

**CITY OF
BALLARAT**



Ordinary Council Meeting

4 April 2018

Council Chamber, Town Hall, Sturt Street, Ballarat

MINUTES

Public Copy

MINUTES OF A MEETING OF BALLARAT CITY COUNCIL HELD IN THE COUNCIL CHAMBER, TOWN HALL, STURT STREET, BALLARAT ON WEDNESDAY 4 APRIL 2018 AT 7:00PM

MINUTES

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1. OPENING DECLARATION

Councillors: *"We, the Councillors of the City of Ballarat, declare that we will carry out our duties in the best interests of the community, and through collective leadership will maintain the highest standards of good governance."*

Mayor: *"I respectfully acknowledge the Wadawurrung and Dja Dja Wurrung People, the traditional custodians of the land, and I would like to welcome members of the public in the gallery."*

2. APOLOGIES FOR ABSENCE

2.1 Present

Mayor Samantha McIntosh
Cr Belinda Coates
Cr Mark Harris
Cr Des Hudson
Cr Amy Johnson
Cr Daniel Moloney
Cr Jim Rinaldi
Cr Ben Taylor
Cr Grant Tillett

Ms Justine Linley - Chief Executive Officer
Mr Terry Demeo - Director Infrastructure and Environment
Mr Glenn Kallio - Director Business Services
Ms Angelique Lush - Director Development and Planning
Mr Cameron Gray - Director Innovation and Organisational Improvement
Mr Mark Patterson - Executive Manager Sport and Active Living
Mr Cameron Montgomery - Executive Manager Safety, Risk and Compliance Services
Ms Ali Evans - Administration Officer Statutory Compliance
Ms Sarah Anstis - Governance Administration Officer

2.2 Apologies

Nil

3. DISCLOSURE OF INTEREST

Nil

4. CONFIRMATION OF MINUTES

RESOLUTION:

That the Minutes of the Council Meeting on 14 March 2018 as circulated be confirmed.

Moved: Cr Des Hudson

Seconded: Cr Daniel Moloney

CARRIED

(R71/18)

5. MATTERS ARISING FROM THE MINUTES

Nil

6. PUBLIC QUESTION TIME**QT16/18 – Ms Pat Robertson - Ballarat****Question**

I contacted two Central Ward Councillors regarding a building permit and I did not receive a response. The only response I received was a letter from Council outlining that a decision had been made. Why was this matter not called in and why was my question not answered by Councillors?

Answer

Cr Samantha McIntosh, Mayor, advised that she had spoken with Ms Robertson and had outlined at the time that she believed she had a perceived conflict of interest because of her former role in dealing with the property as a Real Estate Agent. The Mayor acknowledged that there had been a request for other Councillors to call the planning application in, noting however that Councillors do not have to call a matter in if they choose not to.

Cr Mark Harris advised that the decision to "call in" a planning application for Councillors in his view is based on a number of things, for example where the officer ruling or assessment may not be straight forward and there is contention in a planning sense. Cr Harris commented that with reference to the Specimen Vale application he considered it a straightforward officer decision and there was no area of planning contention to explore, even with VCAT, and that it was not good process to bring the matter into the Council Chamber.

Terry Demeo, Director Infrastructure and Environment advised that in accordance with the Planning Instrument of Delegation, officers can make the decision on the majority of planning applications. A call-in requires two Councillors and this has been a long standing process at the City of Ballarat. The application was dealt with under delegation.

Cr Jim Rinaldi asked why, if the Eddy Avenue application in Mt Helen had 48 objections and a Special Council Meeting was held to hear the views of objectors, did Council not follow the same process for the Specimen Vale application?

Terry Demeo, Director Infrastructure and Environment advised that Councillors called in the Eddy Avenue application very early in the process and it was decided to have a special meeting to enable all speakers to be heard. In the case of the Specimen Vale application all people, including objectors and the applicant, were amicable and mediation was conducted.

QT17/18 – Mr Frank Willams - Invermay Park**Question**

My question relates to the Capital works program in Heinz lane. In relation to two capital work projects in the North Ward, why is the City of Ballarat removing an existing footpath, that was perfectly sound, 1 metre to the south and the gutter 25cm to the North in Invermay Park? All other footpaths in the Invermay area are in the middle of the nature strip. This footpath was in alignment and now it's not.

