

Council Meeting

Agenda

Date: Tuesday 26 November 2024

Time: 6pm

Venue: Civic Centre (Council Meeting Room)
13 Mair Street, Benalla

Contents

Opening and Acknowledgement of Country	4
Apologies.....	4
Disclosures of Conflict of Interest.....	5
Public Question Time	5
Business	7
1. <i>General Election Results 2024</i>	<i>7</i>
2. <i>Swearing in of Councillors</i>	<i>9</i>
3. <i>Election of Mayor and Deputy Mayor.....</i>	<i>11</i>
4. <i>2024/25 Meeting Cycle for Council and Delegated Committee Meetings.....</i>	<i>15</i>
5. <i>Leave of Absence.....</i>	<i>17</i>
6. <i>Confirmation of the Minutes of the Previous Meeting</i>	<i>17</i>
Closure of the meeting	17

Governance Matters

This Council Meeting is conducted in accordance with the *Local Government Act 2020* and the Benalla Rural City Council *Governance Rules 2020*.

Recording of Council Meetings

In accordance with Rule 6.4 of the *Governance Rules 2020* the Council Meeting will be livestreamed via the Council's website and an audio recording will be made of the proceedings and made available for public access, with the exception of matters identified as confidential items in the agenda.

Members of the public can watch the live broadcast of the meeting at www.benalla.vic.gov.au

Question Time and Public Submissions

Any person wishing to participate in Question Time or Public Submissions in accordance with Rule 7.2 and 7.3 of the *Governance Rules 2020* should contact the Council by emailing council@benalla.vic.gov.au or telephoning the Governance Coordinator Jess Pendergast on (03) 5760 2600.

Behaviour at Meetings

Members of the public present at a meeting must remain silent during the proceedings other than when specifically invited to address the Committee.

The Chair may remove a person from a meeting for interjecting or gesticulating offensively after being asked to desist, and the chair may cause the removal of any object or material that is deemed by the Chair to be objectionable or disrespectful.

The Chair may call a break in a meeting for either a short time, or to resume another day if the behaviour at the Council table or in the gallery is significantly disrupting the Meeting.

Agenda

Councillor elects David Blore
Peter Davis
Bernie Hearn
Puna Hewa Gunaratne
Justin King
Jillian Merkel
Nathan Tolliday

In attendance Dom Testoni Chief Executive Officer
Robert Barber General Manager Corporate
Jess Pendergast Governance Coordinator

In accordance with the *Benalla Rural City Council Governance Rules 2020*, the Chief Executive Officer will Chair the meeting pending the election of the Mayor.

Opening and Acknowledgement of Country

The Chief Executive Officer will open the meeting and recite the following Acknowledgement of Country.

We, the Benalla Rural City Council, acknowledge the traditional custodians of the land on which we are meeting. We pay our respects to their Elders past and present and to Elders from other communities who may be here today.

Apologies

Recommendation:
That the apology/ies be accepted.

Disclosures of Conflict of Interest

In accordance with the *Local Government Act 2020*, a Councillor must declare any Conflict of Interest pursuant to Section 130 of the Act in any items on this Agenda.

At the time indicated in the agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:

- the item for which they have a conflict of interest;
- whether their conflict of interest is general or material; and
- the circumstances that give rise to the conflict of interest.

Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor must indicate to the Meeting the existence of the conflict of interest and leave the Meeting.

Public Question Time

The Council's *Governance Rules 2020* provide the opportunity for members of the public to lodge written questions of broad interest to the Council and the community.

A question may be on any matter except if it:

- is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- relates to confidential information as defined under the Act;
- relates to the personal hardship of any resident or ratepayer; or
- relates to any other matter which the Council considers would prejudice the Council or any person.

No more than two questions will be accepted from any person at any one meeting. All questions and answers must be as brief as possible, and no discussion may be allowed other than by Councillors for the purposes of clarification.

Like questions may be grouped together and a single answer provided.

<p>Recommendation:</p>

<p>That the question(s) and answer(s) be noted.</p>
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Business

1. General Election Results 2024

SF/808-10
Dom Testoni – Chief Executive Officer

PURPOSE OF REPORT

The report presents the results of the Benalla Rural City Council General Election held in October 2024.

