

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the COPACC Meeting Rooms on 28 September 2011 at 3:00 pm.

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1. OPENING PRAYER

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

**AMEN**

2. PRESENT

Cr 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

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 Received in Writing Prior to the Meeting**

#### **James Judd – Colac**

1. Why does Council not include all available facilities available to pay Council rates with its rates notices since it is claimed direct payment facilities have been in existence for more than 10 years and this gains no mention about how to pay rates?
2. When will council fix its financial management by refusing to send out detailed accounts each month when a number of transactions take place? Council refuses to allow payments to be made at regular intervals to manage financial obligations.
3. Please explain how council is able to give two opposite views on rates being made in four equal instalments of total rates and charges within a 9 month period by holders of the top office. In the first instant you refused to say why instalments could equal over 50% of the total in the first two payments and not only 50% of the gross total in your last claim it is that all payments are of equal size.

#### ***Response:***

***Details of available methods of payment ARE provided on the reverse side of the Valuation and Rates Notice (being page 2 of the four pages provided). This information is provided at the bottom of the page under the heading "METHODS OF PAYMENT".***

***Column 3 of the table detailing the methods of payment is labelled "BY DIRECT DEBIT". Information provided under this heading advises ratepayers wishing to utilise this option to contact Councils Customer Service staff who are able to provide the appropriate application form and any relevant information.***

***This information has been provided on Valuation and Rates Notices for at least the past 12 years.***

***With respect to the last two questions, Council has advised on a number of occasions that regular payments are welcome to be made at our Customer Service Centres from amounts as little as \$1 and every effort is made to ensure that the annual rate charge is spread evenly over the four quarters.***

4. When it is able to make sure it knows when events are held? Why does Council refuse to keep a listing of regular events and only bother to advise of events when it receives written notifications of them? – re calendar of events notification.

**Response:**

***The calendar of events is a free service provided by this Council to provide event organisers the chance to advertise upcoming activities at no cost. It is the responsibility of event organisers to provide Council with the details of their event to ensure that all information provided in the calendar is accurate. Notices are regularly placed in local newspapers calling for submissions to the events calendar.***

**Questions Received Verbally at the Meeting**

**Peter Fillmore – Otway Forum**

1. In light of the many contradictory figures, assumptions and close result quoted in the survey of ratepayers' views on the Apollo Bay Harbour resort redevelopment, will the Councillors delay a decision on starting the Planning Scheme Amendment until the next Council meeting in Apollo Bay? This will give the local community time to read the report and also the chance to see it democratically debated and at the same meeting as the Apollo Bay swimming pool report will be tabled.

**Response:**

***The Mayor responded that this issue had been discussed over a long period of time and that Councillors would have the opportunity during today's meeting to consider the planning scheme amendment process.***

2. What guarantees can the Mayor give that the Planning Scheme Amendment will not be overruled at some point in the future by either VCAT or the Planning Minister, as was the case at the Torquay Golf Club and the Spring Creek development also at Torquay?

**Response:**

***The Mayor advised that given the Torquay projects were on private land it would be inappropriate to draw any comparisons with the Apollo Bay proposal. However no guarantees can be given on whether VCAT or the Planning Minister would support the proposal.***

***The CEO stated that no one can give guarantees but that the key issue is that protections will be put in place by a Planning Scheme Amendment making any overruling less likely to occur.***

3. With no expression of interest, no business plan and no proven demand for a hypothetical resort (and with two health and wellbeing businesses, Clarwern Resort and the day spa already operating and in Apollo Bay), what guarantee is there that a resort will ever be built on the tiny footprint at the harbour and any State Government funding will become available for public facilities there?

**Response:**

***The Mayor stated that the Planning Scheme Amendment process is a way of ensuring control over what footprint is placed on the harbour. The intent of the Planning Scheme Amendment is to introduce controls and to allow community input into those controls. What we are debating today is whether to proceed with the Planning Scheme Amendment process.***

4. Can the Mayor guarantee that the cost of the Planning Scheme Amendment shall remain within the budget of \$250,000 when it was initially costed at \$500,000 and who shall pay if the cost overruns?

**Response**

***The General Manager for Sustainable Planning and Development advised that some elements of the original Planning Scheme Amendment had been removed and that there is no expectation that there will be any cost overrun.***

5. Why won't the Council support Otway Forum's alternative plan that has widespread community support, will cost substantially less and require no Planning Scheme Amendment? This plan has already been shown to Terry Mulder and National Park officials and received a positive response.

**Response**

***The Mayor stated that Otway Forum's alternative plan was not the only one received by Council. As a result of the Planning Scheme Amendment process, these alternative plans may be taken into account. Council is only being asked to endorse the Planning Scheme Amendment process today.***

**Tabling of Documents**

The Mayor tabled a letter to Cr Chris Smith addressing issues raised with respect to the budget at the August Council meeting.

***MOTION - MOVED Cr Stephen Hart seconded Cr Frank Buchanan that the letter sent to Cr Chris Smith, as tabled by the Mayor, be included in the minutes of this meeting.***

***CARRIED 7: 0***

Our Ref: GEN00460 BC/RD

Your Ref:  
Contact:



7 September 2011

Cr Chris Smith  
Colac Otway Shire Council  
1330 Bungador Road  
SWAN MARSH VIC 3249

Dear Councillor Smith,

**Question to the Mayor at the August Ordinary Council Meeting**

Your question at the August meeting and your statement at the June meeting both inferred that an extra \$23,548 was to be paid to the CEO. This inference is clearly incorrect.

For your information, in case you or anybody else is still in doubt, I supply the following facts.

