



SUPPLEMENT
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GOVERNMENT GAZETTE

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FRIDAY, OCTOBER 3.

[1856.

MUNICIPALITY OF EAST COLLINGWOOD.

BYE-LAW No. 5.—FOR CONDUCTING OF PUBLIC MEETINGS AND ELECTIONS OF THE RATEPAYERS OF EAST COLLINGWOOD MUNICIPALITY, DETERMINING THE VALIDITY OF DISPUTED ELECTIONS, THE ELECTION OF THE CHAIRMAN OF THE MUNICIPAL COUNCIL AND IN HIS ABSENCE A CHAIRMAN FOR THE TIME BEING, AND FOR REGULATING THE MODE OF ACCEPTING AND RESIGNING MEMBERSHIP OF MUNICIPAL COUNCIL.

(Under the Municipal Institutions Act, 18 Victoria No. 15.)

PUBLIC MEETINGS.

THE chairman of the Municipal Council, or, in his absence, the chairman thereof elected for the time being, shall preside at all public meetings of the ratepayers of the municipality convened by the Council or the chairman thereof. In case of equality of votes he shall have a casting vote.

2. At such public meetings the chairman's decision on all points of form and order shall be final.

3. Any person refusing to comply with the decision of the chairman by interrupting the proceedings after he has been twice called to order by the chairman, or by violent opposition, disturbance, or other disorderly conduct, shall be forthwith excluded from the meeting.

ELECTIONS.

4. At every municipal election, the chairman of the Council, unless he be a candidate, in which case he shall nominate a deputy, shall preside as the returning officer, and if he be unable to be present, or become disqualified, the Council shall elect therefrom a chairman to preside on the occasion.

5. The candidates for the office of municipal councillor shall be respectively nominated and seconded by a ratepayer at such election, and on the chairman calling for a show of hands, he shall declare the name of the person or persons in whose favor the same may be, and unless a poll be demanded in manner prescribed in No. he shall declare such person or persons to be duly elected.

6. No person shall be permitted to become a candidate who shall not have been proposed and seconded as a candidate at such nomination.

7. If any candidate, or six ratepayers, dissent from such decision, and demand a poll, such poll shall be held on the following day, at one or more places to be determined on by the chairman; and notice of such place or places shall be then and there given (if not previously conditionally advertised) verbally to the candidates, and a written copy thereof posted on the door of the Council Chamber.

8. The poll shall be opened at 8 o'clock in the morning, and closed at 4 o'clock in the afternoon of the same day, unless adjourned by reason of riot or other interruption.

9. As soon as practicable, after the closing of the poll, the numbers each candidate respectively polled, and the name or names of the candidate or candidates who shall have been elected shall be declared. In case of an equality of votes being recorded for two or more candidates, the chairman shall give the casting vote or votes.

10. At such elections, the chairman, if he think fit, for taking polls thereat may cause booths to be erected, divisions made in the same premises, or rooms hired (places of worship excepted),

in one or more places within the municipal boundaries. And he shall appoint, in writing, as many deputies and clerks as may be required, he presiding at one of such booths or divisions.

11. One poll clerk and two scrutineers for each candidate, on his written authority to the chairman, or on that of an agent of an absent candidate duly appointed in writing, may be allowed within each polling room, compartment or division, in addition to such candidate, but no other person shall be permitted to remain therein, unless councillors by the written authority of the chairman, the Town Clerk, or the police, for the time being, under the chairman's control.

12. Each ratepayer may vote for any number of declared candidates, not exceeding the number of councillors then to be chosen, by delivering to the chairman, or his deputy returning officer or officers, a voting card containing the christian and surnames of the nominated qualified candidates, all of which names being erased but those of the persons for whom he intends to vote; together with such voter's christian and surnames, his residence, the name of the street or other place in which the property for which he is rated on the ratepayer's roll is situated, its assessment number, and the word occupier or owner, as the case may be.

13. No intelligible voting card shall be rejected or disallowed for mere want of form; but if more names be thereon than there are vacancies, the excess in number of names to be struck out by or under the direction of the voter.

14. Persons delivering voting cards in the names of deceased, absent, or those of other ratepayers, shall forfeit and pay a sum not exceeding £10.

15. If a voter's card is tendered bearing the name and address of a ratepayer who has already voted, it shall be received, but the vote shall not be allowed, and a mark shall be put thereon by which to distinguish it.

