

House-keeping Matters of the Construction Industry Council

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Chapter 1 - Background

- Basic principles governing meetings and proceedings of CIC are stipulated in Schedule 3 of the CIC Ordinance, Section 10 of which provides that “*Subject to the provisions of this Ordinance, the Council may determine its own procedures.*”
- We have examined the key issues with the objective of facilitating the Council’s smooth and effective functioning. The analysis and recommendations are set out below.

Chapter 2 – Frequency and Format of Meetings

- Given the diversified statutory functions to be performed by CIC, we propose that the meeting frequency should be around six weeks, subject to regular review.
- Tentative meeting schedule for the coming six months –
 - 21 March 2007
 - early-May 2007
 - mid-June 2007
 - late-July 2007
 - mid-September 2007

Meeting Format

- To maximize efficiency of meetings and allow for focused attention on strategic matters, we propose submissions be classified into two categories –
 - a) information papers –
covering routine reports but need **not** be discussed.
 - b) discussion papers –
requiring in-depth deliberation
- If possible, we will also arrange for issues concerning the same subject (e.g. construction safety) to be discussed at the same meeting to enable more focused and in-depth consideration.
- **Subject to Members' comments, the Secretariat will make the necessary arrangements.**

Chapter 3 – Administrative Guidelines on Meetings and Proceedings of CIC

- CIC needs to draw up administrative guidelines in the following aspects –
 - (a) Disclosure of interests;
 - (b) Application for absence from Council meetings;
 - (c) Conduct of open meetings; and
 - (d) Resolutions without meetings.

(A) Disclosure of Interests

(I) Statutory Requirements in the CIC Ordinance

“6. Disclosure of interests of members

If a member has a pecuniary interest, whether direct or indirect, in any matter under consideration at a meeting of the Council, the member—

- (a) shall, as soon as practicable after the commencement of the meeting, disclose to the Council the fact and nature of his interest;*
- (b) shall withdraw from the meeting while the Council is considering the matter, if so required by the meeting; and*
- (c) shall not in any case vote on the matter.”*