The above amount was attributed as an increase to the CEO's office budget from the previous financial year, 2010/2011.

The break-up of the amount in the current 2011/12 budget is as follows:

- An additional \$16,748 for standard EBA increase (approximately 4% applied to all three staff within the CEO's office)
- An increase in contribution for the Great South Coast Municipality Group
- An extra amount for the Community Satisfaction Survey.

I trust that this matter has now been resolved.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Brian Crook".

Cr Brian Crook  
**Mayor**

CC: All Councillors

**Colac Otway Shire**  
PO Box 283  
Colac Victoria 3250  
www.colacotwayvic.gov.au  
inq@colacotwayvic.gov.au

**Colac Service Centre**  
2-6 Rae Street  
Colac Victoria 3250  
Ph: (03) 5232 9400  
Fax: (03) 5232 1046

**Apollo Bay Service Centre**  
69-71 Nelson Street  
Apollo Bay Victoria 3233  
Ph: (03) 5237 6504  
Fax: (03) 5237 6734

## 6. DECLARATION OF INTEREST

Colin Hayman	OM11112809-17 End of Financial Year Management Report
Nature of Disclosure:	Indirect Interest

Neil Allen	OM11112809-17 End of Financial Year Management Report
Nature of Disclosure:	Indirect Interest

## 7. CONFIRMATION OF MINUTES

- **Ordinary Council Meeting held on the 24/08/11**
- **Special Council Meeting held on the 14/09/11.**

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

***CARRIED 7 : 0***

## OFFICERS' REPORTS

### Chief Executive Officer

- OM112809-1 CEO'S PROGRESS REPORT TO COUNCIL
- OM112809-2 LOCAL LAWS REVIEW STEERING COMMITTEE
- OM112809-3 MEN'S SHED FORREST

### Corporate and Community Services

- OM112809-4 RENAMING OF PART OF EGAN ST, COLAC
- OM112809-5 REVIEW OF PROCUREMENT POLICY
- OM112809-6 S86 COMMITTEE OF COUNCIL RE-ELECTION - BIRREGURRA PUBLIC HALL
- OM112809-7 LEASE RENEWAL - WYE RIVER FIRE STATION  
30 MCLELLAN CRT, WYE RIVER

### Infrastructure and Services

- OM112809-8 COLAC-ELLIMINYT COMMUTER FOOTPATH STRATEGY
- OM112809-9 LOCAL PORTS GOVERNANCE REVIEW DISCUSSION PAPER
- OM112809-10 SPECIAL CHARGE SCHEME - MORLEY AVENUE DRAINAGE

### Sustainable Planning and Development

- OM112809-11 APOLLO BAY HARBOUR PRECINCT REDEVELOPMENT  
PRESENTATION OF MARKET RESEARCH RESULTS
- OM112809-12 SUBMISSION TO STATE GOVERNMENT CAR PARKING PROVISIONS  
REVIEW
- OM112809-13 SUBMISSION TO THE VICTORIAN PLANNING SYSTEM MINISTERIAL  
ADVISORY COMMITTEE
- OM112809-14 DRAFT COLAC CBD AND ENTRANCES PROJECT REPORT
- OM112809-15 LOCAL GOVERNMENT INFRASTRUCTURE PROGRAM AND  
REGIONAL DEVELOPMENT AUSTRALIA FUND

### General Business

- OM112809-16 ASSEMBLY OF COUNCILLORS

### Urgent Item of Business

- OM112809-24 RESPONSE TO FIRE SERVICES PROPERTY LEVY OPTION PAPER

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

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>CHIEF EXECUTIVE OFFICER</u></b></p> <p><b><u>OM112809-1      CEO'S PROGRESS REPORT TO COUNCIL</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council notes the CEO's Progress Report to Council.</i></b></p>	<p>CR STUART HART CR LYN RUSSELL</p>	
<p><b><u>OM112809-2      LOCAL LAWS REVIEW STEERING COMMITTEE</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council appoints Cr ..... to the Colac Otway Shire Council Local Laws Review Steering Committee for the review of Local Laws 1, 2 and 3.</i></b></p>		<p>CR STUART HART</p>
<p><b><u>OM112809-3      MEN'S SHED FORREST</u></b></p> <p>Department: Executive</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Approves of the use of the section of the Forrest depot fronting Blundy Street and the two sheds located there for use by the Forrest Men's Shed group for a period of one year with a right to extend that use for a further one year on the basis that grant applications for a permanent facility are progressing.</i></b></li> <li><b><i>2. Enters into a licence to occupy on this basis.</i></b></li> <li><b><i>3. Assists the Forrest Men's Shed group in pursuing grant funding for a permanent facility.</i></b></li> </ol>	<p>CR STUART HART</p> <p>CR LYN RUSSELL</p> <p>CR BRIAN CROOK</p>	



***MOVED Cr Lyn Russell seconded Cr Geoff Higgins that recommendations to items listed in the Consent Calendar, with the exception of item OM112809-2 Local Laws Review Steering Committee, be adopted.***

***CARRIED 7 : 0***

**OM112809-2            LOCAL LAWS REVIEW STEERING COMMITTEE**

***MOVED Cr Stuart Hart seconded Cr Lyn Russell***

***That Council appoints Cr Stephen Hart to the Colac Otway Shire Council Local Laws Review Steering Committee for the review of Local Laws 1, 2 and 3.***

