

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the COPACC Meeting Rooms on 30 March 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 Stuart 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
Rhonda Deigan, Executive Officer

Part: Doug McNeill, Manager Planning & Building,
Anne Sorensen, Statutory Planning Coordinator

3. APOLOGIES

Nil

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 23 February 2011 Council Meeting

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

Mr Damian Dureau

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?

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:

I refer to your questions submitted for the 23 February 2011 Council meeting.

You have previously been advised that with respect to question 3 – office accommodation expenditure and question 4 – Local Authorities Superannuation, that “Given its detailed nature this question will be taken on notice and a written response will be provided to Mr Dureau.”

I now wish to advise you that a response will not be able to be provided to the questions at the March Council meeting. When it is practicable to do so, resources will be devoted to researching the answers and supplying them to you.

This response to questions 3 and 4 will be tabled at the March Council meeting as per Council’s Local Law.

Questions Received in Writing Prior to the Meeting

Peter Lalor – Apollo Bay

I’m interested in determining the value of the Geelong Regional Alliance (G21) to the ratepayers of Colac Otway Shire.

To help in this regard could I have the following information please?

1. Who are the council officers and councillors, directly involved in contributing to the G21 processes, and how many hours do they apply to these processes on a monthly or annual basis?
2. What financial contribution does Colac Otway Shire make to the running of Geelong Regional Alliance?

3. What are the current G21 "Top Ten Projects" initiated by G21 (as opposed to those adopted), and what are the projects aimed at helping the people of Colac Otway Shire?

Response:

The Mayor advised that these questions would be taken on notice and a response would be prepared and sent to Mr Lalor.

James Judd – Colac

How can Council justify saving money by its refusal to supply the community with proper details about Council meetings and requirements about how to contact Council?

Response:

Council advertises its Ordinary and Planning Committee meetings each month. The advertisements detail the date, time, and venue for each meeting. A list of agenda items is also supplied in the advertisement for the Ordinary meeting. The community is also advised that they have up to 5.00pm on the Monday prior to the meeting to submit questions in writing for the Ordinary Council meeting. This information is also included on our website.

The excuse answer to question 3 at the Council Meeting 23 February 2011 does not add up. If all other service providers are capable of handling Centrepay without trouble, how come a Council with a supposed updated computer system is incapable of handling this system. While you state other methods are available. Why did you not list all and state this fact on your advice on how to pay rates. Your office has refused to accept part payments unless a minimum of \$50 each time.

Response:

We are unable to comment on why other service providers provide Centrepay as a payment option. In our case, we have decided not to provide Centrepay as a payment option because the payment file provided by Centrelink is unable to credit payments directly to each individual rates account (in the same way the Australia Post, Commonwealth Bank, and Bpay payment files do). Instead, the Centrepay payment file transfers the bulk amount to Council's bank account.

The problem is therefore not with Council's "updated computer system" but the format of the payment file that Centrelink produces.

In relation to advice of other payment options, the annual rates notice provides advice that rates may be paid by lump sum or quarterly instalments as required by the provisions of section 167 of the Local Government Act 1989. In the "Payments Options " information provided on the reverse side of the rates notice, there is a statement in bold print that additional payments may be made as often as ratepayers wish.

Information regarding methods for making payments is also provided on both the annual rates notice and the instalment notices. The front of the notices provides payment details to allow payment to be made by Bpay, Australia Post's Billpay or with the Commonwealth Bank, whilst the reverse side of each notice provides details on how payments can be made through Australia Post, Internet (using credit cards), In person, By Direct debit, by Bpay or by mail. All of these methods allow the ratepayer to determine the amount they want to pay as they have to physically nominate an amount to be paid.

There is no minimum payment amount required by Council and we have never refused a payment because it was less than \$50.00. The reality is we have many ratepayers making regular part payments of less than \$50.00.

Re Tender Advertisement 07/03/2011. It is noted in today's paper a tender advertisement under public notices is inserted. However you only quote the street address and web address for contact purposes. Why do you still refuse to include a phone contact number as well?

Response:

As tenders are to be submitted in writing it is appropriate that the name of the Council officer and street address is included in the advertisement. As the address where the vehicle can be inspected, together with all other details specific to this tender was also included, it was considered that it was not necessary to include a contact phone number in this instance.

Re: Lack of details about meetings. If some other rural municipalities are able to include much more details in their notices of Council and committee meetings, how is it that Colac Otway Shire Council is unwilling to include details in its notices to inform the public of what is happening? The deliberate lack of provision of details is detracting from community involvement in municipal affairs as can be seen by the vast drop off in attendance at meetings since you eliminated the afternoon tea break after question time before the meeting to deal with other agenda items began.

