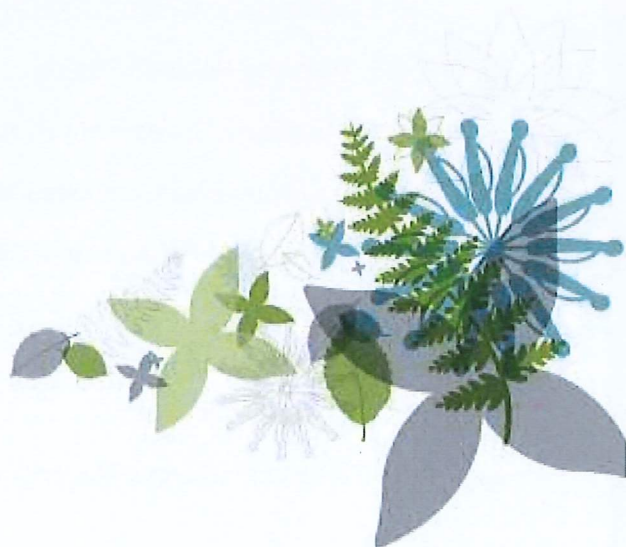




UNSCHEDULED COUNCIL MEETING
MINUTES

Wednesday 11 September 2024
at 4:00 PM



COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

Wednesday 11 September 2024

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COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

MINUTES of the **UNSCHEDULED COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** held at COPACC on Wednesday 11 September 2024 at 4:02 PM.

MINUTES

1 DECLARATION OF OPENING

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 Margaret White (Mayor)
Cr Max Arnott
Cr Graham Costin
Cr Tosh-Jake Finnigan
Cr Kate Hanson
Cr Stephen Hart
Cr Chris Potter

Anne Howard, Chief Executive Officer
Andrew Tenni, General Manager Corporate Services
Doug McNeill, Acting General Manager Infrastructure and Operations
Ian Seuren, General Manager Community and Economy
Steven O'Dowd, Manager Customer and Communications
Kendrea Pope, Senior Governance Advisor
Matilda Hardy-Smith, Coordinator Council Business
Dianne Cornish, Council Business Officer
Christine Ferguson, State Government Appointed Monitor

3 APOLOGIES

Nil

4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging.

RECORDING AND PUBLICATION OF MEETINGS

Please note: Council meetings will be live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Audio recordings are also taken to facilitate the preparation of the minutes of open Council meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

This meeting will be livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at www.youtube.com).

The sole purpose of this Unscheduled Council meeting is to consider the following agenda items:

- Grey Headed Flying Fox Management Plan Update
- Tirrengower Drainage Scheme – Review of Committee
- Lake Colac Advisory Committee – Appointment of Community Representatives
- Update to S6 Instrument of Delegation Council to Members of Council Staff
- Forrest Wastewater Project
- Colac Regional Saleyards – Advisory Committee Terms of Reference, Fee Amendment and
- Service Review Update
- Development Plan (DPO10) – Colac West
- Planning Scheme Review
- Adoption of Investment Policy
- Audit and Risk Committee Meeting – Unconfirmed Minutes – 22 August 2024
- Reappointment of Audit and Risk Committee Chair and Reappointment of Independent
- Member
- Instrument of Appointment and Authorisation – Planning and Environment Act 1987 –
- Chris (Qiong) Hu
- Report of Informal Meeting of Councillors
- G21 Canberra Delegation – Cr White (Mayor).

5 QUESTION TIME

A maximum of 15 minutes is allowed for question time. At every Special Council Meeting a public question time will be held to enable any member of the public to question Council but only on items directly related to the Agenda today (Clause 100). Questions that are more general in nature can either be submitted to Council in writing or asked at the next Ordinary Council Meeting.

To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. Once everyone has had an opportunity to ask their initial questions, and if time permits, the Mayor will invite further questions.

Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question. Question time is not a forum for public debate or statements.

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

James Judd

D24/164578

Is the Colac Otway Shire Council going to have a definite final decision on the "Best Value Review of Aged and Disabilities Services" at the Unscheduled Council meeting on Wednesday 11 September 2024, since a Council this Council engaged with in a joint investigation was able to hand down a final decision in December 2023.

You have already had some Council staff and members of the community waiting long over one year for an answer plus you have multiple times already delayed giving a promised decision and then you told clients how the investigation would be conducted. Then changed your mind without giving any notice it was to change until after changes made with adverse impact on some clients.

