

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 Brian Crook (Mayor)
Cr Stephen Hart
Cr Stuart Hart
Cr Geoff Higgins
Cr Lyn Russell
Cr Chris Smith

Jack Green, Acting Chief Executive Officer

Colin Hayman, General Manager, Corporate and Community Services
Neil Allen, General Manager, Infrastructure and Services
Doug McNeill, Acting General Manager, Sustainable Planning and Development

Althea Wright, Executive Officer

3. APOLOGIES

Cr Frank Buchanan

4. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendents here today.

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 show respect to each other and respect for the office of an elected representative.

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982.'

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 in Writing Prior to the Meeting

Nil

Questions Received Verbally at the Meeting

Mr Wessner, Colac

Why did Council request a second opinion from the same solicitor that it got its first opinion?

The Mayor advised that Minter Ellison were employed to provide advice to withdraw from the Joint Use Agreement as they were familiar with the contract and their advice was about Council's legal responsibility

At 6.05 pm the Mayor advised that a ten minute break would be taken.

6. DECLARATION OF INTEREST

Cr Russell:

OM092503-4 – Beechy Precinct Colac

Nature of Disclosure: Indirect Interest

Type of Indirect Interest: Duty to other body – conflicting duties

Nature of Interest: Beechy Precinct Colac. Past President, Secretary, Treasurer, Committee member and life member of Colac Youth & Recreation Centre. Past conflict with Colac Otway Shire re control of Colac Youth & Recreation Centre building.

7. CONFIRMATION OF MINUTES

- Ordinary Meeting of the Colac-Otway Shire Council held on the 25/02/09.

Resolution

MOVED Cr Stuart Hart seconded Cr Higgins that Council confirm the above minutes.

CARRIED 6 : 0

OFFICERS' REPORTS

Chief Executive Officer

OM092503-1 CEO'S PROGRESS REPORT TO COUNCIL
OM092503-2 COUNCIL MEETINGS AND COMMUNITY FORUMS

Corporate and Community Services

OM092503-3 BEECHY PRECINCT - JOINT USE LIBRARY AGREEMENT
OM092503-4 BEECHY PRECINCT COLAC
OM092503-5 SALE OF 101 QUEEN STREET COLAC
OM092503-6 2010 GENERAL REVALUATION
OM092503-7 SOUTH COLAC SPORTS CLUB INC - EXTENSION OF LIQUOR
LICENCE AREA
OM092503-8 BARWON REGION DRUG ACTION STRATEGY 2009-2013
OM092503-9 FINANCIAL PERFORMANCE REPORT

Infrastructure

OM092503-10 EPA ASSESSMENT OF THE POTENTIAL FOR METHANE GAS
MOVEMENT FROM VICTORIAN LANDFILLS
OM092503-11 TRANSPORT LEGISLATION MISCELLANEOUS AMENDMENTS BILL
2008

Sustainable Planning and Development

OM092503-12 APOLLO BAY HARBOUR PRECINCT MASTER PLAN

GENERAL BUSINESS

OM092503-13 General Business

- OM092503-13.1 ITEM FOR SIGNING AND SEALING - SECTION 173 AGREEMENT, 419 PRINCES HWY, COLAC WEST
- OM092503-13.2 ITEM FOR SIGNING AND SEALING - SECTION 173 AGREEMENT 605 BARHAM RIVER ROAD, APOLLO BAY
- OM092503-13.3 ITEM FOR SIGNING AND SEALING - SECTION 173 AGREEMENT, 195 MCDONALDS ACCESS, KAWARREN
- OM092503-13.4 ITEM FOR SIGNING AND SEALING - SECTION 173 AGREEMENT - 275 ROBINSONS ROAD, BARONGAROOK
- OM092503-13.5 ITEM FOR SIGNING AND SEALING - LEASE TO DEPARTMENT OF PRIMARY INDUSTRIES - PREMISES: 69-71 NELSON STREET, APOLLO BAY

