

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 09 August 2005 commencing at 7:15 pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor T Hawker
B Ward	Councillor H Stewart Councillor C Jeffreys
C Ward	Councillor J Bailey Councillor D Briggs
D Ward	Councillor J Leedham Councillor T Hore
E Ward	Councillor C Mifsud Councillor G Rose
F Ward	Councillor B Bird Councillor H Gillett

In attendance

General Manager	B A Weir
Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Director Shell Cove Business Unit	P Woodcock
Group Manager Community Services & Devel.	L Campbell
Group Manager Corporate Services	T Gearon
Group Manager Works & Services	C Watt
Group Manager Customer & Env. Services	G Standen
Group Manager Development & Tech Services	M Boenisch
Group Manager Corporate Planning	P Masterson
Group Manager Organisational Development	B Rose
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Public Relations Coordinator	A Baltovska
Corporate Meetings Officer	J Larsen
Executive Officer	E Albertini

Acknowledgement to Country

The Mayor read to the Meeting "Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting".

1. Apologies / Leave of Absence

Ordinary Council Meeting

An apology was tendered on behalf of Councillor Greig

933 RESOLVED: Briggs/Hawker That the apology as tendered be accepted.

2. Confidential Business (Committee of the Whole)

Nil

3. Recommendations from Committee of the Whole

Nil

4. Confirmation of Minutes

4.1 Ordinary Meeting 19 July 2005

934 RESOLVED: Hawker /Briggs That the Minutes of the Ordinary Council Meeting held on 19 July 2005 be confirmed as a correct record of proceedings.

4.2 Committee of the Whole 19 July 2005

935 RESOLVED: Briggs/Bird That the Minutes of the Committee of the Whole Council Meeting held on 19 July 2005 be confirmed as a correct record of proceedings subject to the amendment to the reason for Councillor Bailey's declaration of Pecuniary Interest for Item 2.1 being altered to read that he "held business talks with one of the tenderers".

5. Pecuniary Interest

Councillor Bailey: Item 12.3 Proposed Lease to Aero V Australia Ltd – Illawarra Regional Airport (8393015)

Nature of Interest: Councillor Bailey was supported in a previous election by one of the tenderers for the subject hangar.

6. Condolences

The mayor read details of the following deaths in the Local Government area.

Ms Irene Burge	of	Albion Park
Mr Dennis Marsh	of	Albion Park
Ms Nicole Margaret Lieske	formerly of	Albion Park
Mr James (Jim) McCauley	of	Albion Park
Mr Francis Rae (Frank) O'Brien	of	Albion Park Rail
Mr Frank Proksch	of	Albion Park Rail
Mrs Dolores Lopez	of	Barrack Heights
Mrs Joan Kelly	of	Blackbutt
Mrs Valerie Wilmot	of	Blackbutt
Mrs Doreen Delia Reed	of	Mount Warrigal
Mrs Daphne Mathews	of	Oak Flats
Mr Allan Percy Wright	of	Oak Flats
Mr Harry Raymond Nilsen	of	Shellharbour
Mr William John Parkinson	of	Warilla
Baby Cody Angel Randall/Sanchez	of	Warilla
Mr John Oates	of	Warilla
Mrs Janice Kennedy	of	Warilla
Mr Neil Henry McKechnie	of	Warilla
Mr Raymond Bailey	of	Warilla
Mr Terry George	formerly of	Yellow Rock

936 A Motion of condolence was passed by all present standing in one minutes silence.

7. Presentations

Councillors Jeffreys and Bird, Mr Gerald Brown and Ms Beverley Armer-Pittman made a presentation to Council in appreciation for Council allowing them to attend the recent Local Government Aboriginal Conference in Wagga.

The items presented were two copies of a Wiradjuri Dictionary, two copies of a "Learning Wiradjuri Workbook" and two copies of a "Learning Wiradjuri" CD. One copy of each is to go into Council's Public Library Reference Collection and one copy of each is to be available for loan through Council's public library.

The Mayor responded by saying it was an honour to accept the gifts and thanked them on behalf of Council.

8. Mayoral Minutes

8.1 Aboriginal Councillor of the Year (8392675)

The Mayor formally congratulated Councillor Bird on behalf of all councillors on being named Aboriginal Councillor of the Year and being elected President of the Local Government Aboriginal Network.

937 RESOLVED: Briggs/Gillett

That Council formally congratulate Councillor Barry Bird on being awarded the honour of being named Aboriginal Councillor of the Year and being elected President of the Local Government Aboriginal Network.

CARRIED by Acclamation.

