

MINUTES of the **ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** held in the COPACC Meeting Room, Rae Street, Colac on 23 September 2008 at 3.00 pm.

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**1. OPENING PRAYER**

*Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.*

**AMEN**

**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  
Jack Green, General Manager, Sustainable Planning & Development  
Ross Goyne, Acting General Manager, Infrastructure & Services

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**

### **Question's Received in Writing prior to the Meeting:**

Nil

### **Question's Received Verbally at the Meeting:**

#### **Lynn Foster - Friends of Library**

- 1. Cr Mercer, will you sign the Development and Joint Use Agreement for the new Library in this Agenda in its current state?**

*Cr Mercer advised that this is a draft template (not final document) to use as a basis for developing an agreement and that, no, he would not sign it if it remained in it's current state.*

*Tracey Slatter, Chief Executive Officer advised that this document is a standard template form from the Department of Education and Early Childhood Development and that the final document will look nothing like this. This will be a groundbreaking agreement and Council is aiming to have an end agreement that protects the interests of both Council and the Community.*

- 2. Will the final document be made available to the public before it is signed?**

*Tracey Slatter, Chief Executive Officer advised that the final document will appear in Agenda papers of the Council meeting it will be included in which will provide interested parties with the opportunity to see it before it is decided on.*

#### **Christine Holm – Friends of the Library**

- 1. Cr Mercer, how can you support this draft Joint Use Agreement. It does not cover the issue of having an Independent Chair or Member of the Community in the Committee as noted in the Meeting of 25 March 2008?**

*Tracey Slatter, Chief Executive Officer advised that this is a template which will be used as a starting point to work with in order to get to the end agreement which will look very different.*

- 2. Why is this draft in the Agenda now if you don't intend to use it?**

*Tracey Slatter, Chief Executive Officer advised that this is an indication only of a starting point to work with, to get to an end agreement which will look very different.*

**3. Will the Public see the agreement before Council vote on it?**

*Tracey Slatter, Chief Executive Officer advised that the agreement will appear in the Agenda papers of the Council meeting that it will be included in.*

*Cr Mercer, advised that it was made clear in the vote at the Council Meeting dated 25 March that the Committee should have an independent Chair, Members from DEECP and Colac Otway Shire with a member from the Community and that he would not vote yes otherwise.*

**4. This agreement does not mention Corangamite Regional Library Corporation. It is biased to the school with veto over everything. If all the power is with the School, who will be choosing the books for the library?**

*Cr Smith advised that this is a basic draft, an indication of starting point only. This is not Council's position, Council is working on a whole scenario considering the issues both Council and the Community want.*

*Tracey Slatter, Chief Executive Officer advised that Council is not being asked to approve anything today. This matter cannot be decided until it has gone to a public Council meeting through the Agenda.*

*The draft in today's Agenda is an example only. Council want to negotiate items they want included, such as the Corangamite Regional Library Corporation's commitment to single employer of staff. The Joint Use Agreement is between Council, the Department of Education and Early Childhood Development and the School with another agreement being drafted between Corangamite Regional Library Corporation and Council.*

**5. Including a Community representative?**

*Tracey Slatter, Chief Executive Officer advised that this would be the case as instructed by Council and is be in the agreement as it is important to Council to have a member of the public on the committee. Remember that this is a groundbreaking agreement and Council will be spending a lot of time on it.*

**Cr Carol Wilmink – Councillor**

**1. What is the Chief Executive Officer's definition of a submission, as apposed to a petition?**

*Tracey Slatter, Chief Executive Office advised that a petition is treated differently to submission. Bulk form letters signed individually are classed as separate submissions where as petitions have particular wording stating that it is a petition and is therefore treated differently.*

## 6. MAYORAL AWARDS

The Mayor announced Mr Ron Simmonds (Colac Carers Group) as the Mayoral Volunteer Recipient for September 2008.