Response:

Current public notices for Council Ordinary Meetings include details on the date, time and venue of the meeting. Also included is a list of agenda items, instructions on how to submit a question in writing and how to access the agenda via the Colac Otway Shire website. Future public notices will also advise that a copy of the agenda can be viewed at our Rae Street Customer Service Centre. A list of agenda items for the Planning Committee Meeting is not available in time to meet the deadline for advertising in the local newspaper.

Re Planning Permits. Why is a condition not required to be attached to construction of high solid or opaque fences that vehicles must always be backed onto properties and driven out nose first? This is to avoid vehicles being driven majority past a fence line before vision is gained when the front driver's seat passes the fence line.

Response:

Planning permits are not required for the majority of fences constructed. Only in rare cases is a planning permit required under provisions such as the Heritage Overlay. Council's Building Department is responsible for considering building permit applications under Building Regulations for fences in the following circumstances:

- Brick/concrete/solid fence (or similar) within 3m of the street alignment, greater than 1.2m in height.***
- A timber/metal tubular/open fence (or similar) within 3m of the street alignment, greater than 1.5m in height.***
- Construction on side or boundary greater than 2m high; and***
- Construction within 9m of the point of intersection of street alignment that is greater than 1m high.***

It is not considered appropriate to place conditions on either planning or building permits for fences relating to the behaviour of persons who may be living on the property. This would be going beyond the scope of what is possible under this legislation. Consideration is given when assessing building permit applications in the circumstances specified above, amongst other things, to the implications for public safety.

If Council wants people from out of town to spend time and money in Colac when will it do something to correct the vast variety of road numbers throughout the Colac area between numbers on opposite sides of roads and streets? Plus advertising events to be held with various dates quoted when only over a specific period of time. It is well known that a number of people have complained about the difficulty of finding an address. Some have also declared they will never return to Colac because of total confusion.

Response:

This question was answered in February 2011. The answer remains the same, namely:-

The Rural Road Numbering system used by Council is complies 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, resulting in consistent numbers on both sides of a 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.

In developed urban areas such as Colac where properties were already numbered and were successfully enabling the identification and location of properties, there was no need to renumber properties. Retaining the existing property numbers meant property owners were not inconvenienced by the need to change addresses with organisations they deal with.

There are many factors that have a direct influence on whether people will decide to stop in a town or not, and these factors have been the subject of considerable research in the past by marketing analysts and advertising experts. It is considered that inconsistent property numbers on opposite sides of a road has very little influence on whether or not a person will decide to stop in a town or not.

Council is directly responsible for the publication and promotion of advertising information regarding Council operated events A Council operated event is one that is directly organised and paid for by the Colac Otway Shire. We are unaware of any inaccuracy of information or ambiguity regarding the promotion of Council run events.

A number of events are held within the municipality that require Council Event Approval as they are held on Council owned or managed land. Typically, these events are operated by Festival Committees or organisations that are independent of Council. In these cases, it is the responsibility of external event organisers (not Council) to manage their own advertising and promotion for events that are held within the Colac Otway Shire.

In addition, there are a number of events that are held within the municipality that require no Council involvement at all and therefore Council is not responsible for promotional/advertising inaccuracies.

Council provides an opportunity for all event organisers to promote their events through the Colac Otway Shire Council webpage. It is the responsibility of the event organiser to provide accurate details of the event.

If Council can claim it looks after how funds are expended how, as a major financier of an event, does it not require that on all forms of promotion for an event you do not stipulate actual and correct dates only are given not various dates quoted?

Response:

As identified in the previous response, it is the responsibility of the event organiser to co-ordinate their own promotional/advertising material. It is obviously in the best interest of the event organiser to accurately promote correct and specific dates to obtain maximum attendance at the event. If there are specific events that are failing to do this properly it is recommended that they are contacted directly to alert them to the issue. All events that are processed through the Council Event Approval Process are required to provide accurate dates and location/venue details. All information that is provided for publishing on Council's online Events Calendar and in the seasonal hard copy "Calendar of Events" is provided by event organisers. Accuracy of this information is the responsibility of each event organiser.

Unless some member of the public reports an issue first, how can Council claim it can "monitor" the condition of the Memorial Square toilets when it relies on reports from cleaning contractors to advise them before taking any action? If no report is made, a matter can be delayed for some time before anything is done.

Response:

This statement is incorrect. Council's cleaning contractor attends the Memorial Square toilets 5 times daily and regularly reports maintenance items to staff for actioning. Repairs are always attended to promptly, however, availability of materials and contractors may mean that on occasions there may be minor delays. Officers also undertake random audits of the facilities to check on contract compliance and general maintenance.

