



SPECIAL COUNCIL MEETING

**SUMMARY MINUTES**

1 FEBRUARY 2017

at 4.00PM

COPACC

**COLAC OTWAY SHIRE SPECIAL COUNCIL MEETING**

**1 FEBRUARY 2017**

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## COLAC OTWAY SHIRE ORDINARY COUNCIL MEETING

Minutes of the **SPECIAL COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** held at COPACC on 1 February 2017 at 4pm.

### 1. I DECLARE THIS MEETING OPEN

#### 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 Kate Hanson  
Cr Stephen Hart  
Cr Joe McCracken  
Cr Chris Potter (Mayor)  
Cr Jason Schram  
Cr Chris Smith  
Cr Terry Woodcroft

Sue Wilkinson, Chief Executive Officer  
Mark Lyons, General Manager, Corporate Services  
Ingrid Bishop, General Manager, Infrastructure and Services  
Gareth Smith, General Manager, Development and Community Services  
Jenny Wood, Manager, Governance and Customer Service  
Sarah McKew, Governance Officer  
Lyndal McLean, Governance Trainee  
Tamzin McLennan, Public Relations Coordinator

### 3. APOLOGIES

Nil

### 4. MAYORAL STATEMENT

I would like to start this afternoon by acknowledging the traditional custodians and law makers of this land, their elders past and present and welcome any descendants here today.

I would also like to advise that all Council meetings are audio recorded, with the exception of confidential matters. This includes the public participation sections of meetings.

Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy.

In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

## **BEHAVIOUR**

Before we move on to Question Time, I would like to remind all Councillors of our obligations under the Councillor Code of Conduct and Local Law 4 which regulates the proceedings at Council meetings.

As I have said previously, I have high expectations of Councillors and expect us to work together and with the organisation for our community.

As you all know, the purpose of this meeting is to consider the revised Councillor Code of Conduct that we have worked on together over the last month.

The way we conduct ourselves at this meeting tonight is a great opportunity to demonstrate to the community that we mean what we say in our Code of Conduct.

Towards this, it is my expectation that all Councillors exhibit exemplary conduct at all times during this afternoon's meeting. This means that you will behave in a professional manner throughout and that you will treat each other with courtesy and respect, even if there is disagreement.

Any form of personal acrimony or insult, grandstanding, unnecessary interruptions or unreasonable or impolite language will not be tolerated under any circumstances.

Nor will I tolerate any behaviour or comments that are disrespectful towards our professional officers.

## **5. QUESTION TIME**

This is a Special Council meeting required under legislation. The only item today is consideration of the adoption of the revised Councillor Code of Conduct.

A public Question Time of 30 minutes is allowed but I need to emphasise to everyone here that Council's meeting procedures in our Local Law do not allow you to ask questions on topics that aren't on the agenda tonight.

If you have general questions about other matters I want to encourage you to ask them at the next Ordinary Council meeting.



To ensure that everyone has the opportunity to ask questions, I may need to limit the number of questions from each person to two. Then, once everyone has had an opportunity to ask their initial questions, and if time permits, I will invite further questions.

As I call you to the lectern, please remember this is not a forum for debate or statements. 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.

Please note that whilst we will do our best, it may not be possible to answer all questions without notice tonight. If this is the case, they will be answered later.

### **Questions Received in Writing Prior to the Meeting**

#### **Leigh Barrett**

- 1. I understand emails and mobile phone records of calls to and from councillors email addresses and mobile phones provided by council can be seen and vetted by council officers. Because ratepayers and residents are entitled to private and confidential communications with their elected representatives would all councillors each make a private email address and mobile phone number available to the public?**

#### ***The Mayor responded:***

I have heard this question a number of times and it is unclear to me what type of discussions with Councillors would cause any privacy concern for members of the public.

I have now been in the role of Councillor and Mayor coming up to 4 months and in my experience there haven't been any conversations or requests that I have received, or can envisage, that wouldn't be dealt with appropriately through the contact avenues available to community members.

To more specifically answer your question two ways you can contact Councillors are through the Council email address and telephone number and this is common practise throughout all levels of government. Council is a public entity and as Councillors we have responsibilities to ensure good governance and maintain the highest professional standards. Councils, like all government departments, are required by law to keep records of communications.

