



MINUTES

Council Meeting

6.00pm Tuesday 23 May 2023

VENUE:
The Well
19 Heales Street, Smythesdale

NEXT COUNCIL MEETING
6.00pm Tuesday 6 June 2023

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**MINUTES OF GOLDEN PLAINS SHIRE COUNCIL
COUNCIL MEETING
HELD AT THE THE WELL, 19 HEALES STREET, SMYTHESDALE
ON TUESDAY, 23 MAY 2023 AT 6.00PM**

PRESENT: Cr Brett Cunningham (Mayor), Cr Gavin Gamble (Deputy Mayor), Cr Helena Kirby, Cr Les Rowe, Cr Owen Sharkey, Cr Ian Getsom, Cr Clayton Whitfield

IN ATTENDANCE: Eric Braslis (CEO), Steven Sagona (Director Community, Planning and Growth), Lynnere Gray (Director Corporate Services), Ben Jordan (Acting Director Infrastructure and Environment), Rosie Wright (Coordinator Governance and Risk), Sophie Brown (Governance and Legal Services Specialist)

APOLOGIES: Phil Josipovic (Director Infrastructure and Environment)

1 OPENING DECLARATION

We the Councillors of Golden Plains Shire declare that we will undertake, on every occasion, to carry out our duties in the best interest of the community and that our conduct shall maintain the standards of the code of good governance so that we may faithfully represent and uphold the trust placed in this Council by the people of Golden Plains Shire.

2 ACKNOWLEDGEMENT OF COUNTRY

Golden Plains Shire spans the Traditional lands of the Wadawurrung and Eastern Maar Peoples.

Council acknowledges them as the Traditional Owners and Custodians and pays its respects to both Wadawurrung and Eastern Maar Elders past, present and emerging.

Council extends that respect to all Aboriginal and Torres Strait Islander People who are part of Golden Plains Shire.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil

4 CONFIRMATION OF MINUTES

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Helena Kirby

That the minutes of the Scheduled Council Meeting held on 26 April 2023 be confirmed.

CARRIED

5 DECLARATION OF CONFLICT OF INTEREST

Nil

6 PUBLIC QUESTION TIME

The Mayor made the following statement:

Public question time runs for 30 minutes prior to consideration of the formal Agenda by Council.

We consider questions received 'with notice' from the public. I will call each person who has submitted a question forward. Please come up to the microphone and ask your question, as it was submitted.

I note that question time is not an opportunity to make general statements or enter into debate with Council or officers.

The following public questions were read by Eugene Grigg regarding Linton bluestone gutters, channel and kerb, and concrete gutters, and Council's Town Maintenance Policy.

Question 1

At the March 28 council meeting I was told all Linton gutters would be cleaned by end of May 2023. To date nothing yet has occurred. What date has the contractor been booked to complete this job by May 31 2023?

Answer

The following response was provided by Ben Jordan, Acting Director Infrastructure and Environment:

Although this work is not expected to be completed by 31 May 2023, arrangements are in place throughout June, commencing from Monday 12 June to Friday 16 June - in Shelford & Linton, Monday 19 June to Friday 23 June - in Meredith & Smythesdale and Monday 26 June to Tuesday 27 June - in Scarsdale.

Question 2

The Golden Plains Shire Town Maintenance policy states "Footpaths, roadsides and drainage systems are to be regularly monitored and cleaned of debris and litter". What is Council's program to do this?

Answer

The following response was provided by Ben Jordan, Acting Director Infrastructure and Environment:

Hazard inspections of the road and footpath network are completed annually and defects are listed for repair and maintenance. Seasonal and special event cleaning of debris and litter in townships occurs and Council officer feedback and community requests are monitored and actioned. The Township Maintenance Policy is currently being reviewed and an Open Space Maintenance Strategy and as part of this, updated service levels and programs will be prepared.

The following public question was read by Dean McDonald regarding road safety concerns - Sebastopol - Smythesdale Road between Smythesdale and Ross Creek.

Question

Can the Shire urgently review and reduce the speed to 80km per hour along the section of Sebastopol-Smythesdale Road between Smythesdale and Ross Creek. The recent report highlighted a number of improvements but omitted reduction in speed.

- 1) Road traffic numbers have skyrocketed with all of the road works on the highway on the edge of Ballarat*
- 2) this section of road is also highly exposed to kangaroos and concealed driveways*
- 3) on the back of many incidents residents are worried about their safety.*

A reduction in speed will reduce the likelihood and consequence of further incidents along this section (appears to be far more challenging section of road than many reduced to 80km in recent years).

