

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the Apollo Bay Senior Citizens Centre on 23 February 2011 at 3:00 pm.

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 Frank Buchanan
Cr Lyn Russell
Cr Stephen Hart
Cr Geoff Higgins
Cr Chris Smith

Rob Small, Chief Executive Officer

Colin Hayman, General Manager, Corporate & Community Services
Neil Allen, General Manager, Infrastructure & Services
Jack Green, General Manager, Sustainable Planning & Development
Doug McNeill, Manager Planning & Building
Rhonda Deigan, Executive Officer

3. APOLOGIES

Cr Stuart Hart

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 to Council either verbally at the meeting or in writing.

Please note that some questions may not be able to be answered at the meeting, these questions will be taken on notice. 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. I remind you that you must ask a question, if you do not have a question you will be asked to sit down and the next person will be invited to ask a question. This is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting (subject to attendance and time)
2. Questions from the floor

5. QUESTION TIME

Questions taken on notice at the 27 January 2011 Council Meeting

The Mayor tabled the following responses to questions taken on notice at the January Council meeting.

Liz Ryan – Birregurra

Could you please provide me, in writing, the true cost incurred by Council regarding tree trimming under powerlines, the financial, the damage to the trees and why these trees cannot be replaced by more suitable species?

Response:

The Council budget for tree trimming under powerlines in the 2009/2010 budget was \$60,504.

The trees are required to be pruned under the legal obligations Council has to ensure that the trees are not interfering with the powerlines. The pruning of trees is done in a responsible manner by staff that have qualifications and experience in the pruning of trees. All pruning is undertaken to minimize potential damage to trees where possible.

Council is continuing to review their planting of trees, particularly under powerlines to ensure that trees are of the appropriate type. As advised by the Chief Executive Officer at the meeting, Council is working on a Tree Plan for the City and it is envisaged that some of those replacements will take place in due course. This will also be undertaken in conjunction with the Public Open space Strategy which is currently being considered.

Steve Branwhite – Pirron Yallock

With respect to the original sale of 490 Princes Highway to Branwhite & Stone and the subdivision that was undertaken of one allotment into three separate allotments, it states in the farm zone that subdivisions cannot be done under 40 hectares. Why did Council planning originally allow the break up of the one parcel of land into three separate parcels of land?

Response

The allotments owned by yourself at 1490 Princes Highway, Pirron Yallock are Crown Allotments that date back to the time when the land was first settled. There has been no subdivision of these lots since that time. Therefore Council has not approved any

subdivision on your property as you indicated and there is no contradiction between Council's position in relation to Farming Zone land which requires a minimum 40 hectares before a dwelling can be constructed without a planning permit. As you have previously been advised, the Farming Zone was introduced into the Colac Otway Planning Scheme by the State Government in 2006.

Lyn Foster – Colac

Could Council please replace the signs on the corners of Gellibrand and Murray, Gellibrand and Rae and Corangamite and Rae Streets to let people know that the library is now at the annexe?

Response

Officers have investigated the matter and subject to approvals from the Regional Library Corporation, will be undertaking the following:

- **The existing signs, which currently direct patrons to the Library, be changed to read Library Annexe; and**
- **The missing fingerboard signs at the corner of Rae & Corangamite Streets, Corangamite & Gellibrand Streets and Murray & Gellibrand Streets will be replaced.**

Any signage ordered normally takes 6-8 weeks.

Bernie Franke - Barramunga

Mr Green, if 10 out of 10 meant that someone was doing a great job and zero out of ten meant they were doing a terrible job: where on the scale would you rate the performance of the planning department in regards to native forest timber harvesting applications by primary producers?

Response

This is an inappropriate question which does not have relevance to the public interest or warrant a response. If the point of the question is about how this matter was handled, I can advise that planning applications for native timber harvesting are complex proposals that require specialist reports that adequately respond to the issues relevant for each individual site. Council officers have acted professionally at all times in the processing of the native timber harvesting applications referred to.

Are you aware that one of the refusal reasons for the Gardners timber harvesting application was that "native forest timber harvesting ceased on public land in the Otway Ranges bioregion in 2008" ? (reason 3 on the refusal).

Are you aware that this information is incorrect as timber harvesting on public land is still occurring in the Otways and therefore private land timber harvesting is still permitted with conditions?

Response

Your assumption is incorrect. The third ground of refusal for the Gardner's recent applications for native timber harvesting is that "*the proposal cannot satisfy the requirements of Victoria's Native Vegetation Management – A Framework for Action and the Corangamite Native Vegetation Plan as native forest timber harvesting ceased on public land in the Otway Ranges bioregion in 2008*".

Public land in the Otway Ranges bioregion is mostly within two categories: National Park and Forest Park. Timber harvesting is not permitted in the National Park. The Forests Act 1958 specifically prevents DSE from issuing licences in the Otway Forest Park for sawlog and pulpwood production. The production of sawlogs and pulpwood is a large scale forest operation which no longer takes place in the Otways Forest Park. Smaller scale commercial operations do occur for the production of firewood, posts and poles, and hewn timber from single tree selection.

Therefore, Council and DSE can potentially support these types of smaller scale operations providing they meet the Victoria's Native Vegetation Management Framework (the Framework) and Corangamite Native Vegetation Plan guidelines. For example, Council and DSE recently supported an application for selective native timber harvesting (290 Upper Gellibrand Road Barramunga), subject to conditions that required some modifications to the initial proposal to ensure compliance with the Framework and Corangamite Native Vegetation Plan.

