

OFFICIAL

Council Meeting

Minutes

26 July 2023 at 6:30pm

Council Chamber, Town Hall, Sturt Street,
Ballarat



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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

Cr Des Hudson (Mayor)
Cr Daniel Moloney
Cr Ben Taylor
Cr Belinda Coates
Cr Mark Harris
Cr Amy Johnson
Cr Peter Eddy
Cr Tracey Hargreaves

Mr Evan King- Chief Executive Officer
Ms Bridget Wetherall - Director Infrastructure and Environment
Mr Matthew Wilson - Director Community Wellbeing
Mr John Hausler - Director Corporate Services
Ms Natalie Robertson - Director Development and Growth
Mr Martin Darcy – Director Economy and Experience
Mr Cameron Montgomery - Executive Manager Governance and Risk
Mr Fabian Horton - Coordinator Risk and Compliance
Ms Lyndsay Leingang - Administration Officer Statutory Compliance
Mr Stephen Wright - Administration Assistant Compliance

2.2 Apologies

Cr Samantha McIntosh

RESOLUTION:

That the apology be accepted.

Moved: Cr Tracey Hargreaves

CARRIED

Seconded: Cr Daniel Moloney

(R99/23)

Cr Samantha McIntosh requested a leave of absence from the 27 July 2023 to 31 August 2023.

RESOLUTION:

That leave of absence be granted for Cr Samantha McIntosh from 27 July 2023 to 31 August 2023.

Moved: Cr Tracey Hargreaves

CARRIED

Seconded: Cr Daniel Moloney

(R100/23)

3. DISCLOSURE OF INTEREST

Nil

4. MATTERS ARISING FROM THE MINUTES

Nil

5. CONFIRMATION OF MINUTES

RESOLUTION:

That the Minutes of the Council Meeting on 28 June 2023 as circulated be confirmed.

Moved: Cr Amy Johnson

CARRIED

Seconded: Cr Daniel Moloney

(R101/23)

Condolence Motion

Mayor Hudson raised a condolence motion for the passing of City of Ballarat's Hall Keeper Robert McVitty. Cr Moloney, Cr Coates, Cr Johnson, and Mr Evan King also offered condolences.

RESOLUTION:

That Council move a condolence motion for Robert McVitty.

Moved: Cr Des Hudson

CARRIED

Seconded: Cr Daniel Moloney

(R102/23)

Condolence Motion

Cr Coates raised a condolence motion for the passing of Ugo Lo Iacono, who was a founding member of both the Ballarat Regional Multicultural Council and the Italian Seniors Club.

RESOLUTION:

That Council move a condolence motion for Ugo Lo Iacono.

Moved: Cr Belinda Coates

CARRIED

Seconded: Cr Des Hudson

(R103/23)

6. PUBLIC QUESTION TIME

QT78/23 - Dean Hurlston

Question

Can council please advise the dollar (\$) amount of "cost shifting from State Government" they estimate they incurred in 2022/23 Financial Year?

Answer

John Hausler, Director Corporate Services, responded that the City of Ballarat does not measure the annual amount of cost shifting from State to Local Government.

QT79/23 - Ashley Williams

Question

Does the Ballarat City Council pay a Carbon Tax and, if so, how much per annum or rate per unit?

Answer

John Hausler, Director Corporate Services, responded that the City of Ballarat does not pay a carbon tax or similar so there is no amount to advise you of in that regard.

QT80/23 - Annie Treloar

Question

Clause 52.09-4 of the Ballarat Planning Scheme gives ten guidelines that councillors 'must' consider when deciding on an application "to use and develop land for extractive industry," like Ballarat Gold Mine's fourth hazardous waste dam. There's one guideline that involves the Workplan Variation but the other nine involve potential community effects. During the decision last month some councillors expressed unease and seemed to want more clarity and information to form a view. I'd like to ask, were councillors given these decision guidelines?