Answer

The following response was provided by Ben Jordan, Acting Director Infrastructure and Environment:

Following a recent audit, a reduction in the speed limit on Sebastopol-Smythesdale Road from Ross Creek to Smythesdale has been identified by Council officers and will be included in our road safety improvements program. Reductions in speed limits must meet a number of criteria including reference to traffic volumes and crash statistics and be approved by the Department of Transport.

7 BUSINESS REPORTS FOR DECISION

7.1 DELEGATES REPORT & INFORMAL MEETINGS OF COUNCILLORS RECORDS

EXECUTIVE SUMMARY

At each Council meeting, Councillors have the opportunity to update their colleagues and the community about attendances at various Delegated Boards/Committees/Meetings that they attended on behalf of the Council and can acknowledge significant community events or Council functions / engagement opportunities that they have attended over the past month. This report contains records of informal meetings of Councillors as defined under Rule 1 of Chapter 5 of Council's Governance Rules.

RESOLUTION

Moved: Cr Gavin Gamble

Seconded: Cr Ian Getsom

That Council receive and note the Delegates Report and Informal Meetings of Councillors for the past month.

CARRIED

7.2 COMMUNITY STRENGTHENING GRANTS 2023 ROUND 1

EXECUTIVE SUMMARY

Council's Chief Executive Officer (CEO) has approved the funding of eight community projects, proposed by a variety of community groups through Council's Community Strengthening Grants Program 2023 Round 1.

Council received nine applications during March 2023. The eight successful applications will be supported by a total Council contribution of \$30,241.45 across the grant streams as follows:

- Healthy Active Living: \$13,541.45 (for health and wellbeing, sports and recreation projects).
- Environment and Sustainability: \$4,700 (for environmental projects).
- Creative Community: \$12,000 (for arts and culture projects).
- Community Safety: \$0 (for safety related projects).

Council's contribution of \$30,241.45 for the Round 1 Community Strengthening Grants 2023 will deliver in eight projects with a combined total project value of \$64,757. Some of the key community benefits across the eight projects are:

- Promoting increased physical activity and social connection
- Providing educational and social support services
- Enhancing and improving appeal of community spaces

Successful grant recipients will be acknowledged via a Community Strengthening Grants presentation at the Council Meeting on 23 May 2023.

RESOLUTION

Moved: Cr Gavin Gamble

Seconded: Cr Les Rowe

That Council note and acknowledge the approved Community Strengthening Grants 2023 Round 1 for the value of \$30,241.45 to the following recipients:

- Woody Yaloak Historical Society – *'Historical Themed Mural'* – \$5,000
- St Mary MacKillop Catholic Primary School – *'Indigenous Community Connections Project'* – \$7,000
- Geelong Landcare Network – *'Wildlife Hollows and Nesting Box Workshops'* - \$3,200
- Smythesdale Cemetery Trust – *'Gorse removal at Smythesdale Cemetery'* - \$1,500
- Moorabool Valley Masters Football Club – *'Goal Post Safety Padding'* - \$2,126
- Haddon Community Learning Centre Inc – *'Haddon CLC Community Kitchen Fridge/Freezer Replacement'* - \$3,635.45
- Cape Clear Recreation Reserve – *'Solstice Bonfire 2023'* - \$1,180
- Inverleigh RSL Sub-Branch – *'Inverleigh RSL Sub-Branch Internal & External Painting'* - \$6,600

CARRIED

7.3 INVERLEIGH DRAINAGE IMPROVEMENT PROJECT

EXECUTIVE SUMMARY

Water Technology were engaged in early 2023 to further investigate and model the Inverleigh North Catchment, taking into account the November 2022 storm event and identify and test mitigation options. The report recommends a number of options and combinations to minimise impact of flooding due to a 1% AEP rain event. Having reviewed the cost benefit of recommended options and their combinations, it is recommended that Option 1 combined with Option 2 and/or 2a should proceed to functional design and feasibility assessments.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Helena Kirby

That Council:

1. Receive and note the Inverleigh Drainage Investigation report as attached.
2. Proceed with the functional design and feasibility assessments of Options 1, 2 and/or 2a.
3. Note that each of the respective options relies on additional downstream works and broader drain maintenance to ensure that the works can achieve the most beneficial outcome without adversely impacting downstream properties.
4. Receive a further report outlining the detailed design, costs and the staged implementation program for improvement works prior to progressing to tender.
5. Redirect the \$545k Emergency Drainage and \$809k LRCI Drainage as shown in 2023/24 Capital works program towards the delivery of the preferred options identified in Recommendation 2.
6. Note that a further flood study will be undertaken in the coming months for the Bannockburn North and Bannockburn South area, which will result in recommended drainage improvement works incurring further costs.