16. On the taking a poll, any candidate or ratepayer, the latter, through a scrutineer of the candidate for whom he intends to vote (with the exception hereinafter named), may request the chairman or deputy returning officer, to object to another person tendering his vote, and before he has voted, on either of the grounds mentioned in the 20th section of an Act made and passed in the eighteenth year of the Reign of Her Majesty Queen Victoria, intituled, "An Act for the establishment of Municipal Institutions in Victoria," and the presiding officer shall put the following questions to such voter so objected to:—

1. Is this your name, qualification and residence upon this voting card?

2. Have you voted before at this election?

17. On the objection being taken, the chairman or his deputy shall cause such vote to be registered; but he shall record the name objected to, and immediately after the close of such election, shall search the ratepayer's roll, and if in accordance therewith, confirm the vote; but if the name be not in such roll, or the person objected to has voted before, such vote shall be expunged.

18. When the proceedings at the nomination of candidates, or at the polling of ratepayers thereafter, are interrupted or obstructed by open violence or riot, the chairman or his deputy returning officer, may adjourn such meeting or poll to the next

day, and subsequently for the same causes to the days following, allowing for such poll the time required to complete a polling day from the commencement of the said disturbance.

19. If the election be not completed on the day appointed, the fact shall be recorded by the Town Clerk in the minutes of the Council.

20. The chairman and his deputy returning officers shall maintain order and keep the peace.

21. Each deputy returning officer shall securely seal up the voting cards on the close of the poll, and personally deliver them to the chairman.

22. No election shall be held to be void in consequence of any mere technical or formal objection, or from any accidental deficiency or insufficiency of any notice of meeting for such election, provided the objection to such notice shall not have been made before the chairman shall have taken the show of hands at such election, and in case of any objection being so made as to any deficiency or insufficiency of notice, the chairman shall be at liberty, if he shall see fit, to adjourn the meeting to such day as should have been appointed or inserted in and by such notice; and the day to which he shall so adjourn the same shall be held and taken to be the day for such election, as if it had been duly inserted in such notice. Notice of such adjournment to be immediately affixed on the door of the Council Chamber, and advertised in two newspapers published in Melbourne on the following day.

DISPUTED ELECTIONS.

23. For the determining the validity of disputed elections, the whole Council, the member whose election is disputed excepted, shall be a committee of elections and qualifications, at which the chairman of Council, if not an excepted member, shall preside, and in cases of equality of votes he shall have a casting vote. If the chairman of Council be disqualified from attendance, a chairman shall be appointed at the first meeting, who shall preside at all subsequent meetings upon the case.

24. The committee shall meet in the Council Chamber, on days not appointed for the holding of council meetings, and be attended by the Town Clerk, who shall record the minutes of every such meeting.

25. The chairman, of his own authority, or on the written request of three members to him to that effect, may convene meetings of committee of elections, &c, when required.

26. The committee shall have power to regulate their proceedings, and to adjourn their meetings, which shall be held with open doors, unless during special deliberations.

27. Each member of committee shall be required to vote.

28. The committee shall be empowered to examine witnesses, to send for papers and documents, not being private papers, and to receive declarations sworn before magistrates.

29. Any person refusing to furnish such records, or to submit to examination, shall be fined a sum not exceeding £20.

30. The ratepayers' roll shall be assumed to be correct, and the committee shall enquire into the identity of the electors, their retention of qualification, and whether the votes were *bona fide*. If it be proved to the satisfaction of the committee that persons by fraud, force, menace, or any undue influence by or on the part of any candidate, or his agent, committee-men or partisan, or any of them, gave or were prevented from giving their votes, such vote shall be struck off or recorded, as the case may be, before the committee.

31. The acts of authorised agents shall be regarded as those of the principal, if it be proved to the satisfaction of the committee that they were performed with his knowledge, power, or consent.

32. The person determined by the committee to be duly elected shall be declared so to be by the chairman.

33. All petitions complaining of an undue election must be signed by a candidate or by not less than six ratepayers, and be presented within thirty days after the election complained of.

34. The sum of fifty pounds sterling, to meet the expenses of the committee, shall be paid to their credit into a bank which they may direct, by the party presenting the same before any election petition shall be investigated, which sum shall be payable towards the cost of the petition, as hereinafter regulated, and shall be liable to be withdrawn upon the order or orders of the chairman for the purpose of such payment, or for the purpose of restoring the same to the petitioner or petitioners, wholly or in part, as the case may require.