Response from General Manager Corporate Services

This item is being considered in the confidential section of the agenda for tonight's meeting. Council staff and the community will be notified of the outcome as soon as possible.

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Charlie Buchanan

Thankyou for letting me speak. I will be brief on the reason for talking about the development plan, and there is going to be some discussion about it anyway. From what I've found out since I've come in here, that discussion is going to be covered fairly well. But while I have the rostrum, I would like to express my disappointment on what's happened with the staff at the Colac Otway Shire, and their treatment of the Colac Herald. Now we depend very much on – the respect that the local people have for our local paper is a conduit for this particular organisation is very important for people in the Shire. People would feel very letdown if I didn't say something about it. The Colac Herald and this organisation put things back together and back together very quickly.

Response Cr Margaret White (Mayor)

I would like to make a comment that we've had a constructive meeting today and we have developed a way forward and there will be a statement released this afternoon.

6 DECLARATIONS OF INTEREST

Cr Finnigan	Item 8.7 - Development Plan (DPO10) – Colac West	General	Family member lives nearby.
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7 CONFIRMATION OF MINUTES

RESOLUTION

Moved Cr Arnott, Seconded Cr Hart

That Council confirm the minutes of the Council Meeting held on 28 August 2024.

CARRIED 7 : 0

PROCEDURAL MOTION

Moved Cr Hart, Seconded Cr Arnott

To retain the order of business with the following provision, that Council move to the Closed Session as close to 6pm as reasonably practical, starting no later than 6.15pm, due to the availability of the Independent Chair.

CARRIED 7 : 0

Item: 8.1

Grey Headed Flying Fox Management Plan Update

OFFICER	Cameron Duthie
GENERAL MANAGER	Doug McNeill
DIVISION	Infrastructure and Operations

This item was withdrawn from the agenda and will be represented at a future Council Meeting.

Item: 8.2

Tirrengower Drainage Scheme - Review of Committee

OFFICER	Doug McNeill
GENERAL MANAGER	Doug McNeill
DIVISION	Infrastructure and Operations
ATTACHMENTS	1. Tirrengower Drainage Scheme Advisory Committee - Terms of Reference [8.2.1 - 6 pages]

RESOLUTION

Moved Cr Arnott, Seconded Cr Potter

That Council:

- 1. Notes the advice provided on options for future management of the Tirrengower Drainage Scheme.*
- 2. Acknowledges the work of the former Section 86 Committee for the Tirrengower Drainage Scheme and thanks the former Committee members for their contributions to managing the effective maintenance of the drainage scheme over many years.*
- 3. Establishes a new Advisory Committee to guide the future maintenance of the Tirrengower Drainage Scheme in accordance with the Terms of Reference attached to this report.*
- 4. Seeks nominations from landowners impacted by the drainage scheme to be members of the Advisory Committee.*
- 5. Notes that nominations to the Advisory Committee will be considered by Council at a future meeting.*
- 6. Notes that funds expended by Council for the purpose of maintaining the Tirrengower Drainage Scheme will be sourced through a Special Charge as per adopted Budget 2024-25.*

CARRIED 7 : 0

Item: 8.3

Lake Colac Advisory Committee - Appointment of Community Representatives

OFFICER	Ian Seuren
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	Nil

RECOMMENDATION

That Council:

- 1. Notes the Expressions of Interest received for the three community positions on the Lake Colac Advisory Committee and thanks those that nominated.*
- 2. Appoints community members to the Lake Colac Advisory Committee as identified in the Confidential Attachment to this report.*
- 3. Writes to each person that submitted an Expression of Interest to inform them of this decision and thank them for their interest.*

RESOLUTION

Moved Cr Finnigan, Seconded Cr Hart

That Council:

- 1. Notes the Expressions of Interest received for the three community positions on the Lake Colac Advisory Committee and thanks those that nominated.*
- 2. Appoints community members, being applicant numbers:*
 - a. Applicant 2*
 - b. Applicant 6*
 - c. Applicant 7*

to the Lake Colac Advisory Committee as identified in the Confidential Attachment to this report.