CARRIED

7.4 LOCAL ROAD AND COMMUNITY INFRASTRUCTURE - PHASE 4 FUNDING ALLOCATION - UPDATE

EXECUTIVE SUMMARY

Following continuing strong community and local government support, in May 2022 the Australian Government announced Phase 4 of the Local Roads and Community Infrastructure (LRCI) Program where an allocation of \$1,333,655 will be made available to Golden Plains Shire Council for projects to be delivered between 1 July 2023 and 30 June 2025. On 3 May 2023, the Federal Government announced an additional \$250 million allocation under this program to rural, regional or outer-suburban councils to spend on roads. Council's additional allocation is \$769,282, bringing total Phase 4 funding to \$2,102,937.

This program assists local councils to deliver priority local road and community infrastructure projects across Australia, supporting jobs and the resilience of local communities. Council has previously endorsed a list of projects to be undertaken with funding from the initial Phase 4 allocation. The additional funding recently announced is to be directed towards road projects. Council officers have detailed designs ready to be tendered for four priority road upgrade projects, two of which are already funded within existing budget and have been tendered. The remaining two are considered good candidates for the additional LRCI funds.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Gavin Gamble

That Council:

1. Note that an additional \$769,282 has been allocated to the Golden Plains Shire Council under Phase 4 of the Local Roads and Community Infrastructure (LRCI) Program for road projects.
2. Endorse allocating the additional \$769,282 to fund the Slate Quarry Road improvement project.
3. Note the project endorsed by Council will be submitted to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for final approval.
4. Note that should any of the Council endorsed projects from the initial LRCI Phase 4 allocation and the Slate Quarry Road improvement project be considered ineligible for the LRCI program by the Federal Government, a subsequent report will be provided to Council proposing alternative options.

CARRIED

7.5 TREE PROTECTION AND MANAGEMENT POLICY

EXECUTIVE SUMMARY

The Draft Tree Protection and Management Policy was first considered by Council at its 21 February 2023 meeting. Following Council endorsement to proceed to community consultation, the Policy was publicly exhibited in March 2023. Submissions received comprised minor feedback, all of which have been addressed within the updated Policy by the Environment and Open Space team. Community members that provided feedback were individually contacted and thanked for their contribution. Fundamentally, the feedback and updates have not changed the Policy intent.

The Policy is now being presented to Council for adoption.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Helena Kirby

That Council adopt the attached Tree Protection and Management Policy.

CARRIED

7.6 SALE OF COUNCIL LAND IN BATESFORD

EXECUTIVE SUMMARY

Council owns a narrow strip of land in the Dog Rocks North Estate in Batesford which is unutilised for any Council or public purpose. The land appears best suited for sale. In order to commence the statutory process to sell, a planning permit needs to be obtained to remove the reserved status of the block, and Council is required to comply with section 114 of the Local Government Act 2020 which sets out the legislative process for the sale of Council land.

At its meeting on 25 October 2022, Council determined to conduct a community engagement process on the possible sale of the land. The responses to the community engagement are now presented to the Council for consideration.

MOTION

Moved: Cr Gavin Gamble

That Council:

1. Note that the majority of survey responses preferred that Council retained the land and suggested a range of environmental and community use alternatives.
2. Deem the land as shown on attachment 1 as not being surplus to Council's needs.
3. Request that Council officers investigate the viability of potential environmental and community use alternatives for the land including those submitted by survey respondents and relevant community groups and report back to a future Council briefing.

The motion lapsed for want of a seconder.

RESOLUTION

Moved: Cr Owen Sharkey

Seconded: Cr Clayton Whitfield

That Council:

1. Note the submissions received in relation to the possible sale of the land.
2. Deem the land as shown on attachment 1 as surplus to Council's needs.
3. Authorise the Chief Executive Officer or his delegate to commence initial discussions with any interested parties and the statutory process required by s 114(2) of the Local Government Act 2020 to sell the land.
4. Receive a report to a future Council meeting for final determination of the process and conditions for sale of the land.

