



Ararat Rural City

**SPECIAL  
COUNCIL MEETING  
MINUTES**

***TUESDAY 26 SEPTEMBER 2017***



***MINUTES OF THE ARARAT RURAL CITY COUNCIL SPECIAL MEETING HELD ON 26 SEPTEMBER 2017 IN THE COUNCIL CHAMBER, SHIRE HALL, BARKLY STREET, ARARAT, WHICH COMMENCED AT 6.00PM***

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**PRESENT**

The Mayor, Cr PA Hooper Chairperson,  
Crs Gwenda Allgood, Jo Armstrong, Darren Ford, Glenda McLean and David Pettman,  
Ms Janet Dore, Municipal Monitor,  
Mr Colleen White, Interim Chief Executive Officer,  
Mr Joel Hastings - Acting Executive Manager Planning and Public Health,  
Mr Tim Day - Acting Executive Manager Operations and Infrastructure,  
Mrs Jenny Woolcock, Manager Executive Services and Governance, and  
Mr Glenn Carman, Manager Assets and Information Technology,  
Ms Jaiden Bach, Governance Administration Trainee.

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**1 TRADITIONAL ACKNOWLEDGEMENT**

The Prayers were read out by Mayor Cr Paul Hooper.

WE ACKNOWLEDGE THE TRADITIONAL OWNERS OF THE LAND ON WHICH WE MEET TODAY, AND PAY OUR RESPECTS TO THEIR ELDERS, PAST AND PRESENT.

**OPENING PRAYER**

ALMIGHTY GOD, WE HUMBLY ASK YOU TO HELP US, AS ELECTED COUNCILLORS OF THE ARARAT RURAL CITY COUNCIL. GUIDE OUR DELIBERATIONS. PROSPER WHAT IS YOUR WILL FOR US, TO YOUR HONOUR AND GLORY AND FOR THE WELFARE AND BENEFIT OF THE PEOPLE WHOM WE SERVE IN THE ARARAT RURAL CITY.

**COUNCILLORS OATH**

WE WILL UNDERTAKE THE DUTIES OF THE OFFICE OF COUNCILLOR IN THE BEST INTERESTS OF THE PEOPLE OF THE MUNICIPAL DISTRICT OF THE ARARAT RURAL CITY COUNCIL AND FAITHFULLY AND IMPARTIALLY CARRY OUT THE FUNCTIONS, POWERS, AUTHORITIES AND DISCRETIONS VESTED IN US UNDER THE LOCAL GOVERNMENT ACT 1989 OR ANY OTHER ACT TO THE BEST OF OUR SKILL AND JUDGMENT.

Cr Hooper advised that this meeting was advertised as a Special Council Meeting with a confidential component within it. After taking advice it was deemed that there was no need for the confidential item to be heard in the closed Special Council Meeting, so it will now be heard in the open Special Council Meeting.

**2 APOLOGIES**

**MOVED CR McLEAN  
SECONDED CR PETTMAN**

**That the apology of Cr Peter Beales, Mr Don Cole – Director Assets, Finance and Corporate Services and Mrs Angela Hunt - Acting Executive Manager Community Life, be accepted.**

**CARRIED 3651/17**

Disclosure of Interests are to be made immediately prior to any relevant item being discussed.

**Local Government Act 1989 Section 79 (2)**

A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest -

- (a) by either -
  - (i) advising the Council or special committee at the meeting of the details required under paragraph (b) and (c) immediately before the matter is considered at the meeting; or
  - (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
- (b) classifying the type of interest that has given rise to the conflict as either -
  - (i) a direct interest; or
  - (ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and
- (c) describing the nature of the interest; and
- (d) if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a) (ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.

**Local Government Act 1989 Section 80C)**

A person who is providing advice or a report to a meeting of the Council or a special committee, and who has a conflict of interest in a matter to which the advice or report relates, must disclose the constituting the conflict of interest when providing the advice or report and before the advice or report is considered by the Council or the committee.

**ITEM 4.1     APPOINTMENT OF CHIEF EXECUTIVE OFFICER**  
**13039317**

**AUTHOR:**  
**PRESENTED BY EXECUTIVE SERVICES ON BEHALF OF THE**  
**MUNICIPAL ASSOCIATION OF VICTORIA**

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**Introduction**

A report and associated documentation has been prepared by the Municipal Association of Victoria (MAV) in relation to the appointment of a Chief Executive Officer.