Answer

Terry Demeo, Director Infrastructure and Environment
Taken on notice.

QT18/18 - Mr Frank Willams - Invermay Park**Question**

Why did City of Ballarat realign the Cambridge and Forest Street footpath for the third time in three years?

Answer

Terry Demeo, Director Infrastructure and Environment
Taken on notice

QT19/18 – Mr Bernie Quirk - Ballarat East**Question**

What is the correct process for a decision in a planning application that had a large number of objectors? Should the process be passed onto Council or do Council decide that the officers should decide?

Answer

Terry Demeo, Director Infrastructure and Environment advised that according to the Planning Instrument of Delegation, there is no mechanism for a call in based on an explicit number of objections. Two Councillors need to form a view and need to act on this for it to be brought to the Council Chamber for determination.

Cr Amy Johnson asked if there could be more information brought back to a briefing regarding options for Planning Delegations and the consideration of Planning Permit Applications by the Council.

QT19/18 – Mr Bernie Quirk - Ballarat East**Question**

In relation to Eddy Avenue, there were large number of objections and this was called in because not all the parties were amicable. In relation to Specimen Vale, all parties were amicable, although not in agreeance, that is why this wasn't bought in. Is this reasonable?

Answer

Terry Demeo, Director Infrastructure and Environment advised that in relation to Eddy Avenue, the matter was called in and the decision was to have a special meeting of Council to hear to objectors.

QT20/18 – Ms Loretta Edmonston - Alfredton**Question**

There is no safety fence around the Apex Playground near the lake. This makes it difficult to see the children unless you are actually on the playground. Can Council look at installing a fence around the play ground, a one way entry and exit gate and security cameras?

Answer

Terry Demeo, Director Infrastructure and Environment advised that there has been conversations in the past but Council does not have security cameras at this point. With regard to the fences, there has been previous discussions and it was decided at the time that fences in all circumstances may not be appropriate.

Cr Samantha McIntosh, Mayor asked if the matter could be brought to a briefing to look at the options for security cameras, fences and entry and exit gates.

Cr Des Hudson commented that the Canadian Lead Primary School have great fences where children are protected with a boundary. In South Australia, many playgrounds have fences. Cr Hudson further advised that he would call for a report for fences around playgrounds in general business.

RESOLUTION

Extend public question time for a period of 30 minutes.

Moved: Cr Jim Rinaldi

Seconded: Cr Daniel Moloney

**CARRIED
(R72/18)**

QT21/18 – Mr Kevin Murphy - Specimen Vale

Question

I sent Councillors an email regarding Specimen Vale. How could Council make the decision without it going to Council? Why did Council not do this?

Answer

Cr Samantha McIntosh, Mayor advised that this process has been explained. The decision can be called in and it has to be done by two Councillors.

QT22/18 – Mr Kevin Murphy - Specimen Vale

Question

Has Council implemented processes to eliminate this from happening again?

Answer

Cr Samantha McIntosh, Mayor advised that as a result a briefing has been requested to see what other Councils do to explore other options.

QT23/18 - Mr Kevin Murphy - Specimen Vale

Question

There were 47 objections to this planning application, were they even looked at?

Answer

Terry Demeo, Director Infrastructure and Environment advised that yes the objections were received and Council officers did go through them and they were certainly considered.

7. REPORTS FROM COMMITTEES/COUNCILLORS

GB25/18 - Cr Grant Tillett

On the corner of Howitt Street and Creswick Road stood Ronaldson Brothers and Tippet Factory. The land was cleared, and the site was sold. On the corner of the block is the cast iron wheel and plaque. Is this on private property and can we do something to preserve it?

I attended the funeral of Reg Kinnersly in Clunes. Reg was the father of the Smythesdale Landfill.

I attended the announcement of the Ride Like a Girl movie and I noticed there was no memorial in Miners Rest for items which led to that film.

What is the future of skate park equipment on the site of GovHub which was used by 25 children at three o'clock today. Where will the equipment go or where will the children go if the equipment goes?

Cr Samantha McIntosh, Mayor commented that the Ronaldson and Tippet corner needs follow up and a memorial or recognition in Miners Rest for Ride Like a Girl requires investigation. In relation to the skate park, the Mayor advised that Council had decided to demolish it after the new skate park was built but it has not needed to be removed yet.