CARRIED

EN BLOC RESOLUTION

Moved: Cr Owen Sharkey

Seconded: Cr Les Rowe

That the following items be resolved en bloc and that the recommendations in each item be adopted:

- 7.7 – Council Plan 2021-2025 Implementation – Quarter Three

- 7.8 – Quarter 3 Finance Report
- 7.9 – Audit & Risk Committee Report – 9 May 2023

CARRIED

7.7 COUNCIL PLAN 2021-2025 IMPLEMENTATION - QUARTER THREE

EXECUTIVE SUMMARY

This report is to update Council on the progress made in implementing Year 2, Quarter 3 actions in the Council Plan 2021-2025. Overall, implementation of the Council Plan has progressed well in Quarter 3, with majority of Council Plan Actions on track for completion during Quarter 4.

RESOLUTION

That Council note the implementation of the Year 2, Quarter 3 actions (1 January 2023 to 31 March 2023) of the Council Plan 2021-2025.

Note: Refer to page 10 of the Minutes where this item was resolved *en bloc*.

7.8 FINANCE REPORT - QUARTER 3

EXECUTIVE SUMMARY

At 31 March 2023, the Income Statement reports total operating revenue of \$44.7m and total operating expenditure of \$34.5m, which results in a year-to-date surplus of \$10.2m. This is \$1.6m favourable variance compared to the original budget, and \$168k favourable variance to the revised budget.

The Capital Works Statement reports total capital works expenditure (including commitments) of \$14.3m, which is \$1.8m above the original budget, and \$4.4m below the revised budget. The revised budget includes \$9.5m rolled forward for projects.

The Quarter 3 report was presented to the Audit and Risk Committee at their 9 May 2023 meeting.

RESOLUTION

That Council note the Quarter 3 Finance Report for the 9 months ended 31 March 2023.

Note: Refer to page 10 of the Minutes where this item was resolved *en bloc*.

7.9 AUDIT & RISK COMMITTEE REPORT - 9 MAY 2023

EXECUTIVE SUMMARY

This report is being submitted to Council to provide a summary of business considered at the 9 May 2023 meeting of the Audit & Risk Committee.

RESOLUTION

That Council note the unconfirmed minutes from the Audit & Risk Committee meeting held on 9 May 2023.

Note: Refer to page 10 of the Minutes where this item was resolved *en bloc*.

7.10 DRAFT COUNCILLOR SUPPORT AND EXPENSES POLICY

EXECUTIVE SUMMARY

The Council Expenses and Entitlements Policy was last reviewed and adopted by Council at its meeting on 23 November 2021 with minor changes to improve clarity and function of the policy. A detailed review has now been undertaken and comprehensive changes are suggested to improve the operation of the policy.

RESOLUTION

Moved: Cr Owen Sharkey

Seconded: Cr Clayton Whitfield

That Council:

1. Endorse the reviewed Councillor Support and Expenses Policy, as attached, in place of the previously named Councillor Expenses and Entitlements Policy, for the purposes of community engagement and seek feedback on the draft Policy; and
2. Consider the Councillor Support and Expenses Policy for adoption at the June 2023 Council Meeting.

CARRIED

7.11 INSTRUMENT OF DELEGATION - COUNCIL TO COUNCIL STAFF

EXECUTIVE SUMMARY

The legislation referred to in the attached *Instrument of Delegation – Council to Members of Council Staff* (Attachment 1) enables Council to delegate functions, duties and powers, other than specific exemptions, to Council staff. Following changes to both the instrument and the structure of the Council administration, this instrument has been updated and is presented for adoption.

RESOLUTION

Moved: Cr Helena Kirby

Seconded: Cr Gavin Gamble

In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, Golden Plains Shire Council resolves that:

1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation – Council 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.
2. The Chief Executive Officer is authorised to sign the attached instrument of delegation.
3. The instrument comes into force immediately once this resolution is made.
4. On the coming into force of the instrument all previous versions of the same are revoked.
5. 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.

CARRIED

7.12 REVIEW OF INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987

EXECUTIVE SUMMARY

The appointment of authorised officers under the *Planning and Environment Act 1987* cannot be delegated and must be made through resolution of Council. The Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* was last reviewed and adopted by Council in March 2023. A review of that instrument has now been completed and updated to reflect staffing changes that have occurred in the Environment and Open Spaces team, and the Statutory Planning team.