***CARRIED 7 : 0***

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

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>CORPORATE AND COMMUNITY SERVICES</u></b></p> <p><b><u>OM112809-4      RENAMING OF PART OF EGAN ST, COLAC</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Resolves that the northern section of Egan Street, Colac, located between Pound Road and Hearn Street Colac be renamed "North Egan Street" in accordance with the provisions of section 206 and clause 5 of schedule 10 of the Local Government Act 1989.</i></b></li> <li><b><i>2. Publishes the Council's resolution in the Victorian Government Gazette.</i></b></li> <li><b><i>3. Advises the owners of properties abutting the section to be named North Egan Street of Council's resolution.</i></b></li> </ol>		
<p><b><u>OM112809-5      REVIEW OF PROCUREMENT POLICY</u></b></p> <p>Department: Corporate and Community Services</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council adopts the Revised Procurement Policy No. 3.2.</i></b></p>		

<b><u>OM112809-6</u></b>	<b><u>S86 COMMITTEE OF COUNCIL RE-ELECTION - BIRREGURRA PUBLIC HALL</u></b>	<b>CR LYN RUSSELL</b>
Department: Corporate and Community Services		
<b><u>Recommendation(s)</u></b>		
<b><i>That Council:</i></b>		
1.	<b><i>Pursuant to Section 86 of the Local Government Act 1989, resolves to appoint the following nominated members to the Birregurra Public Hall Committee of Management until 28 September 2014:</i></b>  <b><i>Gary McCormack, Ian McDonald, Sue Bateson, Margaret McDonald, Bryan Sanders, Brian Lawrence, Greg McKay, Jane Dennis, Belinda Stewart</i></b>	
2.	<b><i>In accordance with Section 81 sub-section(2) sub-section(a) of the Local Government Act 1989, resolves 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></b>	
3.	<b><i>Advises 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></b>	
<b><u>OM112809-7</u></b>	<b><u>LEASE RENEWAL – WYE RIVER FIRE STATION - 30 MCLELLAN CRT, WYE RIVER</u></b>	<b>CR STEPHEN HART</b>
Department: Corporate and Community Services		
<b><u>Recommendation(s)</u></b>		
<b><i>That Council:</i></b>		
1.	<b><i>Commences the statutory procedure pursuant to the provisions of section 190 of the Local Government Act 1989 to enter into a lease with the Country Fire Authority for them to continue to occupy the Council owned land at 20 McLellan Street, Wye River.</i></b>	

2.	<b><i>Agrees with the terms and conditions of the proposed lease. A term of 10 years with two five year options at a rental of \$1 per year.</i></b>		
3.	<b><i>Determines that any submissions to the proposed lease be considered at the Council meeting to be held on 23 November 2011 following a 6 week period submission period.</i></b>		

***MOVED Cr Stephen Hart seconded Cr Stuart Hart that recommendations to items listed in the Consent Calendar, with the exception of items OM112809-7 Lease Renewal – Wye River Fire Station - 30 McLellan Crt, Wye River, be adopted.***

***CARRIED 7 : 0***

**OM112809-7 LEASE RENEWAL – WYE RIVER FIRE STATION - 30 MCLELLAN CRT, WYE RIVER**

***MOVED Cr Stephen Hart seconded Cr Stuart Hart that:***

***Council:***

- 1. Supports the provision of a lease to the Country Fire Authority (CFA) for them to continue to occupy the Council land at 20 McLellan Street, Wye River.***
- 2. Instructs the Chief Executive Officer to offer the CFA a choice of lease options as follows:***
  - a) A term of 50 years at \$1 per year with the CFA being exempt from Council rates but liable to pay the waste management charge, if any, OR***
  - b) A term of 10 years with two five year options at a rental of \$1 per year with the options being at the CFA's discretion rather than Councils.***
- 3. Apart from any differences outlined in point 2, Council agrees with all other terms in the proposed lease.***
- 4. Once the CFA has indicated their choice from the above options the Council is to commence the statutory procedure pursuant to the provisions of section 190 of the Local Government Act 1989 to enter into a lease with the CFA based on the CFA's preference from the two options.***
- 5. Determines that any submissions to the proposed lease be considered at the first available Council meeting to be held after a 6 week submission period.***
- 6. Calls on the Chief Executive Officer to take all reasonable steps to ensure that the advertising of the proposed lease commences no later than 31 October 2011.***

***CARRIED 6 : 1***

***DIVISION called by Cr Stuart Hart***

***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 CALENDAROFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE AND SERVICES</u></p> <p><u>OM112809-8 COLAC-ELIMINYT COMMUTER FOOTPATH STRATEGY</u></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Endorses the draft Colac-Elliminyt Commuter Footpath Strategy for public consultation; and</i></b></li> <li><b><i>2. Places the Draft Colac-Elliminyt Commuter Footpath Strategy on exhibition until Friday 18 November 2011</i></b></li> </ol>		CR CHRIS SMITH
<p><u>OM112809-9 LOCAL PORTS GOVERNANCE REVIEW DISCUSSION PAPER</u></p> <p>Department: Infrastructure</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Receives the report on Port Governance Discussion Paper;</i></b></li> <li><b><i>2. Provides a response to Local Ports Division, Department of Transport outlining the issues raised within the report advising that the current model of Council acting as the Committee of Management for Port of Apollo Bay management is working well and is the preferred Council model; and</i></b></li> <li><b><i>3. Advises the Local Ports Division, Department of Transport, that Council would prefer the setting of Fees and Licencing of Berths and Moorings be managed Statewide through the Department of Transport and its Registration Agency.</i></b></li> </ol>		

**OM112809-10 SPECIAL CHARGE SCHEME – MORLEY AVENUE DRAINAGE**

CR LYN RUSSELL

Department: Infrastructure

**Recommendation(s)**

***That Council:***

***Resolves with respect to the construction of a common drainage line along the rear of properties 37, 41, 45, and 49 Morley Avenue, Wye River, to give notice of its Intention to Declare a Special Charge Scheme for the construction of these works such that:***