8.2 Invitation to attend 9th China International Fair for Investment & Trade - Fujian Province, China (8392617)

938 RESOLVED: Bird/Hore

That the General Manager be given delegated authority from Council to attend the 9th China International Fair for Investment & Trade – Fujian Province, China.

CARRIED 8/4 (Councillors Bailey, Mifsud, Rose and Stewart dissenting)

9. Councillors' Reports

Nil

10. General Manager's Office

10.1 Local Government Association Annual Conference 2005 (8392564)

939 RESOLVED: Hawker/Jeffreys

1. That Council nominate its four (4) Voting Delegates to the 2005 Local Government Association Annual Conference.
2. That Council endorse the attendance of those Councillors wishing to attend the 2005 Local Government Conference as Observers. Further that any Councillor(s) who wish to attend the Conference as an Observer advise the General Manager as soon as possible.

MOTION: Hawker/Leedham That the Mayor, Deputy Mayor, Councillor Bird and Councillor Briggs be nominated as Council's Voting Delegates.

FORESHADOWED MOTION: Stewart/Mifsud That Councillor Jeffreys be nominated as a voting delegate.

The Mayor conducted an informal vote by show of hands with 6 votes being recorded for the MOTION and 4 votes for the FORESHADOWED MOTION.

940 RESOLVED: Hawker/Leedham

That the Mayor, Deputy Mayor, Councillor Bird and Councillor Briggs be nominated as Council's Voting Delegates to the Local Government Association Annual Conference with Councillor Jeffreys as alternate.

10.2 2005 Local Government Annual Conference - Mudgee 22 - 27 October 2005 - Notices of Motion (8392480)

Councillor Rose requested that Council support a Motion from Wollondilly Council recommending the implementation of legislation that off road pathway networks be part of all new developments.

The Mayor requested that Councillor Rose and any other councillors with Motions that they wish to be considered for inclusion in Council's recommendations pass them onto the General Manager this week as they must be forwarded to the Association by 19 August.

941 RESOLVED: Rose/Hawker

1. That Council consider what motions, if any, it wishes to submit to the 2005 Local Government Association Annual Conference.
2. That the General Manager frame suitable motions and supporting statements (as resolved from Recommendation No. 1) for consideration at the forthcoming Local Government Conferences and report these to the next meeting of Council for information.

11. Operations & Services Division

11.1 Development Application No. 200/2005 - Proposed Double Garage & Rear Deck at Lot 180, DP 255319, 73 Scenic Crescent, Albion Park (8390994)

942 RESOLVED: Hawker/Bailey

That Council approve Development Application No. 200/2005 proposing the construction of a double garage and rear deck at Lot 180, DP 255319, 73 Scenic Crescent, Albion Park under Section 80 of the *Environmental Planning & Assessment Act*, as amended subject to the 21 conditions following the conclusion in this report.

11.2 Development Application No. 297/2005 - Lot 23, DP 218168, 58 Towns Street, Shellharbour - Seeking Approval For A Rear Fence (8391193)

PUBLIC PARTICIPATION

Mr Matthew Fowler

Mr Fowler, as the applicant of the DA, outlined his reasons for requesting the approval of the application citing, noise, safety and privacy concerns.

943 RESOLVED: Hore/Bird

That the General Manager be delegated authority to approve Development Application No. 297/2005 seeking approval for a rear fence at Lot 23, DP 218168, 58 Towns Street, Shellharbour under Section 80 of the *Environmental Planning & Assessment Act 1979* as amended, subject to appropriate conditions regarding plant screening.

CARRIED 11/1 (Councillor Leedham dissenting)

11.3 Request for adjustment to minutes of Council Meeting (8384582)

944 RESOLVED: Hawker/Rose

That Council's records be amended to show that Mr Greg Glanville had been listed to speak on Item 12.3 of the Council meeting of March 15th 2005, but had earlier withdrawn from the list, after consultation with council officers.

11.4 Code of Conduct - Conduct Committee (8391516)

PUBLIC PARTICIPATION

Mr Peter Moran

- Has no problem with establishment of the committee.
- Does have a problem with one independent member being Council's legal representative.
- Uneasy with this choice as they could not be truly independent.
- Suggest Council follow Randwick's example of having a retired judge or QC as its independent member.
- Encourage choice of an alternate more independent person.

MOTION: Hawker/Bird

1. That the independent membership of the Conduct Committee be Council's Legal Advisor, External Auditor and one other to be appointed on a case by case basis, by the Mayor or General Manager.
2. That professional independent members be remunerated at their normal rates whilst participating in council business.

Councillor Rose FORESHADOWED a MOTION that Mr Bill James or Mr John O'Dwyer be nominated as alternate independent representatives on the committee.

