

MINUTES of the *ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* held at the Apollo Bay Senior Citizens Centre, Whelan Street Apollo Bay on 26 September 2012 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 Stephen Hart (Mayor)
Cr Frank Buchanan
Cr Brian Crook
Cr Stuart Hart
Cr Geoff Higgins
Cr Lyn Russell
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 community input and participation in Council decisions. Council meetings provide an opportunity for the community to ask Council questions, either verbally at the meeting or in writing.

Please note that Council may not be able to answer some questions at the meeting. These will be answered later.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

An audio recording of this meeting is being made for the purpose of ensuring the minutes of the meeting are accurate. 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. It is an offence to make an unauthorised recording of the meeting.

Thank you. Now 30 minutes is allowed for question time. 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. 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

Gary Owen – Forrest

Mr Owen has asked a number of questions previously responded to at a previous meeting. Council does not intend to answer those questions again today. The following are questions not previously responded to:

1. Where in the Forrest Brewery's planning permit does it state that they can hold a liquor licence for 223 people to attend their establishment?

Response:

The planning permit for the brewery does not place any restriction on the number of patrons visiting the premises, other than to restrict the number of seats to no more than 50, however the brewery component of the use must remain ancillary to the primary use of the site as a restaurant.

2. What action will council take when in excess of 50 people attend the brewery putting a strain on the treatment plant?

Response:

There is no restriction on the planning permit preventing more than 50 persons visiting the brewery premises. If the output of the septic system exceeds that which it can handle or dispose of within the property boundaries the proprietor has to curtail his business activities irrespective of what numbers have been approved of in any town planning permit. It should be noted however that as the owner has the capacity to remove industrial waste water sourced from the brewing activities for disposal by Barwon Water, that he also has the option to divert excess effluent into that disposal process.

3. Since the Forrest Brewery has been in operation, there have been numerous illegal parking issues, extra traffic on a sub-standard service road, speeding/dangerous driving issues, increased noise from vehicles patronising the brewery and at times, foul odours from their treatment plant. Council in issuing the Forrest Brewery permit has created these problems. How does Council intend to restore "the amenity of the area"?

Response:

Council has recently completed works at the front of the brewery premises to improve the safety, performance and visual appearance of the car parking and access within the road reserve. Council officers also met with Mr Owen on 24 July 2012 to discuss alternate traffic management methods in the service road, including the erection of

additional signage and the possibility of improved wording. As previously advised an investigation is being undertaken to determine the most appropriate signage designed to ensure the highest degree of compliance with the requirements of the Road Safety Road Rules 2009. Council's Local Laws Officers will continue to monitor compliance with parking regulations as part of its routine patrols being undertaken, within their resource capacity.

No complaints about the treatment plant process or odours emanating from it have been received by the Council's Health Department as of 24 September 2012.

4. How can the Forrest Brewing Company be operating within the requirements of the issued planning permit when they do not have permission to hold a liquor licence for 223 patrons?

Response:

The planning permit for the brewery does not place any restriction on the number of patrons visiting the premises, other than to restrict the number of seats to no more than 50, however the brewery component of the use must remain ancillary to the primary use of the site as a restaurant.

5. How can the Forrest Brewing Company be operating within the requirements of the issued planning permit when the required number of parking spaces for having 223 patrons attend their establishment is not referred to, in the planning permit and has not been addressed in any discussion prior to the issuing of the said permit?

Response:

The on-site parking shown on the endorsed plans of the planning permit have been provided, and a cash contribution for parking to be upgraded at the front of the site has been paid by the brewery operator as required by the permit. Parking requirements for the use of the site were considered when the planning application was determined by Council's Planning Committee, and the balance of the parking spaces required by the Planning Scheme which could not be provided on-site were waived.

6. How can the Forrest Brewing Company be operating, within the requirements of the issued planning permit, when they have 223 people attending their establishment and utilising their toilet facilities that are a part of a treatment plant that was upgraded to comply with having a permit for a fifty seat restaurant?

Response:

Environmental Protection Agency requirements override any licence granted by the Liquor Control Commission. If the proprietor fails to dispose of generated waste water in an approved manner, he must curtail his business or face penalty irrespective of the number of people attending his premises.

Questions Received Verbally at the Meeting

Nil

6. DECLARATION OF INTEREST

Nil

7. CONFIRMATION OF MINUTES

- Ordinary Council Meeting held on the 22/08/12.

MOVED Cr Lyn Russell seconded Cr Frank Buchanan that Council confirm the above minutes.