Damien Dureau – Colac

Would you please provide me with answers in writing to the following questions:-

1. Re: Colac Otway Shire Council loan borrowings liabilities

Response:

	<u>Financial Year End</u>	<u>Total Loan Borrowings Principal Amount Outstanding</u>
(i)	20/09/1994 (COSC commencement date)	\$ 3.727 million
(ii)	30/06/1995	\$ 4.195 million
(iii)	30/06/1996	\$ 4.103 million
(iv)	30/06/1997	\$ 3.384 million
(v)	30/06/1998	\$ 2.759 million
(vi)	30/06/1999	\$ 5.036 million
(vii)	30/06/2000	\$ 6.074 million
(viii)	30/06/2001	\$ 5.882 million
(ix)	30/06/2002	\$ 5.125 million
(x)	30/06/2003	\$ 5.455 million
(xi)	30/06/2004	\$ 4.865 million

(xii) 30/06/2005	\$ 4.333 million
(xiii) 30/06/2006	\$ 3.923 million
(xiv) 30/06/2007	\$ 3.466 million
(xv) 30/06/2008	\$ 2.980 million
(xvi) 30/06/2009	\$ 2.462 million
(xvii) 30/06/2010	\$ 4.157 million

(b) Please advise of the breakdown of the **full details of COSC's current outstanding total loan borrowings liability "book profile"**, by **completing the following table:-**

Response:

The total loan borrowings are as per question 1.

(c) Would COSC please include **financial year end updates** of the **outstanding total loan borrowings "book profile" table** (at **Question 1(b)** above) in **future Colac Otway Shire Annual Reports' Financial Statements** at "Notes to the financial statements", at the end of "Note 22 Interest-bearing loans and borrowings", to inform users of the Financial Statements what COSC's loan borrowings are actually for, **consistent with** the "Notes to the financial statements" sections on **Provisions** (Note 21) and Other **Reserves** (Note 23(b))?

Response:

The information included in the Annual Financial Statements is as per the accounting standards.

Questions Received Verbally at the Meeting

Peter Jacobs – Separation Creek

Why is Council in a state of constant denial that there is a Section 173 Agreement on all three titles of my land at Separation Creek?

Response:

The General Manager, Sustainable Planning and Development, stated that the S173 Agreement had been placed on the larger parcel of land during the subdivision process. While the S173 Agreement is referred to on the titles of the two smaller parcels of land, it only applies to the larger parcel of land.

Paul David Cross – Colac

What did it cost the Council to employ four security guards at the opening of the Colac Community Library & Learning Centre?

Response:

The Mayor stated that this question would be taken on notice.

Did anyone speak to the Colac police prior to the opening, and if so, was police presence requested by the Colac Otway Shire?

Response:

The CEO stated that Colac Otway Shire did have discussions with police, and with members of FOCL, prior to the opening due to concerns with the possible disruption of the event, however a police presence had not been requested at the opening.

Given that the Colac Otway Shire paid \$1.3 million to have the new joint use library built, how is it that this building is subject to flooding and that Council has paid half the cost for repairs?

Response:

The Mayor advised that part of the agreement for the Colac Community Library & Learning Centre was that all costs would be split 50% between both parties.

Why is the building subject to flooding?

Response:

The CEO stated that when the flooding occurred in December 2010, a number of properties had been affected. A number of causes had been investigated with the architects and the school and preventative action had been taken to avoid a reoccurrence. It should be remembered that it was an unusual storm event, a one in 80 year flood event. The delay of the school ground development may also have contributed to the problem.

Not because the rear of the building is 16 inches lower than the ground? As there is still no drainage in place will Council be faced with another \$5000 expense?

Response:

The CEO advised that he is happy with actions being taken to address the issue. A swale drain is being installed behind the library and he does not believe that there will be another event however Council will continue to be vigilant.

Was it a Council employee who placed sandbags at the rear of the library and built a ditch?

Response:

The CEO stated that he did not know who had done the actual work however members of the school and Council had been involved in taking this temporary measure while a more permanent solution is still being sought.

Who paid for the sandbags?

Response:

The CEO stated that this question would be taken on notice.

Tony Grogan – Old Beechy Rail Trail Committee

With reference to the review of the Instrument of Delegation – Old Beechy Rail Trail, isn't it time that Councillors allowed the members of the Old Beechy Rail Trail Committee to carry out the functions and duties that they were appointed to do?

Response:

The Mayor advised that this matter was on the agenda to be dealt with today.