Are you aware that another of the refusal reasons on the Gardner's application was that harvesting of vegetation of high or very high conservation significance is "not permitted in accordance with the Corangamite Native Vegetation Plan"? and that this is also factually wrong? (reason 2)

Response

The report prepared by the applicant for the Gardner proposal identified the conservation significance of the vegetation as 'High' to 'Very High' due to the presence of habitat for rare or threatened species. The Gardner proposal is to clear fell native vegetation and under the Corangamite Native Vegetation Plan where the conservation significance of the EVC is High or Very High within the Otway Ranges Bioregion, this type of native timber harvesting is not permitted unless similar harvesting activities are currently allowed on public land within the same bioregion for areas of vegetation which have equivalent conservation values. Therefore, Council's refusal reason in this case also is not factually wrong as this question claims.

It would seem as if two of the six reasons given for refusing the Gardners permit application are incorrect. Given that the Gardners have spent nearly four years and a lot of money getting to this stage and have a lot riding on their application – is there any obligation on the planning department to check the facts before they issue a refusal?

Response

The response to the two previous questions above clearly demonstrate that the reasons for refusing the applications are in fact correct. Complex development proposals may involve reasonable lead times to enable the necessary investigation and reports to be prepared by the applicant before an application is submitted for consideration. This is not unusual for substantive application proposals. Once an application is submitted, the responsible authority is required to process each and every application in accordance with the relevant legislation and planning scheme provisions. Often pre-application meetings are held with prospective applicants as was the case with the Gardner proposal. A pre-application meeting was held with the applicant, DSE representatives and Council officers who gave professional advice relating to application requirements and policy guidelines before the planning applications were submitted to Council.

The applications were refused based on the information submitted with the applications and on the advice of DSE as a referral authority under Section 55 of the

Planning and Environment Act. Council is obliged to refuse an application if directed by a referral authority in these circumstances.

Given that the expert catchment and water referral authorities (Corangamite Catchment Management Authority, Barwon Water and Wannon Water) raised no official concerns or objection to the Gardner's proposal, can you tell us on what basis the planning department made the decision to use water quality and water yield as a reason to knock back the Gardner's timber harvesting application? (reason 6)

Response

The Barramunga Creek traverses the southern section of the properties subject to the clear felling and concerns were raised in objections to the proposals relating to the impact on the waterway from this activity. Wannon Water included in its response to the applications the requirement for a planning condition for an Environment Management Plan to be prepared to address water quality issues should approval be given. As the applications were being refused it was considered appropriate to include a ground of refusal regarding water quality to ensure that this matter could be dealt with to the satisfaction of the Tribunal should the matter be heard by VCAT.

Mr Green, you were quoted in The Colac Herald on the 29th of November as saying that council would have rejected the Gardner's permits even without the DSE's objection because the property owners had failed to carry out a "detailed flora and fauna assessment for biodiversity on the site". Given that the Gardners did provide a flora and fauna assessment, can you explain why the planning department failed to ask the Gardner's to add more information to their report during the "more information" period?

Response

The applicant of the Gardner proposals was advised and provided with a copy of DSE's objection to the proposals. The decision of DSE was based on the Flora and Fauna report submitted with the application. Pre-application meetings had been held prior to the submission of the planning applications at which time the applicant was given advice on the information required as part of the Flora and Fauna Report. The applicant made no indication that they wished to discuss the grounds of refusal with DSE representatives or Council officers nor indicated a preparedness or willingness to provide further information.

Was there a chance, do you think, that if DSE had been provided with a more comprehensive flora and fauna assessment, that they may have, in fact, approved the Gardner's application with conditions?

Response

It is the responsibility of the applicant to provide all relevant information in support of planning proposals. No further information was submitted by the applicant for any party to consider, and DSE formed its position based on the application as submitted. The applicant's report had stated that the conservation significance of vegetation on the site was 'High' to 'Very High', and this was a significant influence on DSE's position.

Mr Green we feel that the Planning Department has possibly breached the Council code of conduct by:

- Failing to securely store (and losing) copies of past timber harvesting permits
- Failing to ask for more information from applicants when it seemed appropriate to do so

- Ignoring the advice of referral authorities (such as the Corangamite CMA, Barwon Water and Wannon Water) when it went against the planning department's personal views – to the detriment of permit applicants.
- And incurring significant legal costs with little or no regard for the public interest, council budget or the planning department's own obligations under the Council's code of conduct.

Do you have any comments on any of these?

Response

Council officers have at all times acted professionally and with integrity, and performed their duties in accordance with all legislative requirements. Council officers have acted in the best interests of the broader community at all times and have made decisions/ recommendations accordingly.

Questions Received in Writing Prior to the February Meeting

Peter and Bronwen Jacobs - Wye River

- a. What are the reasons for the Colac Otway Shire Planning Dept. objecting to the C58 amendment Panels recommendations regarding the Jacob's and Fitzpatrick's land and
- b. Why has the planning department been so adamant in wanting to change the Low Density Residential zoning into Conservation Rural when initially the Strategic Plan recommendations recommended that the zoning of Low Density remain in place (there was a 173 agreement put in place on our titles at our expense by ourselves as a deterrent for any future development.)

Response:

The reasons why officers have not recommended Council support the Panel recommendations relating to the Jacobs and Fitzpatrick land are outlined in the officer's report listed in the Council agenda.

There are a number of significant environmental and landscape constraints to development of dwellings at the perimeter of Wye River and Separation Creek, including significant landscape values, high landslip risk, difficulties retaining waste waters on-site, and wild fire risk.

The exposure of the Jacobs and Fitzpatrick land to fire is significant, with Wye River and Separation Creek being rated by the State Government as being in the 52 most at risk towns in the State. The Panel recommendation would have the effect of potentially allowing more than one dwelling on each lot (and further subdivision), which officers believe would be contrary to directions arising from the Bushfire Royal Commission report of limiting development in high fire risk areas. A Rural Conservation Zone would appropriately reflect past planning decisions to create lots outside the town boundary, allowing the potential of one house on each, without further creating additional house opportunities.