It is recommended that Council consider and adopt the revised Instrument, as shown in Attachment 1.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Les Rowe

In the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987* and other legislation referred to in the attached Instrument of Appointment (the 'instrument'), Golden Plains Shire Council (Council) resolves that:

1. The members of Council staff referred to in the instrument as shown in Attachment 1 be appointed and authorised as set out in the instrument.
2. The Chief Executive Officer is authorised to sign the instrument.
3. The instrument comes into force immediately upon being signed by Council's Chief Executive Officer and remains in force until Council determines to vary or revoke it.
4. The previous instrument dated 28 March 2023 is revoked.

CARRIED

7.13 TENDER - TURF SPORTS GROUND MAINTENANCE

EXECUTIVE SUMMARY

Golden Plains Shire Council are seeking a suitably qualified and experienced contractor to complete turf sports ground maintenance across the Shire. The scope of services includes, but is not limited to:

- Oval Mowing - Fixed Program
- Oval Spraying & Sports Ground Maintenance
- Removal & Laying Wicket Covers

Following a comprehensive tender process, Turf Care & Hire Pty Ltd met the Council's tender requirements and is considered best placed to provide these services for Council.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Helena Kirby

That Council:

1. Award Contract GPSC-RFT-03-2023- Turf Sports Ground Maintenance to Turf Care & Hire Pty Ltd. for the initial sum of \$389,754.00 (exclusive of GST) per annum as per Schedule of Rates for the initial Contract term of three (3) years, with two x 12-month options to extend at Council's discretion.
2. Delegates to the Chief Executive Officer or his delegate authority to execute the contract on behalf of Council, including extension options.

CARRIED

8 NOTICES OF MOTION

8.1 NOTICE OF MOTION - GEELONG REGIONAL LIBRARY CORPORATION

I, Councillor Owen Sharkey, give notice that at the next Ordinary Meeting of Council be held on 23 May 2023, I intend to move the following motion:-

MOTION

That Council:

Noting that the City of Greater Geelong's draft budget contribution to the Geelong Regional Library Corporation (GRLC) in 2023-24 results in a shortfall of \$1.118 million to the GRLC's draft 2023-24 budget, prepares a submission to the City of Greater Geelong draft budget noting that:

- Library facilities and services operated by GRLC play a regional role beyond individual municipal boundaries,
- The GRLC's necessary decision to reduce, including close, library services within the City of Greater Geelong will impact residents of the broader region and not just the ratepayers of the City of Greater Geelong,
- That the City of Greater Geelong increase its contribution to the GRLC in 2023-24 to a level that does not impact current service delivery in the region.

WITHDRAWN

9 PETITIONS

Nil

10 ITEMS FOR TABLING

In accordance with section 147(4) of the Local Government Act 2020, the Arbiter's decision and statement of reasons on the matter of an application by Councillor Gavin Gamble concerning Councillor Les Rowe is tabled.

In accordance with the Arbiter's decision and statement of reasons, a written apology from Councillor Les Rowe to the CEO is also tabled.

INTERNAL ARBITRATION PROCESS - IAP 2022-32

Applicant: Councillor Gavin Gamble
Respondent: Councillor Les Rowe
Council: Golden Plains Shire Council
Date of Hearing: 4 April 2023
Arbiter: Louise Hill

DETERMINATION

The Arbiter has determined that there has been a breach of the prescribed standards of conduct by the Respondent, Cr Les Rowe in that he failed to show courtesy and respect to the Golden Plains Shire Council CEO and therefore a finding of misconduct is made.

The Arbiter directs that the Respondent make a written apology as outlined in the statement of reasons for decision.

STATEMENT OF REASONS FOR DECISION**Application and Response**

The Application from Councillor Gavin Gamble alleges that Councillor Les Rowe has breached the following prescribed standards of conduct set out in Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020.

1. Treatment of Others

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor –

- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors;
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

2. Performing the role of Councillor

A Councillor must, in performing the role of a Councillor, do everything reasonably necessary to ensure that the Councillor performs the role of a Councillor effectively and responsibly, including by ensuring that the Councillor -

- (d) represents the interests of the municipal community in performing the role of a Councillor by considering and being responsive to the diversity of interests and needs of the municipal community.

3. Compliance with good governance measures

A Councillor in performing the role of a Councillor, to ensure the good governance of the Council, must diligently and properly comply with the following:

- (a) any policy, practice or protocol developed and implemented by the Chief Executive Officer in accordance with Section 46 of the Act for managing interactions between members of the Council staff and Councillors

In support of his application, Cr Gamble has outlined six incidents where he alleges Cr Rowe breached one or more of the above standards. Following the directions hearing on 6 March 2023, Cr Gamble advised that he was withdrawing one of the incidents of alleged misconduct. Cr Rowe provided his response to each of the remaining items on 27 March 2023.