Alan Smith - Colac

In relation to the elms at Memorial Square, if the arborist found no risk in the Square, why was it that all stalls were moved into the centre of the Square away from the drip/fall zone of the elms?

If the stalls were moved because of the significant risk of the white anted, decaying, hollow and rotted limbs, why was it thought unnecessary to provide no similar warning to the visitors to the Kana festival?

Why was the exposed one metre, white anted, centre section remaining after the limb fell on Mr Haslem's bike removed on the Thursday before Kana?

If the arborist declared that the white anted tree was not a danger, why was it that the approximate 5m x 1m section of conveyor belt on the ground, along the suspected fall line of the eastern limb, with the words "danger no standing danger" was required? Having required the danger sign on the Kana day(s) how did the said tree have a 'Lazarus' event so that it did not require the sign on the following week?

At what time will Council recognise that there is a problem with the trees?

Response:

The Mayor advised that Council had a Tree Management Plan in place for the elms in the Memorial Square. The Plan involves regular inspection of the trees and input from a qualified arborist every few years. Due to recent unseasonal weather and the limb falling on the bike, it was considered timely to request that a qualified arborist undertake an inspection of the trees. This inspection happened prior to Kana and the arborist had recommended that some pruning be undertaken.

The community values the trees in the Memorial Square and Council must balance the element of risk and the value of the beauty of the Square.

Council has taken a responsible approach to the management of the trees and the community would have noticed the presence of some younger trees in the Square. Trees will be removed when recommended by qualified arborists, in the meantime prunings would continue as and when required.

Why did the arborist report recommend the movement of stalls and the erection of a sign?
How long will Council wait before doing anything?

Response:

The Mayor responded that Council has adopted a regular regime of inspections by staff and trained arborists as necessary. This was considered to be the proper way to go in terms of risk management. The removal of all of the trees would not be accepted by the community.

Cr Smith advised that the warning sign on the ground was there to cover the electronic wiring of the sound equipment during Kana festivities and was not related to the tree.

Lyn Foster – Colac

Thank you for the sign for library annex. Can we now have the signs on Gellibrand and Rae Streets painted please?

Given the impending changeover to the new digital television service and the success of the recent e-waste collection, could Council provide another e-waste depot for the disposal of unwanted televisions please?

Response:

The Mayor thanked Ms Foster for her suggestions which would be taken on board.

Malcolm Gardiner – Kawarren

Why have the three questions asked and taken on notice at the January Council meeting not been responded to yet?

Is Barwon Water keeping the Colac Otway Shire informed of water issues and developments as promised and, if so, can you provide me with a brief summary of those updates?

Is Council aware that water was taken and tested from the Colac pipeline and shown to have dangerous levels of chemicals and bacteria?

Response:

The Mayor advised that these questions would be taken on notice and a response provided to Mr Gardiner in due course.

Steve Branwhite – Pirron Yallock

Are you aware that I requested a meeting with the General Manager Sustainable Planning and Development and I have not heard back from him regarding a meeting date?

Response:

The General Manager, Sustainable Planning and Development, stated that he understood that he, and another Council officer, had already spoken to Mr Branwhite on separate occasions and the matter had been resolved.

Is Council aware that the amount of \$40,000 has been charged to Council by its solicitors as a result of taking me to court over minor infringements?

Is Council aware that the Judge asked Council the value of going on with the case against me?

Response:

The Mayor advised that Council was aware of the appeal however the details of any associated costs were an operational matter.

The General Manager, Sustainable Planning and Development noted that Mr Branwhite's interpretation of the Judge's statement differed somewhat to that of Council's solicitors in that the Judge was referring to the impact the drawing out of these matters would have on Mr Branwhite, not Council.

The Corangamite CMA has directed that I ask Cr Smith about the snap open floodgate on the Pirron Yallock Creek.

Response:

Cr Chris Smith suggested that Mr Branwhite contact the current Chair of the Tirrengower Drainage Scheme for further information.

6. DECLARATION OF INTEREST

Cr Smith:	OM113003-6 Review of Instrument of Delegation – Old Beechy Rail Trail
Nature of Disclosure:	Indirect
Nature of Interest:	Contains references to landowners of which he and his wife are.

7. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on the 23/03/11.**
- **Special Council Meeting held on the 10/03/2011.**

MOVED Cr Stephen Hart seconded Cr Lyn Russell that Council confirm the above minutes.