GB26/18 - Cr Amy Johnson

I request a briefing for options relating to planning applications.

I attended the Ballarat Biggest Playgroup at MADE.

I attended the Rock the Block which was held by Youth Council at the Culture Fest.

I was a judge at the Ballarat Busking Championships and I got to see a huge range of buskers and it was a very successful event.

GB27/18 - Cr Belinda Coates

A big thank you to the Intercultural Advisory Committee for their work on Harmony Fest.

I attended Rock the Block which was a result of feedback from last years Harmony Fest.

Intercultural cities gala ball which Cr Moloney had the honor of speaking at.

I call for a Briefing on where climate change risk sits on our Audit Committee Risk Register. Can this include an update about how we are currently reporting on climate change, adaptation and mitigation risk. Can it also include an update about whether there will be changes needed to this under proposed changes in the new Local Government Act which includes as an overarching principle mitigation and planning for climate change risks.

GB28/18 - Cr Des Hudson

I call for a Briefing on the provision of fencing around playgrounds.

GB29/18 - Cr Jim Rinaldi

In the local news it was mentioned that the Eureka Centre is closed. We voted that it will be open. Can you please clarify?

Cr Samantha McIntosh, Mayor advised that Council decided to retain the Eureka Centre but to change the form and refocus back to the story of Eureka and the Flag. The Centre is definitely still open and is not closed. It was closed by the MADE Board on the two public holidays over Easter but reopened under City of Ballarat management on Easter Sunday. It is a shame information gets put out incorrectly by others and I have spoken publicly that it will remain open and we are protecting the flag and the history.

GB30/18 - Cr Ben Taylor

On 17 March 2018 we had White Night which increased from 40,000 to 60,000 which was a fantastic event and deserves congratulations.

I would like to highlight the Ballarat Swap Meet which was held recently in Ballarat. The event was so huge and such a success, I would like to congratulate the Rotary Club for running such a successful event.

GB31/18 - Cr Samantha McIntosh, Mayor

I support the attendance by Councillors to the significant events being hosted in Ballarat, week after week.

The Begonia Festival was another fantastic event.

I recently went to Spring Street and Canberra for the lobbying of documents for our big vision projects and focus areas.

RESOLUTION:

To accept Councillor reports.

Moved: Cr Amy Johnson
Seconded: Cr Mark Harris

CARRIED
(R73/18)

8. ASSEMBLIES OF COUNCILLORS

8.1. ASSEMBLIES OF COUNCILLORS

Division: Business Services
Director: Glenn Kallio
Author/Position: Ali Evans – Administration Officer Statutory Compliance

RESOLUTION:

Council resolves to approve the report on Assemblies of Councillors as listed:

- **7 February 2018 Infrastructure and Environment Portfolio Meeting No 169**
- **1 March 2018 Ballarat Airport Advisory Committee Meeting**
- **7 March 2018 Infrastructure and Environment Portfolio Environment Meeting No 170**
- **7 March 2018 Strategic Briefing Meeting**
- **9 March 2018 Community Development Councillor Portfolio Meeting**
- **21 March 2018 Council Agenda Review Briefing**

Moved: Cr Amy Johnson
Seconded: Cr Mark Harris

CARRIED
(R74/18)

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with copies of Assembly of Councillor Records as required under section 80A(2) of the *Local Government Act 1989*.

9. OFFICER REPORTS

9.1. ACTIVE WOMEN AND GIRLS' STRATEGY

Division: Community Development
Director: Neville Ivey
Author/Position: Michael Hynes - Senior Advisor - Strategy and Planning, Recreation Planning

Ms Rochelle Eime made a public representation.

RESOLUTION:

Council resolves to:

1. **Adopt the Draft 2018 Active Women and Girls' Strategy.**
2. **Acknowledge the extensive consultation via the community and many stakeholders groups who contributed towards the formation of the 2018 Active Women and Girls' Strategy.**

Moved: Cr Belinda Coates

CARRIED

Seconded: Cr Amy Johnson

(R75/18)

EXECUTIVE SUMMARY

The purpose of the 2018 Active Women and Girls' Strategy is to provide a tailored response to priority issues identified within the municipality that may be constraining women and girls' involvement in sport or physical activity, either as leaders or participants.