BACKGROUND

An Electoral Representation Review was carried out of Benalla Rural City by the Victorian Electoral Commission (VEC) in 2020. The VEC recommended in its final report in May 2020 that no changes be made to the electoral structure of the Council as unsubdivided with seven Councillors. An Electoral Representation Review was not required for the 2024 Benalla Rural City Council General Election.

RESULTS OF ELECTION

The election of seven Councillors was conducted by the Victorian Electoral Commission under contract to the Council. Election results were declared at the Benalla Visitor Information Centre 14 Mair Street, Benalla at 2pm on Friday 8 November 2024.

First Preference Votes

Candidates	First preference votes	Percentage
Peter Davis	1,223	13.40%
Nathan Tolliday	1,119	12.26%
Justin King	1,072	11.74%
David Blore	778	8.52%
Bernie Hearn	728	7.98%
Punarji Hewa Gunaratne	653	7.15%
Jillian Merkel	483	5.29%

Elected Candidates

(Seven vacancies – proportional representation system of voting)

1 st elected	Peter Davis
2 nd elected	Nathan Tolliday
3 rd elected	Justin King
4 th elected	David Blore
5 th elected	Bernie Hearn
6 th elected	Jillian Merkel
7 th elected	Punarji Hewa Gunaratne

General Election Statistics

	2016	2020	2024
Voters enrolled	11,731	11,755	11,684
Formal votes	8,688	9,527	9,128
Informal votes - number	711	425	669
Informal votes - <i>Percentage of total votes</i>	7.6%	4.27%	6.83%
Ballot papers returned	9,399	9,952	9,797
Ballot papers returned – <i>Percentage of total enrolment</i>	80.12%	84.66%	83.85%

Recommendation:
That the report be noted.

2. Swearing in of Councillors

REGULATIONS

Under Section 30 of the *Local Government Act 2020* (the Act), a person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath or affirmation of office in the manner prescribed by the regulations.

The oath or affirmation of office must be administered by the Chief Executive Officer, dated and signed before the Chief Executive Officer, and recorded in the minutes.

1. A person elected to be a Councillor is not capable of acting as a Councillor until the person has taken the oath or affirmation of office in the manner prescribed by the regulations.
2. The oath or affirmation of office must be—
 - a. administered by the Chief Executive Officer; and
 - b. dated and signed before the Chief Executive Officer; and
 - c. recorded in the minutes of the Council, whether or not the oath or affirmation was taken at a Council meeting.

It is an offence under section 38 of the Act to act as a Councillor while unqualified to do so.

The office of a Councillor becomes vacant if a person elected to be a Councillor does not take the oath or affirmation of office within three months after the day on which the person was declared elected.

In accordance with section 7 of the *Oaths and Affirmations Act 2018*, a person who is required to take an oath may choose whether to take an oath or to make an affirmation.

TAKING THE OATH/AFFIRMATION OF OFFICE

The following oath/affirmation of office is to be taken by a councillor and no substitute wording is permitted:

I (name of person making oath) swear by Almighty God that/solemnly and sincerely declare and affirm that:

"I will undertake the duties of the office of Councillor in the best interests of the municipal community.

I will abide by the *Model Councillor Code of Conduct* and uphold the standards of conduct set out in the *Model Councillor Code of Conduct*.

I will faithfully and impartially carry out and exercise the functions, powers, authorities and discretions vested in me under the *Local Government Act 2020* and any other Act to the best of my skill and judgement."

Following the oaths and affirmations of office the Councillors will recite the following Statement of Commitment:

I declare,

that as a Councillor of Benalla Rural City

I will undertake on every occasion

to carry out my duties in the best interests of the community

and that my conduct shall maintain the standards of our Model Councillor Code of Conduct

so that I may faithfully represent

and uphold the trust placed in the Council

by the people of Benalla and District.

3. Election of Mayor and Deputy Mayor

PURPOSE OF REPORT

Under the *Local Government Act 2020* (the Act) a Mayor is to be elected at a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council. The Council may resolve to establish the position of Deputy Mayor.

Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor or Deputy Mayor.