CARRIED 7 : 0

OFFICERS' REPORTS

Chief Executive Officer

- OM113003-1 CEO'S PROGRESS REPORT TO COUNCIL
- OM113003-2 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Corporate and Community Services

- OM113003-3 S86 COMMITTEE OF MANAGEMENT - ELECTION OF COMMITTEE
- OM113003-4 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC) DEED OF AMENDMENT
- OM113003-5 CORANGAMITE REGIONAL LIBRARY CORPORATION BUDGET 2011-2012
- OM113003-6 REVIEW OF INSTRUMENT OF DELEGATION- OLD BEECHY RAIL TRAIL
- OM113003-7 REVIEW OF COUNCIL POLICIES

Infrastructure and Services

- OM113003-8 COMMUNITY REFERENCE GROUP - COLAC ROAD HIERARCHY AND HEAVY VEHICLE TRUCK ROUTE FOR COLAC TOWNSHIP

Sustainable Planning and Development

- OM113003-9 PLANNING SCHEME AMENDMENTS TO UPDATE THE EROSION MANAGEMENT OVERLAY MAPPING AND SCHEDULE
- OM113003-10 STATE GOVERNMENT CHANGES TO LEGISLATION CONCERNING WIND ENERGY FACILITIES

General Business

- OM113003-11 ASSEMBLY OF COUNCILLORS

Notices of Motion

- OM113003-12 NOTICE OF MOTION 165-1011 GEELONG OTWAY TOURISM
- OM113003-13 NOTICE OF MOTION 166-1011 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC)

Item of Urgent Business

- OM113003-21 USE AND DEVELOPMENT OF THE LAND FOR A TELECOMMUNICATION FACILITY (30M MONOPOLE - DIGITAL TV REPEATER SITE) - 30 ROBERTS ROAD, MARENGO

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><u>OM113003-1 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 LYN RUSSELL</p>	
<p><u>OM113003-2 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT</u></p> <p>Department: Executive</p> <p><u>Recommendation(s)</u></p> <p><i>That Council writes:</i></p> <ol style="list-style-type: none"> <i>1. To the Prime Minister of Australia, the Leader of the Federal Opposition and local Members of Parliaments declaring its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed.</i> <i>2. Calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.</i> <i>3. Urges the Australian Local Government Association to continue its campaign to have local government recognised in the Australian Constitution.</i> 	<p>CR LYN RUSSELL</p> <p>CR FRANK BUCHANAN</p>	

MOVED Cr Stuart Hart seconded Cr Lyn Russell that recommendations to items listed in the Consent Calendar be adopted.

CARRIED 7 : 0

CONSENT CALENDAROFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CORPORATE AND COMMUNITY SERVICES</u></p> <p><u>OM113003-3 S86 COMMITTEE OF MANAGEMENT - ELECTION OF COMMITTEE</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. Pursuant to Section 86 of the Local Government Act 1989, resolve to appoint the following nominated members to the Chapple Vale Hall Committee of Management:</i> <i>Alistair MacDonald, Lindsay Flewin, Joanne MacDonald, Emma Ferrari, Russell Mahoney, June Jennings, Jeff Jennings, Donna Wigney, Kate Kondys, Keith Jackson, Sheryl Mahoney, Jenny Ferrari, Ray Jennings, Kevin Ferrari, Craig Wigney, Ed Kondys, Hayley Ferrari, Noreen Jennings</i> <i>2. In accordance with Section 81 sub-section(2) sub-section(a) of the Local Government Act 1989, resolve to exempt members of the Committee from being required to submit a primary or ordinary conflict of interest return in accordance with this section.</i> <i>3. Advise the Committee that a copy of minutes of meetings held be forwarded to Council for its record after each meeting and that a Treasurer's Report be provided annually.</i> 		
<p><u>OM113003-4 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC) DEED OF AMENDMENT</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. Endorse the Deed of Amendment relating to the Corangamite Regional Corporation Agreement for adoption by the Corangamite Regional Library Board.</i> <i>2. Agree to sign and seal and seal the Deed of Amendment relating to the Corangamite Regional Library Corporation Agreement.</i> <i>3. Notes the process to make future changes to the Regional Library Agreement.</i> 	CR STEPHEN HART	