Answer

Natalie Robertson, Director Development and Growth, responded that Clause 52.09-4 must consider, where appropriate, the elements that relate to it if the Clause triggers the planning permit requirement. This Clause primarily relates to the consideration of the introduction of a new use and, as explained on a number of occasions, this extractive industry is not a new use. In this instance, given the existing use rights, Clause 52.09-4 is not a permit trigger although the officer does make mention of it in the report. In fact, the officer report is extensive and addresses those matters that are required to be considered as part of the planning assessment. The report may be viewed on council's website under the 28 June 2023 Ordinary Council Meeting Agenda.

QT81/23 - Jennifer Robson

Question

I would like to ask the council to explain their contradictory manner in dealing with the matter of obtaining an EES for the tailings dam application?

We were informed an EES was not required as it would have already been addressed by ERR before reaching the council. However, during the approval meeting, it was stated that the council DO have authority to request an EES.

Answer

Natalie Robertson, Director Development and Growth, responded that prior to the lodgment of any planning application proposing mining activities, a Work Plan Variation process is required to be undertaken through DEECA. As part of this process the EPA assess the proposed tailings dam along with other relevant agencies such as the Department of Environment, Land, Water and Planning or DTP now. These authorities did not raise any objections to the proposal and have included conditions that form part of the Work Plan statutory endorsement.

Based on the previous review of the Work Plan by the relevant agencies, which by way of Statutory Endorsement has considered the thresholds for requiring an Environmental Effects Statement and determined the threshold for requiring an EES has not been met and is therefore not required.

Council officers have previously advised both Council and the public that if it were to seek an EES the resulting officer recommendation would not differ as the relevant agency has advised the threshold for requiring an EES has not been met. What remains the ambit of discretion to us in planning consideration triggers in this matter does not give call to mandate and EES.

QT82/23 - Jennifer Robson**Question**

Can council explain why they sidestepped the EES process which has effectively avoided a thorough assessment of the potential environmental and social impacts of the mine?

Answer

Natalie Robertson, Director Development and Growth, responded that, as well as partly being answered in the above response, the Council has now made a decision on this planning matter based on the requirements of the Ballarat Planning Scheme available to it. Any party to the proceeding who opposes the decision may exercise their right to appeal to the Victorian Civil and Administrative Appeals Tribunal.

QT83/23 - Frank Williams**Question**

My two questions relate to the small Inagawa Delegation, 8.2. The Ballarat City Council stresses the importance of public participation in decision making, also the consultative nature of the organisation and the value of community input and support. Therefore, my two questions relate to the following:

Given the significance of the milestone event (the 35th Anniversary) why didn't the Council delegation invite public participation in the exchange?

Answer

Matthew Wilson, Director Community Wellbeing, responded that he will need to take that question on notice and explore further with officers and come back to you in writing following the meeting.

Mayor, Cr Hudson responded that we did reach out to some of our local schools that have participated in the Japanese-English speaking competition to see if they would like to join with the City of Ballarat as part of the delegation That was one element that we reached out to but unfortunately there was no uptake from the schools that we reached out to, which was a disappointment given that it is one of the significant experiences for the young people that participate in both programs here in Ballarat and also over in Inagawa.

QT84/23 - Frank Williams**Question**

The second question relates to the timing of the delegation. I know that August is a very significant date back in 1988 when the Sister City Agreement was signed that was a time Mayor Wagami and his formal delegation visited Ballarat. But my second question relates to practicalities: Why decide to go to Inagawa in August when it's a most oppressive humidity, as opposed to the 1st of November when they have the largest national day celebrations both in Japan and in August??

Answer

Mayor Hudson responded that around the original dates that were proposed ran right up to our statutory meeting for the election of the Mayor and Deputy Mayor and that was just not practical at that stage. We conveyed that message to the Mayor of Inagawa and we sought respectfully a change of date, and they were happy to accommodate that.

QT85/23 - Catherine**Question**

I'm just going to follow on from Ash's question: Is Ballarat Council tracking the carbon usage within Ballarat?

Answer

Bridget Wetherall, Director Infrastructure and Environment, responded that yes, we are but that doesn't involve a carbon tax.