CARRIED 7 : 0

8. CARETAKER STATEMENT

The CEO advised that the following points should be considered when determining whether a matter is a major policy decision under section 93A of the Act and is able to be addressed during the caretaker period:

- Whether the matter is likely to be controversial
- Whether the matter is significant
- Whether a decision could wait until after the election
- The financial implications if a decision was made during the election period or deferred until after the election
- The best interests of the Council.

OFFICERS' REPORTS

Chief Executive Officer

OM122609-1 CEO'S REPORT

Corporate and Community Services

OM122609-2 AUTHORISATION OF OFFICER (PLANNING & ENVIRONMENT ACT)
OM122609-3 END OF YEAR FINANCIAL MANAGEMENT REPORT 2011/2012
OM122609-4 S86 COMMITTEES OF MANAGEMENT - RE-ELECTION OF
MEMBERSHIP

Infrastructure and Services

OM122609-5 ELECTRIC LINE CLEARANCE - BIRREGURRA STREET TREES

General Business

OM122609-6 ASSEMBLY OF COUNCILLORS
OM122609-7 OTHER COMMITTEE MINUTES - COLAC YOUTH COUNCIL

CONSENT CALENDAROFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>CHIEF EXECUTIVE OFFICER</u></p> <p><u>OM122609-1 CEO'S PROGRESS REPORT</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 Cr Chris Smith</p>	

MOVED Cr Lyn Russell seconded Cr Stuart Hart that recommendations to item OM122609-1 CEO's Progress Report, as 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>OM122609-2 <u>AUTHORISATION OF OFFICER (PLANNING & ENVIRONMENT ACT)</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. Appoints Statutory Planning Co-ordinator Blaithin Butler as an authorised officer pursuant to the Planning and Environment Act 1987.</i> <i>2. 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 it.</i> <i>3. Delegates to the Chief Executive Officer authority to sign and place under Council Seal the Instrument of Appointment and Authorisation.</i> 		<p>Cr Chris Smith</p>
<p>OM122609-3 <u>END OF YEAR FINANCIAL MANAGEMENT REPORT 2011/2012</u></p> <p>Department: Corporate and Community Services</p> <p><u>Recommendation(s)</u></p> <p><i>That Council accepts the End of Financial Year Management Report 2011/2012.</i></p>	<p>Cr Chris Smith Cr Brian Crook Cr Frank Buchanan Cr Stephen Hart</p>	

**OM122609-4 S86 COMMITTEES OF MANAGEMENT -
RE-ELECTION OF MEMBERSHIP**

Department: Corporate and Community Services

That Council:

1. ***Pursuant to section 86 of the Local Government Act 1989, resolves to appoint the following nominated members to the Warncoort Tennis Reserve, Beech Forest Hall and Barongarook Hall and Tennis Reserve Committees of Management until September 2015:***

<i>Warncoort Tennis Reserve</i>	<i>Nigel Hawker, Ally Cirillo, Jane Harwood, Bill Parker, Tony Noble, Daryl Marwood, Sam McDonald, Daniel Allen, Jane Hawker</i>
<i>Beech Forest Hall</i>	<i>Anthony Zappelli, Linda Perkins, Jackie Zappelli, Steve Trotter, Sue Skov, Laurie Shaw, Virginia Nemet, Sue Ludewig</i>
<i>Barongarook Hall and Tennis Reserve</i>	<i>Jane Bear, Barb Alford, Kathy Allan, Ian Lane, Jan Healey, Joy Wright, Loretto Morshead</i>

2. ***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.***
3. ***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 on an annual basis.***

The Mayor cited Cr Chris Smith for a breach of the conditions of the Caretaker Period and the Councillor Code of Conduct and suspended him from the meeting for a period of 20 minutes at 3.22pm.

MOVED Cr Brian Crook seconded Cr Frank Buchanan that recommendations to items listed in the Consent Calendar, with the exception of item OM122609-2 Authorisation of Officer (Planning & Environment Act), be adopted.

CARRIED 6 : 0

OM122609-2 AUTHORISATION OF OFFICER (PLANNING & ENVIRONMENT ACT)

MOVED Cr Frank Buchanan seconded Cr Geoff Higgins

That Council:

- 1. Appoints Statutory Planning Co-ordinator Blaithin Butler as an authorised officer pursuant to the Planning and Environment Act 1987.***
- 2. 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 it.***
- 3. Delegates to the Chief Executive Officer authority to sign and place under Council Seal the Instrument of Appointment and Authorisation.***

