



City of Whitehorse

AGENDA

Statutory Council Meeting to Elect Mayor and Deputy Mayor

**To be held in the
Council Chamber
Nunawading Civic Centre**

379 Whitehorse Road Nunawading

on

Wednesday 18 November 2020

at 7:00pm

Members: Cr Barker, Cr Carr, Cr Cutts, Cr Davenport, Cr Lane, Cr Liu,
Cr McNeill, Cr Massoud, Cr Munroe, Cr Skilbeck, Cr Stennett

Mr Simon McMillan
Chief Executive Officer

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TABLE OF CONTENTS

1.	PRAYER	2
2.	WELCOME AND APOLOGIES	2
3.	OATH OR AFFIRMATION OF OFFICE	3
4.	MAYORAL AND COUNCILLOR ALLOWANCES	5
5.	TERM OF THE MAYOR	5
6.	ELECTION OF THE MAYOR.....	6
7.	OFFICE OF DEPUTY MAYOR	9
8.	ELECTION OF THE DEPUTY MAYOR	10
9.	ACKNOWLEDGEMENT OF FORMER COUNCILLORS	10
10.	CLOSE MEETING	10

AGENDA

1. PRAYER

1a Prayer for Council

We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.

Grant that our own generation may build worthily on the foundations they have laid.

Direct our minds that all we plan and determine, is for the wellbeing of our City.

Amen.

1b Aboriginal Reconciliation Statement

"In the spirit of reconciliation, Whitehorse City Council acknowledges the Wurundjeri people as the traditional custodians of the land we are meeting on. We pay our respects to their Elders past and present."

2. WELCOME AND APOLOGIES

3. Oath or Affirmation of Office

SUMMARY

Following the Whitehorse City Council General Election held on 24 October 2020, the Victorian Electoral Commission declared the results of the Whitehorse City Council Election on 11 November 2020.

Before being capable of acting as a Councillor, all persons elected to be Councillors must take an oath or affirmation of office, to be administered by the Chief Executive Officer and dated and signed before the Chief Executive Officer.

Whitehorse City Councillors took their oath of office or affirmation of office on Thursday 12 November 2020.

RECOMMENDATION

That Council note the following Councillors made an oath or affirmation of office on Thursday 12 November 2020, administered, dated and signed before the Chief Executive Officer:

Cootamundra Ward - Andrew Munroe

Eley Ward - Trudy Skilbeck

Elgar Ward - Blair Barker

Kingsley Ward - Amanda McNeill

Lake Ward - Denise Massoud

Mahoneys Ward - Mark Lane

Simpson Ward - Prue Cutts

Sparks Ward - Tina Liu

Terrara Ward - Raylene Carr

Walker Ward - Ben Stennett

Wattle Ward - Andrew Davenport

BACKGROUND

The Whitehorse City Council General Election was held on 24 October 2020, with the Victorian Electoral Commission formally declaring the election results on 11 November 2020.

Under Section 30 of the *Local Government Act 2020* in relation to oath or affirmation of office the following applies:

- 1) A person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath or affirmation of office in the manner prescribed by the regulations.

- 2) The oath or affirmation of must be:
 - a) Administered by the Chief Executive Officer; and
 - b) Dated and signed before the Chief Executive Officer; and
 - c) Recorded in the minutes of the Council, whether or not the oath or affirmation was taken at a Council meeting.

Under regulation 5 of the *Local Government (Governance and Integrity) Regulations 2020* in respect of oath or affirmation of office the following applies:

For the purposes of section 30(1) of the *Local Government Act 2020*, the prescribed manner for taking the oath or affirmation of office is:

- a) In accordance with the requirements of Part 2 of the Oaths and Affirmations Act 2018; and
- b) In person or, with the approval of the Chief Executive Officer, by means of an audio visual link; and
- c) In the following form:

"I will undertake the duties of the office of Councillor in the best interests of the municipal community.

I will abide by the Councillor Code of Conduct and uphold the standards of conduct set out in the Councillor Code of Conduct.

I will faithfully and impartially carry out and exercise the functions, powers, authorities and discretions vested in me under the Local Government Act 2020 and any other Act to the best of my skill and judgement."

In accordance with Part 2, section 7 of the *Oath and Affirmations Act 2018*, a person required to take an oath may choose to take an oath or to make an affirmation.

Councillor Code of Conduct

Section 139 (4) of the *Local Government Act 2020*, requires a Council to review and adopt the Councillor Code of Conduct within four months after a general election.

Section 139 (5) of the *Local Government Act 2020*, states that until a Council adopts a Councillor Code of Conduct under subsection (4), the Councillors must comply with the existing Councillor Code of Conduct.

All Councillors have received a copy of the (existing) City of Whitehorse Councillor Code of Conduct adopted by Council 20 February 2017.

4. Mayoral and Councillor Allowances

(Note: For information only – No Council Resolution required.)

