

MINUTES of the **ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** held at the COPACC Meeting Room, Rae Street, Colac on 22 July 2008 at 3.00 pm.

1. OPENING PRAYER

2. PRESENT

Cr. Chris Smith (Mayor)
Cr Tony Graham
Cr Fran Lehmann
Cr. Peter Mercer
Cr. Warren Riches
Cr. Carol Wilmink

Tracey Slatter, Chief Executive Officer

Colin Hayman, General Manager, Corporate & Community Services
Doug McNeil, Acting General Manager, Sustainable Planning & Development
Scott Cavanagh, Acting General Manager, Infrastructure and Services
Brett Exelby, Manager, Finance & Customer Service

Althea Wright, Executive Officer
Suzanne White, Executive Assistant

3. APOLOGIES

Cr. Joe Di Cecco

4. MAYORAL STATEMENT

Colac Otway Shire encourages active community input and participation in Council decisions. Council meetings provide one of these opportunities as members of the community may ask questions relating to matters being considered by Council at the current meeting. Questions not related to current agenda items can be made in writing and will be addressed if received within two days of the Council meeting. Council meetings also enable Councillors to debate matters prior to decisions being taken.

I ask that we all respect each other during this process by:

- being courteous and respectful in the way in which you speak;
- not speaking unless you have been permitted to by me as chairperson;
- respecting the local laws which govern meeting procedure (copies of these are here for your information); and

- understanding that I have a responsibility to ensure proper meeting procedure and the upholding of the local law.

Thank you, now question time. 30 minutes is allowed for question time.

1. Questions received in writing prior to the meeting
2. Questions from the floor

5. QUESTION TIME

Questions Received in Writing Prior to the Meeting

Rod Spence, CORRA

1. In relation to Council's fuel costs including diesel, petrol & LPG:

- (a) What was the total amount spent on all fuel for the 2006/2007 financial year for all vehicles?

For the 2006/07 financial year the total amount spent on all fuel for all vehicles was \$813,803.

- (b) What was the total amount spent on fuel for the 2006/2007 financial year for vehicles with part private use?

For the 2006/07 financial year the total amount spent on all fuel for all vehicles with part private use was \$169,590.

- (c) Of that, what was the total amount spent on fuel for the private use of those vehicles, including travel between the person's private residence and Shire offices?

Total amount spent on fuel for the private use of the vehicles mentioned above, is estimated at approximately \$68,000. It is important to note that staff salary contributions cover the full cost of private use including fuel and this is not subsidised by Council.

2. What was the total amount Council spent on legal advice and/or legal fees for the 2006/2007 financial year?

The total amount Council spent on legal advice and/or legal fees for the 2006/2007 financial year was \$154,188.

Questions Received Verbally the Meeting

Mr Stephen Hart, CORRA

1. Which differential rate category covers rural residential?

Colin Hayman, General Manager, Corporate and Community Services, advised residential balance of shire covers rural residential.

2. Does Council realise that the Residential Balance of Shire category excludes rural residential.

Colin Hayman, General Manager, Corporate and Community Services advised that this information would be taken on notice.

MOVED Cr Mercer seconded Cr Wilmink that Standing Orders be adjourned.

CARRIED 6:0

Standing Orders were Adjourned at 3.10pm

MOVED Cr Mercer seconded Cr Lehmann that Standing Orders be resumed.

CARRIED 6 : 0

Standing Orders were resumed at 3.23 pm

Tracey Slatter, Chief Executive Officer, recommended that further information be sought before Council adopted 2008/09 Budget.

6. MAYORAL AWARDS

The Mayor announced Mrs Noela Ackerley as they Mayoral Volunteer Award Recipient for the month of July 2008.

The Mayor announced Miss Amber Riches as the Mayoral Youth Award Recipient for the month of July 2008.