CARRIED 6 : 0

CONSENT CALENDAR

OFFICERS' REPORT

D = Discussion
W = Withdrawal

ITEM	D	W
<p><u>INFRASTRUCTURE AND SERVICES</u></p> <p><u>OM122609-5 ELECTRIC LINE CLEARANCE - BIRREGURRA STREET TREES</u></p> <p>Department: Infrastructure</p> <p>Recommendation(s)</p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>1. Formally approaches Energy Safe Victoria to:</i> <ol style="list-style-type: none"> <i>a. Seek their in principle support to having Birregurra recognised as a declared area; and</i> <i>b. Commence the statutory process to have the area declared in accordance with the provisions of the Electrical Safety Act 1998.</i> <i>2. Writes to Powercor Australia requesting that this year's pruning of the street trees in Birregurra be in line with an annual cycle with a view to Council assuming responsibility for management following the pruning works and confirmation from Energy Safe Victoria that they support Birregurra being a declared area.</i> <i>3. Receives a further report seeking a commitment to funding powerline clearance within the 2013/14 operational budget to the required levels.</i> <i>4. Engages the Birregurra Action Group to develop a long term management plan for the street trees within the township.</i> 		<p>Cr Brian Crook</p>

OM122609-5 ELECTRIC LINE CLEARANCE - BIRREGURRA STREET TREES

MOTION - MOVED Cr Brian Crook seconded Cr Lyn Russell:

That Council acknowledges that the pruning of trees in Birregurra are works carried out to protect Powercor's assets, so Council will:

- 1. Write to Powercor Australia requesting that the pruning of trees at Birregurra be undertaken on an annual basis.***
- 2. If point 1 is not possible, prune the trees annually and negotiate with Powercor with a view to their accepting the financial responsibility for the works on an ongoing basis.***
- 3. Advise Energy Safe Victoria of Council's position with respect to the pruning of the Birregurra trees.***

CARRIED 6 : 0

CONSENT CALENDAROFFICERS' REPORT

D = Discussion

W = Withdrawal

ITEM	D	W
<p><u>GENERAL BUSINESS</u></p> <p><u>OM122609-6 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>Colac Aerodrome Committee of Management 14 June 2012</i> • <i>Friends of Colac Botanic Gardens 9 August 2012</i> • <i>Wye River & Separation Creek Consultative Group Meeting 19 August 2012</i> • <i>Councillor Briefing Session 22 August 2012</i> • <i>Wye River & Separation Creek Waste Services Public Meeting 26 August 2012</i> • <i>Councillor Workshop 12 September 2012</i> 		
<p><u>OM122609-7 OTHER COMMITTEE MINUTES - COLAC YOUTH COUNCIL</u></p> <p>Department: General Business</p> <p><u>Recommendation(s)</u></p> <p><i>That Council notes the minutes from:</i></p> <ul style="list-style-type: none"> • <i>Colac Youth Council meeting held on 13 August 2012</i> • <i>Colac Youth Council meeting held on 27 August 2012.</i> 		

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

CARRIED 6 : 0

The CEO left the meeting at 3.42pm to invite Cr.Chris Smith to return to the meeting. The CEO returned and advised that Cr Smith was unable to be located and appeared to have left.

Urgent Item of Business

MATTER OF URGENCY - MOVED Cr Brian Crook seconded Cr Frank Buchanan that the demolition of housing at the Colanda site in Colac be treated as an item of urgent business.

CARRIED 6: 0

URGENT ITEM OF BUSINESS – DEMOLITION OF HOUSING AT THE COLANDA SITE IN COLAC

MOTION - MOVED Cr Brian Crook seconded Cr Frank Buchanan:

That Council:

- 1. Recognises the shortage of public housing and associated long waiting lists in Colac.*
- 2. Recognises the shortage of emergency accommodation in Colac.*
- 3. Recognises that Colac has become a resettlement area for refugees.*
- 4. Given the need for public housing as cited above:*
 - a. Requests that there be an immediate stay of the demolition of housing on the Colanda site by writing to the Minister for Mental Health, the Minister for Housing and the Member for Polwarth.*
 - b. Works with State Government authorities to explore opportunities for the preservation of housing on the Colanda site for the purposes cited above or other uses in the public interest.*
 - c. Seeks an explanation of the State Government's plans and timetable for any further developments at the site out of fairness to those employed and those who live at Colanda.*

CARRIED 6: 0

IN COMMITTEE

MOVED Cr Lyn Russell seconded Cr Brian Crook 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
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)
G21 Regional Football (Soccer) Strategy	this matter may prejudice the Council or any person	Section 89 (2) (h)

CARRIED 6 : 0

OUT OF COMMITTEE

MOVED Cr Geoff Higgins seconded Cr Lyn Russell that the meeting move out of committee.

CARRIED 6 : 0

The Meeting Was Declared Closed at 3.55 pm

CONFIRMED AND SIGNED at the meeting held on 24 OCTOBER 2012



.....MAYOR