Item 1

Cr Rowe sent a reply email to the Golden Plains Shire Council CEO about the election of the Deputy Mayor in Ballarat, cc'ed to Councillors. The email concludes with the following "So please keep your snout out of the trough and concentrate on fixing customer service."

Cr Gamble states that Cr Rowe has behaved belligerently towards the CEO, has not offered an apology and that the CEO was simply informing councillors about other councils' actions in relation to the position of Deputy Mayor. Cr Gamble contends that Cr Rowe's behaviour in this instance was rude and disrespectful.

Cr Rowe has confirmed that he sent the email and his response is that this is the 'blunt farmer manner' in which he speaks, using metaphors to explain himself. He considers that the CEO oversteps boundaries and should remain "concerned about his own affairs." Cr Rowe stated that he believes the term 'snouts in the trough' to mean 'mind your own business.'

Item 2

Cr Gamble cites a conversation with Cr Rowe prior to the mayoral election during which Cr Rowe stated that he would pursue and contact other party members or supporters to ensure that Cr Gamble would be dis-endorsed if he didn't do what Cr Rowe wanted.

Cr Gamble contends that Cr Rowe's behaviour was threatening and disrespectful to him. Cr Rowe disputes Cr Gamble's account of the conversation and states that he offered to assist Cr Gamble with votes to have him elected as Mayor if he supported Cr Rowe the following year.

Cr Gamble provided two statements from others who were not witness to the conversation; each highlighted the impact of the conversation on Cr Gamble, rather than the content of the conversation. These are therefore not considered witness statements.

Item 3

At the conclusion of the 2022 election of Deputy Mayor, Cr Gamble claims that Cr Rowe displayed a petulant and disrespectful attitude by not clapping nor congratulating him for being elected.

Cr Rowe considers that Cr Gamble's claim to be frivolous.

Item 4

Withdrawn.

Item 5

Cr Gamble alleges that during a break in a Council briefing session, in a conversation between himself and Cr Rowe about deferring a decision on a tender to repair or replace a bridge, Cr Rowe asserted that if Cr Gamble were to pursue a deferral, he could "kiss goodbye to any cycling projects you want." Cr Gamble proposed that Council to defer the bridge contract to enable drainage works to be undertaken after recent flooding.

Cr Rowe agrees the conversation took place but that he was commenting that if Cr Gamble was not going to 'be negotiable' the group would most likely not endorse things like cycling projects. He disputes that the conversation was threatening or bullying in manner.

Item 6

Cr Gamble claims that Cr Rowe has breached standards 1a) and 3 a) by sending a 'reply all' email to all councillors, the CEO, senior management team and a council officer expressing his view on a drainage proposal that he considered to be "a band-aid solution that hasn't been thought through". The CEO had previously underscored to councillors that they were to comply with the Councillor/staff interaction policy and not engage directly with council staff other than the CEO and senior management team.

Cr Gamble alleges that the inclusion of an officer in the email response by Cr Rowe was non-compliant with this direction and that the tone of the email was disrespectful.

Cr Rowe's response is that he inadvertently included the council officer in his 'reply all' response. He believes that his view was subsequently proved to be correct as the solution proposed was finally modified.

Findings and Reasoning

Item 1

Cr Rowe's use of the term 'snout in the trough' in writing by email to the CEO is in my view derogatory and disrespectful. Cr Rowe has justified the use of this term as his normal way of communication. This may be an explanation of Cr Rowe's style, but it does not meet the required standards of code. The CEO was rightly providing information to all councillors about what other councils were doing, to assist them in the decision making process about whether a deputy mayor role was required.

Cr Rowe believes the term 'snout in the trough' to mean 'mind your own business' or 'stay out of it.' The usual and more frequently defined definitions of the term is to:

"have or get a share of money or some other advantage that people eagerly and sometimes dishonestly take" (Cambridge Dictionary available at <https://dictionary.cambridge.org/dictionary/english/have-get-snout-in-the-trough> Accessed 21 April 2023)

"make ample use of opportunities afforded by one's position in order to benefit oneself, especially financially." (Oxford Languages Dictionary, available at https://www.google.com/search?rlz=1C1GCEA_enAU857AU857&q=trough&si=AMnBZoEP2YuKYW07_nAijzsjQPEkUIDCnkWpMyai1f3hQUSr9DaRs_g0sHHzx4Q9VHdS6q7VqKqLfrsjb-kfHoTjBGBOh3gwIA%3D%3D&expnd=1&biw=1920&bih=929&dpr=1 Accessed 21 April 2023)