7. DECLARATION OF INTEREST

Cr Riches: OM082207-11 Proposed Lease Agreement, Crows Next Tower, Tuxion Road, Apollo Bay
Nature of Disclosure: Conflict of Interest
Nature of Interest: On air Presenter for Otway FM

8. CONFIRMATION OF MINUTES

- Ordinary Meeting of the Colac-Otway Shire Council held on the 24/06/08.

Resolution

MOVED Cr Riches seconded Cr Wilmink that Council confirm the above minutes.

CARRIED 6 : 0

- Special Meeting of the Colac-Otway Shire Council held on the 15/07/08.

Resolution

MOVED Cr Riches seconded Cr Mercer that Council confirm the above minutes.

CARRIED 6 : 0

OFFICERS' REPORTS

Chief Executive Officer

- OM082207-1 CEO'S PROGRESS REPORT TO COUNCIL
- OM082207-2 COLAC OTWAY SHIRE'S NOMINATION TO THE G21 BOARD

Corporate and Community Services

- OM082207-3 ADOPTION OF THE 2008/2009 BUDGET
- OM082207-4 REVIEW OF DELEGATION TO CHIEF EXECUTIVE OFFICER
- OM082207-5 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC) AGREEMENT
- OM082207-6 BRANCH LIBRARY DESIGN PRINCIPLES
- OM082207-7 POSITIVE AGEING STRATEGY

Infrastructure

- OM082207-8 DECLARATION OF A ROAD CLOSURE - WEST BARWON RESERVOIR
- OM082207-9 DECLARATION OF ROAD CLOSURE - OLANGOLAH RESERVOIR
- OM082207-10 SPECIAL CHARGE SCHEME - MARKS STREET, COLAC
- OM082207-11 PROPOSED LEASE AGREEMENT, CROWS NEST TOWER, TUXION ROAD, APOLLO BAY

GENERAL BUSINESS

OM082207-12 General Business

- OM082207-12.1 ITEM FOR SIGNING AND SEALING - MEMORANDUM OF UNDERSTANDING BETWEEN COLAC OTWAY SHIRE AND THE FRIENDS OF THE COLAC BOTANIC GARDENS
- OM082207-12.2 ITEM FOR SIGNING AND SEALING – AGREEMENT FOR THE SALE OF ELECTRICITY – CONTRACT 0806 ELECTRICITY SUPPLY TO PUBLIC LIGHTING
- OM082207-12.3 ITEM FOR SIGNING AND SEALING - SECTION 177 TO END THREE (3) SECTION 173 AGREEMENTS, 1 DOLLAR DRIVE, SEPARATION CREEK

CONSENT CALENDAR

OFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><u>M082207-1 CEO'S PROGRESS REPORT TO COUNCIL</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That Council</i></p> <ol style="list-style-type: none"> <i>1. Endorse the comments on Constitutional Recognition for Local Government and forward the "Handling Notes and Feedback" form to the Australian Local Government Association, and</i> <i>2. Receive the CEO's Progress Report to Council for information.</i> 	<p>Cr Wilmink Cr Riches Cr Mercer</p>	
<p><u>OM082207-2 COLAC OTWAY SHIRE'S NOMINATION TO THE G21 BOARD</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That Council nominate the following persons to the G21 Board positions:</i></p> <ul style="list-style-type: none"> <i>• Member - Tracey Slatter, Chief Executive Officer</i> <i>• Council Nominated Director - Tracey Slatter, Chief Executive Officer</i> <i>• Council Nominated Alternate Representative - Cr Chris Smith, Mayor</i> 		

MOVED Cr Riches seconded Cr Graham that recommendations to items listed in the Consent Calendar be adopted.