I encourage all members of the public to engage with myself and other Councillors freely and there are multiple ways this can take place, and if there was concern that a matter may be more sensitive, then I would encourage you to contact Councillors in person.

- 2. What involvement has the CEO and council officers had in the development of the Code of Conduct. For example were they present for any of, part of, or the whole time of the Code of Conduct development? What influence did they have in its development and result?**

***The Mayor responded:***

The Code of Conduct being considered this afternoon was developed by Councillors during briefing sessions held during January 2017, which was chaired by myself. Consistent with the principles of open and transparent decision making it was very important to me that all Councillors had the opportunity to participate in the development of the Code of Conduct and the first opportunity this could occur was in January. All Councillors were asked to contribute to the development of the document being considered today.

As is standard practice at all Council briefings staff attend at the request of Councillors to answer questions and provide secretariat support.

**Questions Received Verbally at the Meeting**

**Leigh Barrett, Colac**

1. **Mr Mayor I counted the word “respect” and “respectful” 37 times in the reviewed Code of Conduct. If you and I were going to enter into a business relationship, and I spent ten minutes saying you must be honest, act with integrity, etc and demanded that you be respectful and treat me with respect 37 times, would you feel that I was treating you with respect?**

***The Mayor responded:***

Mr Barrett, the Code of Conduct is not a preamble to be read out at a business meeting perhaps as you and I would have. The Code of Conduct is the framework that spells out to ourselves, to the organisation and the community how we will conduct ourselves, and I’m sorry if you feel that there is overuse of the word “respect”. We need to show everyone respect. It’s used in the context of the Code of Conduct and I’m satisfied with the use of that word.

2. **How can anyone form an opinion and debate an issue if they are forbidden by this Code of Conduct to give critical analysis?**

***The Mayor responded***

Mr Barrett you have just used the word critical analysis which is a different context to the way the word critical is applied in the Code of Conduct. Councillors when dealing with officers attending briefings and all the rest of it, should, and do ask questions and they ask questions and sometimes they are hard questions. They ask questions to get the answers of what they want to know, to flesh out the discussion and so forth. You can do that, and you should do that without being critical of the person who you are questioning. That is why the word critical is being used. It does not inhibit Councillors from questioning officers at briefings, or other Councillors or having a discussion. It is about the way the discussion is held.

3. **Council staff can be forthright with Councillors, whereas Councillors must treat all Council staff with dignity, courtesy, respect. Question, one word answer please, yes or no, is this a level playing field?**

***The Mayor responded:***

I am not going to give you a one word answer. There are several questions in there, but you started off placing your own interpretation of the definition of the word forthright. I disagree with your definition. I am not going to debate the English language with you, but you have put your own interpretation onto the word forthright, so I have answered your question.

**Mr Judd, Colac**

1. **Mr Mayor, under the new code of conduct, is any Councillor permitted at any Council gathering to name or run down a fellow Councillor?**

***The Mayor responded:***

The Code requires, Mr Judd, that we treat each Councillor with respect and public criticism of another Councillor is not within the Code.

2. **By inference, is any Councillor allowed to point out another member and claim that they are superior to them?**

***The Mayor responded:***

My interpretation of the Code of Conduct is that, that does not fit within the Code of Conduct.

**Alan Billing, Larpent**

1. **Just a question on process, when was this meeting advertised?**

***General Manager, Corporate Services responded:***

It was advertised in the Colac Herald on the 20 January and again on Monday this week.

2. **At the latter part of last week I attended reception to get an agenda for this meeting. I was told that there was not a Council meeting until 8 February. Could you explain when I seek information on a meeting clarification that I am misled.**

***General Manager, Corporate Services responded:***

Obviously not being involved in the conversation I can't explain the conversation, but certainly the agenda was issued on the website on the Friday night I think on the 23<sup>rd</sup> and it was certainly then on the Council's website and also in the newspaper. I apologise if it did get confused, that certainly was not the intention, but the agenda was available, it was advertised in the newspaper. If you have that issue again, please contact me directly and I can make sure that is sorted out for you.