1. ***The construction of a common underground drainage pipe and associated works will be of special benefit to properties described in paragraph (e) and shown on the attached plan by way of:***
  - ***Controlled stormwater discharge, and***
  - ***Improved site and land stability.***
2. ***A special charge be declared for the period commencing on 28 September 2011 and concluding on 28 September 2016.***
3. ***A special charge scheme be declared for defraying any expenses in relation to the installation of an underground stormwater pipe system comprising of a 375mm stormwater pipe along the rear of 37, 41, 45, and 49 Morley Avenue, Wye River.***
4. ***The following be described as the area for which the special charge is declared:***  
***The properties that can directly connect to the underground drainage line located along the rear of 37, 41, 45, and 49 Morley Avenue, Wye River and applying to properties described in paragraph 5.***
5. ***The following be declared as the land in relation to which the special charge is so declared:***
  - ***37 Morley Avenue, Wye River***
  - ***39 Morley Avenue, Wye River***
  - ***41 Morley Avenue, Wye River***
  - ***43 Morley Avenue, Wye River***
  - ***45 Morley Avenue, Wye River***
  - ***47 Morley Avenue, Wye River***
  - ***49 Morley Avenue, Wye River***
6. ***The following be specified as the criteria which forms the basis of the special charge so declared:***
  - ***Ownership of the land described in paragraph 5 of the recommendation.***

<p>7. <b><i>The following be specified as the manner in which the special charge so declared be assessed and levied:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>The unit of assessment is one (1) benefit unit per property who can directly connect to the underground common drainage line. The unit benefit equates to an estimated \$3,677.</i></b></li> </ul> <p>8. <b><i>Having regard to the proceeding parts of this Resolution but subject to Section 166(1)(b) of the Local Government Act 1989:</i></b></p> <ul style="list-style-type: none"> <li>i. <b><i>it can be confirmed that the owner of each rateable land described in Column 1 of the Schedule will therefore be liable for the respective amounts set out in Column 2 of the Schedule; and</i></b></li> <li>ii. <b><i>it be recorded that each owner may, subject to Section 167(4) of the Local Government Act 1989 and any further Resolution of Council pay the special charge in the following manner;</i></b> <ul style="list-style-type: none"> <li>a) <b><i>payment of quarterly instalments (commencing within one calendar month of the issue of the notice requesting payment) over 4 years with interest paid on the remaining principal at the Council overdraft rate and that a penalty interest rate be applied to late instalment repayments only; or</i></b></li> <li>b) <b><i>payment by lump sum to be paid within one calendar month of the issue of notice requesting payment.</i></b></li> </ul> </li> </ul> <p>9. <b><i>The Chief Executive Officer be authorized to give public notice of Council's intention to declare a special charge scheme in accordance with Section 163(1C) of the Local Government Act 1989.</i></b></p> <p>10. <b><i>It be recorded that, subject to Section 163A and 168(1)(b) of the Local Government Act 1989, Council proposes to use the money from the special charge so declared in the manner set out in the "Estimate" annexed to this resolution.</i></b></p> <p>11. <b><i>Council appoints two (2) Councillors as a Special Committee to consider submissions pursuant to Section 223 of the Local Government Act 1989, and that this Special Committee hears such submissions at Council's Rae Street Offices at 5pm on Wednesday, 9 November 2011.</i></b></p> <p>12. <b><i>If all parties enter into a Private Agreement, to the satisfaction of Council, within a reasonable time, that the Special Charge Scheme be abandoned.</i></b></p>		
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**MOVED Cr Stephen Hart seconded Cr Lyn Russell that recommendations to item OM112809-9 Local Ports Governance Review Discussion Paper, as listed in the Consent Calendar, be adopted.**

**CARRIED 7 : 0**

**OM112809-8 COLAC-ELLIMINYT COMMUTER FOOTPATH STRATEGY**

**MOVED Cr Chris Smith that Council does not endorse the draft Colac-Elliminyt Commuter Footpath Strategy for public consultation and that it be sent back to the drawing board.**

**Due to the lack of a seconder, the motion lapsed.**

**MOVED Cr Lyn Russell seconded Cr Geoff Higgins that:  
Council:**

- 1. Endorses the draft Colac-Elliminyt Commuter Footpath Strategy for public consultation;  
and**
- 2. Places the Draft Colac-Elliminyt Commuter Footpath Strategy on exhibition until Friday 18 November 2011**

**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**

**OM112809-10 SPECIAL CHARGE SCHEME – MORLEY AVENUE DRAINAGE**

**MOVED Cr Lyn Russell seconded Cr Stephen Hart**

**That Council:**

**Resolves with respect to the construction of a common drainage line along the rear of properties 37, 41, 45, and 49 Morley Avenue, Wye River, to give notice of its Intention to Declare a Special Charge Scheme for the construction of these works such that:**

- 1. The construction of a common underground drainage pipe and associated works will be of special benefit to properties described in paragraph (e) and shown on the attached plan by way of:**
  - Controlled stormwater discharge, and**
  - Improved site and land stability.**



2. ***A special charge be declared for the period commencing on 28 September 2011 and concluding on 28 September 2016.***
3. ***A special charge scheme be declared for defraying any expenses in relation to the installation of an underground stormwater pipe system comprising of a 375mm stormwater pipe along the rear of 37, 41, 45, and 49 Morley Avenue, Wye River.***
4. ***The following be described as the area for which the special charge is declared:***  
  