Throughout the consultation process four key pillars were identified; participation, culture and environment, infrastructure and media action. Each aligning with the vision and goals identified in the Council Plan 2017-2021.

1. Participation - initiatives to encourage active participation, athlete pathways and data collection.
2. Culture and environment - initiatives that support women and girls in leadership and governance roles, positive female role models, club education, development and volunteer support.
3. Infrastructure - equitable access to suitable facilities to support participation.
4. Media action - a focus on promotion, exposure and positive messaging to motivate and change behaviours.

9.2. LOCAL LAW AMENDMENT

Division: Infrastructure and Environment
Director: Terry Demeo
Author/Position: Terry Demeo- Director Infrastructure and Environment

Mr Luke Parker, Ms Rachael Bott, Ms Anne Preston, Mr Brett James, Mr Philip Rowse, Mr Andrew Greg and Mr Peter Risdale made public representations.

RESOLUTION:**Council resolves to:**

1. **Adopt a modified Local Law to include:**
 - a. **Modifications to Clause 15.2 such that no permit is required for burning outside fire restriction periods for properties within the farming zone and properties within the rural living zone that exceed 2 hectares in area.**
 - b. **Remove:**
 - **Clause 66.1 (A person must not undertake any of the following activities on a Municipal Reserve without first obtaining a Permit): fly or allow to be flown any aircraft (including an RPA or any powered aeroplane but excluding a kite).**
 - **Clause 71 and 71.1 – A person must not, without a Permit, operate an RPA within 100 metres of an Event on Council Land or a Road within the Municipal district.**
2. **Publish the altered arrangements for burning in the rural environment for a consecutive period of a month in Council’s noticeboard following the formal gazettal of the modified Local Law.**
3. **Formally engage with representatives of drone stakeholder group in developing the policy position for drone activity.**

Moved: Cr Daniel Moloney
Seconded: Cr Des Hudson

CARRIED
(R76/18)

EXECUTIVE SUMMARY

Following the adoption of the Draft Community Local Law 2017 report at the Council Meeting held on 13 December 2017, there has been further consideration in relation to the implications of the adopted Local Law as it impacts on the emerging industry/recreational use of drones and also in relation to the impact of the Local Law in respect to permits to burn impacting on farming practices and maintenance associated with rural living allotments.

Having regard to the further consideration of these matters, it is recommended that the Local Law be modified to provide for a policy which explicitly states that a permit for drone activity is only required on public land where an event is underway and adopt a modified provision to allow burning in the farming and rural living environment in line with existing practices.

Further, it is recommended that Council engage with stakeholders from the drone group in developing the policy position to inform Local Law operation.

The modified provisions of the Local Law have been through a government gazette and local notification process with no submissions received.

RESOLUTION

That Council adjourn for a comfort break at 9:42pm.

Moved: Cr Grant Tillett

Seconded: Cr Daniel Moloney

CARRIED

(R77/18)

RESOLUTION

That Council resume at 9:55pm.

Moved: Cr Ben Taylor

Seconded: Cr Daniel Moloney

CARRIED

(R78/18)

9.3. ADOPTION OF THE S6 INSTRUMENT OF DELEGATION - MEMBERS OF STAFF

Division: Business Services
Director: Glenn Kallio
Author/Position: Sarah Anstis - Governance Administration Officer

RESOLUTION:**Council resolves to:**

1. **Revoke the S6. Instrument of Delegation - Members of Staff endorsed on 14 March 2018 R61/18.**
2. **Exercise Councils power conferred by section 98(1) of the *Local Government Act 1989* and the other legislation referred to in the attached S6. Instrument of Delegation – Members of Staff.**
3. **Delegate each duty and/or function and/or power described in column 1 of the Schedule and summarised in column 2 of the Schedule, to the member of Council Staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule.**
4. **Authorise the S6. Instrument of Delegation – Members of Staff (Attachment 1) to:**
 1. **Come into force immediately once the Common Seal of Council is affixed;**
 2. **Remains in force until varied or revoked;**
 3. **Be subject to any conditions and limitations set out in sub-paragraph 3.3 of the delegation and the Schedule; and**
 4. **Be exercised in accordance with any guidelines or policies which Council, from time to time, adopts.**
5. **Sign and affix Council’s Common Seal to the S6. Instrument of Delegation - Members of Staff.**

Moved: Cr Ben Taylor
Seconded: Cr Amy Johnson

CARRIED
(R79/18)

EXECUTIVE SUMMARY

The purpose of this report is to enable Council to revoke the S6. Instrument of Delegation - Members of Staff (Instrument) that was endorsed at the Council meeting held on 14 March 2018 R61/18 and to endorse the revised Instrument reflecting changes to the organisation structure.