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

| ITEM | D | W |
|---|----------|-----------------|
| <p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><u>OM092503-1 CEO'S PROGRESS REPORT TO COUNCIL</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That Council receive the CEO's Progress Report to Council for information.</i></p> | Cr Smith | |
| <p><u>OM092503-2 COUNCIL MEETINGS AND COMMUNITY FORUMS</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That:</i></p> <ol style="list-style-type: none"> <i>1. All ordinary and special meetings of Council continue to be conducted at COPACC in Colac with 2 meetings per year being held in Apollo Bay.</i> <i>2. That Council confirm the meeting dates and times for the balance of 2009 Council Meetings as:</i> <ul style="list-style-type: none"> <i>• Wednesday 22 April 2009, at 3.00 pm at the Apollo Bay Senior Citizen's Centre, Apollo Bay.</i> <i>• Wednesday 27 May 2009, at 3.00 pm at COPACC, Colac.</i> <i>• Wednesday 24 June 2009, at 3.00 pm at COPACC, Colac.</i> <i>• Wednesday 22 July 2009, at 3.00 pm at COPACC, Colac.</i> <i>• Wednesday 26 August 2009, at 3.00 pm at COPACC, Colac.</i> <i>• Wednesday 23 September 2009, at 3.00 pm at COPACC, Colac.</i> <i>• Wednesday 28 October 2009, at 3.00 pm at</i> | | Cr Stephen Hart |

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| <p>COPACC, Colac.</p> <ul style="list-style-type: none"> • Wednesday 25 November 2009, at 3.00 pm at the Apollo Bay Senior Citizen's Centre, Apollo Bay. • Wednesday 16 December 2009, at 3.00 pm at COPACC, Colac. <p>3. That the schedule of Council Meetings, dates and times for 2010 be considered at the December 2009 Council meeting.</p> <p>4. That a program of Community Forums in smaller townships be established and implemented.</p> | | |
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MOVED Cr Stephen Hart seconded Cr Smith that recommendations to items listed in the Consent Calendar, with the exception of items OM092503-2, be adopted.

CARRIED 6 : 0

OM092503-2

MOVED Cr Stephen Hart seconded Cr Russell that:

- 1. All ordinary and special meetings of Council continue to be conducted at COPACC in Colac with 2 meetings per year being held in Apollo Bay.**
- 2. That Council confirm the meeting dates and times for the balance of 2009 Council Meetings as:**
 - **Wednesday 22 April 2009, at 3.00 pm at the Apollo Bay Senior Citizen's Centre, Apollo Bay.**
 - **Tuesday, 26 May 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 24 June 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 22 July 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 26 August 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 23 September 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 28 October 2009, at 3.00 pm at COPACC, Colac.**
 - **Wednesday 25 November 2009, at 3.00 pm at the Apollo Bay Senior Citizen's Centre, Apollo Bay.**
 - **Wednesday 16 December 2009, at 3.00 pm at COPACC, Colac.**
- 3. That the schedule of Council Meetings, dates and times for 2010 be considered at the December 2009 Council meeting.**

- 4. That a program of Community Forums in smaller townships be established and implemented.***
- 5. That the May 2009 Council meeting be held on Tuesday, 26 May 2009 to ensure Councillor representation at the MAV State Council meeting to be held on Wednesday, 27 May 2009.***

CARRIED 5 : 1

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

| ITEM | D | W |
|---|---|------------|
| <p><u>CORPORATE AND COMMUNITY SERVICES</u></p> <p><u>OM092503-3 BEECHY PRECINCT - JOINT USE LIBRARY AGREEMENT</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>1. Acknowledges that all reasonable efforts have been made to investigate the implications and obligations in implementing the Council endorsed preference to end its involvement in the current Development and Joint Use Agreement with the Department of Education and Early Childhood Development.</i> <i>2. Resolves to proceed with its involvement in the Beechy Precinct Joint Use Library as outlined in the Development and Joint Use Agreement.</i> <i>3. Writes to the Minister for Education and all project partners and other relevant interested parties to advise of the above resolution.</i> <i>4. Writes to the Department of Planning and Community Development to advise of the acceptance by Council of the \$30,000 offer to undertake a study into opportunities for the delivery of enhanced Library services in Colac.</i> | | Cr Russell |