<p><u>OM113003-5 CORANGAMITE REGIONAL LIBRARY CORPORATION BUDGET 2011-2012</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council endorse the Corangamite Regional Library Corporation Budget and Council's contribution for the 2011/2012 financial year and write to the Corporation advising of Council's approval.</i></p>	<p>CR STEPHEN HART</p>	
<p><u>OM113003-6 REVIEW OF INSTRUMENT OF DELEGATION- OLD BEECHY RAIL TRAIL</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. Adopts the "Use of the Old Beechy Rail Trail by Recreational Vehicles" Policy.</i> <i>2. Signs and seals the revised Instrument of Delegation for the Old Beechy Rail Trail Committee.</i> <i>3. In accordance with Section 81(2A) of the Local Government Act 1989, resolves to exempt members of the committee from being required to submit a Primary or Ordinary "Register of Interest" return.</i> 		<p>CR LYN RUSSELL</p>
<p><u>OM113003-7 REVIEW OF COUNCIL POLICIES</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council adopts the following revised policies:</i></p> <ul style="list-style-type: none"> <i>- Policy No. 7.3 – Risk Management Policy</i> <i>- Policy No. 16.1 – Internal Audit Policy</i> <i>- Policy No. 16.2 – Fraud Prevention Policy.</i> 		

MOVED Cr Stephen Hart seconded Cr Stuart Hart that recommendations to items listed in the Consent Calendar, with the exception of item OM113003-6 Review of Instrument of Delegation - Old Beechy Rail Trail, be adopted.

CARRIED 7 : 0

OM113003-6 REVIEW OF INSTRUMENT OF DELEGATION- OLD BEECHY RAIL TRAIL

Cr Smith:	OM113003-6 Review of Instrument of Delegation – Old Beechy Rail Trail
Nature of Disclosure:	Indirect
Nature of Interest:	Contains references to landowners of which he and his wife are.

Having declared a conflict of interest in this item, Cr Chris Smith left the meeting at 3.56pm

MOTION - MOVED Cr Lyn Russell seconded Cr Frank Buchanan

That Council:

- 1. Adopts the “Use of the Old Beechy Rail Trail by Recreational Vehicles” Policy.***
- 2. Signs and seals the revised Instrument of Delegation for the Old Beechy Rail Trail Committee.***
- 3. In accordance with Section 81(2A) of the Local Government Act 1989, resolves to exempt members of the committee from being required to submit a Primary or Ordinary “Register of Interest” return.***

CARRIED 5:1

Cr Chris Smith returned to the meeting at 4.06pm.

CONSENT CALENDAR

OFFICERS' REPORT

D = Discussion
W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE AND SERVICES</u></p> <p><u>OM113003-8 COMMUNITY REFERENCE GROUP - COLAC ROAD HIERARCHY AND HEAVY VEHICLE TRUCK ROUTE FOR COLAC TOWNSHIP</u></p> <p>Department: Infrastructure</p> <p><u>Recommendation(s)</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>1. Appoints a Community Reference Group to include community members, a Council representative and Council Officers for the Road Hierarchy and Heavy Vehicle Truck Route Study for Colac Township and endorses Officers advertising for appointment of members of this group;</i> <i>2. Appoints a Councillor representative, Cr.....on the Community Reference Group and that the Councillor representative be involved in the selection of the appropriate community representatives for recommendation to Council;</i> <i>3. Be presented with a further report to formalise the Community Reference Group members once members have been through a selection process.</i> 		<p>CR STEPHEN HART</p>

**OM113003-8 COMMUNITY REFERENCE GROUP - COLAC ROAD HIERARCHY
AND HEAVY VEHICLE TRUCK ROUTE FOR COLAC TOWNSHIP**

MOTION - MOVED Cr Stephen Hart seconded Cr Lyn Russell:

That Council:

- 1. Appoints a Community Reference Group to include community members, two Councillor representatives and Council Officers for the Road Hierarchy and Heavy Vehicle Truck Route Study for Colac Township and endorses Officers advertising for appointment of members of this group;***
- 2. Appoints two Councillor representatives, Cr Frank Buchanan and Cr Geoff Higgins on the Community Reference Group and that the Councillor representatives and the Mayor be involved in the selection of the appropriate community representatives for recommendation to Council;***
- 3. Be presented with a further report to formalise the Community Reference Group members once members have been through a selection process.***

CARRIED 6 : 1

DIVISION called by Cr Chris Smith

For the Motion: Cr Brian Crook, Cr Geoff Higgins, Cr Frank Buchanan, Cr Stuart Hart, Cr Lyn Russell, Cr Stephen Hart