The Mayor announced Ms Rebekah Gaylard as the Mayoral Youth Award Recipient for September 2008.

## 7. DECLARATION OF INTEREST

Cr Lehmann: OM2309-14 Beechy Precinct Agreements  
Nature of Disclosure: Interest  
Nature of Interest: Teacher at the Colac Secondary College

Cr Wilmink: OM2309-14 Beechy Precinct Agreements  
Nature of Disclosure: Interest  
Nature Of Interest: Member of the Colac Public Library

## 8. CONFIRMATION OF MINUTES

- Ordinary Meeting of the Colac-Otway Shire Council held on the 26/08/08.

### Resolution

***MOVED Cr Graham seconded Cr Riches that Council confirm the above minutes.***

***CARRIED 5 : 1***

## OFFICERS' REPORTS

### Chief Executive Officer

OM082309-1 CEO'S PROGRESS REPORT TO COUNCIL  
OM082309-2 STATUTORY MEETING DATE - 2008  
OM082309-3 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

### Corporate and Community Services

OM082309-4 COLAC BOWLING CLUB  
OM082309-5 BUSINESS HOURS FOR CHRISTMAS/NEW YEAR PERIOD 2008/09  
OM082309-6 FINANCIAL PERFORMANCE REPORT  
OM082309-7 PROPOSED CHANGES TO AUSTRALIA DAY EVENT 2009  
OM082309-8 MOTION TO STATE COUNCIL OF THE MAV  
OM082309-9 COUNCIL COMMITTEES POLICY  
OM082309-10 CUSTOMER SERVICE POLICY/GUIDELINES  
OM082309-11 ROAD NAMING PROJECT UPDATE

OM082309-12 CRESSY BOWLING CLUB INC. FUNDING REQUEST  
OM082309-13 POSITIVE AGEING STRATEGY  
OM082309-14 BEECHY PRECINCT AGREEMENTS  
OM082309-15 LEASE AGREEMENTS

### **Infrastructure**

OM082309-16 CONTRACT APPROVAL CONTRACT 0813 - BITUMINOUS SEALING WORKS  
OM082309-17 AUDIT OF PORT SAFETY AND ENVIRONMENT MANAGEMENT PLAN, PORT OF APOLLO BAY  
OM082309-18 CONTRACT APPROVAL - CONTRACT 0812 - POUND ROAD RECONSTRUCTION

### **Sustainable Planning and Development**

OM082309-19 PLANNING SCHEME AMENDMENT C55 (PLANNING SCHEME REVIEW) - RELEASE OF PANEL REPORT  
OM082309-20 COLAC OTWAY SHIRE COMMUNITY PLAN PROPOSAL

### **GENERAL BUSINESS**

#### **OM082309-21 General Business**

OM082309-21.1 ITEM FOR SIGNING & SEALING – AGREEMENT FOR THE SALE OF ELECTRICITY – CONTRACT 0810 ELECTRICITY SUPPLY TO METERED SITES (MAJOR SITES ONLY)  
OM082309-21.2 ITEM FOR SIGNING AND SEALING - SECTION 183 (ENDING OF AN AGREEMENT) TO BE SIGNED BY COUNCIL AND ENTER INTO NEW SECTION 173 AGREEMENT TO BE SIGNED BY COUNCIL - 21 PASCOE STREET, APOLLO BAY

**CONSENT CALENDAR****OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>CHIEF EXECUTIVE OFFICER</u></b></p> <p><b><u>M082309-1 CEO'S PROGRESS REPORT TO COUNCIL</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council receive the CEO's Progress Report for information.</i></p>	<p>Cr Riches Cr Smith</p>	
<p><b><u>OM082309-2 STATUTORY MEETING DATE - 2008</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council confirm that the Statutory Meeting of the Colac Otway Shire Council be held on Friday, 5 December 2008 at 5.00 pm in the Colac Otway Performing Arts &amp; Culture Centre.</i></p>		
<p><b><u>OM082309-3 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council appoint Jack Green as Acting Chief Executive Officer for the period 20 December 2008 to 14 January 2009 inclusive under Section 94 of the Local Government Act.</i></p>		