QT86/23 - Catherine**Question**

Are you getting any funding for tracking it, or anything like that, for reductions?

Answer

Bridget Wetherall, Director Infrastructure and Environment, responded that there are certain guidelines that are set by the Federal Government in terms of carbon accounting which we use.

7. CHIEF EXECUTIVE OFFICER REPORT

7.1. CHIEF EXECUTIVE OFFICER REPORT

Division: Executive Unit
Director: Evan King
Author/Position: Evan King – Chief Executive Officer

PURPOSE

1. The CEO's Operational Report highlights issues and outcomes affecting the organisation's performance as it delivers services and implements the Council's strategies and policy decisions.

RESOLUTION:

That Council:

1. Receive and note the CEO's Operational Report.

Moved: Cr Mark Harris
Seconded: Cr Belinda Coates

CARRIED
(R104/23)

8. OFFICER REPORTS

8.1. ROAD RENAMING

Division: Corporate Services
Director: John Hausler
Author/Position: Michael Riseley, Acting Executive Manager Business Services

PURPOSE

1. The report proposes to name eleven (11) unnamed roads located within the Ballarat Airport precinct that provide access to the various occupancies. This proposal will provide accurate street addressing for the buildings located in the Ballarat Airport precinct.
2. This report also seeks Council endorsement to update the naming proposal for the recently endorsed Nyaninyuk Road to Nyaninyuk Lane.

RESOLUTION:

22. That Council:

- 22.1 Considers the responses received during the community consultation period and endorse the proposed names to be used within the Ballarat Airport Precinct.
- 22.2 Endorse the proposal to name the unnamed road in Glendaruel as Nyaninyuk Lane.
- 22.3 Delegate to the Chief Executive Officer the Authority to complete all relevant steps pursuant to the Geographic Place Naming Procedures to formalise these changes.

Moved: Cr Daniel Moloney
Seconded: Cr Belinda Coates

CARRIED
(R105/23)

8.2. INAGAWA 2023 SISTER CITY AGREEMENT

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Frances Salenga – Coordinator Intercultural Services

PURPOSE

The purpose of this report is to:

1. Seek Council's approval to continue the sister city agreement between City of Ballarat and the Town of Inagawa, Japan to commemorate the 35th anniversary of the sister city affiliation.
2. Authorise The Mayor to sign the 2023 agreement in Japan on behalf of the City of Ballarat.

RESOLUTION:

8. That Council:

8.1 Continue the Sister City Agreement between City of Ballarat and the Town of Inagawa, Japan that will commemorate the 35th anniversary of the sister city affiliation between the two sister cities, and

8.2 Authorise the Mayor to sign the 2023 Sister City Agreement when in Japan on behalf of the City of Ballarat.

Moved: Cr Des Hudson
Seconded: Cr Mark Harris

CARRIED
(R106/23)

8.3. ATTENDANCE AT THE UNESCO CREATIVE CITY ANNUAL GENERAL MEETING, ISTANBUL TÜRKİYÉ

Division: Economy, Experience and Commonwealth Games
Director: Martin Darcy
Author/Position: Tara Poole - Coordinator Creative Cities

PURPOSE

1. The purpose of this report is to seek consideration of City of Ballarat's representation at the XV UNESCO Creative City Annual General Meeting - Istanbul, Türkiye – 11-15 September 2023.
2. Officers will recommend that a Councillor along with a City of Ballarat Officer be sent to the Annual General Meeting (AGM) to represent the work of Ballarat as a UNESCO Creative City and report on the first four years of our UNESCO designation.

RESOLUTION:

15. That Council:

- 15.1 Approve up to one Councillor and one Council Officer to travel to Istanbul, Türkiye between 11-15 September 2023 to attend the XV UNESCO Creative Cities Annual General Meeting. A Council Travel Report will be submitted following the international travel.**

Moved: Cr Des Hudson

CARRIED

Seconded: Cr Tracey Hargreaves

(R107/23)

8.4. TENDER 2021/22-721 BALLARAT AIRPORT RUNWAY EXTENSION VARIATION

Division: Economy, Experience and Commonwealth Games
Director: Martin Darcy
Author/Position: Phillip Barnett – Project Manager

PURPOSE

1. The following report advises Council of contract variations relating to in-ground latent conditions found during the site excavation, and the requirements for a temporary road, to deliver Contract No. 2021/22-721 Ballarat Airport Runway Construction.