9.4. OUTSTANDING QUESTIONS

Division: Business Services
Director: Glenn Kallio
Author/Position: Ali Evans - Administration Officer Statutory Compliance

RESOLUTION:

Council resolves to:

Endorse the Outstanding Question Time report.

Moved: Cr Des Hudson

CARRIED

Seconded: Cr Daniel Moloney

(R80/18)

EXECUTIVE SUMMARY

This report provides Council with an update of response to questions taken on notice and outstanding unanswered questions from Council Question Time.

10. NOTICE OF MOTION

Nil

11. URGENT BUSINESS

RESOLUTION:

Council endorses to accept "9.5 Change to MADE Constitution" as urgent business at this ordinary meeting of Council in accordance with clause 33 of the City of Ballarat Local Law 18 - Meeting Procedure.

Moved: Cr Grant Tillett

CARRIED

Seconded: Cr Daniel Moloney

(R81/18)

11.1. CHANGE TO MADE CONSTITUTION**RESOLUTION**

Council resolves to:

- 1. Authorise the City of Ballarat Chief Executive Officer to sign the Special Resolution of Member to amend the MADE Constitution, allowing the transfer of MADE assets to Council.**

Moved: Cr Mark Harris

Seconded: Cr Daniel Moloney

CARRIED

(R82/18)

EXECUTIVE SUMMARY

A change in the constitution of MADE is required to allow MADE to gift assets to Council. Following Council's resolution to cease funding of the Museum of Australian Democracy at Eureka (MADE), the MADE company is scheduled to wind up on 30 April 2018. A requirement of the corporate wind up process is for the company to divest by gift or sale, all its assets, which the MADE Board would like to do by gifting them to Council.

However, none of Council's four Deductible Gift Registered (DGR) entities are eligible to receive the assets, due to the overly restrictive wording of the current MADE Constitution. Furthermore, in accordance with its constitution, MADE must not sell its assets for less than market value. Therefore, if it were to sell its assets to Council it will receive monetary assets that it will then also need to gift or sell.

12. SECTION 89 (IN CAMERA)

RESOLUTION:

That Council resolve, pursuant to Section 89(2) of the Local Government Act 1989, that the meeting be closed to members of the public at 10:02pm whilst the Council is dealing with the following matters;

**Moved: Cr Jim Rinaldi
Seconded: Cr Des Hudson**

**CARRIED
(R83/18)**

12.1 BALLARAT NORTH COMMUNITY CENTRE

Division: Community Development
Director: Neville Ivey
Author/Position: Carol Brown – Project Manager

(Contractual matters)

12.2 CEO PERFORMANCE REVIEW

Division: Innovation and Organisational Improvement
Director: Cameron Gray
Author/Position: Cameron Gray – Director Innovation and Organisational Improvement

(Contractual matters)

12.3 WESTERN BULLDOGS STRATEGIC PARTNERSHIP

Division: Community Development
Director: Neville Ivey
Author/Position: Mark Patterson – Executive Manager Sport and Active Living

(Any other matter which the Council or Special Committee considers would prejudice the Council)

12.4. NORTH BALLARAT LEASE AGREEMENT

Division: Infrastructure and Environment
Director: Terry Demeo
Author/Position: Darren Sadler – Executive Manager Property Services and Facilities Management

(Contractual matters)

RESOLUTION:

That Council move out of closed Council at 11:05pm and adopt the resolutions made therein.

**Moved: Cr Grant Tillett
Seconded: Cr Ben Taylor**

**CARRIED
(R89/18)**

The CEO reported on the following items in closed Council.

13. CLOSE

The Mayor declared the meeting closed at 11:07pm.

Confirmed this

day of

2018.

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Mayor