***The properties that can directly connect to the underground drainage line located along the rear of 37, 41, 45, and 49 Morley Avenue, Wye River and applying to properties described in paragraph 5.***
5. ***The following be declared as the land in relation to which the special charge is so declared:***
  - ***37 Morley Avenue, Wye River*** ***Lot 2 LP 82721***
  - ***39 Morley Avenue, Wye River*** ***Lot 3 LP 82721***
  - ***41 Morley Avenue, Wye River*** ***Lot 4 LP 82721***
  - ***43 Morley Avenue, Wye River*** ***Lot 5 LP 82721***
  - ***45 Morley Avenue, Wye River*** ***Lot 6 LP 82721***
  - ***47 Morley Avenue, Wye River*** ***Lot 7 LP 82721***
  - ***49 Morley Avenue, Wye River*** ***Lot 8 LP 82721***
6. ***The following be specified as the criteria which forms the basis of the special charge so declared:***
  - ***Ownership of the land described in paragraph 5 of the recommendation.***
7. ***The following be specified as the manner in which the special charge so declared be assessed and levied;***
  - ***The unit of assessment is one (1) benefit unit per property who can directly connect to the underground common drainage line. The unit benefit equates to an estimated \$3,677.***
8. ***Having regard to the proceeding parts of this Resolution but subject to Section 166(1)(b) of the Local Government Act 1989:***
  - i. it can be confirmed that the owner of each rateable land described in Column 1 of the Schedule will therefore be liable for the respective amounts set out in Column 2 of the Schedule; and***
  - ii. it be recorded that each owner may, subject to Section 167(4) of the Local Government Act 1989 and any further Resolution of Council pay the special charge in the following manner;***
    - a) payment of quarterly instalments (commencing within one calendar month of the issue of the notice requesting payment) over 4 years with interest paid on the remaining principal at the Council overdraft rate and that a penalty interest rate be applied to late instalment repayments only; or***
    - b) payment by lump sum to be paid within one calendar month of the issue of notice requesting payment.***
9. ***The Chief Executive Officer be authorized to give public notice of Council's intention to declare a special charge scheme in accordance with Section 163(1C) of the Local Government Act 1989.***
10. ***It be recorded that, subject to Section 163A and 168(1)(b) of the Local Government Act 1989, Council proposes to use the money from the special charge so declared in the manner set out in the "Estimate" annexed to this resolution.***

11. ***Appoints Cr Frank Buchanan and Cr Stuart Hart as a Special Committee to consider submissions pursuant to Section 223 of the Local Government Act 1989, and that this Special Committee hears such submissions at Council's Rae Street Offices at 5pm on Wednesday, 9 November 2011.***
12. ***If all parties enter into a Private Agreement, to the satisfaction of Council, within a reasonable time, that the Special Charge Scheme be abandoned.***

**CARRIED 7 : 0**

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

D = Discussion

W = Withdrawal

ITEM	D	W
<p><b><u>SUSTAINABLE PLANNING AND DEVELOPMENT</u></b></p> <p><b><u>OM112809-11 APOLLO BAY HARBOUR PRECINCT REDEVELOPMENT PRESENTATION OF MARKET RESEARCH RESULTS</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Notes the results of the August 2011 Apollo Bay Harbour Precinct Redevelopment telephone research report prepared by Vawser and Associates.</i></b></li> <li><b><i>2. Endorses commencement of a Planning Scheme Amendment process to incorporate the Apollo Bay Harbour Precinct Master Plan into the Colac Otway Shire Planning Scheme.</i></b></li> </ol>		<p><b>CR STEPHEN HART</b></p>
<p><b><u>OM112809-12 SUBMISSION TO STATE GOVERNMENT CAR PARKING PROVISIONS REVIEW</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council lodges a submission to the State Government Car Parking Advisory Committee for consideration in its current review of parking provisions that supports the proposed changes.</i></b></p>		

<p><b><u>OM112809-13 SUBMISSION TO THE VICTORIAN PLANNING SYSTEM MINISTERIAL ADVISORY COMMITTEE</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council endorses the Colac Otway Shire Council Submission to the Victorian Planning System Ministerial Advisory Committee that was lodged prior to 31 August 2011, as attached to this report.</i></p>		CR CHRIS SMITH
<p><b><u>OM112809-14 DRAFT COLAC CBD AND ENTRANCES PROJECT REPORT</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Notes the draft Colac CBD and Entrances Project report.</i></b></li> <li><b><i>2. Places the draft report on public exhibition for a period of six weeks prior to its finalisation.</i></b></li> </ol>		CR LYN RUSSELL
<p><b><u>OM112809-15 LOCAL GOVERNMENT INFRASTRUCTURE PROGRAM AND REGIONAL DEVELOPMENT AUSTRALIA FUND</u></b></p> <p>Department: Sustainable Planning and Development</p> <p><b><u>Recommendation(s)</u></b></p> <p><b><i>That Council:</i></b></p> <ol style="list-style-type: none"> <li><b><i>1. Provides the attached list of Capital Works projects to the Department of Planning &amp; Community Development by 30 September 2011 to meet Local Government Infrastructure Program (LGIP) guidelines and State Government requirements.</i></b></li> <li><b><i>2. Saves \$250,000 from each of the first two years LGIP allocation of funds to accumulate a \$500,000 bank to contribute to a Regional Development Australia Fund application.</i></b></li> <li><b><i>3. Allocates \$237,000 of the first year's LGIP to the Gymnasium component of the Blue Water Fitness Centre redevelopment, to meet the shortfall in funding.</i></b></li> </ol>		CR STEPHEN HART

<p>4. <i>Saves the remaining first year funds of \$74,243 to add to the year two bank to fund projects in excess of \$150,000.</i></p> <p>5. <i>Endorses an application for \$4.9m for the Central Reserve / Beechy Centre Project to be prepared for submission to the RDAF Round 2 with the LGIP banked funds over two years of \$500,000 in total to be used as a contribution to the project.</i></p>		
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**MOVED** Cr Stephen Hart seconded Cr Frank Buchanan that recommendations to item OM112809-12 Submission To State Government Car Parking Provisions Review as listed in the Consent Calendar be adopted.