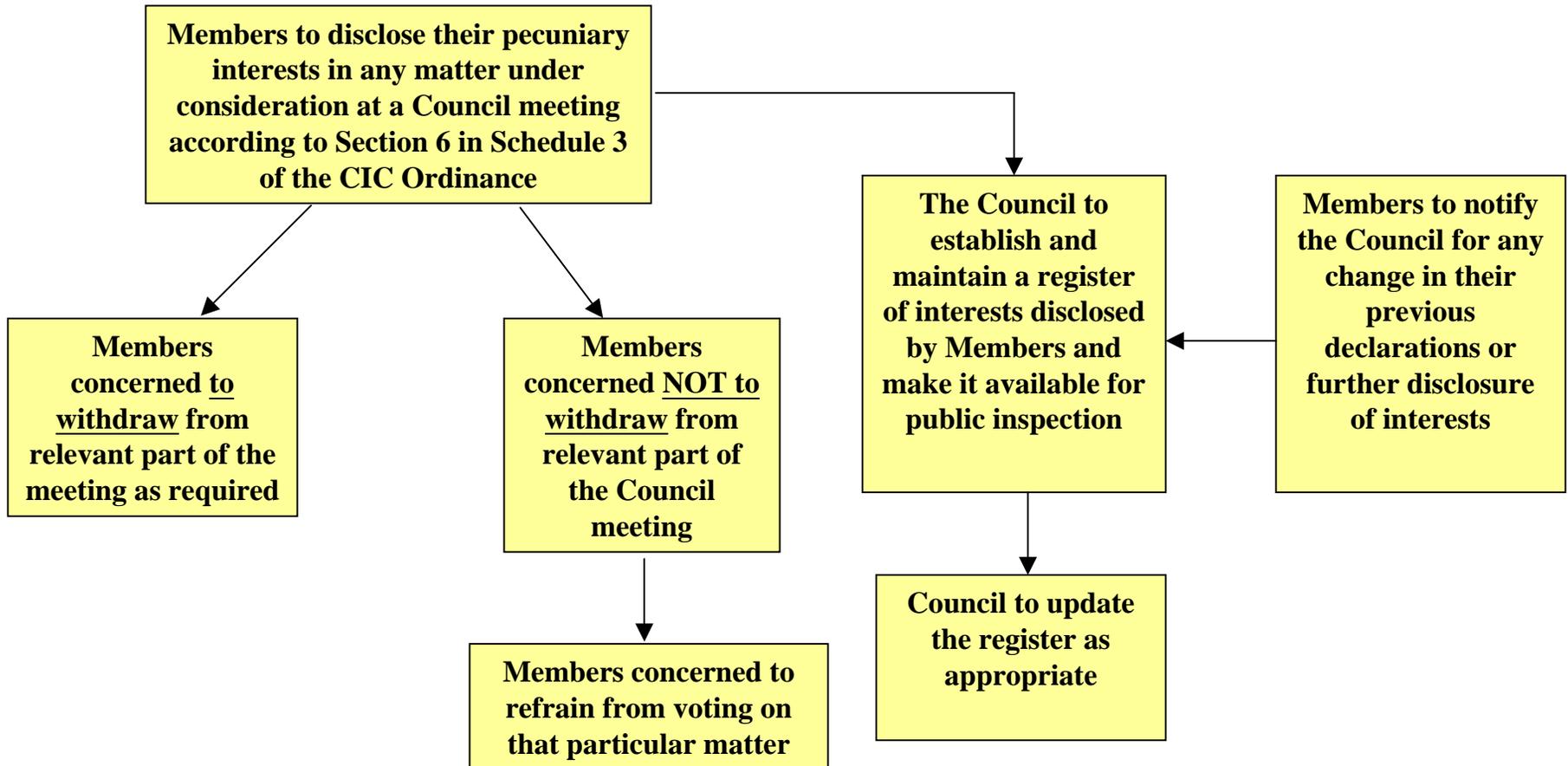
“7. Keeping of register by Council

- (1) The Council is to establish and maintain a register for the purpose of keeping a record of any disclosure made by a member.*
- (2) The Council may determine the form of the register, including the manner of making entries in it.*
- (3) After a disclosure is made by a member, the Council is to cause the name of that member and the particulars of the disclosure to be recorded in the register; if a further disclosure is made, the Council is to cause those particulars to be recorded in the register after such disclosure is made.*

(4) For the purpose of enabling any member of the public to ascertain the particulars of the disclosure made by a member, the Council is to make available the register for inspection by the public at any reasonable time.

(5) In this section, “disclosure” (披露) means a disclosure of pecuniary interest required to be made under section 6.”

(II) A flowchart illustrating the system is as follows -



* The CIC Secretariat will take up the tasks

- While S6 pertains to ‘pecuniary interests’, we may like to consider how to deal with other situation concerning ‘conflict of interests’ (e.g. access to specific information). We recommend the Committee on Administration and Finance (if formed) to consideration this in due course.

(B) Application for Absence from Council Meetings

(I) Statutory Requirements in the CIC Ordinance

- No provisions in the CIC Ordinance which governs criteria and procedures in dealing with application for absence from meetings.
- However, Section 12 is relevant –