Planning officers have supported the application of a Rural Conservation Zone over the land since February 2009 when a report was put before Council examining these issues, as they believe this is the most appropriate response to the environmental risks to development outside the town boundary. The Panel supported application of this zoning as being appropriate – the officers do not agree however that creating a special exemption from planning controls for the Fitzpatrick land and rezoning of the

two small lots owned by the Jacobs to Township Zone to allow greater development opportunities is appropriate having regard to the extreme fire risk environment.

Whilst the particular planning scheme controls being proposed for the land has changed since the 2008 Structure Plan, Council has been consistent in its intention to restrict development potential outside the town boundary on this land since the Structure Plan process. This was the position put by officers at the recent Panel hearing.

A rezoning of the Jacobs land to Township Zone as recommended by the Panel would clearly allow more intense development in an extremely sensitive location than was ever contemplated when the land was subdivided and the Section 173 agreement entered into.

It is also important to recognize that the Section 173 agreement referred to was entered into by the Jacobs as a part of an agreement by Council to support the subdivision of the land rather than this being a voluntary action by the Jacobs outside of the planning permit process. The subdivision and 173 agreement limiting further development of the larger lot were predicated on the basis that no more intensive development would be possible on the land.

It is particularly disappointing that the panel did not give more attention to the issue of bushfire risk in its recommendations and officers believe that the Panel recommendation contradicts the key recommendations of the Bushfire Royal Commission and the policies for settlements contained in Victorian Coastal Strategy.

Bernie Franke - Barramunga

Mr Green was able to assure us at the last Council meeting that our "Existing Use Right" application would be determined in the near future. We have not been advised of any decision (21/2/2011) - our apologies if it has since arrived in the mail. Is Mr Green able to provide a date (or a timeframe) as to when the application will be able to be determined?

Response:

Officers are still in the process of considering the Franke's request for Council to confirm whether existing use rights exist for native timber harvesting on their property in Upper Gellibrand Road, Barramunga. The issue is technically complex and is taking time to determine. Officers have sought legal advice on the issue, and the timing of a decision on the matter will depend on the timing of Council receiving this advice.

The Franks also had a planning permit application being considered by Council seeking approval for harvesting of native timber on their land. This application was supported by Council and a Notice of Decision to Grant a Permit was issued on 4 January this year. As no appeal was lodged with VCAT against Council's decision, a planning permit was issued on 1 February, permitting the selective harvesting of timber on the site. The Franks therefore have a current planning permission to harvest timber on the land subject to conditions.

It is noted that Council has written to the State Government and Corangamite Catchment Management Authority late in 2010 to encourage a review of both the state and local policy frameworks relating to native timber harvesting in the Shire, and discussions are occurring with these respective organisations in respect of this.

Peter Lalor – Apollo Bay

Would Council consider up-grading the status of our Mayor on the Geelong Regional Alliance Board?

With the exception of the Colac Otway Shire, all the other four Councils in the Alliance have appointed their Mayor or ex Mayor in one instance, to be the “Council Appointed Director” on the Geelong Region Alliance Board (G21).

Currently our Mayor is relegated to the position of “Council Appointed Alternative Director” along with the CEO’s of the four other Councils in the Alliance. No doubt historic circumstances have determined the current position however the is not a ‘good look” for Colac Otway Shire. It appears as though our Shire Councillors and Mayor are not capable of representing our community on the Board of this important Geelong Region planning organisation.

Response:

Both the CEO and I as Mayor attend the G21 Board. Both of us have equal ability and opportunity to speak. Votes are seldom formally necessary as consensus in general is achieved. This Council has nominated it’s CEO as the Board member for practical reasons of continuity. This in no way can be taken as a diminution of the standing of the Mayor or indeed any Councillor who could be nominated.

In my own right I am the Board representative on the very influential transport pillar and I can assure you that the standing of the Colac Otway Shire and it’s elected representatives is very high in G21 circles.

Would Councillors be accepting of the Colac Otway Shire being merged into the City of Greater Geelong?

Reading the Geelong Region Alliance (G21) objectives and the stated extent of the “Geelong Region” which includes, the City of Greater Geelong, Borough of Queenscliffe, Golden Plains Shire, Surf Coast Shire and the Colac Otway Shire, it is not difficult to see how G21 could lean to the merger of all these Councils into the City of Greater Geelong.

The published Geelong Regional Map incorporating all municipalities, and Colac Otway Shires reliance on the G21 centric organisation, for major planning and marketing matters could certainly help Geelong Councillors and State Politicians see the merit of such a merger.

Response:

While I am sure that political influence is now being exerted in a very powerful way through these regional bodies, and this may be formalized even more in the future, the capacity to deliver services and infrastructure projects at a local level is not contemplated in the current models. They simply provide a basis for higher level strategic planning and advocacy.

This Council does not have a position on the proposal that you have raised.

It is also important to note that our activities are not solely Geelong centric; we are also aligned with the Great South Coast Municipalities Group.

Of greater importance is the more relevant and specific assistance that we provide to our local constituents in day to day services and locally driven perspectives towards regional strategies.

James Judd – Colac

When will Council see fit to educate users of the new bin system? To check addresses on bins prior to claiming them for their use – otherwise scrap it.

Response:

The new three bin system was approved by Council as part of the review of its Waste Management Strategy. Council provided waste educational material at the time the new three bin system was introduced and residents were provided with an information kit and stickers to place on the bins. A very limited number of complaints have been received so far involving the new bin system and Council has received a very positive response from the residents.