CARRIED 6 : 0

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CORPORATE AND COMMUNITY SERVICES</u></p> <p><u>OM082207-3 ADOPTION OF THE 2008/2009 BUDGET</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p>1. Adoption of 2008/2009 Budget</p> <p>1.1 Council having considered all submissions received, adopts the 2008/2009 Budget annexed to this resolution as Attachment 1 in accordance with Section 130 of the Local Government Act 1989 (the Act) with the change made to the Tirrengower Drainage Scheme from \$1.273 per hectare to \$2.50 per hectare.</p> <p>1.2 The Chief Executive Officer be authorised to give public notice of this decision to adopt the 2008/2009 Budget, in accordance with Section 130(2) of the Act.</p> <p>1.3 That a copy of the adopted Budget be forwarded to the Minister for Local Government before 31 August 2008, in accordance with Section 130(4) of the Act.</p> <p>1.4 That a copy of the adopted Budget be made available at the Rae Street Office and the Apollo Bay Customer Service Centre for public inspection in accordance with Section 130(9) of the Act.</p> <p>1.5 The persons making submissions to the budget be thanked in writing for their contribution and advised of the outcome of the budget decision.</p> <p>2. Amount intended to be raised</p> <p>An amount of \$17,645,539 be declared as the amount that Council intends to raise by general rates, municipal charge and Waste Management Charges which is calculated as follows:</p>		Cr Graham

<p>Category General Rates <i>(including Supplementary rates)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;"></td> <td style="text-align: right;">\$13,514,090</td> </tr> <tr> <td>Municipal Charge</td> <td style="text-align: right;">\$2,003,850</td> </tr> <tr> <td>Waste Management Charges</td> <td style="text-align: right;"><u>\$2,127,599</u></td> </tr> <tr> <td style="text-align: right;">TOTAL</td> <td style="text-align: right;">\$17,645,539</td> </tr> </table>		\$13,514,090	Municipal Charge	\$2,003,850	Waste Management Charges	<u>\$2,127,599</u>	TOTAL	\$17,645,539		
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Waste Management Charges	<u>\$2,127,599</u>									
TOTAL	\$17,645,539									
<p>3. General Rates</p>										
<p>3.1 A General Rate be declared for the period commencing 1 July 2008 to 30 June 2009.</p>										
<p>3.2 It be declared that the General Rate be raised by the application of Differential Rates having regard to the objectives of each differential rate and characteristics of the land which are the criteria for declaring each differential rate as set out in the Budget Document.</p>										
<p>3.3 It be confirmed that the following differential rates for all rateable land within the municipal district apply to property classifications.</p>										
<p>Expressed in “cents in the dollar” for the period commencing 1 July 2008 and concluding on 30 June 2009:</p>										
<p style="padding-left: 40px;">Residential – Colac, Colac East, Colac West, Elliminyt - \$0.3015</p>										
<p style="padding-left: 40px;">Residential – Balance Shire - \$0.2563</p>										
<p style="padding-left: 40px;">Rural Farm - \$0.2382</p>										
<p style="padding-left: 40px;">Holiday Rental - \$0.3015</p>										
<p style="padding-left: 40px;">Commercial/Industrial – Colac, Colac East, Colac West, Elliminyt - \$0.4975</p>										
<p style="padding-left: 40px;">Commercial/Industrial – Balance Shire - \$0.4221</p>										
<p>4. Declaration of Rates & Charges - Municipal Charge</p>										
<p>4.1 A Municipal Charge be declared for the period commencing 1 July 2008 to 30 June 2009 to cover some of the administrative costs of the Council.</p>										
<p>4.2 The municipal charge be the sum of \$150 per each rateable property, in respect of which a municipal charge can be levied.</p>										
<p>5. Declaration of Rates & Charges - Waste Management Charges</p>										
<p>5.1 A Waste Management Charge of \$235.00 per weekly service be declared on all developed Residential and Commercial properties and only those Rural properties who currently receive a service for the period commencing 1 July 2008 to 30 June 2009.</p>										

5.2 A Waste Management Charge of \$152.00 per fortnightly service be declared on all developed Residential and Commercial properties and only those Rural properties who currently receive a service for the period commencing 1 July 2008 to 30 June 2009.