**CARRIED 7 : 0**

**OM112809-11      APOLLO BAY HARBOUR PRECINCT REDEVELOPMENT**  
**PRESENTATION OF MARKET RESEARCH RESULTS**

**MOVED** Cr Stephen Hart seconded Cr Stuart Hart

**That Council:**

1. **Notes the results of the August 2011 Apollo Bay Harbour Precinct Redevelopment telephone research report prepared by Vawser and Associates.**
2. **Endorses, in principle, the commencement of a Planning Scheme Amendment process to incorporate the Apollo Bay Harbour Precinct Master Plan into the Colac Otway Shire Planning Scheme subject to the following points.**
3. **Acknowledges the contentious aspect of the proposed hotel and calls for a Councillor workshop to discuss that aspect of the proposed Master Plan.**
4. **Notes the claim that funding will only be available if there is private investment in the Harbour and calls on the Chief Executive Officer to obtain written clarification as to whether that private investment must be in the form of a hotel.**
5. **Calls for a Council report after the matters in point 3 and 4 have occurred so that the Council can determine what part, if any, the hotel should have in the planning scheme amendment.**

**CARRIED 5 : 2**

**DIVISION called by Cr Frank Buchanan**

**For the Motion: Cr Geoff Higgins, Cr Chris Smith, Cr Stuart Hart, Cr Lyn Russell, Cr Stephen Hart**

**Against the Motion: Cr Brian Crook, Cr Frank Buchanan**

**OM112809-13 SUBMISSION TO THE VICTORIAN PLANNING SYSTEM MINISTERIAL  
ADVISORY COMMITTEE**

***MOVED Cr Lyn Russell seconded Cr Geoff Higgins***

***That Council endorses the Colac Otway Shire Council Submission to the Victorian Planning System Ministerial Advisory Committee that was lodged prior to 31 August 2011, as attached to this report.***

**CARRIED 6 : 1**

**OM112809-14 DRAFT COLAC CBD AND ENTRANCES PROJECT REPORT**

***MOVED Cr Lyn Russell seconded Cr Geoff Higgins***

***That Council:***

- 1. Notes the draft Colac CBD and Entrances Project report.***
- 2. Places the draft report on public exhibition for a period of at least six weeks prior to its finalisation.***

**CARRIED 7 : 0**

**OM112809-15 LOCAL GOVERNMENT INFRASTRUCTURE PROGRAM AND REGIONAL  
DEVELOPMENT AUSTRALIA FUND**

***MOVED Cr Stephen Hart seconded Cr Geoff Higgins***

***That Council:***

- 1. Provides the attached list of Capital Works projects to the Department of Planning & Community Development, and ensures that the list of bridges needing works are included, by 30 September 2011 to meet Local Government Infrastructure Program (LGIP) guidelines and State Government requirements.***
- 2. Saves \$200,000 from each of the first two years LGIP allocation of funds to accumulate a \$400,000 bank towards a Regional Development Australia Fund application.***
- 3. Allocates all of the remaining funds of approximately \$361,000 in the first year, to repair or replace a bridge or bridges, in addition to any works funded via the usual Council budget process, using the Infrastructure's priority list as a guide.***
- 4. Rejects the minimum cost limit of \$150,000 per project in the report as this will unfairly disadvantage those areas, particularly rural areas, with projects costing less than \$150,000 and will also place unreasonable limits on the Infrastructure Department as some priority bridges will cost less than \$150,000 to repair or upgrade.***

**CARRIED 5 : 2**

***DIVISION called by Cr Geoff Higgins***

***For the Motion: Cr Geoff Higgins, Cr Chris Smith, Cr Stuart Hart, Cr Lyn Russell, Cr Stephen Hart***

***Against the Motion: Cr Brian Crook, Cr Frank Buchanan***

***MOVED Cr Stephen Hart seconded Cr Lyn Russell***

***That Council endorses an application for up to \$4.9m for the Central Reserve / Beechy Centre Project to be prepared for submission to the Regional Development Australia Fund Round 2.***

***CARRIED 7 : 0***

**CONSENT CALENDAR**

**OFFICERS' REPORT**

D = Discussion  
W = Withdrawal

ITEM	D	W
<p><u>GENERAL BUSINESS</u></p> <p><b><u>OM112809-16 ASSEMBLY OF COUNCILLORS</u></b></p> <p>Department: General Business</p> <p><b><u>Recommendation(s)</u></b></p> <p><i>That Council notes the Assembly of Councillors reports for:</i></p> <ul style="list-style-type: none"> <li>• <i>Central Reserve Advisory Committee - 3 August 2011</i></li> <li>• <i>Municipal Emergency Management Planning Committee - 18 August 2011</i></li> <li>• <i>Councillor Briefing Session - 24 August 2011</i></li> <li>• <i>Councillor Workshop - 14 September 2011</i></li> </ul>	<p>CR STEPHEN HART</p>	