- 3. Writes to each person that submitted an Expression of Interest to inform them of this decision and thank them for their interest.*

CARRIED 7 : 0

Item: 8.4

Update to S6 Instrument of Delegation Council to Members of Council Staff

OFFICER	Belinda Rocka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none">1. S 6 Instrument of Delegation - Members of Staff - Updates - Maddocks Reliansys Updates July 2024 [8.4.1 - 33 pages]2. S 6 Instrument of Delegation - Members of Staff - 28 August 2024 [8.4.2 - 120 pages]

RESOLUTION

Moved Cr Hart, Seconded Cr Arnott

That Council:

- 1. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation (Attachment 2), delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation, the powers, duties, and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.*
- 2. Authorises the Chief Executive Officer to execute the S6 Instrument of Delegation.*
- 3. Authorises the use of the common seal in accordance with Colac Otway Shire's Governance Local Law No 4 – 2020.*
- 4. Approves the S6 Instrument of Delegation to come into force immediately upon execution.*
- 5. Approves that coming into force of the S6 Instrument of Delegation, the previous S6 Instrument of Delegation from Council to members of Council staff (dated 17 June 2024) is revoked.*

6. *Notes the duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.*

CARRIED 7 : 0

Item: 8.5
Forrest Wastewater Project

OFFICER	Raam Gowriswaran
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	Nil

RESOLUTION

Moved Cr Arnott, Seconded Cr Potter

That Council:

- 1. Awards Contract 2427 Forrest Caravan Park Wastewater Treatment Upgrade works to Tenderer 4 (as per the confidential attachment to this report) for the lump sum price of \$607,584.00 (excluding GST).*
- 2. Authorises the Chief Executive Officer to execute the contract documents on behalf of Council.*
- 3. Authorises the Chief Executive Officer to perform all roles of the Principal.*
- 4. Nominates the General Manager Infrastructure and Operations to the role of Superintendent for the contract, including managing variations in accordance with the contract conditions.*
- 5. Notes that unsuccessful tenderers will be advised of the outcome of the tender process and the successful tenderer and contract price will be listed on Council's website.*

CARRIED 7 : 0

Item: 8.6

Colac Regional Saleyards - Advisory Committee Terms of Reference, Fee Amendment and Service Review Update

OFFICER	James Myatt
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	1. Attachment 1 - For Endorsement - Colac Regional Saleyards Advisory Committee - Terms of Reference [8.6.1 - 3 pages]

RESOLUTION

Moved Cr Hart, Seconded Cr Finnigan

That Council:

- 1. Endorses the revised Colac Regional Saleyard Advisory Committee Terms of Reference (Attachment 1).*
- 2. Writes to member organisations seeking their acceptance of a position on the Colac Regional Saleyards Advisory Committee including their nominated representative.*
- 3. Seeks Expressions of Interest (EOI) for the buyers' representative position and the two farmers representative positions on the Colac Regional Saleyards Advisory Committee, with the EOI period to be a minimum of three weeks commencing as soon as possible after 26 October 2024.*
- 4. Determines to increase the Council fees and charges for round bales at Colac Regional Saleyards to \$150 a bale (including GST).*
- 5. Notes that the Colac Regional Saleyards Service Review is well progressed and will be presented to a future Council meeting for consideration.*

CARRIED 7 : 0

Item: 8.7

Development Plan (DPO10) - Colac West

ADDRESS AND PROPERTY DETAILS	1-59, 61-65, 67-71, 73, 75, 87 and 89 Rifle Butts Road, 48 Stodart Street, and 439, 461-479 and 441-459 Murray Street		
PROPOSAL	Colac West Development Plan		
PERMIT TRIGGERS	Under Schedule 2 to the Development Plan Overlay (DPO2), a Development Plan must be approved before the land can be subdivided		
TRIGGER FOR DETERMINATION BY COMMITTEE	Approval of proposed Development Plan		
ZONE	General Residential Zone (GRZ1)	OVERLAYS	Development Plan Overlay (DPO2) – Future Residential Areas Environmental Significance Overlay, Schedule 2 (ESO2) – Lakes, Wetlands and Watercourses Design and Development Overlay, Schedule 9 (DDO9) - 441-479 Murray Street (also covers 413-437 Murray Street, outside the DPO area)
COVENANTS	N/A		
CULTURAL HERITAGE	A significant portion of the land – to the north and in a central location – is in an area of cultural heritage sensitivity. A Cultural Heritage Management Plan (CHMP) will need to be approved in respect of the land before any planning permits are issued. However, there is no statutory requirement under section 52 of the <i>Aboriginal Heritage Act</i> 2006 for a CHMP to be approved prior to the approval of a Development Plan, having regard to the limited purview of the term ‘statutory authorisation’ as		

defined in section 50 of that Act. A draft CHMP has been prepared for the majority of the site.