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| <p><u>OM092503-4 BEECHY PRECINCT COLAC</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council endorse:</i></p> <p>(a) <i>Council Officers involvement and participation in the Beechy Precinct Project Management Group and the relevant sub-committees.</i></p> <p>(b) <i>Council Officers to continue to progress and complete the TravelSmart Project with funding secured from the Department of Transport together with Council funds within the 2008/2009 budget.</i></p> <p>(c) <i>Council Officers to complete the Bluewater Fitness Centre Stadium Feasibility to conform with funding agreement requirements with Sport and Recreation Victoria.</i></p> <p>(d) <i>Council Officers to complete in partnership with other project partners the Traffic Management Plan.</i></p> <p>(e) <i>Further consideration of remaining elements of the Beechy Precinct and the further progression of the associated plans and development will be considered as a part of the 2009/2010 budget process.</i></p> | | Cr Stephen Hart |
| <p><u>OM092503-5 SALE OF 101 QUEEN STREET COLAC</u></p> <p>Department: Corporate & Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <p>1. <i>Having undertaken a Public Consultation Process resolves to sell the property at 101 Queen Street Colac (volume 8494 and Folio 255 as being Lot 1 of TP327465S) to St Laurence Community Services at the current land valuation of \$310,000 (exclusive of Goods and Services Tax (GST)).</i></p> <p>2. <i>Delegates to the Chief Executive Officer authority to sign and place under Council seal the contract of sale documents with respect to 101 Queen Street Colac.</i></p> | | Cr Stephen Hart |

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| <p><u>OM092503-6 2010 GENERAL REVALUATION</u></p> <p>Department: Corporate & Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That:</i></p> <ol style="list-style-type: none"> <i>1. Council resolves that it cause a revaluation of properties and Council assets within the Shire to be conducted by its contract valuer, Southern Cross Property Services to be returned by 30 April 2010 in accordance with Section 13DC(5) of the Valuation of Land Act with a prescribed date of 1 January 2010;</i> <i>2. Council notify the Valuer General and other rating authorities in the area, in accordance with Section 6(1) of the Valuation of Land Act that it has caused the 2010 revaluation to be conducted;</i> <i>3. Council's contract valuer, Southern Cross Property Services, be advised accordingly.</i> | | |
| <p><u>OM092503-7 SOUTH COLAC SPORTS CLUB INC - EXTENSION OF LIQUOR LICENCE AREA</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation</u></p> <p><i>That Council advise the South Colac Sports Club Inc at 235 Main Street Elliminyt (Elliminyt Recreation Reserve) of its support for a planning permit application to be made seeking approval to extend the licensed area of the Clubrooms.</i></p> | | Cr Russell |
| <p><u>OM092503-8 BARWON REGION DRUG ACTION STRATEGY 2009-2013</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>1. Receive the Colac Otway component of the Barwon Region Drug Action Plan 2009-2013 and seek public submissions and comments on the document.</i> | Cr Russell Cr Smith | |

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| <p>2. <i>Thank the Colac Otway Drug Action Plan Committee members for their contribution to the development of the local drug action plan.</i></p> | | |
| <p><u>OM092503-9 FINANCIAL PERFORMANCE REPORT</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation</u></p> <p><i>That the Financial Performance Report to the end of February 2009 be received.</i></p> | | |

MOVED Cr Higgins seconded Cr Stuart Hart that recommendations to items listed in the Consent Calendar, with the exception of items OM092503-3 OM092503-4 OM092503-5 OM092503-7, be adopted.

CARRIED 6 : 0

OM092503-3

MOVED Cr Russell seconded Cr Stuart Hart writes to the Department of Planning and Community Development to advise of the acceptance by Council of the \$30,000 offer to undertake a study into opportunities for the delivery of enhanced Library services in Colac.