***MOVED Cr Stephen Hart seconded Cr Stuart Hart that recommendations to item OM112809-16 Assembly Of Councillors as listed in the Consent Calendar be adopted.***

**CARRIED 7 : 0**



**URGENT ITEM OF BUSINESS – RESPONSE TO FIRE SERVICES PROPERTY LEVY  
OPTIONS PAPER**

***MATTER OF URGENCY - MOVED Cr Lyn Russell seconded Cr Stephen Hart that Council consider the Response to Fire Services Property Levy Options Paper as an urgent item of business in order to meet the State Government's deadline of 30 September 2011 for submissions.***

***CARRIED 7: 0***

**OM112809 – 24 RESPONSE TO FIRE SERVICES PROPERTY LEVY OPTION PAPER**

AUTHOR:	Brett Exelby	ENDORSED:	Colin Hayman
DEPARTMENT:	Corporate & Community Services	FILE REF:	D11/4701

**Purpose**

The State Government recently circulated the Fire Services Property Levy Options Paper for consideration and comment. This report proposes the key responses that are to be provided to the State Government by the Colac Otway Shire

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

The Royal Commission held in the aftermath of the 2009 bushfires across Victoria made a recommendation that the model used to fund the provision of fire services throughout Victoria be changed. The current model provides for a Fire Services Levy (FSL) to be added to insurance premiums charged by insurance companies.

The Royal Commission found a number of houses destroyed by fire were not insured, with the reason for this thought to be the cost of insurance premiums (which included the FSL). Thus, the Royal Commission concluded insurance would be more affordable if the FSL was removed from insurance premiums, which would result in more property owners insuring their properties.

Consequently, a new funding model would be required to raise the money required to fund fire services with the Commission determining a property based funding model should be applied. The underlying premise for this was that all properties derive a benefit from the provision of fire services and therefore property owners should pay for that service.

The State Government's Department of Treasury and Finance has then developed a property based funding model as outlined in the Fire Services Property Levy Options Paper.

The Options Paper proposes that:

- a property levy be imposed on real property, including non-rateable property, property owned by local councils and potentially the State Government.
- the property levy be set annually to ensure fire services are adequately funded.
- the fire services property levy include a fixed component and an ad valorem charge assessed on the capital improved value (CIV) of the property.
- Concessions should given to holders of Health Care cards, Pensioner Concession cards and Department of Veterans Affairs Gold cards for their principal place of residence.
- the fire services property levy be collected by local councils, with support for implementation and administration.
- a tapering approach be adopted to phase out the insurance contributions prior to the introduction of the property levy.
- the Essential Services Commission be appointed to independently monitor the fire services property levy transition process. A public report on whether or not insurance companies have passed on savings to policy holders is to be produced as part of the monitoring role.

The principles guiding the design of the property based funding model are:

- efficiency
- equity
- sustainability and stability of the revenue base
- simplicity and transparency, and
- minimising administration and compliance costs.

The options paper discusses a number of funding models and funding collection models however they fundamentally focus on generating revenue to fund the Metropolitan Fire and Emergency Services Board and the Country Fire Authority from a property based levy to be collected by local government.

### **Council Plan / Other Strategies / Policy**

Council will fulfil its leadership, statutory and legal obligations to its community and staff in a way that is: fair, ethical, inclusive, sustainable, financially responsible and meets the needs and practical aspirations of current and future generations.

### **Issues / Options**

Overwhelmingly, the reaction of local government has been to oppose the proposal that it be the collector of revenue for the State Government. More fundamentally, the State government has direct responsibility for the provision of emergency services for all Victorians. Given the direct responsibility for the provision of the service, the responsibility for the funding of the service must also be with the State Government. The general view is that the State Government already has an organisation (called the State Revenue Office) for the purpose of collecting state revenue from Land tax and various duties. Collection of the fire services property levy is not a core responsibility of local government.

The State Revenue Office already has Council's valuations and assessments records and therefore has all the data required to produce the fire services property levy. It is acknowledged the proposal to raise the levy on non-rateable properties would require significant work to set up for the State Revenue Office, but no more so than local government.

Other concerns of local government are:

- There will be significant cost and resources implications in creating and maintaining assessments/parcels for properties not yet included within existing Council property records (for example: Crown land, Council roads).
- There is uncertainty how assessments will be determined (for example, by title or contiguous ownership?).
- The inclusion of the fire services property levy the rates notice will lead to non-payment of rates (due to cost) particularly given cost of utilities is rising rapidly.
- The use of the capital improved value as a basis for the levy may lead to additional valuation objections which will lead to greater cost for Council.
- That ratepayers will not recognise the fire service property levy as a State Government imposed levy and blame local government for increasing rates even further.
- That the fire services property levy may be required to be forwarded to the State Government prior to the collection of any levy, so affecting local government cash flow.
- That the priority of the fire services property levy may leave local government to recover the unpaid levy as rates (as occurred with State Deficit Levy). Councils would therefore "finance" the State Government at their own expense.
- There will be confusion regarding concessions as Health Care Card (HCC) holders are not eligible for rates concession but will be eligible for the fire services property levy concession (this must be consistent with the rates concession).

- Whether HCC holders should be eligible for concession given the transient nature of eligibility and the cost and time required to be spent verifying eligibility for concession applicants.

Overall, the State Government is seeking to shift the cost of implementing and administering this change onto local government.