Election of Mayor

Section 25 of the Act states:

1. The election of the Mayor must—
 - a. be chaired by the Chief Executive Officer; and
 - b. subject to this section, be conducted in accordance with the Governance Rules.
2. Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.
3. If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.
4. If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.
5. In this section, absolute majority means the number of Councillors which is greater than half the total number of the Councillors of a Council.

Procedures for Election of Mayor

The Returning Officer must invite nominations for the office of Mayor and the following procedures will apply to the conduct of the election:

- 2.2.1. there must first be a determination of the term of appointment of the Mayor
- 2.2.2. voting will be carried out by show of hands
- 2.2.3. any Councillor is eligible for election or re-election to the office of Mayor
- 2.2.4. the Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- 2.2.5. nominations for the position of Mayor must be moved and seconded
- 2.2.6. any Councillor nominated may refuse nomination
- 2.2.7. where only one nomination is received, the Councillor must be declared elected

2.2.8. where two or more nominations are received, the Councillor with an absolute majority of votes must be declared elected.

2.2.9. where in an election for the Mayor:

1. only one candidate has been nominated, that candidate must be declared elected
2. two candidates have been nominated, a vote must be taken and the candidate who receives an absolute majority of votes must be declared elected.
3. two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.
4. where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day.
5. more than two candidates have been nominated and no candidate receives the number of votes equal to or greater than half the Councillors of the Council:
 - a. the candidate with the fewest number of votes cast must be eliminated.
 - b. the names of the remaining candidates must be put to the vote again.
 - c. the procedure in a and b above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined above in this sub-rule; and
 - d. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) the Chief Executive Officer will conduct a vote for one candidate to be defeated.

Term of Appointment of the Mayor

Under Section 26 of the Act, before the election of the Mayor, the Council must determine by resolution whether the Mayor is to be elected for a one-year or a two-year term.

Recommendation:

That the term of appointment for the Mayor be for one/two year(s).

Election of Mayor

The Chief Executive Officer will call for nominations for the position of Mayor.

Recommendation:

That Councillor be elected as Mayor of Benalla Rural City Council for the Council Year.

The Chief Executive Officer declares Councillor elected as Mayor for the Council Year.

Upon being elected, the Mayor may make a ceremonial speech. The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

Once the Mayor has been elected, the Chief Executive Officer must vacate the Chair and the Mayor must take the Chair for the balance of the meeting, where the following matters may be dealt with:

- Appointment of a Deputy Mayor.
- Determining the Meeting Cycle for the next 12 months of Council and Committee meetings.
- Any other matter considered necessary by the CEO.

Establish the position of Deputy Mayor

The Council may resolve to establish the position of Deputy Mayor. The procedure for the election of Mayor will apply to the election of the Deputy Mayor with any necessary modifications.

Recommendation:
That the position of Deputy Mayor be established.

Term of Appointment of the Deputy Mayor

Under Section 26 of the act, before the election of the Deputy Mayor, the Council must determine by resolution whether the Deputy Mayor is to be elected for a one-year or a two-year term.

Recommendation:
That the term of appointment of the Deputy Mayor be for one/two year(s).

Election of Deputy Mayor

The Mayor will call for nominations for the position of Deputy Mayor.

Recommendation:
That Councillor be elected as Deputy Mayor of Benalla Rural City Council for the Council Year.

The Mayor declares Councillor elected as Deputy Mayor for the Council Year.

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4. 2024/25 Meeting Cycle for Council and Delegated Committee Meetings

SF/808-10

Dom Testoni – Chief Executive Officer

PURPOSE OF REPORT

The report proposes a schedule of Council and Delegated Committee Meetings for the 2024/25 Council Year.

BACKGROUND

The *Local Government Act 2020* provides that the conduct of Council Meetings is at the Council's discretion. The *Governance Rules 2020* state that:

The date, time and place of all Meetings for the following Council Year is to be fixed by the Council at a Council Meeting after the election of the Mayor but not later than the last Council Meeting of the calendar year.

The Council may call for additional Council Meetings or Delegated Committee Meetings during the year. If an additional meeting is called, the Chief Executive Officer must arrange for a notice of the meeting on the Council's website as soon as practicable after the time and date has been determined.