RESOLUTION:**17. That Council:**

- 17.1 Note this report as the written advice advising Council of the variance and note the updated value of Contract No. 2021/22-721 from the original price of \$5,406,465.87 to the varied price of \$7,037,973.64.**

Moved: Cr Ben Taylor

Seconded: Cr Peter Eddy

CARRIED

(R108/23)

8.5. YORK STREET POWER SUBSTATION

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Natalie Robertson - Director Development and Growth

Jenny Paterson made a public representation.

PURPOSE

1. At the 24 May 2023 Ordinary Meeting of Council, a petition was received by Council from members of the community regarding a proposed Powercor electrical substation at 203 York Street, Ballarat. The purpose of this report is to acknowledge the petition and provide an update on a briefing to Council by Powercor.

RESOLUTION:

That Standing Orders be suspended at 8:02pm to prepare an alternate motion.

Moved: Cr Amy Johnson **CARRIED**
Seconded: Cr Ben Taylor **(R109/23)**

RESOLUTION:

That Council adjourn for 5 minutes at 8:02pm.

Moved: Cr Mark Harris **CARRIED**
Seconded: Cr Daniel Moloney **(R110/23)**

RESOLUTION:

That Council resumes at 8:10pm.

Moved: Cr Ben Taylor **CARRIED**
Seconded: Cr Mark Harris **(R111/23)**

RESOLUTION:

That Standing Orders be resumed at 8:10pm.

Moved: Cr Amy Johnson **CARRIED**
Seconded: Cr Ben Taylor **(R112/23)**

RESOLUTION:**That Council:**

1. **Note the report;**
2. **Do not support the proposed location for the power or electrical substation at 203 York St Ballarat East; and**
3. **That Council Officers write to Powercor advocating for the identification of alternative locations.**

Moved: Cr Amy Johnson**Seconded: Cr Belinda Coates****CARRIED****(R113/23)**

8.6. MICROSOFT CONTRACT RENEWAL

Division: Corporate Services
Director: John Hausler
Author/Position: Sonny Shah – Executive Manager, Information,
Communication and Technology

PURPOSE

1. Officers are seeking Council's approval to enter into a new Microsoft Enterprise Agreement as a result of the market testing completed by Municipal Association of Victoria (MAV).
2. The new agreement will be for a period of 36 months effective from 1 August 2023. The estimated amount of the contract for 3 years will be \$2,600,279.35 (ex GST).

RESOLUTION:

10. That Council:

10.1 Resolves to enter into Contract Number 2022/23-708 to deliver Microsoft software and associated services with Insight Enterprises Australia Pty Ltd with an estimated amount of \$2,600,279.35 (GST excl) for a period of thirty-six months, effective as of 1 August 2023; and

10.2 Authorises the Chief Executive Office to:

- a. finalise the terms of Contract Number 2022/23-708 with the Contractor, provided that those contract terms are consistent with this resolution; and,
- b. execute Contract Number 2022/23-708 on behalf of Council.

Moved: Cr Ben Taylor
Seconded: Cr Daniel Moloney

CARRIED
(R114/23)

8.7. CITY PARTNERSHIPS DELEGATED COMMITTEE MINUTES

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Pete Appleton, Executive Manager Engaged Communities

PURPOSE

1. To report to Council the minutes from the City Partnerships Delegated Committee meeting held on 10 May 2023, 24 May 2023, and 12 July 2023 in accordance with the adopted Terms of Reference.

RESOLUTION:

6. That Council:
 - 6.1 Note, in accordance with Section 66 of the *Local Government Act 2020* that the material contained in the City Partnerships Delegated Committee agenda has been designated confidential.
 - 6.2 Receive the minutes from the City Partnerships Delegated Committee meetings held on 10 May 2023, 24 May 2023, and 12 July 2023.