It is the residents responsibility to ensure they collect their bin after it has been emptied. If there is any confusion in relation to ownership of bins, residents should contact Council directly to have the matter investigated.

The new bin system has been supported by Council and the community and will continue to be operated in accordance with Sustainability Victoria's Best Practice Guidelines.

The excuse used to avoid giving any indication of population of Colac at Council Meeting of 27 January 2011 is a disgrace and untrue.

The entrance in the west is only reached after passing through long stretches with only very few farm buildings, an abandoned and very rundown service station and roadhouse. Tell the community and all who pass through something about the fact they will enter a populated and active town/centre.

Response:

This question was responded to at the January Council meeting.

By the time the February Council meeting is held, almost 8 months of the financial year will have passed. Has Council done anything yet to consider the introduction of centrepay payments towards 2011-12 rates and future years?

Response:

Centrepay had not previously been adopted as a payment option by Council as the payment file from Centrelink was unable to be credited directly to the individual rates accounts (in the same way payment files from the banks, Post Billpay and Bpay are able to be). As a result it would be necessary to manually prepare journals to deduct the payments from Council's bank account and credit the individual rates accounts. As there are approximately 2,000 Centerlink pensioners that own properties within the Shire, (and several thousand other Centerlink beneficiaries that could use Centrepay), it is possible that several thousand journals may need to be prepared if Centrepay was used by ratepayers. Further, as Centrepay payments could be made fortnightly, the need to prepare these journals would be an ongoing requirement.

As Council already provides options for part payments of rates by Direct debit or by self managed arrangement and banks offer the ability for electronic payments to be scheduled and made by the account holder, it is considered there are sufficient options available to assist people to make regular part payments of rates without committing a staff resource to regularly preparing a potentially significant number of manual journals.

If there is any belief that Council is honest with the community? Why does it use an excuse of if people are 'not in attendance' a written question will not be answered? The movement of Council meetings must only be taken as a deliberate attempt to avoid checking its activities.

Response:

The Local Law prioritises the questions that are answered in the time allowed. If a question is received from a person not in attendance the responses are read out after hearing from those who are in attendance.

Most of the Council meetings are held in Colac. Two meetings are held in Apollo Bay and one in Birregurra. This provides an opportunity for other communities to have Council meetings held in their town.

If Council can penalise people for burning rubbish why does Council not place a limit on placing barbeques both fixed and moveable in relation to adjoin property boundary fences to limit the effect on enjoyment of life by people from smoke and fumes given off? This is more adverse than rubbish fires.

Response:

The "Fire in Open Air and Incinerators Specifically - General Local Law No 2 Section 60" is intended to not only ensure that there are safe practices within the community in relation to fire prevention but also with regard to providing protection to neighbours and the general community from the noxious fumes that can be emitted when rubbish is burned in the open air.

It is never the intention of Council's Local Laws to provide an opportunity to penalise people. Council's Local Laws are in place to protect the amenity and safety of our community and it is always Council's primary intention to educate and inform the community of their responsibilities in order to minimise the impacts of inappropriate behaviour on the broader community.

There is nothing in Clause 60 that applies, or is intended to apply to a person who lights, or allows to be lit or remain alight, a fire which is lit in a barbecue for the purpose of cooking food.

It is generally considered by the majority of the community that the odours from a barbecue are significantly less offensive than may be experienced from an incinerator or the burning of rubbish.

It should be recognised that Section 62 of the above Local Law contains separate provisions in relation to Fire Danger periods, Total Fire Ban days or an EPA Alert day

When will Council pay attention to a local regional Council that requires removal of bins within one day of clearance? Either impound bins if not removed and charge a fee to have them returned or fine those who refuse to remove them.

Response:

Residents are required to place their bin out and remove their bin after it has been collected. Council's Local Law advises as follows:

Local Law 2 (B) 108.8 must not leave any mobile bin out for collection more than one day before or one day after a designated collection day.

Council preference is not to prosecute residents who leave their bins out outside the timelines specified in the Local Law, except as a last resort and would prefer that residents arrange for alternate collections where they are unable to collect their bin. In the majority of cases, residents comply with this Local Law. There are, however, occasions when this has not happened. Where Council becomes aware of ongoing problems, the residents are contacted via a notice on their bin or through a letter from Council.

Why does Colac continue to use a street number system that is far out of whack between both sides? I draw attention to the whole of Murray Street west of Hesse Street. Much of this section over 60 in number in excess on south side compared with north side. Last number displayed on north side west of High School site 439. The comparison on south side east of Sinclair Street.

Response:

The Rural Road Numbering system used by Council is compliant with the addressing guidelines prescribed by the Dept of Sustainability and Environment. Where possible, the road number allocated is based on the distance of the access to the property from the starting point of the road.

Rural Road Numbers were allocated in 1999 to properties throughout the Shire that did not previously have a road number address. Typically, the majority of these properties were in rural areas and the smaller townships.

As Murray St is in a developed urban area, properties were already numbered and were successfully enabling the identification and location of properties. Consequently, there was no need to renumber properties in accordance with the guidelines. Retaining the existing property numbers also meant property owners were not inconvenienced by the need to change addresses with organisations they deal with.

As question time had exceeded the 30 minutes allocated, the following questions from Damien Dureau were not read aloud at the meeting.