In addition, it is considered the proposal fails to meet some its own guiding principles as follows:

- A system that requires 79 Councils to remit payments to the State Government instead of requiring a single agency (for example the State Revenue Office) to collect and remit payment is not being “efficient”.
- It is inequitable that only property owners contribute to the cost of fire services when the entire community benefits (*thereby failing to meet the “equity” principle*).
- A levy based on a fixed component and an ad valorem amount will be complicated for contributors and customer service staff alike when dealing with enquiries (*again it fails to meet the “simplicity and transparency” principle*).
- The proposal is complicated for local government as issues such as how assessments will be determined, what type of land (such as roads) should be levied, will Crown land be levied, how much financial assistance will local government receive are all unknown at this stage (*again it fails to meet the “simplicity and transparency” principle*).
- The inclusion of the levy on Council rates notices will not be transparent and is likely to have a negative impact on how the community views local government (*again it fails to meet the “simplicity and transparency” principle*).
- Fundamentally any organisation that raises a levy should be accountable for that levy and be responsible for invoicing and collection. This means that the State Government should implement and administer its own levy (*again it fails to meet the “simplicity and transparency” principle*).
- The proposal will have significant implementation and ongoing administrative resourcing implications for local government (*it fails to meet the “minimisation of administration and compliance costs” principle*).
- Whilst minimising costs for the State Government, the proposal adds significant costs to local government (*again it fails to meet the “minimisation of administration and compliance costs” principle in broader terms*).

This proposal appears to adopt a property based funding model simply because invoicing infrastructure already exists (that being local government) and it represents a cheaper and more politically expedient ongoing option for the State Government. The impact to local government as tier of government appears to have been given scant regard.

Significantly, the proposal is not based on any empirical analysis or consideration of other potential funding models. Other funding models should be investigated to ensure the cost of provision of fire services is more equitably apportioned across the community.

More significantly, the proposal to fund fire services only is a short-sighted patch-job when the State Government should be considering the management and funding of all emergency services on a holistic basis rather than the ad hoc service by service approach taken.

### **Proposal**

It is proposed that Council provide a response to the Fire Services Property Levy Options Paper detailing Council’s concerns.

**Financial and Other Resource Implications**

There are no immediate financial or resource implications. Should the Fire Services Property Levy be implemented in its current form, the resource implications will require review.

**Risk Management & Compliance Issues**

No risk management or compliance issues have been identified.

**Environmental and Climate Change Considerations**

No considerations are deemed relevant.

**Community Engagement**

The community engagement strategy will follow the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be to inform the community as more information is made available.

**Implementation**

The response to the Fire Services Property Levy Option Paper will be prepared to provided to Department of Treasury and Finance by 30 September 2011.

**Conclusion**

The fire services property levy proposal appears to adopt a property based funding model simply because invoicing infrastructure already exists (that being local government) and it represents a cheaper and more politically expedient option for the State Government. The impact to local government as tier of government appears to have been given scant regard.

Significantly, the proposal is not based on any empirical analysis or consideration of other potential funding models. Other funding models should be investigated to ensure the cost of provision of fire services is more equitably apportioned across the community.

More significantly, the proposal to fund fire services only is a short-sighted patch-job when the State Government should be considering the management and funding of all emergency services on a holistic basis rather than the ad hoc service by service approach taken.

**Attachments**

Nil

**Recommendation(s)**

**That Council:**

- 1. Provide a response to the Fire Services Property Levy Options Paper that includes the following:**
  - a. That a property based funding model for the provision of fire services is not necessarily the most equitable model for the community and the State Government is strongly urged to investigate other funding models and options, which should include investigating an Emergency Services Levy which provides funding for all emergency services.**
  - b. That the assumption that removing the fire services levy from insurance premiums will result in greater incidence of insured properties is simplistic and lacks validity as a basis for changing the current fire services funding model.**
  - c. That local government should not be the fire services property levy collection agency.**
  - d. That the provision of fire and emergency services is a core responsibility of the State government and it should therefore implement and administer the funding of these services.**
  - e. The State Revenue Office is the most appropriate agency to levy and collect the fire services property levy for the State Government.**
  - f. That the proposal is seen as the State Government undertaking a cost shifting activity on to local government.**

**CARRIED 6 : 1**

**DIVISION called by Cr Geoff Higgins**

**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**

**IN COMMITTEE**

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

<b><i>SUBJECT</i></b>	<b><i>REASON</i></b>	<b><i>SECTION OF ACT</i></b>
End of Financial Year Management Report 2010/2011	this matter may prejudice the Council or any person	Section 89 (2) (h)
Real Estate Services Evaluation	this matter deals with contractual matters; AND this matter may prejudice the Council or any person	Section 89 (2) (d) (h)
Report from Delegate to other bodies - Audit Committee Minutes	this matter deals with personnel matters; AND this matter deals with contractual matters; AND this matter deals with legal advice; AND this matter may prejudice the Council or any person	Section 89 (2) (a) (d) (f) (h)
Contract Approval Contract 1102 – Cleaning Of Rural Toilets & Public Use Facilities	this matter deals with contractual matters	Section 89 (2) (d)
Contract Approval Contract 1117 – Office Redevelopment	this matter deals with contractual matters	Section 89 (2) (d)
Loan Services Tender Resolution	this matter may prejudice the Council or any person; AND this matter includes a resolution to close the meeting to members of the public	Section 89 (2) (h) (i)
Update on Bruce Street landfill environmental monitoring outcome	this matter deals with a proposed development; AND this matter deals with legal advice	Section 89 (2) (e) (f)

***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***

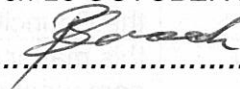
OUT OF COMMITTEE

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

**CARRIED 7 : 0**

*The Meeting Was Declared Closed at 6.08 pm*

**CONFIRMED AND SIGNED at the meeting held on 26 OCTOBER 2011**



.....MAYOR