Moved: Cr Tracey Hargreaves
Seconded: Cr Peter Eddy

CARRIED
(R115/23)

8.8. CONTRACTS APPROVAL DELEGATED COMMITTEE MINUTES

Division: Corporate Services
Director: John Hausler
Author/Position: Lorraine Sendall – Executive Assistant Director Corporate Services

PURPOSE

1. The purpose of this report is to provide Council with copies of minutes of Council's Contracts Approval Delegated Committee in accordance with the adopted Terms of Reference. This report provides a copy of the minutes of the meeting held on 10 May 2023 and 21 June 2023 and provides a summary of information in relation to these minutes.

RESOLUTION:

4. That Council:
 - 4.1 Note, in accordance with Section 66 of the *Local Government Act 2020* that the material contained in the Contracts Approval Delegated Committee agendas have been designated confidential.
 - 4.2 Receive the Contracts Approval Delegated Committee minutes of the meetings held on 10 May 2023 and 21 June 2023.

Moved: Cr Ben Taylor
Seconded: Cr Peter Eddy

CARRIED
(R116/23)

8.9. S6 INSTRUMENT OF DELEGATION - MEMBERS OF STAFF

Division: Corporate Services
Director: John Hausler
Author/Position: Sarah Anstis – Statutory Compliance Officer

PURPOSE

1. To review and update the S6 Instrument of Delegation, Members of Staff for Council's consideration.

RESOLUTION:

6. That Council exercise the powers conferred by the legislation referred to in the attached instrument of delegation at Attachment 6, and that:
 - 6.1. There be delegated to members of Council staff, holding, acting in or performing the duties of the officers or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument.
 - 6.2. The Instrument comes into force immediately upon resolution.
 - 6.3. On the coming into force of the instrument, all previous S6 delegations to members of Council staff are revoked.
 - 6.4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Moved: Cr Ben Taylor
Seconded: Cr Mark Harris

CARRIED
(R117/23)

8.10. OUTSTANDING QUESTION TIME ITEMS

Division: Corporate Services
Director: John Hausler
Author/Position: Lyndsay Leingang - Administration Officer Statutory Compliance

PURPOSE

1. This report provides Council with an update of responses to questions taken on notice and outstanding unanswered questions from public question time.

RESOLUTION:

4. That Council:
 - 4.1 Endorse the Outstanding Question Time Report.

Moved: Cr Daniel Moloney
Seconded: Cr Belinda Coates

CARRIED
(R118/23)

9. NOTICE OF MOTION

9.1. SEEK ACTION ON THE IMPLEMENTATION OF THE VICTORIAN FOOD SYSTEMS CONSENSUS STATEMENT

1. A Notice of Motion was lodged by Cr Belinda Coates on 20 July 2023.
2. In accordance with rule 3.8.2 of the Governance Rules, the Notice of Motion was received and assessed by the Chief Executive Officer then approved to proceed to the 26 July 2023 Council Meeting Agenda.
3. Formal notice was provided to Councillors on 20 July 2023 which was then recorded in the Notice of Motion Register by the Governance team.

RESOLUTION:

5. **That Council:**
 - 5.1. **Supports the motion to the Municipal Association of Victoria 13 October 2023 State Council requesting the State Government to establish an action plan for implementing the 10 policy priorities in the “Towards a Healthy, Regenerative and Equitable Food System in Victoria”.**
 - 5.2. **The motion to be submitted is:**

That the Municipal Association of Victoria call on the Victorian Government to establish an action plan for achieving the following 10 policy priorities in the “Towards a Healthy, Regenerative and Equitable Food System in Victoria”:

 1. **Right to Food Law in Victoria.**
 2. **Food Systems Governance**
 3. **Food Systems Monitoring**
 4. **Agroecological Food Production**
 5. **Local Food Infrastructure**
 6. **Public Sector Food Procurement and Retail**
 7. **School Food Systems**
 8. **Community Food Systems Strategies**
 9. **Community Food Systems Planning**
 10. **Food Relief Models**

Moved: Cr Belinda Coates

Seconded: Cr Mark Harris

CARRIED

(R119/23)

10. REPORTS FROM COMMITTEES/COUNCILLORS

GB51/23 - Cr Ben Taylor

Cr Taylor presented a Joint Letter that was received from residents of Sebastopol. The letter is in relation to excessive noise associated with the Hotel at different times of day that has escalated over time, and the management of the behaviour of patrons exiting the hotel.