**MOVED** Cr Mercer seconded Cr Riches 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
<b><u>CORPORATE AND COMMUNITY SERVICES</u></b>		
<p><b><u>OM082309-4 COLAC BOWLING CLUB</u></b></p> <p>Department: Corporate &amp; Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That Council approve the extension to the Liquor Licensing Area at the Colac Bowling Clubrooms at 35 Moore Street as required under the lease between the Colac Otway Shire Council and the Colac Bowling Club subject to the approval of the Planning Permit applications and any proposed works being carried out in accordance with clause 3.3 of the lease.</i></b></p>	Cr Merccer	
<p><b><u>OM082309-5 BUSINESS HOURS FOR CHRISTMAS/NEW YEAR PERIOD 2008/09</u></b></p> <p>Department: Corporate &amp; Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council adopts the following office hours and service delivery for the 2008/09 Christmas/New Year period and advertises these hours extensively in the local media.</i></b></p> <p><b><i>(i) Colac and Apollo Bay Customer Service Centre – closed from 3 pm on Wednesday 24 December 2008 and until normal office hours to resume on Monday 5 January 2009.</i></b></p> <p><b><i>(ii) Aged and Disability Services – closed from Thursday 25 December 2008 and until normal office hours to resume on Monday 5 January 2009.</i></b></p> <p><b><i>(iii) Cosworks – closed Thursday 25 December 2008, Friday 26 December 2008 and Thursday 1 January</i></b></p>		

<p><b>2009.</b> <b>(iv) Waste Management Services – transfer stations at Alvie, Birregurra and Marengo will be closed on Christmas Day, 25 December 2008.</b></p>		
<p><b><u>OM082309-6 FINANCIAL PERFORMANCE REPORT</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That the Financial performance Report to the end of August 2008 be received.</i></b></p>		
<p><b><u>OM082309-7 PROPOSED CHANGES TO AUSTRALIA DAY EVENT 2009</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. The Colac Otway Shire Australia Day event for 2009 is held in Forrest on Monday 26 January from 10.30 am until 2.30 pm.</i></b></li> <li><b><i>2. That a report be provided to Council following the 2009 event as to future options for the Australia Day Event in the Shire.</i></b></li> </ol>		Cr Mercer
<p><b><u>OM082309-8 MOTION TO STATE COUNCIL OF THE MAV</u></b></p> <p>Department: Corporate &amp; Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That Council endorse the following motion that has been forwarded to the MAV for consideration at the next State Council meeting :</i></b></p> <p><b><i>“That the Municipal Association of Victoria undertakes a review of the Local Government rating mechanisms. The review should assess the impact and alternatives of rating on agricultural land to recognise the significant impact that the current rating system has on farmers as they rely on large landholdings for their livelihood and that this</i></b></p>	Cr Riches Cr Mercer	

<p><i>may increasingly affect their viability particularly in the face of global issues such as climate change and food security.”</i></p>		
<p><b><u>OM082309-9 COUNCIL COMMITTEES POLICY</u></b></p> <p>Department: Corporate &amp; Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorse the draft Council Committees Policy for public comment;</i></b></li> <li><b><i>2. Endorse a 4 week community consultation period where formal written submissions will be received.</i></b></li> </ol>		
<p><b><u>OM082309-10 CUSTOMER SERVICE POLICY/GUIDELINES</u></b></p> <p>Department: Corporate &amp; Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorse the draft “Customer Service Policy/Guidelines and Service Charter for public comment.</i></b></li> <li><b><i>2. Endorse a 4 week community consultation period where formal written submissions will be received.</i></b></li> </ol>		
<p><b><u>OM082309-11 ROAD NAMING PROJECT UPDATE</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That the report on the Road Naming Project Update be received and noted.</i></b></p>		
<p><b><u>OM082309-12 CRESSY BOWLING CLUB INC. FUNDING REQUEST</u></b></p> <p>Department: Corporate and Community Services</p>	<p>Cr Riches Cr Wilmink</p>	