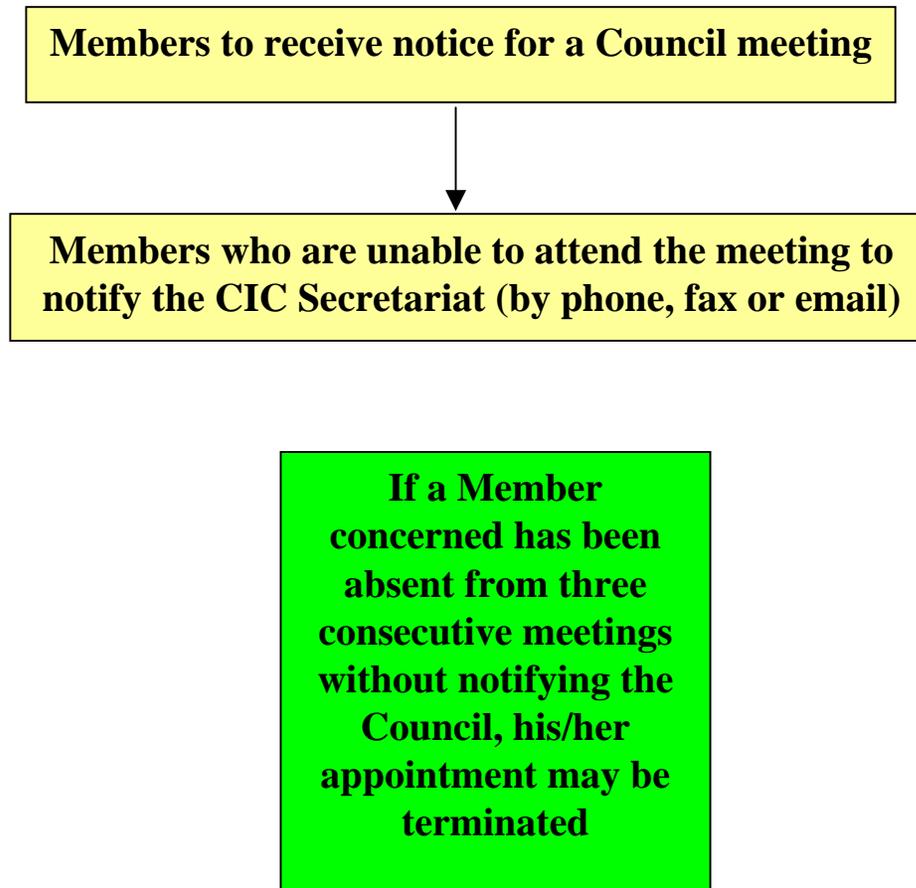
“The Secretary may terminate the appointment of an appointed member if the member –

(a) has been absent from 3 consecutive meetings of the Council without the Council’s permission;

(b) becomes bankrupt or enters into a voluntary arrangement within the meaning of section 2 of the Bankruptcy Ordinance (Cap. 6) with his creditors;

- (c) is incapacitated by physical or mental illness; or*
- (d) is for any other reason unable or unfit, in the opinion of the Secretary, to perform his functions as such member.”*

(II) A flowchart illustrating the major steps is as follows -



(III) Arrangement in the Absence of Chairman, CIC

Section 5(2) in Schedule 3 of the Ordinance expressly sets out that:

“If, for any reasons, the chairman is not able to preside at a meeting of the Council, the members present at the meeting are to elect a member from among themselves to preside.”

(C) Conduct of Open Meetings

(I) Statutory Requirements in the CIC Ordinance

“9. Meetings of Council to be held in public

- (1) Subject to subsection (2), a meeting of the Council shall be open to the public.*
- (2) Subsection (1) does not apply to a meeting of the Council or a part of a meeting of the Council in the following circumstances—*
 - (a) if, in the opinion of the Council, it is likely that the application of subsection (1) would result—*
 - (i) in premature release of information concerning any financial matter or investment of the Council; or*

(ii) in a disclosure of information in breach of any law, order or direction of a court or tribunal, duty of confidentiality, or other legal obligation or duty;