CARRIED 5 : 1

OM092503-4

Cr Russell

Nature of Disclosure: Indirect Interest

Type of Indirect Interest: Duty to other body – conflicting duties

Nature of Interest: Beechy Precinct Colac. Past President, Secretary, Treasurer, Committee member and life member of Colac Youth & Recreation Centre. Past conflict with Colac Otway Shire re control of Colac Youth & Recreation Centre building.

Cr Russell having declared an Interest in Item OM092503-4 left the Council Chamber at 6.45 pm.

MOVED Cr Stephen Hart seconded Cr Stuart Hart that Council:

- 1. Resolves that Council Officers continue involvement and participation in the Beechy Precinct Project Management Group and the relevant sub-committees. Any decision regarding financial commitments in relation to the Beechy Precinct Project by the Colac Otway Shire Council must be referred to Councillors in a report for a decision by the Council. The Department of Education and Early Childhood Development is to be advised in writing of this decision.**
- 2. Endorses:**
 - (a) Officers are to continue to progress and complete the TravelSmart Project with funding secured from the Department of Transport together with Council funds within the 2008/09 budget.**
 - (b) Officers are to complete the Bluewater Fitness Centre Stadium Feasibility Study to conform with funding agreement requirements with Sport and Recreation Victoria.**
- 3. Notes that its financial position is at risk due to a number of yet to be quantified contingent liabilities outstanding from the previous Council and resolves that:**
 - (a) Any further financial commitment to the Traffic Management Plan, and**
 - (b) All other elements of the Beechy Precinct are to be deferred pending the outcome of the 2009/10 Budget and the Council Plan with contingent liabilities needing to be quantified.**

CARRIED 4 : 1

DIVISION called by Cr Smith

For the Motion: Cr Stephen Hart, Cr Stuart Hart, Cr Crook, Cr Higgins

Against the Motion: Cr Smith

Cr Russell returned to the Council Chamber at 7.27 pm.

OM092503-5

MOVED Cr Stephen Hart seconded Cr Higgins that Council

- 1. Having undertaken a Public Consultation Process resolves to sell the property at 101 Queen Street, Colac (Volume 8494 and Folio 255 as being Lot 1 of TP327465S) to St Laurence Community Services at the current land valuation of \$310,000 (exclusive of Goods and Services Tax (GST)), subject to an Occupancy Certificate being issued for parts of the building where this is required and is currently outstanding.***
- 2. Delegates to the Chief Executive Officer authority, upon the issue of any Occupancy Certificate required, to sign and place under council seal the contract of sale documents with respect to 101 Queen Street.***

CARRIED 6 : 0

OM092503-7

MOVED Cr Russell seconded Cr Stuart Hart that Council advise the South Colac Sports Club at 235 Main Street, Elliminyt (Elliminyt Recreation Reserve) that it does not support the Planning Permit application seeking approval to extend the licensed area of the Clubrooms.

CARRIED 4 : 2

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

| ITEM | D | W |
|---|---|---|
| <p><u>INFRASTRUCTURE</u></p> <p><u>OM092503-10 EPA ASSESSMENT OF THE POTENTIAL FOR METHANE GAS MOVEMENT FROM VICTORIAN LANDFILLS</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council receive and note this report.</i></p> | | |
| <p><u>OM092503-11 TRANSPORT LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2008</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council provides a letter of support to the MAV in relation to its stance on the Transport Legislation Miscellaneous Amendments Bill 2008.</i></p> | | |

MOVED Cr Stephen Hart seconded Cr Higgins 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 |
|---|-----------------------------|---|
| <u>SUSTAINABLE PLANNING AND DEVELOPMENT</u> | | |
| <u>OM092503-12 APOLLO BAY HARBOUR PRECINCT MASTER PLAN</u> | | |
| Department: Sustainable Planning and Development | | |
| <u>Recommendation(s)</u> | | |
| <i>That Council:</i> | | |
| <ol style="list-style-type: none"> <i>1. Endorses the resolution of Council at the meeting on 28 October 2008, that subject to external funding being received, a Planning Scheme Amendment be commenced to introduce the Apollo Bay Harbour Precinct Master Plan into the Colac Otway Shire Planning Scheme as an incorporated document.</i> <i>2. Notes that the Planning Scheme Amendment process would include another opportunity for community input into the development of a Detailed Harbour Precinct Master Plan.</i> | | |
| | Cr Stephen Hart Cr Smith | |