**Discussion**

The Minister for Local Government presented the Mayor and Interim Chief Executive Officer with correspondence regarding the Commission of Inquiry into Ararat Rural City Council on 9 August 2017.

The correspondence contained 6 recommendations to the Mayor for action by the Ararat Rural City Council with the first one being:

1. **External Interim Chief Executive Officer**

- a. Appoint an external interim Chief Executive Officer to the Council for a fixed period of 12 months to undertake an organisational restructure of responsibilities and reporting lines, with a capacity to extend the term.
- b. Ensure the Interim Chief Executive Officer works with any municipal monitor to the Council to achieve contemporary good governance practices within the Council senior staff.

At a Special Council Meeting held on 22 August 2017 Council accepted and endorsed the ‘Ararat Rural City Council Response to Recommendations Work Plan/Action Plan’ which included the recruitment of an External Chief Executive Officer.

Council, with the assistance of the Chief Executive Officer of the MAV conducted interviews on Wednesday 13 September 2017 with the preferred candidate being Mr Allan Bawden.

Sections 94(4A) and (5) of the Local Government Act state that a Council can appoint a person to act as its Chief Executive Officer for a period of not more than 12 Months.

**Options**

Council could:

Endorse the appointment of Mr Allan Bawden to the role of Chief Executive Officer of Ararat Rural City Council for the fixed term period of 2 October 2017 to 30 September 2018.

**POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE**

**Council plan reference**

- |     |   |
|-----|---|
| 5.1 | Good Governance through leadership                                |
| 5.3 | Organisational Risk   |
| 5.4 | Professional and skill staff in a safe and supportive environment |
| 5.5 | Sustainable, long term financial management                       |

**Officer’s Declaration of Interest**

Under Section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

No person involved in the preparation of this report has a direct or indirect interest requiring disclosure.

**Financial and resource implications**

The 2017/2018 budget includes an amount for the Chief Executive Officer role and budgetary savings have been made in the months since the retirement of the previous Chief Executive Officer.

**Risk implications**

Reputational risk to Council if the matter is not resolved in a timely manner and risk of non-compliance to the *Local Government Act 1989*.

The process for appointment of an Interim Chief Executive Officer is in accordance with the provisions of the *Local Government Act 1989*, in as much as clause 94(4A) of the Act waives the public notice requirements for a permanent appointment of a Chief Executive Officer “where Council appoints a person to act as its Chief Executive Officer for a period of not more than 12 months”.

**Statutory Implications**

Potential non-compliance with *Section 94 – The Chief Executive Officer of the Local Government Act 1989* if Council do not appoint a Chief Executive Officer.

The Chief Executive Officer will undertake the role, including all required functions and delegations of the Chief Executive Officer position from 2 October 2017 until 30 September 2018.

**Community Implications**

Reputational and organisational stability to be ensured and communicated.

**Environmental Implications**

None identified.

**Internal/external consultation**

Minister for Local Government  
Commission of Inquiry into Ararat Rural City Council Report  
Local Government Victoria  
Municipal Monitor  
Municipal Association of Victoria  
Interim Chief Executive Officer

**Attachments**

There are no attachments relating to this item.

**Conclusion**

As per the Ministerial recommendation from the Commission of Inquiry into Ararat Rural City Council a recruitment process has been undertaken for the role of Chief Executive Officer for a period of 12 months.

**MOVED CR ALLGOOD**  
**SECONDED CR McLEAN**

**That:**

- 1 Council appoint Mr Allan Bawden to the role of Chief Executive Officer on a Fixed Term Contract to commence on 2 October 2017 and end on 30 September 2018;**
- 2 Total Remuneration to apply in accordance with the terms and conditions as contained in the agreed Contract of Employment;**
- 3 Council authorises the Mayor and Chief Executive Officer to sign and seal the Contract of Employment; and**
- 4 Council distributes a media release regarding the appointment of Mr Allan Bawden to the role of Chief Executive Officer.**

**CARRIED 3652/17**

**ITEM 4.2     DISPUTE RESOLUTION - COUNCILLOR CODE OF CONDUCT**  
**15059144**

**AUTHOR:**  
**DIRECTOR CORPORATE STRATEGY, RISK & GOVERNANCE**

**DEPARTMENT:**  
**CORPORATE STRATEGY, RISK & GOVERNANCE**

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**Introduction**

A written complaint has been received under clauses 2.1, 2.2, 3 and 7 of the Ararat Rural City Council Councillor Code of Conduct Policy (C.1.6).