At the Ordinary Council Meeting held 20 March 2017, Council in accordance with the *Local Government Act* 1989, resolved to set the Mayoral and Councillor allowances for the period 1 July 2017 to 30 June 2021.

The Mayoral and Councillor allowances (subject to State Government adjustments) are set at \$100,434 per annum, plus the equivalent of the superannuation guarantee contribution (currently 9.5%) for the Mayoral allowance and \$31,444 per annum, plus the equivalent of the superannuation guarantee contribution (currently 9.5%) for Councillor allowances. The Mayor also receives a fully maintained motor vehicle.

Despite the repeal of sections 73B and 74 to 74B of the *Local Government Act* 1989, those sections continue to apply in respect of allowances payable to Mayors and Councillors until the first Determination made by the Victorian Independent Remuneration Tribunal (Tribunal) under section 23A of the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act* 2019 comes into effect. A first Determination has not yet been made by the Tribunal.

The Minister for Local Government is required to annually review the current amounts, limits and ranges of Mayoral and Councillor Allowances to determine whether an adjustment factor should be applied. The Minister conducted this review under 74B of the *Local Government Act* 1989 and determined that this year, no adjustment to allowances will be made in respect of all Councils.

5. Term of the Mayor

5.1 The *Local Government Act* 2020 states that:

- a) The Councillors must elect a Councillor to be the Mayor of the Council.
(section 25 (1))
- b) A Mayor is to be elected no later than one month after the date of a general election.
(section 26 (1))
- c) Before the election of the Mayor takes place, Council must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.
(section 26 (3))

RECOMMENDATION

1. ***The Mayor to be elected at this meeting will hold the position of Mayor for a term of one year, ie term will be 18 November 2020 to 8 November 2021.***
- or***
2. ***The Mayor to be elected at this meeting will hold the position of Mayor for a term of two years, ie term will be 18 November 2020 to 7 November 2022.***

6. Election of the Mayor

SUMMARY

The Local Government Act 2020 states that a Mayor is to be elected no later than one month after the date of a general election.

The election of the Mayor takes place in accordance with Section 25 of the Local Government Act 2020, and the Whitehorse City Council Governance Rules 2020 which requires:

- voting at a meeting that is open to the public to be conducted openly by show of hands;
- that the election of the Mayor be chaired by the Chief Executive Officer and conducted in accordance with the Council's Governance Rules.

6.1 The Role of the Mayor and Specific Powers of the Mayor

6.1.1 The Role of the Mayor

Section 18 (1) of the *Local Government Act 2020* defines the functions of the Mayor to include:

- a) Chair Council meetings; and
- b) be the principal spokesperson for the Council; and
- c) lead engagement with the municipal community on the development of the Council Plan; and
- d) report to the municipal community, at least once each year, on the implementation of the Council Plan; and
- e) promote behaviour among Councillors that meets the standards of conduct set out in the Councillor Code of Conduct; and
- f) assist Councillors to understand their role; and
- g) take a leadership role in ensuring the regular review of the performance of the Chief Executive Officer; and
- h) provide advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings; and
- i) perform civic and ceremonial duties on behalf of the Council

Mayoral Role

The Mayor is elected by Council to represent the views and directions of Council in performing various roles and duties.

The role of Mayor as Chair of Council and community leader is crucial to effective relationships with the administration and to good governance.

The Mayor should ensure good governance within Council, providing the basis for sound strategy for the City.

The Mayor of Whitehorse is a leader, a representative of the community and the custodian of Council's customs and traditions.

The Mayor as Civic Leader

The Mayor also acts as the principal spokesperson for the Council and is seen in the community as representing the Council as a whole. The Mayor is often charged with speaking publicly on behalf of the Council both in the media and at public events.

The Mayor also has a leadership role in liaising with important community, business and other stakeholders to promote the interests of the Council and local community. In doing so the Mayor should reflect the views of the Council not individual views; the Mayor's responsibility is to articulate Council policies and positions fairly and accurately.

The Mayor is also expected to undertake civic and ceremonial duties during their term of office; these duties are extensive and diverse and include the Mayor representing Council at important civic functions in the municipality in a respectful and dignified manner.

The Mayor as Chair

The Mayor plays an important civic and organisational role when presiding over formal meetings of Council.

In order for the Mayor to show good leadership and performance, he or she must display proper chairing of meeting skills and proper application of meeting procedures.

It is expected that a high performing Mayor will have a positive impact on the performance and attitudes of Councillors in formal meetings.

The community's perception of Council is often formed from the performance of the Mayor in formal meetings. It is vital that the Mayor is always well prepared for meetings, to ensure a good professional performance i.e. ensure that the meeting agenda is read and any special proceedings are understood, and governance advice is obtained where required.

6.1.2 Specific Powers of the Mayor

Section 19 (1) of the *Local Government Act 2020* defines the following specific powers of the Mayor:

- a) To appoint a Councillor to be the Chair of a delegated committee;
- b) To direct a Councillor, subject to any procedures or limitations specified in the Governance Rules, to leave a Council meeting if the behaviour of the Councillor is preventing the Council from conducting its business;
- c) To require the Chief Executive Officer to report to the Council on the implementation of a Council decision.