RESOLUTION:

That the letter regarding the Hotel be formally tabled for the CEO to refer it to the relevant division for consideration and response.

Moved: Cr Ben Taylor

Seconded: Cr Des Hudson

CARRIED

(R120/23)

GB52/23 - Cr Belinda Coates

Cr Coates congratulated community groups and organisations that were involved in the recent NAIDOC week celebrations. In particular, she noted the City of Ballarat's flag-raising ceremony, lunch and associated activities. She thanked the Intercultural Services team, Aboriginal Liaison Officer, and all who were involved.

GB53/23 - Cr Belinda Coates

Cr Coates noted the successful Winter Festival events that have been held and congratulated all the teams that were involved. In particular, she commended the Arts and Culture team for the Be Here Now events, which received very positive feedback in relation to the quality of the events, the musicians, and working with local businesses.

GB54/23 - Cr Belinda Coates

Cr Coates presented a Joint Letter that she received in relation to pedestrian safety in the Caledonian Primary School area. Cr Coates has tabled this as a Councillor Request and has requested that the CEO follows-up this letter and for Council to look at advocacy issues around residents still being really concerned that there is no pedestrian crossing on Humffray Street North between Water Street and Russell Square, which is a problem spot. She commented that there are other problem areas around other schools as well.

RESOLUTION:

That the joint letter regarding pedestrian safety in the Caledonian Primary School area is received for CEO for consideration and response.

Moved: Cr Belinda Coates

Seconded: Cr Des Hudson

CARRIED

(R121/23)

GB55/23 - Cr Amy Johnson

Cr Johnson congratulated the Ballarat Foundation on the successful Dancing with our Stars.. Cr Johnson commented that they raised a significant amount of money to put towards their programs, which provide great benefit to our local community. She congratulated all the volunteers, local businesses, participants, donors, and sponsors who were involved.

GB56/23 - Cr Amy Johnson

Cr Johnson highlighted an event that is in line with the food waste issue. The Sebastopol Library have a session/workshop on the 29th of July at 10:00-11:00am on "How to Reduce Food Waste in Your Home". Cr Johnson wished to highlight this event to help reduce waste going into landfill and to encourage people to be more careful with the food they are purchasing since it will help reduce their cost-of-living.

GB57/23 Cr Des Hudson

Mayor Hudson noted that today he wrote to the Premier (cc: Deputy Premier and Minister for Legacy) in relation to the Commonwealth Games. . He stated it is important that we continue our advocacy and that we continue to chase down the State Government to ensure the various commitments that we are promised are delivered and we are recognised for our hundreds or thousands of hours that officers have put into the delivery and expectation of the games experience. He noted that being one of the Hubs means our level of compensation is real and he takes on board questions regarding legacy items and if they will be top of our priority. The projects will be transformational and deliver legacy for future events and growing in the sporting domain. We need to make sure we don't take our eye off the ball and continue to press hard for those to meet the expectations of those groups. One in particular being the sporting facility in Miners Rest. We need to continue advocacy at every opportunity and every meeting he has with State members. He noted that himself and the CEO have a meeting next month with Minister Allen in Bendigo.

11. URGENT BUSINESS**12. SECTION 66 (IN CAMERA)****RESOLUTION:**

That Council resolve, pursuant to Section 66 of the *Local Government Act 2020*, that the meeting be closed to members of the public at 8:50 pm whilst the Council is dealing with the following matters;

Moved: Cr Mark Harris**Seconded: Cr Daniel Moloney****CARRIED****(R122/23)**