3. **As the Code of Conduct has significant impact on how Councillors interact with the community, why has no consultation with the community taken place?**



***The Mayor responded:***

The community if they wished were well aware of the previous Code of Conduct, and well aware that Councillors were going to review that Code of Conduct. We all made that quite clear, so they were aware that the process was going to be undertaken. The Code of Conduct is our Code of Conduct, it's the Councillor's Code of Conduct and we shaped it. The views of the community are made known to us in our day to day activities as Councillors. The Councillors shaped the Code; Councillors were solely responsible for doing that, as they should be because it's the Councillor Code of Conduct.

**4. Would you believe that the Code of Conduct does have impact on how Councillors interact with the community?**

***The Mayor responded:***

The Code of Conduct helps us to interact with the community. It encourages us to do so and it guides us as to how we have that interaction.

**5. Will Council consider deferring the consideration of the Code today and seek some community input?**

***The Mayor responded:***

I take your point Mr Billings, but Councillors have been discussing the Code for some time and shaped it. Councillors did that amongst themselves and the meeting will play out as it plays out tonight in relation to what happens to the recommendation to adopt the Code of Conduct.

**6. Did Councillors take the opportunity to view other codes of conduct from other municipalities, including the MAV document?**

***The Mayor responded:***

I can't speak on behalf of other Councillors, I can tell you that I did. I've read the MAV model code of conduct. It's a suggestion or a platform on which to build your code of conduct. I've looked at surrounding shire's codes of conduct and the City of Melbourne Code of Conduct. That's just what I've done, so I've looked at six or seven, I can't speak on behalf of the other Councillors, I would assume that they have conducted similar activities.

**7. Why was the MAV suggested code not considered for Colac Otway?**

***The Mayor responded:***

The purpose of the MAV document was to provide councils with a model on which to base their code of conduct. It was a guide for structure and content. I've read, as I just said a number of codes of conduct. None of those other shires have adopted the MAV Code of Conduct. It was a handy tool for Council, on which to base their Code of Conduct, but we chose to shape it ourselves, to word it ourselves. As I've said, I don't know of any other council that has adopted that particular model, because it is a model.



8. Has the CEO or any member of the senior staff contacted individually any Councillor who may have had concerns regarding the proposed Code?

***The Mayor responded:***

Again I can't speak for all Councillors, I can tell you that no Councillor has approached me to complain of any attempted influence, or interference in this process and certainly no one, the CEO or anyone else, has not tried to persuade me one way or the other.

**Alex McKenzie, Colac Chamber of Commerce**

1. This is probably more of a statement what I'm going to do, but I'm just going to ask Councillors, as a whole, you are debating on the Code of Conduct tonight. Will it work, not inhibit us moving on, because there's a lot of things happening as you all well know. So when you're voting on it take that into account, interaction with the staff and officers and the public and can we move on from where we were and into the future.

***The Mayor responded:***

Thank you, I don't think that needs an answer.

6. DECLARATION OF INTEREST

Nil

SPECIAL COUNCIL MEETING  
**COUNCILLOR CODE OF CONDUCT**  
SC170102-1

<b>LOCATION / ADDRESS</b>	Whole of Municipality	<b>GENERAL MANAGER</b>	Mark Lyons
<b>OFFICER</b>	Jenny Wood	<b>DEPARTMENT</b>	Corporate Services
<b>TRIM FILE</b>	F16/6678	<b>CONFIDENTIAL</b>	No
<b>ATTACHMENTS</b>	1. Councillor Code of Conduct_1 February_Final version		
<b>PURPOSE</b>	To consider the adoption of the revised Colac Otway Shire Councillor Code of Conduct.		

**Original Recommendation**

1. *That Council adopts the revised Colac Otway Shire Councillor Code of Conduct.*

**ALTERNATIVE MOTION**

***MOVED Cr Stephen Hart seconded Cr Kate Hanson***

***That Council adopts the revised Colac Otway Shire Councillor Code of Conduct as circulated with today's agenda.***

***CARRIED 6 : 1***

**DIVISION**

***For the Motion: Cr Stephen Hart, Cr Terry Woodcroft, Cr Kate Hanson, Cr Joe McCracken, Cr Chris Potter, Cr Jason Schram***

***Against the Motion: Cr Chris Smith***

*The Meeting was Declared closed at 5.12pm*

**CONFIRMED AND SIGNED** at the meeting held on 22 FEBRUARY 2017



.....MAYOR