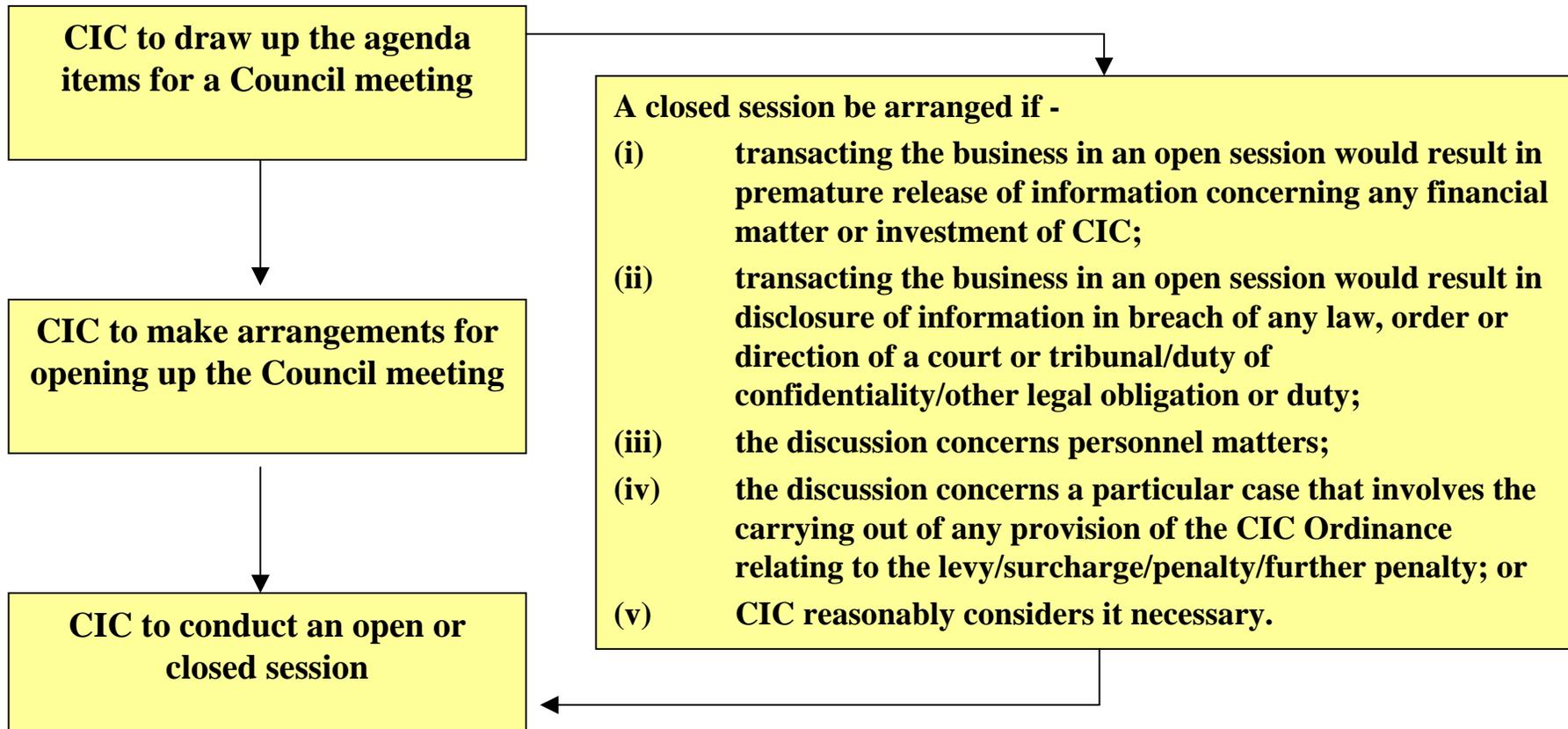
(b) if, in the opinion of the Council, it is likely that any matter to be discussed or considered at the meeting or part of the meeting—

(i) concerns personnel matters; or

(ii) concerns a particular case that involves the carrying out of any provision of this Ordinance relating to the levy, surcharge, penalty or further penalty; or

(c) if the Council, having regard to all the circumstances of a particular case, reasonably considers that subsection (1) should not apply to the meeting or part of the meeting.”

(II) A flowchart illustrating the major steps is as follows -



* The tasks will be undertaken by the Secretariat after consulting Chairman of CIC where necessary.

(D) Resolutions Without Meetings

(I) Statutory Requirements in the CIC Ordinance

“11. Resolutions without meetings

(1) Subject to section 2(2) and this section, any business that may be transacted by a resolution of the Council in a meeting may be validly transacted, without a meeting, by a resolution in writing if—

(a) the resolution is signed and endorsed by more than half of the eligible members; and

(b) it is so signed and endorsed within the specified period.

- (2) If a resolution is in the form of more than one document, the requirements of subsection (1)(a) are to be regarded as satisfied if each document is in the like form and the documents together bear the signatures of, and have been endorsed by, more than half of the eligible members.*
- (3) A telex, cable or facsimile, or an electronically transmitted document, that bears the signature of an eligible member is to be regarded as signed by that member.*
- (4) A resolution in the form of more than one document is to be regarded as made on the date on which the resolution is signed by the last member to sign and endorse it within the specified period.*