At the 19 September 2017 Council Meeting the following resolution was passed:

*MOVED CR ARMSTRONG*

*SECONDED CR BEALES*

*That:*

- 1     Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council I wish to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.*
- 2     As I am the applicant it is appropriate for Council to resolve to appoint Cr Peter Beales to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).*
- 3     The initial Complaint Resolution meeting be scheduled to take place on 21 September 2017; and*
- 4     The Ministerial Monitor, Ms Janet Dore be included in the complaint resolution process.*

*CARRIED 3635/17*

**Discussion**

The details of the complaint shall remain confidential to those associated with the matter.

Due to Disclosure of Interest legislation that impacts on this matter, the applicant and respondent will be required to leave the Council Chamber whilst discussion is being held regarding clause 8 of the aforementioned Policy.

The Councillor Code of Conduct Policy, Clause 8.3 states that “In the event that the Mayor is either the Applicant or the Respondent, a Councillor appointed by the Council shall perform the role of the Mayor for this purpose.”

Due to Cr McLean being unavailable on 21 September 2017 and Cr Beales taking Leave of Absence from 22 September 2017 to 21 October 2017 the initial Complaint Resolution meeting was unable to proceed.

**Options**

Council need to determine who shall assume the role of the Mayor for the purposes of this matter.

**POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE**

**Council plan reference**

- 5.1     Good governance through leadership



**Financial and resource implications**

Potential budget implications if the matter cannot be resolved internally.

**Risk implications**

High if the matter cannot be resolved in a timely manner.

**Statutory Implications**

Potential breach of the Councillor Code of Conduct and the Ararat Rural City Response to Recommendations Work Plan/Action Plan if the matter is not dealt with in a timely manner.

**Community Implications**

None identified.

**Environmental Implications**

None identified.

**Internal/external consultation**

Municipal Monitor  
Local Government Victoria  
Independent legal advice

**Attachments**

There are no attachments relating to this item.

**Conclusion**

Determining who shall assume the role of the Mayor for this matter is the initial step to achieve a resolution.

**MOVED CR FORD  
SECONDED CR ARMSTRONG**

**That Cr Gwenda Allgood be elected Acting Chair in the absence of the Mayor, Cr Paul Hooper.**

**CARRIED /17**

Cr Hooper disclosed a direct interest in Item 4.2 – Dispute Resolution – Councillor Code of Conduct, due to him being the applicant in the Code of Conduct process against Cr McLean.

Cr McLean disclosed a direct interest in Item 4.2 – Dispute Resolution – Councillor Code of Conduct, due to her being the party to the Dispute Resolution.

Cr Hooper and Cr McLean left the Council Chamber at 6.03pm.

Cr Allgood took the Chair at 6.03pm.

**MOVED CR ARMSTRONG**  
**SECONDED CR PETTMAN**

That:

- 1 Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council Cr Hooper wishes to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
- 2 As Cr Hooper is the applicant it is appropriate for Council to resolve to appoint another Councillor to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
- 3 The initial Complaint Resolution meeting be scheduled to take place as soon as is practicable; and
- 4 The Municipal Monitor, Ms Janet Dore be included in the complaint resolution process.

**AMENDMENT**

**MOVED CR FORD**  
**SECONDED CR PETTMAN**

That:

- 1 Due to the recommendations from the Minister for Local Government and the Commission of Inquiry into Ararat Rural City Council Cr Hooper wishes to make a formal complaint under the Councillor Code of Conduct (C.1.6) against Cr Glenda McLean.
- 2 As Cr Hooper is the applicant it is appropriate for Council to resolve to appoint Cr Gwenda Allgood to undertake a formal complaint resolution process in accordance with Clause 8 of the Councillor Code of Conduct (C.1.6).
- 3 The initial Complaint Resolution meeting be scheduled to take place as soon as is practicable; and
- 4 The Municipal Monitor, Ms Janet Dore be included in the complaint resolution process.

**CARRIED 3653/17**

**MOVED CR FORD**  
**SECONDED CR PETTMAN**

The Amendment becomes the motion.

**CARRIED 3654/17**

Crs Hooper and McLean returned to the Council Chamber at 6.13pm.

Cr Hooper resumed the Chair at 6.13pm.

Meeting closed at 6.14pm.

I HEREBY CERTIFY THAT PAGES 4449 TO 4457 ARE CONFIRMED AND ARE A TRUE AND CORRECT RECORD.

**MAYOR – CR PAUL HOOPER**