OFFICER	Ian Williams	CEO	Anne Howard
DIVISION	Planning and Strategic Focus		
ATTACHMENTS	1. Colac West Development Plan v.7 [8.7.1 - 1 page] 2. Colac Development Plan - Excluding Appendices [8.7.2 - 27 pages]		

Cr Finnigan declared a conflict of interest pursuant to Section 127 of the Local Government Act 2020 and left the meeting at 4.52pm, returning at 5.21pm after the discussion on the item concluded.

<i>Cr Finnigan</i>	<i>Item 8.7 – Development Plan (DPO10) – Colac West</i>	<i>General</i>	<i>Family member lives nearby.</i>
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RESOLUTION

Moved Cr Arnott, Seconded Cr Hart

That Council:

1. *Approves the Colac West Development Plan generally in accordance with Attachments 1 and 2, subject to:*
 - a) *References to infrastructure provision within the Development Plan being updated to delete references to a Shared Infrastructure Funding Plan or Public Infrastructure Plan, and*
 - b) *The document clarifying that the delivery of infrastructure by the developer, including its staging and construction details, will be dealt with through the planning permit application process including, where required, agreements under s173 of the Planning and Environment Act 1987.*
2. *Delegates responsibility for approval of the Development Plan, once revised in accordance with the recommendation above, to officers.*

3. *Acknowledges and notes the submissions received and confirms the actions in part one of the recommendation to submitters, notifying them when the Development Plan is approved.*

CARRIED 6 : 0

Item: 8.8
Planning Scheme Review

OFFICER	Simon Clarke
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none">1. Colac Otway Planning Scheme Review Report Draft V 3 19022024 PDF VERSION for Council Report [8.8.1 - 84 pages]2. Overview of Strategic Planning Work Program and Future Strategic Planning Projects [8.8.2 - 5 pages]

RECOMMENDATION

That Council receive and note the findings of the 2024 Planning Scheme Review and refer further consideration of the Planning Scheme review report to a future Council meeting post the 2024 Council Election.

RESOLUTION

Moved Cr Hart, Seconded Cr Potter

That Council:

- 1. Receives and notes the findings of the 2024 Planning Scheme Review and refers further consideration of the Planning Scheme review report (the report) to a future Council meeting post the 2024 Council election.*
- 2. Highlights the recommendation in the report to review delegations for planning applications and commentary in the report suggesting that the number of objections required for a planning matter to be considered by the Planning Committee (which currently consists of all Councillors), should increase from at least four to at least six.*
- 3. Highlights the reference in the report that recommends that refusals to build a dwelling in a Farm Zone should be decided by officers under delegation rather than the Planning Committee.*

- 4. Notes that this resolution is not an endorsement of any changes to the instrument of delegation, even where the potential changes are suggested in the report, particularly those outlined in points 2 and 3 above.*
- 5. Determines that the Chief Executive Officer will outline any proposed changes to Councillors and the community when the matter is being further considered.*
- 6. Notes the planning scheme review is a report of future actions and recommendations for Council to consider and that any changes to delegations or the planning scheme are the subject of future reports and decisions of Council, following a period of at least 6 weeks community consultation, to a future Council meeting.*

CARRIED 7 : 0

Item: 8.9
Adoption of Investment Policy

OFFICER	Xavier Flanagan
ACTING GENERAL MANAGER	Steven O'Dowd
DIVISION	Corporate Services
ATTACHMENTS	<ol style="list-style-type: none">1. 16 3 Investment Policy Review 22 April 2020 [8.9.1 - 5 pages]2. Investment Policy - Review 22 April 2024 - Policy Changes [8.9.2 - 3 pages]3. Investment Policy - Review 22 April 2024 - Draft [8.9.3 - 7 pages]

RESOLUTION

Moved Cr Arnott, Seconded Cr Finnigan

That Council notes the review undertaken and adopts the amended Council Investment Policy 16.3 (Attachment 1).

CARRIED 7 : 0

PROCEDURAL MOTION

Moved Cr Finnigan, Seconded Cr Arnott

That pursuant to the provisions of Section 66 of the Local Government Act 2020, the meeting be closed to the public and Council move into Closed Session in order to deal with:

- 1. Minutes from Closed Session 24 July 2024, as this matter deals with confidential meeting information, as defined under Section 3(1)(h) of the Act, being records of meetings closed to the public under section 66(2)(a).*
- 2. Formal Consideration of 2024/25 CEO Performance Plan, as this matter deals with personal information which if released would result in the unreasonable*

disclosure of information about any person or their personal affairs. (Section 1, 3, f).