Council meetings and Delegated Committee meetings are held on Wednesdays in the Civic Centre, 13 Mair Street, Benalla, unless otherwise advised. Meetings commence at 5.30pm during Non-Daylight Saving Time and 6pm during Daylight Saving Time.

Meetings are livestreamed.

DISCUSSION

In accordance with the *Governance Rules 2020*, the Council, by resolution, may determine certain meetings be held as face-to-face (in-person) meetings.

The proposed schedule of Council and Committee meetings for 2024/25 Council Year is attached as **Appendix 1**.

Recommendation:

That the meeting schedule for Council meetings and Finance and Planning delegated committee meetings for the 2024/25 Council Year be adopted.

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Proposed 2024/25 Meeting Schedule

Appendix 1

Date	Meeting Name	Time
Wednesday, 27 November 2024	Assembly of Councillors	6pm
Wednesday, 4 December 2024	Finance and Planning Committee Meeting	6pm
Wednesday, 18 December 2024	Council Meeting	6pm
December 2024 - January 2025	Christmas and New Year's Recess	
Wednesday, 29 January 2025	Assembly of Councillors	6pm
Wednesday, 5 February 2025	Finance and Planning Committee Meeting	6pm
Wednesday, 12 February 2025	Council Meeting	6pm
Wednesday, 26 February 2025	Assembly of Councillors	6pm
Wednesday, 5 March 2025	Finance and Planning Committee Meeting	6pm
Wednesday, 12 March 2025	Assembly of Councillors	6pm
Wednesday, 19 March 2025	Council Meeting	6pm
Wednesday, 2 April 2025	Assembly of Councillors	6pm
Wednesday, 9 April 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 16 April 2025	Assembly of Councillors	5.30pm
Wednesday, 23 April 2025	Council Meeting	5.30pm
Wednesday, 7 May 2025	Assembly of Councillors	5.30pm
Wednesday, 14 May 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 21 May 2025	Assembly of Councillors	5.30pm
Wednesday, 28 May 2025	Council Meeting	5.30pm
Wednesday, 4 June 2025	Assembly of Councillors	5.30pm
Wednesday, 11 June 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 18 June 2025	Assembly of Councillors	5.30pm
Wednesday, 25 June 2025	Council Meeting	5.30pm
Wednesday, 2 July 2025	Mid-Year Break	
Wednesday, 9 July 2025	Mid-Year Break	
Wednesday, 16 July 2025	Assembly of Councillors	5.30pm
Wednesday, 23 July 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 30 July 2025	Assembly of Councillors	5.30pm
Wednesday, 6 August 2025	Council Meeting	5.30pm
Wednesday, 20 August 2025	Assembly of Councillors	5.30pm
Wednesday, 27 August 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 3 September 2025	Assembly of Councillors	5.30pm
Wednesday, 10 September 2025	Council Meeting	5.30pm
Wednesday, 24 September 2025	Assembly of Councillors	5.30pm
Wednesday, 1 October 2025	Finance and Planning Committee Meeting	5.30pm
Wednesday, 8 October 2025	Assembly of Councillors	6pm
Wednesday, 15 October 2025	Council Meeting	6pm
Wednesday, 29 October 2025	Assembly of Councillors	6pm
Wednesday, 5 November 2025	Finance and Planning Committee Meeting	6pm
Wednesday, 12 November 2025	Assembly of Councillors	6pm
Wednesday, 19 November 2025	Council Meeting	6pm
Wednesday, 3 December 2025	Assembly of Councillors	6pm
Wednesday, 10 December 2025	Finance and Planning Committee Meeting	6pm
Wednesday, 17 December 2025	Council Meeting	6pm

5. Leave of Absence

Councillor Bernie Hearn has requested a leave of absence from 3 December 2024 to 10 December 2024.

Recommendation:

That a leave of absence be granted to Councillor Bernie Hearn from 3 December 2024 to 10 December 2024.

6. Confirmation of the Minutes of the Previous Meeting

The minutes have been circulated to Councillors and posted on the Council website www.benalla.vic.gov.au pending confirmation at this meeting.

Recommendation:

That the minutes of Council meetings held on 16 October 2024 and 23 October 2024 be confirmed as true and accurate records of the meetings.

Closure of the meeting