Damien Dureau - Colac

1. Re: Consultants' Reports by COSC appointed consultants

(a) When Colac Otway Shire Council (COSC) hires/contracts "consultants" to produce Consultants' Reports, on COSC's behalf, for various COSC projects, at which **line-item** is the **total expenditure for these Consultants' Reports** included on the "Income Statement" in "Colac Otway Shire Annual Reports", from the following selected list of line-item expense categories which COSC currently provides:-

- | | |
|------------------------------------|------------------------------------|
| (i) Employee benefits | - Wages and salaries? |
| (ii) Employee benefits | - Casual staff? |
| (iii) Employee benefits | - Other? |
| (iv) Materials and services | - Contract and materials payments? |
| (v) Other expenses | - Other? |

Response:

Materials and services

- (b) How much approximately was COSC's total expenditure amount on "consultants"/
'Consultants' Reports in the:-
(i) 2008/2009 financial year?
(ii) 2009/2010 financial year?

Response:

The level of data available for each of the two (2) years requested is influenced by the change of corporate and financial software used by Council.

- (i) For 2008/2009 – data to distinguish between consultants and other forms of services was not collected by Council.
(ii) For 2009/10 – data indicates that approximately \$758,000 was expended on consultants.

- (c) For each of the amounts at Question 1(b), (i) and (ii) above, how much approximately was COSC's total expenditure amount on "consultants"/Consultants' Reports from COSC's own direct funds (ie. NET of the relevant government grants specifically so provided)?

Response:

As indicated in the previous question the level of data available differs between the financial years.

- (i) In response to 2008/09 no data is available.
(ii) In response to 2009/10 given that a significant portion of Council's funding is in untied grants it is not possible to distinguish between funds utilised from rates and funds used from untied grants for consultant activities.

2. Re: Legal fees/costs by COSC appointed solicitors/lawyers

(a) When COSC engages solicitors/lawyers for legal advice and other legal services on various COSC matters, at which line-item is the total expenditure for these legal fees/costs included on the "Income Statement" in "Colac Otway Shire Annual Reports", from the following selected list of line-item expense categories which COSC currently provides:-

- (i) **Materials and services** - Contract and materials payments?
(ii) **Other expenses** - Other?

Response:

Materials and services – note that the term 'legal fees/costs' used in the question, for Colac Otway Shire purposes includes the legal fees associated with debt collection and all legal related assistance.

(b) How much approximately was COSC's total expenditure amount on "legal fees/costs" in the:-

- (i) 2008/2009 financial year?
(ii) 2009/2010 financial year?

Response:

The level of data available for each of the two (2) years requested is influenced by the change of corporate and financial software used by Council.

- (i) For 2008/09 expenditure on legal fees/costs was approximately \$99,000, however this amount is again to be tempered against the change in the quality of data available in the new corporate financial systems.
(ii) For 2009/10 expenditure on legal fees/costs was \$177,000.

3. Re: COSC Office Accommodation expenditures, on ALL COSC council offices - including, but not limited to Rae St, Corangamite St, Railway St, Gellibrand St (Main Offices), Colac; 6 Murray St, Colac; 69-71 Nelson St, Apollo Bay (ALL council office accommodation)

COSC Annual Budget 2008/2009 (as adopted), "Appendix C - Capital Works Program", For the year ending 30 June 2009, provided, among others, the following budgeted line-items in the \$623,000 "Buildings" capital works projects to be undertaken for the 2008/2009 financial year:-

- Council Building Assets Renewal Program \$100,000

In answers to my "Registered Questions" at the COSC Ordinary Meeting on 23 September 2009, COSC advised of council office accommodation expenditures in the 2008/2009 financial year of \$434,000 (\$325,000 - 76 Corangamite St/former Skills (Arts) Connection building (and lease) purchase; \$86,000 - converting 76 Corangamite St into council office space for the Infrastructure and Services department; \$23,000 - reconfiguring council office space in the Rae St building following the relocation of the Infrastructure and Services department).

COSC Annual Budget 2009/2010 (with amendment motion), "Appendix C - Capital Works Programme", For the year ending 30 June 2010, provided, among others, the following budgeted line-items in the \$6,470,000 "Buildings" capital works projects to be undertaken for the 2009/2010 financial year:-

- Building Renewal Programme - Capex \$200,000
- Building Program 720,000
(prior to amendment motion had been disclosed in draft budget as:-
- Refurbishment of Shire Office \$270,000
- Building works on old Colac library 450,000)

How much was COSC's **total expenditure amount on ALL council office accommodation** in the:-

- (i) 2008/2009 financial year?
- (ii) 2009/2010 financial year?

Response:

Given its detailed nature, this question will be taken on notice and a written response will be provided to Mr Dureau.

4. Re: Local Authorities Superannuation Fund mutual "Defined Benefit Plan/Scheme" - periodic funding "Calls" on COSC to meet actuarial shortfalls in "Unfunded Superannuation liabilities"

(a) In The (Warrnambool) Standard, Thursday 16 December 2010, page 5, it was reported that the Local Authorities Superannuation Fund had been established in the 1940's (actually 1947) and that the "Defined Benefit Plan/Scheme" was "**closed in 1993 (actually 31 December 1993) to new members**", following which time there have been **3** state-wide funding "**Calls**" on councils and other government bodies (ie. water industry, "others") in Victoria associated with the scheme for **additional (or "top-up") lump sums to existing annual employer superannuation contributions** to meet **actuarial-determined shortfalls in the scheme's "unfunded superannuation liabilities"** (as a result of actuarial investigations/reviews) - in **1996/1997/1998 (understood to be \$321 million, which I understand to have been NET of Federal Government superannuation "contributions tax")**, in **2002/2003/2004 (understood to be \$127 million, which I understand to have been NET of Federal Government superannuation "contributions tax")**, and now

in 2008-2010/2011 (understood to be \$71 million, *which I understand to be NET of Federal Government superannuation "contributions tax"*); as defined superannuation benefits are "guaranteed" to current and past members (based on the number of years an employee has been a scheme member, and their salary at retirement), **regardless of the performance of the underlying investment assets in the scheme** (since it is the employer, rather than employees, who is required to shoulder the investment risk of such superannuation plan/schemes, unlike superannuation accumulation fund/schemes which are the norm today).