There is another definition which is closer to Cr Rowe's use of the term:

"have/get one's (own) way" (Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/have%2Fget%20one%27s%20nose%2Fsnout%20in%20the%20trough>. Accessed 3 May. 2023)

Irrespective of which definition was intended, I find that Cr Rowe has failed to treat the CEO with courtesy and respect. Cr Rowe was given the opportunity to reconsider his use of the phrase and offer an apology to the CEO before this determination and it is regrettable that he has chosen not to do so. I therefore make a finding of misconduct by Cr Rowe in relation to a breach of Standard of Conduct 1.

Item 2

The recollection and understanding of the conversation between Cr Gamble and Cr Rowe about the mayoral election differs. There are no witnesses to the conversation although Cr Gamble asserts that he felt threatened about political payback if he did not agree with Cr Rowe. Cr Rowe considers that he was seeking to determine Cr Gamble's interest in getting an agreement about support and that he could gain the necessary votes from other councillors.

Both councillors accept that it is part of the political process where deals are done, agreements are made and sometimes those agreements are not always acted on; such is the nature of politics at all levels of government.

Notwithstanding Cr Gamble's version of events, there is no evidence to suggest that Cr Rowe breached the standard of code by being disrespectful to Cr Gamble.

Item 3

At the conclusion of the deputy mayoral election, Cr Rowe is observed on the video recording as gathering his papers and laptop placing these into his bag. He did not clap or congratulate Cr Gamble and was, I consider, undemonstrative of his feelings in his demeanour. As far as I can ascertain from the recording, several councillors clapped as the result of election of Cr Gamble as Deputy Mayor was announced, while others refrained. I do not believe that Cr Rowe's lack of congratulations to Cr Gamble is disrespectful and constitutes a breach of the standards.

Item 4

Withdrawn

Item 5

The conversation between Cr Gamble and Cr Rowe about deferring a bridge tender is a further example of a disputed conversation between the two councillors with no witnesses.

Cr Rowe may well have been assertive and direct about how he thought the Council should vote on the matter.

Cr Gamble considers that Cr Rowe's behaviour went beyond this and was threatening, coercive and working against community members' interests.

There is no evidence from Cr Gamble that Cr Rowe was physically or verbally threatening and therefore I find that there is no breach of the standards.

Item 6

The final item concerns an email which Cr Rowe sent to all Councillors, the CEO, senior management and a council officer in which he refers to the senior officers' solution for a drainage issue as a 'bandaid solution'. The CEO responded that Cr Rowe's comments were inappropriate and inconsistent with the previously issued instruction not to include officers in interactions.

In relation to the potential non-compliance of a policy, practice or protocol issues by the CEO, I accept Cr Rowe's explanation that he inadvertently 'replied all' to the email, not realising that it included a council officer. Cr Rowe asserts that he was expressing his view that the solution proposed was costly and not going to achieve the desired drainage results. Whilst Cr Rowe's view was expressed in blunt language, I do not consider that he overstepped the boundary of appropriate behaviour into disrespect. Presumably the email was sent to councillors to advise them of what was being considered and in that sense, councillors' comments on the proposed solution were warranted.

Other Observations

Cr Rowe may like to consider pulling back on his forthright manner and seek to understand others' views by asking questions and being more constructive in his interactions with councillors, the CEO and senior management.

Cr Gamble equally may like to consider how he can play a greater role in this term as Deputy Mayor in improving his relationship with Cr Rowe and facilitating positive relationships across the councillor

group. This may involve speaking up about his concerns, asking questions and building towards positive outcomes.

Both councillors are passionate and focused on making a positive difference for their communities and as such their overall intent is a strong point of agreement.

It is far preferable that councillors resolve their differences and disagreements directly with each other or with the mayor or other councillors' assistance, to avoid escalation to arbitration which is costly and time consuming.

The community expects their elected council representatives to uphold high standards of behaviour and without this, trust and confidence in them is diminished unnecessarily.

Sanction

Cr Rowe is required to provide a written apology on or before 23 May 2023 to the Golden Plains Shire Council CEO acknowledging that his language and the implication of his terminology was inappropriate and regrettable. The apology must include an assurance to the CEO that he will strive for a more constructive and positive discourse with the CEO, all councillors and senior management in their formal and informal interactions. The apology must be tabled at the next Council meeting on 23 May 2023.