6. Declaration of Rates & Charges - Aire River Drainage Charge

A charge of \$0.20 per hectare be declared on those properties located within the Aire River Drainage Scheme.

7. Declaration of Rates & Charges - Tirrengower Drainage Charge

A charge of \$2.50 per hectare be declared on those properties located within the Tirrengower Drainage Scheme.

8. Consequential

8.1 It be recorded that Council requires any person to pay interest at the maximum rate fixed under section 2 of the Penalty Interest Rates Act 1983 as the rate set out in accordance with Section 172(2) of the Act on any amounts of rates and charges which:

- that person is liable to pay; and**
- have not been paid by the date specified for their payment.**

8.2 Council allow a lump sum payment and 4 instalment payments for the 2008/2009 year, on the dates published in the Government Gazette by the Minister, in accordance with Section 167 of the Local Government Act 1989.

8.3 Council authorises the General Manager Corporate & Community Services and the Property & Customer Relations Co-ordinator to levy and recover the general rates and annual service charges in accordance with the Local Government Act 1989.

<p><u>OM082207-4 REVIEW OF DELEGATION TO CHIEF EXECUTIVE OFFICER</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (the Act) and other legislation referred to in the attached Instrument of Delegation, the Colac Otway Shire Council (Council) resolves that –</i></p> <ol style="list-style-type: none"> <i>1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.</i> <i>2. The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.</i> <i>3. On the coming into force of the Instrument all previous delegations to the Chief Executive Officer are revoked.</i> <i>4. The duties and functions set out in the Instrument must be performed and the powers set out in the Instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.</i> <i>5. It is noted that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.</i> 		
<p><u>OM082207-5 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC) AGREEMENT</u></p> <p>Department: Corporate & Community Services</p> <p><u>Recommendation</u></p> <p><i>That Council notes the submission received and advises the Corangamite Regional Library Corporation that it agrees to enter into a new Regional Library Agreement with the Warrnambool City, Corangamite and Moyne Shires up to June 2013.</i></p>		

<p><u>OM082207-6 BRANCH LIBRARY DESIGN PRINCIPLES</u></p> <p>Department: Corporate & Community Services</p> <p><u>Recommendation</u></p> <p><i>That Council note the information and endorse the Branch Library Design Principles as per the Corangamite Regional Library Corporation Facility Standards.</i></p>	Cr Mercer	
<p><u>OM082207-7 POSITIVE AGEING STRATEGY</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation</u></p> <p><i>That Council receive the draft Colac Otway Shire Positive Ageing Strategy Research Paper and Action Plan 2008-2012 and seek public submissions and comments on the documents.</i></p>	Cr Mercer	

MOVED Cr Riches seconded Cr Mercer that recommendations to items listed in the Consent Calendar, with the exception of items OM082207-3, be adopted.

CARRIED 6 : 0

OM082207-3

MOVED Cr Graham seconded Cr Wilmink that this report be withdrawn.

CARRIED 6 : 0

CONSENT CALENDAR

OFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE</u></p> <p><u>OM082207-8 DECLARATION OF A ROAD CLOSURE - WEST BARWON RESERVOIR</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council concurs with the Department of Sustainability and Environment's request to close the section of road shown hatched in Attachment 1 at the West Barwon Reservoir described as part of allotment 2126, Parish of Yaugher.</i></p>		
<p><u>OM082207-9 DECLARATION OF ROAD CLOSURE - OLANGOLAH RESERVOIR</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council concurs with the Department of Sustainability and Environment's request to close the section of road shown hatched in Attachment 1 at the Olangolah Reservoir in allotment 2150, north of crown allotments 10B, 10C, 56D and 56B, Parish of Barramunga.</i></p>		
<p><u>OM082207-10 SPECIAL CHARGE SCHEME - MARKS STREET, COLAC</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council –</i></p> <ol style="list-style-type: none"> <i>1. Adopt the final costs for the construction of the unsealed shoulders of Marks Street, Colac, as set out in this report; and</i> <i>2. Notify effected property owners of the final costs levied against the properties within the scheme boundary.</i> 		

