



Ararat Rural City

**SPECIAL
COUNCIL MEETING
MINUTES**

TUESDAY 05 DECEMBER 2017

PRESENT

The Mayor, Cr Glenda McLean Chairperson,
Crs Gwenda Allgood, Jo Armstrong, Peter Beales, Bill Braithwaite and David Pettman,
Mr Allan Bawden, Chief Executive Officer,
Mr Don Cole, Director, Assets, Finances and Corporate Services,
Mrs Julie Kilpatrick, Acting Director Corporate Strategy, Risk and Governance,
Mrs Angela Hunt, Executive Manager Community Life,
Mr Tim Day, Executive Manager Operations and Infrastructure, and
Mrs Jenny Woolcock, Manager Executive Services and Governance.

1 TRADITIONAL ACKNOWLEDGEMENT

The Prayers were read out by Mayor Cr Glenda McLean.

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.

MINUTES OF THE ARARAT RURAL CITY COUNCIL SPECIAL MEETING HELD ON 05 DECEMBER 2017 IN THE COUNCIL CHAMBER, SHIRE HALL, BARKLY STREET, ARARAT, WHICH COMMENCED AT 5.04PM

Mr Tim Day – Executive Manager Operations and Infrastructure left the Council Chamber at 5.07pm and returned immediately after.

Cr David Pettman arrived at 5.07pm.

2 APOLOGIES

**MOVED CR ALLGOOD
SECONDED CR BEALES**

That the apologies of Cr Darren Ford, Ms Janet Dore - Municipal Monitor and Mrs Colleen White - Director Corporate Strategy, Risk and Governance.

CARRIED 3729/17

**ARARAT RURAL CITY COUNCIL SPECIAL MEETING –
TUESDAY 05 DECEMBER 2017
3 – DISCLOSURE OF INTERESTS**

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 VICTORIAN ELECTORAL COMMISSION EXTRAORDINARY
ELECTION COUNTBACK**

17090254

AUTHOR:

MANAGER EXECUTIVE SERVICES AND GOVERNANCE

DEPARTMENT:

CORPORATE STRATEGY, RISK AND GOVERNANCE

Council plan reference

5.1 Good governance through leadership

Introduction

The Victorian Electoral Commission held a countback for the Ararat Rural City Council on 29 November 2017. The countback was to fill the extraordinary vacancy that occurred as a result of the resignation of Paul Hooper on Wednesday 1 November 2017

Discussion

Where an extraordinary vacancy occurs in a multi-councillor electorate, Victorian law requires the vacancy to be filled, in the first instance, by a countback of votes from the election at which the councillor was elected, rather than through a by-election.

After the distribution of preferences at the count following the general election in October 2016, Councillor-elect Mr Paul Hooper was elected with 1,219 ballot papers. The countback involved distributing these ballot papers, at the value at which they were received, which was the value of 1, to the next eligible candidate listed on each of the ballot papers.

There were thirteen candidates nominated to fill the seven vacancies for Ararat Rural City Council at the last general election. The countback included the six unsuccessful candidates from that election listed in ballot paper order on the screen.

The successful candidate in the countback is the candidate who achieves an absolute majority of the vote, which is more than half the total value. Mr Bill Braithwaite was the successful candidate.

On 30 November 2017, Mr Bill Braithwaite was declared elected to the office of Councillor to fill the extraordinary vacancy.

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.

Attachments

A copy of the Countback distribution report is included as an attachment.

**MOVED CR BEALES
SECONDED CR ARMSTRONG**

That Victorian Electoral Commission Extraordinary Election Countback report be received.