35. Ratepayers may be admitted to defend the election or support the petition, if it be abandoned by the person or persons originally presenting it.

36. A petition may be withdrawn on due notice being given to the chairman of committee of elections or qualifications, and sitting councillor or his agent, on payment of the costs then incurred.

The committee shall award costs as follow:—

For a petition reported to be frivolous or vexatious, the costs thereof to be paid by the subscribers to the petition.

For a petition reported to be proven, the petitioners shall be entitled to recover the expenses of the same from the member whose election may be thus successfully opposed.

For special cases a sum not exceeding £50, according to the circumstances of each, not otherwise prescribed, shall be paid to the municipal fund.

37. The costs and expenses which may become payable from these Bye-laws, by any party opposing or preparing to oppose a sitting councillor, or opposing or preparing to oppose a petition against the election of the same, or to any witnesses summoned to attend before the committee, shall be ascertained by the latter, who shall, upon application made to them, deliver to the party entitled to such costs and expenses, a certificate signed by the chairman of the said committee, containing a statement of the amount of the costs and expenses allowed, with the name of the party liable to pay the same, and the name of the party entitled to receive the same.

COUNCILLORS.

38. Councillors elect shall signify, in writing, in form herein mentioned, their acceptance of office within three days after their election, and shall not resign the office before the expiration of the term thereof.

39. The following shall be the form of acceptance of office: I (A.B.) having been elected a member of the Municipal Council of East Collingwood, do hereby declare my acceptance of the said office, and that I will duly and faithfully fulfil the duties thereof to the best of my judgment and ability.

Council Chamber,

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In the presence of

(Signed)

Town Clerk.

40. Written declarations of vacancies in the Council resulting from disqualification by absence, or otherwise, may be made by the chairman and one or more councillors, and countersigned by the Town Clerk.

41. Resignation of membership of Council shall be made in writing, addressed to the chairman of the Council, and presented by him to the Council at the next meeting thereafter, for their ordering on the same.

CHAIRMAN OF COUNCIL AND CHAIRMAN FOR THE TIME BEING.

42. The chairman of Council shall be annually elected in the following manner:—Each councillor, being supplied by the Town Clerk with a voting paper containing the names of the whole members of Council, he shall mark that of the councillor for whom he votes, and deposit the paper in the urn or voting box. On the delivery of the whole papers (it being obligatory upon every councillor to vote), if the whole Council be present, otherwise after one hour, the Chairman shall announce the name of each councillor voted for, the number of such votes, and the names of the voters, and declare the name of the one who has a majority of votes to be duly elected the chairman of the Council, for the ensuing municipal year, who shall take the chair accordingly.

43. Upon the resignation or disqualification of the chairman of the Council, at the next meeting of Council thereafter, the senior councillor then present, who had the greatest majority of votes at any of the three preceding annual municipal elections of the sitting members, shall take the chair *pro tem*, and who, in cases of equality of votes, shall have a casting vote in addition to his own. Immediately after the confirmation of the minutes of the preceding meeting, he shall proceed to the election of a chairman of Council, for the remaining portion of the municipal year, in like manner as prescribed in preceding Bye-laws.

44. In the absence of the chairman of the Council the senior councillor by election then present shall take the chair, *pro tem*, when a chairman, for the time being, on motion made and seconded to that effect, and carried, shall be declared duly elected, and take the chair accordingly.

45. In determining the seniority of councillors by election, the position of a predecessor not filling his term of office shall be taken by his substitute elected to fill the vacancy in Council occasioned by the disqualification of such predecessor.

46. Service of all legal notices, processes, &c., on behalf of, or upon, the Municipal Council of East Collingwood shall be considered in due form, where applicable, if issued in the names of, or delivered to, the Worshipful the Chairman of the Council, or the Town Clerk.

The foregoing Bye-law, No. 5, made by the Municipal Council of East Collingwood, has been assented to by His Excellency the Officer administering the Government, with the advice of the Executive Council.

Gazetted on the 3rd day of October, 1856, pursuant to 18 Victoria, No. 15, sec. 33.

By His Excellency's Command,
WILLIAM C. HAINES.

X.6150.