Please confirm that **COSC** has been **required to meet shortfalls** in "unfunded superannuation liabilities" on **3 occasions since 1993**; and what were the **actual years of those "Calls"** (and the **respective precise due dates for payment, for payment in full by cash**)?

(b) How much **precisely** was the **exact amount** of the **grossed-up (for federal government superannuation "contributions tax") "Call"** required to be met by **COSC** for each of the **3 "Calls" since 1993**; and how much was the **amount of the Federal Government superannuation "contributions tax"** payable by **COSC** in each of these **3 "Calls"** for:-

(i) 1996/1997/1998?

(ii) 2002/2003/2004 (*COSC GROSSED-UP (FOR FEDERAL GOVERNMENT SUPERANNUATION "CONTRIBUTIONS TAX") "Call" believed to be in the range \$850,000 - \$863,000; including Federal Government superannuation "contributions tax" believed to be some \$129,468*)?

(iii) 2008-2010/2011 (*COSC "Call" believed to be \$580,316, which I believe may be NET of Federal Government superannuation "contributions tax"*)?

(c) For the **current 2008-2010/2011 GROSSED-UP (FOR FEDERAL GOVERNMENT SUPERANNUATION "CONTRIBUTIONS TAX") "Call" amount** required to be met by **COSC**, at what **rate** is the **Federal Government superannuation "contributions tax"** (included in the total GROSSED-UP (FOR FEDERAL GOVERNMENT SUPERANNUATION "CONTRIBUTIONS TAX") "Call" amount) **levied** - is it **15%** (as I believe it was in the 2002/2003/2004 "Call"), **17.65%** (as indicated in Colac Otway Shire Annual Report 2009-2010, Financial Statements at "Notes to the financial statements, Note 1 Significant accounting policies (l) Employee benefits, Superannuation"), or **some other percentage rate**?

(If, as I understand, the Federal Government superannuation "contributions tax" is **levied** at the rate of **15%**, and not **17.65%**, would **COSC** please provide this clarity in future Colac Otway Shire Annual Reports at the "Notes to the financial statements" reference noted above).

(d) For each of the **previous 2 GROSSED-UP (FOR FEDERAL GOVERNMENT SUPERANNUATION "CONTRIBUTIONS TAX") "Call" amounts** required to be met by **COSC - 1996/1997/1998** and **2002/2003/2004**:-

(i) how much was paid by **COSC** from existing cash holdings?

(ii) how much was paid by **COSC** by taking out new loan borrowings for that purpose?

(e) For each of the **previous 2 GROSSED-UP (FOR FEDERAL GOVERNMENT SUPERANNUATION "CONTRIBUTIONS TAX") "Call" amounts** required to be met by **COSC - 1996/1997/1998** and **2002/2003/2004**, of the **amount financed by new loan borrowings**:-

(i) what was (or is) the **loan term in number of years**, what was the **loan start date**, and what was (or is) the **loan end date**?

(ii) what was (or is) the **implied interest rate**?

(iii) what was (or is projected) the **total interest payments** on the loan?

Response:

Given its detailed nature, this question will be taken on notice and a written response will be provided to Mr Dureau.

Questions Received Verbally at the Meeting

Peter Jacobs – Separation Creek, Wye River

Why does the Planning Department accept the extension of the town boundaries of Wye River to include 33 McRae Road as per the recommendations of the Panel and object to the extension of the town boundaries to include the two lots on my property?

Response

The General Manager for Sustainable Planning & Development advised that Planning Officers had objected to the inclusion of the two lots in the town boundary due to the extreme fire risk of the area. Inclusion of the two lots in the Township Zone could have the potential for the two lots to be further subdivided allowing more intensive development. The concern is that the Panel did not take into consideration the recommendations of the Bushfire Royal Commission in their findings.

Mr Jacobs was advised that the Rural Conservation Zone would still enable him to apply for a permit to construct one house on each of the two lots.

Why are you now saying that we will further subdivide these two lots?

Response

The General Manager for Sustainable Planning & Development advised that as the S173 Agreement restricting further development only applied to the larger of the three lots on the property, there would be no restriction on future owners of the property further subdividing the two smaller lots.

Tony Webber – Otway Forum

Would Council consider a modest proposal, currently being prepared by a team of architects, as an alternative for the Apollo Bay Harbour that would get community support and provide a significant saving for the Council?

Response

The Mayor stated that Council is about to enter into a public consultation process and would consider any alternative proposal as part of that process.

The CEO advised that the public consultation process would address any misinformation within the community and that as the alternative proposal would necessitate a change to the current Planning Scheme the consultative process would still be required.

6. DECLARATION OF INTEREST

Nil

7. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on the 27/01/11.**

MOVED Cr Frank Buchanan seconded Cr Stephen Hart that Council confirm the above minutes.