CARRIED 3730/17

**ITEM 4.2 OATH OF OFFICE AND
COUNCILLOR CODE OF CONDUCT DECLARATION
17090254
AUTHOR:
MANAGER EXECUTIVE SERVICES AND GOVERNANCE
DEPARTMENT
CORPORATE STRATEGY, RISK AND GOVERNANCE**

Discussion

Section 63 of the Local Government Act, states:

- (1A) The following oath of office is to be taken by a Councillor in accordance with Division 2 of Part IV of the **Evidence (Miscellaneous Provisions) Act 1958**—
"I will undertake the duties of the office of Councillor in the best interests of the people in the municipal district of and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the **Local Government Act 1989** or any other Act to the best of my skill and judgment."
- (2) The oath of office must be—
(a) made before the Chief Executive Officer; and
(b) dated and signed before the Chief Executive Officer; and
(c) recorded in the minutes of the Council. **Note**
See section 102 of the **Evidence (Miscellaneous Provisions) Act 1958** as to the making of a solemn affirmation instead of an oath.
- (3) A declaration by a person elected to be a Councillor under subsection (1)(b) must be—
(a) in writing; and
(b) witnessed by the Chief Executive Officer.

POTENTIAL IMPLICATIONS ARISING FROM THIS ISSUE

Council plan reference

5.1 Good governance through leadership.

Financial and resource implications

None identified.

Risk implications

Not retaking the Oath of Office/Affirmation with the correct wording would be a breach of the Local Government Act 1989 Section 63.

Statutory Implications

Current Oath of Office not compliant in relation to Section 102 of the **Evidence (Miscellaneous Provisions) Act 1958** as to the making of a solemn affirmation instead of an oath.

Community Implications

None identified.

Environmental Implications

None identified.

Internal/external consultation

Local Government Investigations and Compliance Inspectorate.

Attachment

There are no attachments relating to this item.

Conclusion

A copy of the Oath of Office has been prepared for signing by the person elected to be a Councillor. A copy of the Councillor Code of Conduct Declaration has been prepared for signing by the person elected to be a Councillor.

The Chief Executive Officer, Mr Allan Bawden invited Councillor elect Bill Braithwaite to take the Oath of Office

Cr Bill Braithwaite then signed the Councillor Code of Conduct declaration.

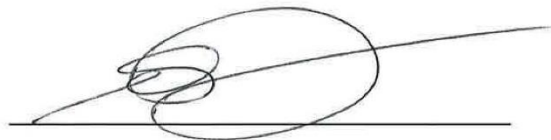
Mayor, Cr Glenda McLean welcomed Cr Braithwaite to the Council Chamber, and Cr Braithwaite addressed the Council.



Ararat Rural City

OATH OF OFFICE

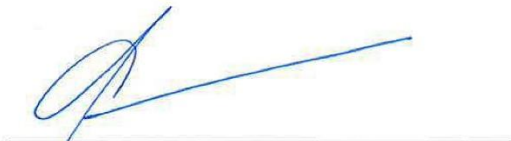
I swear by Almighty God that I will undertake the duties of the office of Councillor in the best interests of the people of the municipal district of the Ararat Rural City and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the *Local Government Act 1989* or any other Act to the best of my skill and judgment."



Signature

**CR BILL BRAITHWAITE
COUNCILLOR**

I, Allan Bawden, Chief Executive Officer, confirm that I have witnessed the making of this Oath of Office.



Signature

**ALLAN BAWDEN
CHIEF EXECUTIVE OFFICER**

Date 05 December 2017



Ararat Rural City

ARARAT RURAL CITY COUNCIL

**DECLARATION PURSUANT TO SECTION 76C(6A)
OF THE
LOCAL GOVERNMENT ACT 1989**

Bill Braithwaite
I, Xxx Xxxx do declare that:

- a) I have read the Ararat Rural City Council's Councillor Code of Conduct which was adopted by the Council on 19 January 2017; and
- b) I will abide by the Code of Conduct.

Definition

In this Declaration, Councillor Code of Conduct means the Code of Conduct developed by Council pursuant to section 76C of the *Local Government Act 1989*.

DECLARED at ARARAT in the State of Victoria on 5/12/2017

Signature

**CR BILL BRAITHWAITE
COUNCILLOR**

before me:

Signature

**ALLAN BAWDEN
CHIEF EXECUTIVE OFFICER**

Date

5/12/2017

Meeting closed at 5.14pm.

**I HEREBY CERTIFY THAT PAGES 5041 TO 5050 ARE CONFIRMED AND ARE A
TRUE AND CORRECT RECORD.**

MAYOR – CR GLENDA McLEAN