<p><b><u>Recommendation</u></b></p> <p><b><i>That Council allocates \$16,000 to the Cressy Bowling Club Inc. as Council's contribution to the redevelopment of the Club's turf greens to synthetic to reduce water use and volunteer maintenance of the greens.</i></b></p>		
<p><b><u>OM082309-13 POSITIVE AGEING STRATEGY</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That Council adopts the Colac Otway Shire Positive Ageing Strategy Research Paper and Action Plan 2008-2012.</i></b></p>	<p>Cr Graham Cr Mercer Cr Wilmink</p>	
<p><b><u>OM082309-14 BEECHY PRECINCT AGREEMENTS</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That Council note the draft Development and Joint Use Agreement and consider the signing of the final agreement at the October 2008 Council meeting.</i></b></p>		<p>Cr Wilmink</p>
<p><b><u>OM082309-15 LEASE AGREEMENTS</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorse the lease agreement between Council and the Colac and District Football Umpires Association and sign and seal the lease document; and</i></b></li> <li><b><i>2. Endorse the lease agreements between Council and the Colac and District Cricket Association and sign and seal the lease document.</i></b></li> </ol>		

**MOVED Cr Graham seconded Cr Riches that recommendations to items listed in the Consent Calendar, with the exception of items OM082309-7 OM082309-14, be adopted.**

**CARRIED 6 : 0**

**OM082309-7**

**MOVED Cr Mercer seconded Cr Riches that:**

- 1. The Colac Otway Shire Australia Day event for 2009 is held in Forrest on Monday 26 January from 10.30 am until 2.30 pm.**
- 2. A report be provided to Council following the 2009 event as to future options for the Australia Day Event.**

**CARRIED 6 : 0**

**OM082309-14**

**MOVED Cr Wilmink seconded Cr Graham that Prior to Colac Otway Shire Council signing a final agreement for the Beechy Precinct, the detailed profile of current users is completed, as per the motion of Council at the meeting dated 25 March 2008.**

**LOST 2 : 4**

**Division called by Cr Mercer**

**For the Motion: Cr Wilmink, Cr Graham**

**Against the Motion: Cr Riches, Cr Mercer Cr Lehmann, Cr Smith**

**MOVED Cr Riches seconded Cr Lehmann that Council note the draft Development and Joint Use Agreement and consider the signing of the final agreement a the October 2008 Council meeting.**

**CARRIED 4 : 2**

**Division called by Cr Wilmink**

**For the Motion: Cr Riches, Cr Mercer, Cr Lehmann, Cr Smith**

**Against the Motion: Cr Wilmink, Cr Graham**

**CONSENT CALENDAR****OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>INFRASTRUCTURE</u></b></p> <p><b><u>OM082309-16 CONTRACT APPROVAL CONTRACT 0813 - BITUMINOUS SEALING WORKS</u></b></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council award the Rise and Fall Contract 0813 for Bituminous Sealing Works to Boral Resources (Vic) Pty Ltd at the tendered price of \$827,730.40 (excluding GST).</i></p>		
<p><b><u>OM082309-17 AUDIT OF PORT SAFETY AND ENVIRONMENT MANAGEMENT PLAN, PORT OF APOLLO BAY</u></b></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Receive and note the comments of the Audit Report for Port of Apollo Bay dated 21 August 2008, as prepared by the auditors Landserv Pty Limited; and</i></b></li> <li><b><i>2. Note that an action plan will be developed and implemented to address the identified items for attention and that the recommendations will be implemented prior to the next internal review.</i></b></li> </ol>		
<p><b><u>OM082309-18 CONTRACT APPROVAL - CONTRACT 0812 - POUND ROAD RECONSTRUCTION</u></b></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council awards Contract 0812 for Pound Road Reconstruction to Lake &amp; Land Pty Ltd at the lump sum tender price of \$246,829.00 (excluding GST).</i></b></p>		