CARRIED 6 : 0

OFFICERS' REPORTS

Chief Executive Officer

OM112302-1 CEO'S PROGRESS REPORT TO COUNCIL

Corporate and Community Services

OM112302-2 EARLY YEARS PLAN

Infrastructure and Services

OM112302-3 ROAD MANAGEMENT COMPLIANCE REPORT

OM112302-4 MARINE SAFETY REGULATIONS 2011

OM112302-5 WYE RIVER AND SEPARATION CREEK WASTEWATER
MANAGEMENT PROPOSAL

Sustainable Planning and Development

OM112302-6 ADOPTION OF AMENDMENT C58 TO THE COLAC OTWAY PLANNING
SCHEME

OM112302-7 COLAC CENTRAL BUSINESS DISTRICT AND CITY ENTRANCES
PROJECT COMMUNITY REFERENCE GROUP

OM112302-8 COMMUNITY REFERENCE GROUP - BIRREGURRA STRUCTURE
PLAN AND NEIGHBOURHOOD CHARACTER STUDY

General Business

OM112302-9 ASSEMBLY OF COUNCILLORS

OM112302-10 ITEM FOR SIGNING AND SEALING - TRANSFER OF LAND PART
MORRISON STREET, COLAC

OM112302-11 ITEM FOR SIGNING AND SEALING - TRANSFER OF LAND - 10
LAVERS HILL COBDEN ROAD, LAVERS HILL.

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><u>OM112302-1</u> <u>CEO'S PROGRESS REPORT TO COUNCIL</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That Council notes the CEO's Progress Report to Council.</i></p>	<p>CR FRANK BUCHANAN</p>	

MOVED Cr Lyn Russell seconded Cr Frank Buchanan that the recommendation to item OM112302-1 CEO's Progress Report to Council, as 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>OM112302-2 EARLY YEARS PLAN</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council adopts the Early Years Plan 2010-2013.</i></p>	<p>CR LYN RUSSELL</p>	

MOVED Cr Frank Buchanan seconded Cr Stephen Hart that the recommendation to item OM112302-2 Early Years Plan, as listed in the Consent Calendar, be adopted.

CARRIED 6 : 0

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE AND SERVICES</u></p> <p><u>OM112302-3 ROAD MANAGEMENT COMPLIANCE REPORT</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council receives and endorses the Road Management Plan Compliance Report.</i></p>		
<p><u>OM112302-4 MARINE SAFETY REGULATIONS 2011</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council receives the report on Marine Safety Regulations 2011.</i></p>		
<p><u>OM112302-5 WYE RIVER AND SEPARATION CREEK WASTEWATER MANAGEMENT PROPOSAL</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council writes to Barwon Water and advises that it has no firm position in relation to any of the options proposed, however, Council recommends that a sewerage scheme be implemented for the Wye River and Separation Creek townships and that the sewerage scheme be based on the removal of all septic tank systems from existing properties to minimise potential of landslip.</i></p>		CR LYN RUSSELL

MOVED Cr Stephen Hart seconded Cr Geoff Higgins that recommendations to items listed in the Consent Calendar, with the exception of item OM112302-5 Wye River And Separation Creek Wastewater Management Proposal, be adopted.

CARRIED 6 : 0

**OM112302-5 WYE RIVER AND SEPARATION CREEK WASTEWATER
MANAGEMENT PROPOSAL**

***MOTION - MOVED Cr Lyn Russell seconded Cr Stephen Hart
That Council:***

- 1. Writes to Barwon Water and advises that it has no firm position in relation to any of the options proposed, however, Council recommends that a sewerage scheme be implemented for the Wye River and Separation Creek townships and that the sewerage scheme be based on the decommissioning of all septic tank systems from existing properties to minimise potential of landslip.***
- 2. Informs Barwon Water that Council expects Barwon Water to continue to seek a resolution to this issue.***
- 3. Writes to the State Minister for Water and he be given the background and the position of Council in relation to the Wye River and Separation Creek Wastewater Management Proposal.***

CARRIED 6:0

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>SUSTAINABLE PLANNING AND DEVELOPMENT</u></p> <p><u>OM112302-6 ADOPTION OF AMENDMENT C58 TO THE COLAC OTWAY PLANNING SCHEME</u></p> <p>Department: Sustainable Planning and Development</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>1. Adopts Amendment C58 to the Colac Otway Planning Scheme as exhibited, with the following changes as recommended by the Panel:</i> <ol style="list-style-type: none"> <i>a) The rewording of Clauses 21.02-2 and 21.03-6 to require consideration of coastal hazards, river flooding and coastal inundation.</i> <i>b) The rewording of Clause 21.03-7 to include reference to Kennett River, Wye River and Separation Creek.</i> <i>c) The inclusion of a legend on both of the exhibited Framework Plans to improve their legibility.</i> <i>2. Does <u>not</u> support the inclusion of a site specific provision in the schedule to Clause 52.03 – Specific Sites and Exclusions as proposed by the Panel under Recommendation 2, nor the inclusion of Lot 2 of PS527447 and Lot 2 of PS609334 within the Township Zone and settlement boundary.</i> 		<p>CR STEPHEN HART</p>

<p><u>OM112302-7 COLAC CENTRAL BUSINESS DISTRICT AND CITY ENTRANCES PROJECT COMMUNITY REFERENCE GROUP</u></p> <p>Department: Sustainable Planning and Development</p> <p><u>Recommendation(s)</u></p> <p><i>That Council endorses the following community members as the Colac CBD and City Entrances Community Reference Group (CRG):</i></p> <ol style="list-style-type: none"> 1. <i>Jacqui Campbell</i> 2. <i>Richard Riordan</i> 3. <i>Glenn McVilly</i> 4. <i>Cliff McAliece</i> 5. <i>Katy Bright</i> 6. <i>Anthony McDonald</i> 7. <i>Alisha Bergman</i> 8. <i>Henry Bongers</i> 9. <i>Geoff Iles</i> 10. <i>Frank Delorenzo</i> 11. <i>Paul Durr</i> 12. <i>Renee Remmerswaal</i> 		
<p><u>OM112302-8 COMMUNITY REFERENCE GROUP - BIRREGURRA STRUCTURE PLAN AND NEIGHBOURHOOD CHARACTER STUDY</u></p> <p>Department: Sustainable Planning and Development</p> <p><u>Recommendation(s)</u></p> <p><i>That Council endorses the following community members for the Birregurra Structure Plan and Neighbourhood Character Study Community Reference Group:</i></p> <ol style="list-style-type: none"> 1. <i>Ian Court</i> 2. <i>Geoff Downard</i> 3. <i>Phillip Kennon</i> 4. <i>Ian Fox</i> 5. <i>George Johnson</i> 6. <i>Christine West</i> 7. <i>Gary Battye</i> 8. <i>Paul Drewry</i> 9. <i>Sarah Handscombe</i> 10. <i>Rosemary Crossley</i> 11. <i>Peter Faulkner</i> 		