- 6.2** The election of the Mayor must be:
- 1) Held at a Council Meeting that is open to the public; and
(section 25 (1) of the Local Government Act 2020)
 - 2) Chaired by the Chief Executive Officer; and
(section 25 (3)(a) & (b) of the Local Government Act 2020)
 - 3) Conducted in accordance with the Governance Rules, which requires:
 - a) The election of the Mayor to be carried out by a show of hands;
(Part B (5) of the Governance Rules 2020)
 - b) The Chief Executive Officer to open the meeting at which the Mayor is to be elected and invite nominations for the office of the Mayor.
(Part B (6) of the Governance Rules 2020)
- 6.3** The Chairperson, Chief Executive Officer Mr Simon McMillan calls for nominations for the position of Mayor, for the Mayoral term as resolved by Council under item 5 of this agenda.
- a) Councillors may self-nominate;
 - b) Nominations must be seconded by another Councillor;
 - c) Any Councillor nominated may refuse nomination.
- 6.4** Each candidate for Mayor is given up to three minutes to address Councillors.
- 6.5** The Chief Executive Officer conducts the election (if required); announces the appointment of the Mayor and escorts the Mayor to the Chair

The Mayor takes the Chair

- 6.6** Address and expression of appreciation by incoming Mayor.
- 6.7** Expressions of congratulations by Councillors to the new Mayor.

7. Office of Deputy Mayor

SUMMARY

The Local Government Act 2020 provides that a Council may establish an office of Deputy Mayor.

Office of Deputy Mayor

Section 20A of the *Local Government Act 2020* states that:

- 1) A Council may establish an office of Deputy Mayor.
- 2) If the Council has established an office of Deputy Mayor, the provisions of the *Local Government Act 2020* relating to the office of Deputy Mayor apply.
- 3) If a Council has not established an office of Deputy Mayor, section 20B in relation to an Acting Mayor applies.

Role and powers of the Deputy Mayor

Section 21 of the *Local Government Act 2020* requires that:

The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if:

- a) The Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- b) The Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- c) The office of Mayor is vacant.

Council is required to determine whether to establish an office of the Deputy Mayor, and then call for nominations for a Deputy Mayor for the 2020/21 Mayoral term, should it be determined to establish the office of Deputy Mayor.

The election of the Deputy Mayor must be conducted within one month of the general election date.

Any Councillor is eligible for election to the office of Deputy Mayor.

Financial Implications

The Deputy Mayor will receive a Councillor allowance, the *Local Government Act 2020* does not (currently) permit a level of remuneration for the office of Deputy Mayor.

RECOMMENDATION

That:

- 1. Council resolve to establish an office of the Deputy Mayor.***
 - 2. An election be conducted in accordance with the Local Government Act 2020 and the Whitehorse City Council Governance Rules 2020, to appoint a Deputy Mayor.***
 - 3. The term of the Deputy Mayor be identical to the term of the Mayor, as resolved by Council under item 5 of this Agenda.***
 - 4. Council note that the Local Government Act 2020 does not permit a level of remuneration over and above that available to Councillors for the position of Deputy Mayor.***
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5. Council officers prepare a protocol document for the role of the Deputy Mayor, for matters not prescribed under section 21 of the Local Government Act 2020.

8. Election of the Deputy Mayor

8.1 The Election of the Deputy Mayor must be:

1. Be held at a Council Meeting that is open to the public
(section 25 (1) and (27) Local Government Act 2020.)
2. Be chaired by the Mayor, the Mayor will be the returning officer for the Election of the Deputy Mayor.
(Part B (7) (1) Governance Rules 2020)
3. Be conducted in accordance with the Governance Rules 2020, which requires:
 - a) The method of voting to be carried out by a show of hands
(Part B (5) (1) Governance Rules 2020)
 - b) The Mayor must invite nominations for the office of the Deputy Mayor
(Part B (7) (4) Governance Rules 2020)

8.2 The Mayor as Chairperson calls for nominations for the position of Deputy Mayor, for the Mayoral term.

8.3 Each candidate for Deputy Mayor is given up to three minutes to address Councillors.

8.4 The Mayor conducts the election (if required) and announces the appointment of the Deputy Mayor.

9. Acknowledgement of former Councillors

Bill Bennett was first elected to the Whitehorse City Council in October 2012 and was re-elected to Council in October 2016. During his time on Council, Bill Bennett was Mayor for the 2018/2019 Mayoral term.

Sharon Ellis was first elected to the Whitehorse City Council in March 2003, and re-elected in November 2005, November 2008, October 2012 and October 2016. During her time on Council Sharon Ellis was elected Mayor of Whitehorse three times: 2005/2006, 2013/2014 and 2019/2020 Mayoral terms.

10. Close Meeting