<p><u>OM082207-11 PROPOSED LEASE AGREEMENT, CROWS NEST TOWER, TUXION ROAD, APOLLO BAY</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That, subject to a Planning Permit being obtained by Otway FM for the proposed works,</i></p> <p>Council:</p> <ol style="list-style-type: none"> 1. Agree in principle to the terms and conditions of the draft Lease Agreement; and 2. Give its notice of intention to enter into this Agreement with Otway FM and invite submissions in accordance with Section 223 of the Local Government Act 1989, to the proposal to enter into a lease. 		Cr Wilmink
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MOVED Cr Riches seconded Cr Wilmink that recommendations to items listed in the Consent Calendar, with the exception of items OM082207-11, be adopted.

CARRIED 6 : 0

OM082207-11

Cr Riches declared a Conflict of Interest in item OM082207-11

Cr Riches left Council Chambers at 3.43 pm

MOVED Cr Wilmink seconded Cr Mercer that this report be withdrawn.

CARRIED 5 : 0

Cr Riches returned to Council Chambers at 3.44 pm

CONSENT CALENDAR

OFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<u>GENERAL BUSINESS</u>		
<p><u>OM082207-12.1</u> <u>Item for Signing and Sealing - Memorandum of Understanding between Colac Otway Shire and the Friends of the Colac Botanic Gardens</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Memorandum of Understanding between the Colac Otway Shire and Friends of the Colac Botanic Gardens.</i></p>	Cr Mercer	
<p><u>OM082207-12.2</u> <u>Item for Signing and Sealing – Agreement for the Sale of Electricity – Contract 0806 Electricity Supply to Public Lighting</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Agreement for the Sale of Electricity between the Colac Otway Shire and AGL Sales Pty Ltd.</i></p>		
<p><u>OM082207-12.3</u> <u>Item for Signing and Sealing - Section 177 to end three (3) Section 173 Agreements, 1 Dollar Drive, Separation Creek</u></p> <p><u>Recommendation</u></p> <ol style="list-style-type: none"> 1. <i>That Council terminate the Section 173 Agreement No. V001069W between Colac Otway Shire and DJ Fitzpatrick Holdings Pty Ltd and Senada Pty Ltd, covenanting Titles Volume 10860 Folio 528.</i> 2. <i>That Council terminate the Section 173 Agreement No. V986958J between Colac Otway Shire and DJ Fitzpatrick Holdings Pty Ltd and Senada Pty Ltd, and Bronwen Christine Jacobs and Peter Raymond Jacobs covenanting Titles Volume 10860 Folio 528, Volume 10472 folio 019.</i> 3. <i>That Council terminate the Section 173 Agreement No. AC120257C between Colac Otway Shire and DJ Fitzpatrick Holdings Pty Ltd and Senada Pty Ltd, covenanting Titles Volume 10860 Folio 528.</i> 		

MOVED Cr Riches seconded Cr Graham that recommendations to items listed in the Consent Calendar be adopted.

CARRIED 6 : 0

IN COMMITTEE

Recommendation

MOVED Cr Lehmann seconded Cr Riches that pursuant to the provisions of Section 89(2) of the Local Government Act, the meeting be closed to the public and Council move "In-Committee" in order to deal with:

SUBJECT	REASON	SECTION OF ACT
Confirmation of Minutes	Matter may prejudice Council or any person	Section 89(2)(h)
Sale of Land	Matter may prejudice Council or any person	Section 89(2)(h)
Potential Land Acquisition	Matter may prejudice Council or any person	Section 89(2)(h)
Performance Review	Personnel Matter	Section 89(2)(a)

CARRIED 6 : 0