Louise Hill
Arbiter

8 May 2023

BY HAND 23/5/23

Dear Eric,

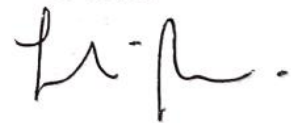
I want to start by reaching out to apologise for the recent mistake I made in our email exchange. Looking back, whilst I stand by the point made, I realise that my using the phrase "snout in the trough" was an error in judgment, and I should not have used it. I want to assure you that I will make an effort to engage in a more positive and constructive exchange of ideas with you, as well as with all the other councillors and senior management.

I must admit, I am somewhat confused as to why another councillor chose to create a controversy out of this, particularly when the CEO did not object to the matter. The request for an external arbitrator, initiated by Cr Gamble without prior notice to me, and no internal arbitration is disappointing. It is unfortunate that the external arbitration process is being utilised in this way, as it is both costly and time-consuming. It indicates the growing dysfunction, political infighting, and personal driven dynamics within our councillor group.

This process has incurred an expense of approximately \$10,000 for the council. It raises the question of why ratepayer funds should be used to resolve conflicts among councillors.

To conclude, I hope that all councillors can address their issues internally. It is worth noting that the remaining five items identified by Cr Gamble as breaches, including item 3 where he claimed I displayed disrespect by not clapping my hands after the 2022 deputy mayor election, were dismissed. It is clear how frivolous such claims can be.

Les Rowe



Received:
Dyrene Gray

11 CONFIDENTIAL REPORTS FOR DECISION

PROCEDURAL MOTION

Moved: Cr Helena Kirby

Seconded: Cr Gavin Gamble

That item 11.2 – Growing Places Strategy Informing Document for Community Engagement - Endorsement is not confidential and be considered in the open part of the meeting.

LOST

RESOLUTION

Moved: Cr Owen Sharkey

Seconded: Cr Clayton Whitfield

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 66 of the Local Government Act 2020:

11.1 Tender - Collaborative Bituminous Surfacing Resealing Program - CH003

This matter is considered to be confidential under Section 3(1)(a) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

11.2 Growing Places Strategy Informing Document for Community Engagement - Endorsement

This matter is considered to be confidential under Section 3(1)(c) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with land use planning information, being information that if prematurely released is likely to encourage speculation in land values.

CARRIED

11.2 GROWING PLACES STRATEGY INFORMING DOCUMENT FOR COMMUNITY ENGAGEMENT - ENDORSEMENT

This item was considered in the Confidential part of the meeting and in accordance with the resolution, the resolution has been included in the public minutes of the meeting.

EXECUTIVE SUMMARY

An Informing Document has been prepared as background to the Growing Places Strategy. The Informing Document is a summary of the technical research that has been undertaken so far and includes a Sequential Growth Plan based on the findings of the technical inputs and a Councillor Workshop in December 2022. The Sequential Growth Plan identifies potential locations to support forecasted growth and development in each of the next three decades.

The Informing Document including the Sequential Growth Plan, is scheduled to be made available to the public, (subject to endorsement by Council) in readiness for commencement of community and stakeholder engagement starting 24th May 2023.

This report is presented as 'Confidential' to ensure that the community is presented with appropriate information directly after Council's endorsement. This will ensure the information is released in a fair, coordinated and logical manner so as not to cause undue confusion, concern or land speculation. Upon endorsement by Council, the Informing Document and all other relevant information will be made publicly available and the community engagement process will commence as scheduled following the Council Meeting on 24th May.

RESOLUTION

Moved: Cr Clayton Whitfield

Seconded: Cr Helena Kirby

That Council:

1. Endorse the Growing Place Strategy 'Informing Document', including the Sequential Growth Plan, as attached (Attachment 1) for community and stakeholder engagement.
2. Determine that this resolution is not confidential following the making of this resolution and is to be included in the public minutes for this Council meeting.
3. Determine that this Council report and the Growing Places Strategy Informing Document, including the Sequential Growth Plan, is no longer confidential following the making of this resolution and authorise the CEO to make these documents available to the public at the commencement of the community and stakeholder engagement process on 24 May 2023.

CARRIED

RESOLUTION

Moved: Cr Helena Kirby


Seconded: Cr Clayton Whitfield

That Council reopens the Council meeting to the public at 7.53pm.

CARRIED

The Meeting closed at 7.54pm.

The minutes of this meeting were confirmed at the Council Meeting held on 6 June 2023.

DocuSigned by:

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CHAIRPERSON