Against the Motion: Cr Chris Smith

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>SUSTAINABLE PLANNING AND DEVELOPMENT</u></p> <p><u>OM113003-9 PLANNING SCHEME AMENDMENTS TO UPDATE THE EROSION MANAGEMENT OVERLAY MAPPING AND SCHEDULE</u></p> <p>Department: Sustainable Planning and Development</p> <p><u>Recommendation(s)</u></p> <p><i>That Council requests authorisation from the Minister for Planning to:</i></p> <ol style="list-style-type: none"> <i>1. Reduce the spatial extent of the Erosion Management Overlay maps to align with updated mapping provided through the Council's EMO Review.</i> <i>2. Prepare and exhibit an amendment to the Erosion Management Overlay – Schedule 1 and introduce the EMO to minor additional areas in line with updated mapping provided through the Council's EMO Review.</i> 	CR CHRIS SMITH	
<p><u>OM113003-10 STATE GOVERNMENT CHANGES TO LEGISLATION CONCERNING WIND ENERGY FACILITIES</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. Note the legislative changes gazetted by the State Government on 15 March 2011 relating to wind energy facilities.</i> <i>2. Engage with the G21 and Great South Coast Regional Council groupings in relation to the issue.</i> <i>3. Write to the State Government and Municipal Association of Victoria (MAV) to express concern at the likely resource impacts on local government of the transfer of all decision making powers for wind energy facilities to local government.</i> 	CR LYN RUSSELL	

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

CARRIED 7 : 0

CONSENT CALENDAR**OFFICERS' REPORT**

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>GENERAL BUSINESS</u></p> <p><u>OM113003-11 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>Councillor Briefing Session - 27 January 2011</i> • <i>Botanic Gardens Advisory Committee Meeting - 10 February 2011</i> • <i>Municipal Emergency Management Planning Committee - 17 February 2011</i> • <i>Councillor Briefing Session - 23 February 2011</i> • <i>Councillor Workshop – Extractive Industry Application - 320 Mooleric Road, Birregurra - 3 March 2011</i> • <i>Lake Colac Coordinating Committee - 8 March 2011</i> • <i>Councillor Workshop - 9 March 2011</i> • <i>Councillor Workshop – Budget - 16 March 2011</i> 		

MOVED Cr Stephen Hart seconded Cr Frank Buchanan that recommendations to the item listed in the Consent Calendar be adopted.

CARRIED 7 : 0

CONSENT CALENDAR**OFFICERS' REPORT****D = Discussion****W = Withdrawal**

ITEM	D	W
<p><u>NOTICES OF MOTION</u></p> <p><u>OM113003-12</u> <u>NOTICE OF MOTION 165-1011</u> <u>GEELONG OTWAY TOURISM</u></p> <p>Department: Notices of Motion</p> <p><u>Recommendation</u></p> <p><i>That Council consider the contents of this Notice of Motion.</i></p>		
<p><u>OM113003-13</u> <u>NOTICE OF MOTION 166-1011</u> <u>CORANGAMITE REGIONAL LIBRARY</u> <u>CORPORATION (CRLC)</u></p> <p>Department: Notices of Motion</p> <p><u>Recommendation</u></p> <p><i>That Council consider the contents of this Notice of Motion.</i></p>		

OM113003-12 NOTICE OF MOTION 165-1011 GEELONG OTWAY
TOURISM (CR STEPHEN HART)

MOTION - MOVED Cr Stephen Hart seconded Cr Stuart Hart that:

Council notes that the current Memorandum of Understanding (MOU) between Colac Otway Shire Council and Geelong Otways Tourism expires on 30 June 2011. Council is committed to genuine consultation with the community, including with tourism operators in the municipality. Accordingly, Council resolves to:

- 1. Invite comment from business operators, local tourism groups and any other interested residents and / or ratepayers on:
a) What should be included in a revised MOU with Geelong Otways Tourism;
and
b) What Council's relationship should be with Geelong Otways Tourism, if any, in light of the current Regional Tourism Restructure.***
- 2. When this matter is considered, comment is to be invited as to whether Council should continue with the current requirement that a business operator must be a member of Geelong Otways Tourism in order to exhibit leaflets in Council's Visitor Information Centres or whether that policy should be discontinued.***
- 3. Council's Chief Executive Officer must ensure that this process of consultation occurs before any decision is taken to continue with Council's association with Geelong Otways Tourism beyond 30 June 2011 and the actual decision is to be decided by a resolution of Council.***

LOST 3 : 4

DIVISION called by Cr Stephen Hart

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

Against the Motion: Cr Brian Crook, Cr Chris Smith, Cr Frank Buchanan, Cr Lyn Russell

OM113003-13 NOTICE OF MOTION 166-1011 CORANGAMITE REGIONAL LIBRARY CORPORATION (CRLC)

MOTION - MOVED Cr Stephen Hart seconded Cr Geoff Higgins that:

- 1. Colac Otway Shire Council notes that the Warrnambool Council, a member of the Corangamite Regional Library Corporation (CRLC), has been re-considering its ongoing involvement with the CRLC.***
- 2. Colac Otway Shire Council is committed to remaining a member of the CRLC until at least 30 June 2013.***
- 3. Council asks the Chief Executive Officer to review Council's future arrangements for the provisions of library services. This review is to include whether Council should be involved with an alternative Regional Library Corporation, such as Geelong Regional Library Corporation, after 30 June 2013. The Chief Executive Officer is to ensure that the process includes proper and ongoing community consultation.***