MOVED Cr Lyn Russell seconded Cr Stephen Hart that recommendations to items listed in the Consent Calendar, with the exception of item OM112302-6 Adoption of Amendment C58 to the Colac Otway Planning Scheme, be adopted.

CARRIED 6 : 0

OM112302-6 ADOPTION OF AMENDMENT C58 TO THE COLAC OTWAY PLANNING SCHEME

SUSPENSION OF STANDING ORDERS - MOVED Cr Chris Smith seconded Cr Stephen Hart that Standing Orders be suspended to enable discussion on agenda item OM112302-6 Adoption of Amendment C58 to the Colac Otway Planning Scheme.

CARRIED 6: 0

Mr Peter Jacobs was invited to address Council with respect to his concerns with recommendations contained within OM112302-6 Adoption of Amendment C58 to the Colac Otway Planning Scheme.

Mr Jacobs provided photographs taken of one of the lots of land affected by the officer's recommendations to Councillors.

RESUMPTION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Lyn Russell that Standing Orders be resumed.

CARRIED 6: 0

MOVED Cr Stephen Hart seconded Cr Lyn Russell

That Council:

- 1. Adopts Amendment C58 to the Colac Otway Planning Scheme as exhibited, with the following changes as recommended by the Panel:**
 - a) The rewording of Clauses 21.02-2 and 21.03-6 to require consideration of coastal hazards, river flooding and coastal inundation.**
 - b) The rewording of Clause 21.03-7 to include reference to Kennett River, Wye River and Separation Creek.**
 - c) The inclusion of a legend on both of the exhibited Framework Plans to improve their legibility.**
- 2. Does not support the inclusion of a site specific provision in the schedule to Clause 52.03 – Specific Sites and Exclusions as proposed by the Panel under Recommendation 2, nor the inclusion of Lot 2 of PS527447 and Lot 2 of PS609334 within the Township Zone and settlement boundary.**

CARRIED 4 : 2

DIVISION called by Cr Chris Smith

**For the Motion: Cr Brian Crook, Cr Frank Buchanan, Cr Stephen Hart, Cr Lyn Russell
Against the Motion: Cr Geoff Higgins, Cr Chris Smith.**

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>GENERAL BUSINESS</u></p> <p><u>OM112302-9 ASSEMBLY OF COUNCILLORS</u></p> <p>Department: General Business</p> <p><u>Recommendation(s)</u></p> <p><i>That Council notes the Assembly of Councillors reports for:</i></p> <ul style="list-style-type: none"> • <i>Central Reserve Advisory Committee - 2 February 2011</i> • <i>Colac Livestock Selling Centre Advisory Committee - 4 February 2011</i> • <i>CEO's Performance Review - 4 February 2011</i> • <i>Meeting with Apollo Bay community members – 8 February 2011</i> • <i>Councillor Workshop - 9 February 2011</i> 		
<p><u>OM112302-10 ITEM FOR SIGNING AND SEALING - TRANSFER OF LAND PART MORRISON STREET, COLAC</u></p> <p>Department: General Business</p> <p><u>Recommendation(s)</u></p> <p><i>That Council agree to sign and seal the Transfer of Land documents prepared for sale of land described as that part of Morrison Street, Colac discontinued by virtue of the Notice in the Government Gazette G24 16 June, 2005 to the Minister for Education.</i></p>	CR LYN RUSSELL	

<p><u>OM112302-11</u> <u>ITEM FOR SIGNING AND SEALING - TRANSFER OF LAND - 10 LAVERS HILL COBDEN ROAD, LAVERS HILL.</u></p> <p>Department: General Business</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"><i>1. Agree to sign and seal Transfer of Land documents to finalise the donation of land describds as Certificate of Title Volume 7112 Folio 221, 10 Lavers Hill Cobden Road, Lavers Hill; and</i><i>2. Write and thank the Pitt family for their kind donation.</i>		
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MOVED Cr Frank Buchanan seconded Cr Geoff Higgins that recommendations to items listed in the Consent Calendar be adopted.

CARRIED 6 : 0

SUSPENSION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Geoff Higgins that Standing Orders be suspended for 15 minutes to allow members of the gallery an opportunity to talk to Councillors.

CARRIED 6: 0

Members of the Apollo Bay community present at the meeting took the opportunity to talk with Councillors.

RESUMPTION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Lyn Russell that Standing Orders be resumed.

CARRIED 6: 0

IN COMMITTEE

MOVED Cr Frank Buchanan seconded Cr Stephen Hart 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
Salary Sacrifice for Motor Vehicle	this matter deals with personnel matters; AND this matter deals with contractual matters; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (d) (h)

CARRIED 6 : 0

OUT OF COMMITTEE

MOVED Cr Stephen Hart seconded Cr Lyn Russell that the meeting move out of committee.

CARRIED 6 : 0

The Meeting Was Declared Closed at 4.40 pm

CONFIRMED AND SIGNED at the meeting held on 30 MARCH 2011


.....MAYOR