MOVED Cr Smith seconded Cr Higgins 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>GENERAL BUSINESS</u></p> <p><u>OM092503-13.1 Item for Signing and Sealing - Section 173 Agreement, 419 Princes Hwy, Colac West</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Section 173 Agreement between Colac Otway Shire, F Balcombe and VicRoads covenanting Certificate of Title Volume 10093 Folio 336 that:</i></p> <ul style="list-style-type: none"> <i>• The owner will remove the dwelling located partly on Road R1 and partly on Road R2 and clear Road R1 and Road R2 of all improvements and materials at no cost to VicRoads or the Council by the 30 June 2013;</i> <i>• The owner will upon any acquisition, vesting by or transfer to VicRoads or the Council by any means, agree not to seek any compensation in respect of any improvements to or on Road R1 or Road R2; and</i> <i>• VicRoads will commence acquisition of the land Road R1 following registration of this agreement as soon as practicable after receiving a written request from the owner provided that the request is made; and the Notice of Acquisition is published in the Government Gazette.</i> | | |
| <p><u>OM092503-13.2 Item for Signing and Sealing - Section 173 Agreement 605 Barham River Road, Apollo Bay</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Section 173 Agreement between Colac Otway Shire and F Wilmink covenanting Certificates of Title, Volume 8222 Folio 643 and Volume 5958 Folio 553 that the land will not be further subdivided so as to increase the number of lots.</i></p> | | |

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| <p><u>OM092503-13.3 Item for Signing and Sealing - Section 173 Agreement, 195 Mcdonalds Access, Kawarren</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Section 173 Agreement between Colac Otway Shire and F & E Fliss covenanting Certificate of Title Volume 7215 Folio 979 & Volume 6192 folio 234 that:</i></p> <ul style="list-style-type: none"> • <i>No further subdivision of lot 1 or lot 2 is permitted so as to create any additional lots; and</i> • <i>No additional dwellings may be constructed on lot 1 or lot 2.</i> | | |
| <p><u>OM092503-13.4 Item for Signing and Sealing - Section 173 Agreement - 275 Robinsons Road, Barongarook</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Section 173 Agreement between Colac Otway Shire and J Pond and J Levine covenanting Certificate of Title Volume 9438 Folio 559 that:</i></p> <ul style="list-style-type: none"> • <i>The owner will maintain the vegetation on the lot in accordance with the Vegetation Management Plan dated 30 July 2008 endorsed by the responsible authority as forming part of Planning Permit PP33/07</i> | | |
| <p><u>OM092503-13.5 Item for Signing and Sealing - Lease to Department of Primary Industries - Premises: 69-71 Nelson Street, Apollo Bay</u></p> <p><u>Recommendation</u></p> <p><i>That Council sign and seal the Lease to Department of Primary Industries - Premises: 69-71 Nelson Street, Apollo Bay based on the new rent of \$15,463.90 (plus GST) per annum.</i></p> | <p>Cr Stephen Hart Cr Smith</p> | |

MOVED Cr Stephen Hart seconded Cr Higgins that recommendations to items listed in the Consent Calendar be adopted.

CARRIED 6 : 0

IN COMMITTEE**Resolution**

MOVED Cr Russell seconded Cr Higgins 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 |
|--|---|---|
| <i>Contract No 0821 – Provision of Engineering Consultancy Services</i> | <i>Contractual Matter</i> | <i>Section 89(2)(d)</i> |
| <i>Wingeel Recreation Reserve</i> | <i>Contractual Matter Matter may prejudice Council or any person</i> | <i>Section 89(2)(d) Section 89(2)(h)</i> |

CARRIED 6 : 0