3. *Best Value Review of Aged and Disability Services – Final Report, as this matter deals with Council Business Information, being information that would prejudice the Council's position in commercial negotiations if prematurely released. (Section 1, a).*

CARRIED 7 : 0

The Meeting was closed at 5.44pm and recommenced at 7.18pm

Item: 8.10

Audit and Risk Committee Meeting - Unconfirmed Minutes - 22 August 2024

OFFICER	Natasha Skurka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	1. Unconfirmed Minutes - Audit and Risk Committee Meeting - 22 August 2024 [8.10.1 - 15 pages]

RESOLUTION

Moved Cr Arnott, Seconded Cr Potter

That council receives for information, the minutes confirmed by the Audit and Risk Committee, dated 22 August 2024.

CARRIED 7 : 0

Item: 8.11

Appointment of Audit and Risk Committee Chair and Re-appointment of Independent Member

OFFICER	Natasha Skurka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

RESOLUTION

Moved Cr Arnott, Seconded Cr Potter

That Council:

- 1. Appoints Melissa Field as the Chairperson of the Audit and Risk Committee for a period of twelve months, commencing on 1 October 2024.*
- 2. Reappoints Melissa Field as an Independent Audit and Risk Committee member for a further three years, commencing on 1 December 2024.*

CARRIED 7 : 0

Item: 8.12

**Instrument of Appointment and Authorisation -
Planning and Environment Act 1987 - Chris (Qiong)
Hu**

OFFICER	Belinda Rocka
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	1. S 11 A Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - Chris (Qio [8.12.1 - 1 page]

RESOLUTION

Moved Cr Finnigan, Seconded Cr Arnott

That Council:

- 1. Appoints Chris (Qiong) Hu as an Authorised Officer pursuant to section 147(4) of the Planning and Environment Act 1987 (refer Attachment 1).*
- 2. Authorises the use of the common seal in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.*
- 3. Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke them.*
- 4. That the common seal is affixed to the Instrument of Appointment and Authorisation when Chris (Qiong) Hu commences employment with Council.*

CARRIED 7 : 0

Item: 8.13

Report of Informal Meeting of Councillors

OFFICER	Council Business
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none">1. Informal Meeting of Councilors - Pre Council Meeting 24 July 2024 [8.13.1 - 3 pages]2. Informal Meeting of Councillors Record - Colac Regional Saleyards Advisory Committee Meeting 26 07 2 [8.13.2 - 1 page]3. Informal Meeting of Councillors Record - Colac Municipal Aerodrome Advisory Committee Meeting 29 Jul [8.13.3 - 1 page]4. Informal Meeting of Councillors Record - Site Visit - 173 Hart Street - 6 Aug 2024 [8.13.4 - 1 page]5. Informal Meeting of Councilors - 7 August 2024 Councillor Briefing [8.13.5 - 2 pages]6. Informal Meeting of Councillors Record - CEOEMAC Meeting - 7 August 2024 [8.13.6 - 2 pages]7. Informal Meeting of Council - Councillor Briefing Meeting 14 August 2024 [8.13.7 - 2 pages]8. Informal Meeting of Councilors - Unscheduled Council Meeting Prep 14 August 2024 [8.13.8 - 2 pages]9. Informal Meeting of Councilors - 21 August 2024 [8.13.9 - 3 pages]

This item did not require a formal decision of Council.

Item: 9.1

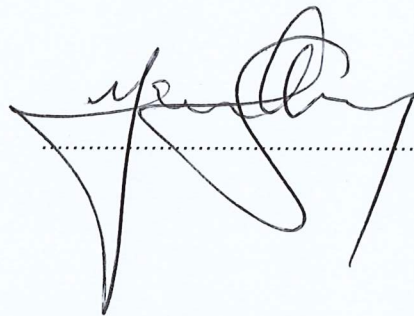
**G21 Canberra Delegation - Cr Margaret White
(Mayor)**

OFFICER	Rebecca Witcombe
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	Nil

This item did not require a formal decision of Council.

The meeting was declared closed at 7.24pm

CONFIRMED AND SIGNED at the meeting held on 27 November 2024.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a final downward stroke.

.....**MAYOR**