***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><b><u>SUSTAINABLE PLANNING AND DEVELOPMENT</u></b></p> <p><b><u>OM082309-19 PLANNING SCHEME AMENDMENT C55 (PLANNING SCHEME REVIEW) - RELEASE OF PANEL REPORT</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council makes the Panel Report for Colac Otway Planning Scheme Amendment C55 (Planning Scheme Review) publicly available.</i></b></p>	Cr Graham	
<p><b><u>OM082309-20 COLAC OTWAY SHIRE COMMUNITY PLAN PROPOSAL</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <p><b><i>1. Receive this progress report on the development of a proposed Colac Otway Shire Community Plan that would inform the Council Plan 2009 - 2013 and note the:</i></b></p> <ul style="list-style-type: none"> <li><b><i>• Reasons for Council's involvement with Community Planning</i></b></li> <li><b><i>• Process for the Community Plan informing the Council Plan</i></b></li> <li><b><i>• Development of the Colac Otway Shire Community Planning process</i></b></li> <li><b><i>• Implementation options for the Community Plan</i></b></li> <li><b><i>• Funding received and funding necessary for implementation of the Community Plan.</i></b></li> </ul> <p><b><i>2. Endorse the Community Plan Terms of Reference.</i></b></p>	Cr Mercer	

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

***CARRIED 6 : 0***

## CONSENT CALENDAR

### OFFICERS' REPORT

D = Discussion

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ITEM	D	W
<b><u>GENERAL BUSINESS</u></b>		
<p><b><u>OM082309-21.1</u></b>      <b><u>Item for Signing &amp; Sealing – Agreement for the Sale of Electricity – Contract 0810 Electricity Supply to Metered Sites (Major Sites Only)</u></b></p> <p><b><u>Recommendation</u></b></p> <p><i>That Council agree to the Contract and sign and seal the Agreement for the Sale of Electricity between Colac Otway Shire and AGL Sales Pty. Ltd. for Major Metered Sites (Blue Water Fitness Centre).</i></p>		
<p><b><u>OM082309-21.2</u></b>      <b><u>Item for Signing and Sealing - Section 183 (ending of an agreement) to be signed by Council and enter into new Section 173 Agreement to be signed by Council - 21 Pascoe Street, Apollo Bay</u></b></p> <p><b><u>Recommendation</u></b></p> <p><i>That Council terminate the Section 173 Agreement No. W091696H 08/06/1999 between Colac Otway Shire and Ellandarr Pty Ltd covenanting Title Volume 10433 Folio 758 Volume 10433 Folio 759 Volume 10433 Folio 760.</i></p> <p><i>That Council sign and seal the Section 173 Agreement between Colac Otway Shire and Apollo RW Pty Ltd covenanting Certificate of Title Volume 10433 Folio 758, Volume 10433 Folio 759, and Volume 10433 Folio 760 that the future use and management of Lot 2, Lot 3 and common Property 1 of the land will be restricted to the use and management authorised by Planning Permit PPA/087/97.</i></p>		

**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 Graham 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:***

<b>SUBJECT</b>	<b>REASON</b>	<b>SECTION OF ACT</b>
<b><i>Confirmation of Minutes</i></b>	<b><i>Matter may prejudice Council or any person</i></b>	<b><i>Section 89(2)(h)</i></b>
<b><i>Road Management Matter</i></b>	<b><i>Matter may prejudice Council or any person</i></b>	<b><i>Section 89(2)(h)</i></b>
<b><i>Performance Review</i></b>	<b><i>Personnel Matter</i></b>	<b><i>Section 89(2)(a)</i></b>

**CARRIED 6 : 0**