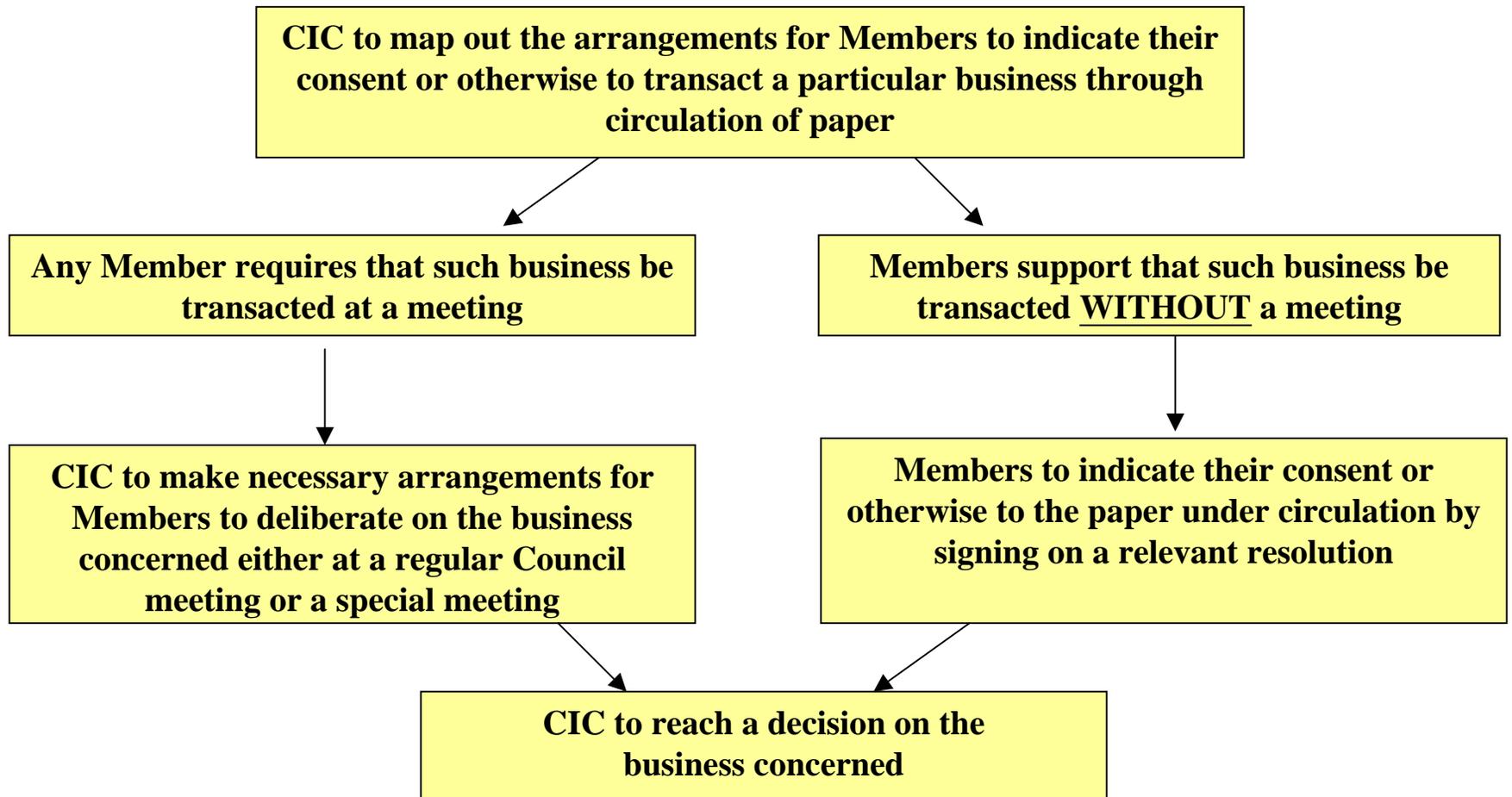
(5) A member may, within the specified period, give notice in writing to the chairman requiring that the business to which the resolution relates be transacted at a meeting of the Council.

(6) Where a notice is given under subsection (5), the following applies—

(a) the business to which the resolution relates may not be transacted in the manner described in subsection (1);

(b) a resolution for the purposes of subsection (1) may not be made or regarded as having been made.

(II) A flowchart illustrating the major steps is as follows -



* The tasks will be undertaken by the Secretariat after consulting Chairman of CIC where necessary.

Chapter 4 - Way Forward

- The Secretariat has conducted some initial research on similar administrative guidelines/rules and procedures adopted by other statutory bodies (e.g. Town Planning Board, Urban Renewal Authority, Housing Authority).
- Subject to Members' views, we could if necessary, provide a further analysis in individual areas for in-depth deliberations by a relevant committee set up under CIC (e.g. Committee on Administration and Finance).

Advice Please