law**” means **the Council’s** Meeting Procedure Local Law (being Local Law No. 7 of 2009).

PART 2
AMENDMENT TO MEETING PROCEDURE LOCAL LAW

8. Amendment to Clause 21

(1) Delete clause 21(1) of the **Principal Local Law** and substitute:

- “(1) (a) A **notice of motion** must be **in writing**, signed by two (2) **Councillors** and lodged with the **Chief Executive Officer** by midday five (5) clear days before the date of the **meeting** nominated in the **notice of motion**.
- (b) Any **notice of motion** received after the time specified in paragraph (a) must, unless withdrawn **in writing**, be included on the next appropriate meeting **agenda**.
- (c) A **notice of motion** may be withdrawn at any time prior to the scheduled **meeting** at which the **notice of motion** is proposed.”

(2) Delete clause 21(2) of the **Principal Local Law** and substitute:

- “(2) (a) The **Chief Executive Officer** must arrange for every **notice of motion** received by him or her to be numbered and endorsed with the date and time of it being received, and for it to be kept or entered, in the order received, in a register of **notices of motion**.
- (b) Unless the **notice of motion** nominates a specific meeting date, the **Chief Executive Officer** must list the **notice of motion** (and if more than one, in the order they were received) on the next appropriate meeting **agenda**.”

(3) In the **Principal Local Law**, immediately after clause 21(4)(a) but before the heading to clause 22 insert:

- “(b) Any **notice of motion** may be amended and the mover and seconder may accept a proposed amendment and the mover may amend the motion prior to it being seconded.”

9. Amendment to Clause 22

(1) Delete the heading to clause 22 of the **Principal Local Law** and substitute:

“Motions to Rescind or Alter a Previous Resolution”.

(2) Delete clause 22(1) of the **Principal Local Law** and substitute:

- “(1) A **Councillor** may propose a **notice of motion** to rescind or alter a previous resolution provided:
- (a) the notice has been signed by three (3) **Councillors** and dated;
- (b) the resolution proposed to be rescinded or altered has not been acted on; and

- (c) the **notice of motion** to rescind or alter a previous resolution is delivered, **in writing**, to the **Chief Executive Officer** no later than 5.00pm on the second working day following the meeting of **the Council** at which the resolution proposed to be rescinded or altered was made.”
- (3) Delete clause 22(3)(b) of the **Principal Local Law** and substitute:
- “(b) is the subject of a **notice of motion** to rescind or alter a previous resolution which has been delivered to the **Chief Executive Officer** in accordance with sub-clause (1)(c),”
- (4) Delete clause 22(4) of the **Principal Local Law** and substitute:
- “(4) If a **notice of motion** to rescind or alter a previous resolution is lost, a similar motion may not be put before **Council** for at least 3 months from the date it was last lost, unless **Council** resolves that the notice of motion be re-listed at a future **meeting**.”
- (5) Delete clause 22(5) of the **Principal Local Law** and substitute:
- “(5) If a **notice of motion** to rescind or alter a previous resolution is not moved at the **meeting** at which it is listed, it lapses.”
- (6) Delete clause 22(6) of the **Principal Local Law** and substitute:
- “(6) A **notice of motion** to rescind or alter a previous resolution listed on an **agenda** may be moved by any **Councillor** present but may not be amended.”

10. Amendment to Clause 28

Delete the heading to and text of clause 28 of the **Principal Local Law** and substitute:

“Formal/Procedural Motions

28. The form and effect of and procedure with respect to formal/procedural motions is set out in **Schedule 1.**”

11. Amendment to Clause 32

Delete the heading to clause 32 of the **Principal Local Law** and substitute:

“Casting Vote by the Chairperson”

12. Amendment to Clause 33

Delete the heading to and text of clause 33 of the **Principal Local Law** and substitute:

“Voting

33. (1) All voting on matters is by show of hands.

- (2) Where a **member** intends to abstain from voting on a matter the **member** must indicate to the **Chairperson** that he/she is abstaining from voting immediately before the vote is taken.”

13. Amendment to Clause 34

Delete clause 34(4) of the **Principal Local Law** and substitute:

- “(4) When a **division** has been called, the **Chairperson** must ask **members** voting in the affirmative to stand, and then announce the names of those **members**. The **Chairperson** must then ask for those voting in the negative to stand and then announce the names of those **members**. The **Chairperson** must then ask for those abstaining from voting to stand and then announce the names of those **members**. The name of **members** voting in the affirmative and in the negative and members abstaining from voting must be recorded in the **minutes** of the **meeting**.”

14. Amendment to Clause 41

- (1) Delete clause 41(7)(c) of the **Principal Local Law** and substitute:

“(c) if there is more than one candidate, the **Councillors** present at the meeting vote for one of the candidates;”

- (2) Delete clause 41(7)(e) of the **Principal Local Law** and substitute:

“(e) in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The **Councillors** present at the **meeting** then vote for one of the remaining candidates;”

- (3) Delete clause 41(7)(h)(iii) of the **Principal Local Law** and substitute:

“(iii) as many identical pieces of paper as there are **Councillors** who received an equal lowest number of votes must be placed in a receptacle. The word "Defeated" shall be written on one of the pieces of paper, and the **Councillor** who draws the paper with the word "Defeated" written on it must be declared a defeated candidate. The **Councillors** present at the **meeting** then vote for one of the remaining candidates.”

15. Amendment to Clause 46

Delete the heading to clause 46 of the **Principal Local Law** and substitute:

“**Role of the Chairperson**”

16. Amendment to Schedule 1

- (1) In the heading to Schedule 1 to the **Principal Local Law**, immediately after the word “FORMAL” but before the word “MOTIONS” insert “/PROCEDURAL”.

- (2) In the header row of the table in Schedule 1 to the **Principal Local Law**, immediately after the word “FORMAL” but before the word “MOTION” insert “/PROCEDURAL”.