CARRIED 7:0

URGENT ITEM OF BUSINESS

FOR THE USE AND DEVELOPMENT OF THE LAND FOR A TELECOMMUNICATION FACILITY (30M MONOPOLE - DIGITAL TV REPEATER SITE) - 30 ROBERTS ROAD, MARENGO

SUSPENSION OF STANDING ORDERS - MOVED Cr Frank Buchanan seconded Cr Stephen Hart that Standing Orders be suspended at 4.50pm to allow the applicant to speak to the request for the Use and Development of the Land for a Telecommunication Facility (30M Monopole - Digital TV Repeater Site) - 30 Roberts Road, Marengo to be considered as an urgent item of business.

CARRIED 7: 0

Mr Alan Butorac, General Manager of Regional Broadcasting Australia, addressed Council outlining the process undertaken to date to secure a suitable site for a telecommunications facility in Marengo and the reasons for the urgency to have this matter considered by Council today.

RESUMPTION OF STANDING ORDERS - MOVED Cr Stephen Hart seconded Cr Stuart Hart that Standing Orders be resumed at 5.00pm.

CARRIED 7: 0

MATTER OF URGENCY - MOVED Cr Frank Buchanan seconded Cr Stuart Hart that Council consider the Use And Development of the Land for a Telecommunication Facility (30M Monopole - Digital TV Repeater Site) - 30 Roberts Road, Marengo as an urgent item of business.

CARRIED 7: 0

OM113003-21 USE AND DEVELOPMENT OF THE LAND FOR A TELECOMMUNICATION FACILITY (30M MONOPOLE - DIGITAL TV REPEATER SITE) - 30 ROBERTS ROAD, MARENGO

MOVED Cr Geoff Higgins seconded Cr Lyn Russell

That Council resolves to issue a Notice of Decision to Grant a Planning Permit for the use and development of a Telecommunications Facility (30M Monopole Digital TV Repeater) and associated works at (C/A7, Sec3, 2936, Parish of Krambruk) 30 Roberts Road, Marengo subject to the following conditions:

- 1. The layout of the site and the size of the proposed buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. No additional antennas, aerials, satellite dishes or the like are permitted to be installed on the tower without further planning approval from the Responsible Authority.***
- 3. The nature and colour of building materials employed in the construction of the Telecommunications Facility must be non-reflective light to medium grey tones to the satisfaction of the Responsible Authority.***
- 4. If the telecommunications facility ceases to be operational, the installation must be decommissioned and removed to the satisfaction of the Responsible Authority.***
- 5. The use must be managed so that the amenity of the area is not detrimentally affected.***
- 6. The telecommunications facility must be designed and installed so that the maximum human exposure levels to radio frequency emissions comply with Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz, ARPANSA, May 2002 to the satisfaction of the Responsible Authority.***

DSE Condition

- 7. All construction access and activity, and storage of vehicles, machinery and materials must be confined to the application site and may not occur on the adjoining Nature Conservation Reserve which adjoins the construction site immediately to the south.***

Expiry

- 8. This permit will expire if one of the following circumstances applies:***
 - The development is not started within two years of the date of this permit.***
 - The development is not completed within four years of the date of this permit.***

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

CARRIED 7 : 0

IN COMMITTEE

MOVED Cr Stephen Hart seconded Cr Geoff 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
Confidential Items for Consideration	this matter may prejudice the Council or any person	Section 89 (2) (h)
Terms of Reference - Colac Community Library and Learning Centre Joint Use Advisory Committee	this matter deals with contractual matters; AND this matter may prejudice the Council or any person	Section 89 (2) (d) (h)
Contract Approval (MAV Tender RS8017) Contract 1032 – Provision Of Recruitment Services	this matter deals with contractual matters	Section 89 (2) (d)
Contract No. 1015 – Casual Staff Recruitment	this matter deals with contractual matters	Section 89 (2) (d)
Report from Delegate to Other Bodies - Audit Committee Meeting	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)
Councillor Code of Conduct	this matter deals with personnel matters; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (h)
Otway Community College	this matter deals with personnel matters; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (h)

CARRIED 7 : 0


OUT OF COMMITTEE

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

CARRIED 5 : 0

The Meeting Was Declared Closed at 6.57pm

CONFIRMED AND SIGNED at the meeting held on 27 APRIL 2011

..........**MAYOR**