Councillor Bird asked whether there is a right of appeal if a councillor is not satisfied with the ruling of the conduct committee.

The Group Manager Corporate Services advised that he would need to take this question on notice.

945 The MOTION on being PUT to the Meeting was CARRIED 9/4 (Councillors Mifsud, Bailey, Rose and Stewart dissenting)

11.5 Access to Information under Section 12 of the Local Government Act (8379152)

The Mayor noted that there were 6 people listed to speak in Public Participation on this Item.

He advised the meeting that in order to avoid prolonging deliberation and avoid repetitiveness, he intended to adhere to the Code of Meeting Practice and limit the number of speakers to two for the recommendation and two against the recommendation subject to the consent of Council as provided in Council's Code of Meeting Practice.

He suggested that the groups represented nominate two speakers to convey their concerns concisely to the Councillors.

946 RESOLVED: Briggs/Bird

That Council adhere to the Code of Meeting Practice and limit the number of speakers in Public Participation on this item to two for, and two against.

947 RESOLVED: Briggs/Hawker That a 10 minute recess be called in order for the Public Participants to discuss who to nominate to speak.

Meeting adjourned at 8:40 pm

Meeting resumed at 8:50 pm

Note: After the recess, the number of Public Participants had only been reduced to four. In order to progress the meeting the Mayor allowed those listed to speak.

He further declared that in future, the Public Participation rules would be adhered to and that no more than two speakers for and two against would be registered and that people requesting to register to speak after two names had already been taken would not be allowed to register so as to prevent confusion, such as existed this evening.

PUBLIC PARTICIPATION

Mr Harry Gooden

- Mr Gooden commented that never before had Shellharbour City residents been declared vexatious complainants.
- He asked why the full names of people mentioned in the internal memo had not been revealed
- Believed complaints by Council were an attempt to stifle freedom of speech.

Ms Kimberley Hollis

Ms Hollis made comments regarding Tullimbar which the Mayor ruled were irrelevant to the current item.

Ms Sonya McKay

- Declared that she knew that she had been named in the document.
- Memo should never have been prepared
- Dangerous precedent against civil liberties

Ms McKay proceeded to dispute claims in the memo which the Mayor ruled were irrelevant to the current item.

Ms Paula Turnbull

Withdrew from Public Participation

Ms Shirley Hollis

Withdrew from Public Participation

Mr Peter Moran

- Stated that he believed many councillors had not informed themselves of the facts.
- Complaints against people for taking advantage of their rights.
- Disputed facts in the memo



The General Manager addressed the meeting.

He stated that he felt he needed to respond to the allegations which had been made in Public Participation.

He stated that he was not prepared to go back into the reasons for the preparation of the memo.

He stated that he totally agrees that residents are entitled to make submissions and complaints wherever they feel this is necessary, however some of the complaints have not been made in the same spirit as others. He stated that he had not been informed as to who had made complaints to the Department of Local Government, ICAC or the Ombudsman. He has not been given names or been given advice as to the nature of complaints.

In some cases feed back by investigators has revealed confusion or inaccuracy in the way some complaints have been lodged against Council.

He advised the meeting that Council has sent volumes of material to answer preliminary investigations over the past 12 months. The Memo in question was compiled as a summary

document and never meant to give specifics. In that context he could not allow allegations in Public Participation to go unanswered.

He advised that there were arguments for and against release of the memo which had been considered. The Memo was used as an internal summary document. He stated that he is confident that Council is justified, in the circumstances, in withholding its public release.

948 RESOLVED: Briggs/Hore

1. That Council consider this report in accordance with the *Local Government Act 1993*.
2. That the Public Officer's action in restricting access to information as outlined in this report, be endorsed and remain in force.

CARRIED 11/2

11.6 Proposed road closure - paper road through Part Lot 1 DP 570091 & Part Lot 2 DP 792437, Albion Park (8392443)

949 RESOLVED: Briggs/Hawker

1. That Council resolve to proceed with the formal closure of the public road and reserve road that runs through Part Lot 1 DP 570091 and Part Lot 2, DP 792437.
2. That the seal of Council be affixed to all relevant documentation associated with the road closure.

11.7 Community Land Plan of Management (8392259)

PUBLIC PARTICIPATION

Peter Moran

- Believes this is a "Do Nothing" recommendation for a difficult piece of land in Oak Flats.
- Would have hoped Council would have been more proactive in making the land more useful to residents of Oak Flats

950 RESOLVED: Briggs/Stewart

That Council adopt the draft Plan of Management for Lot 2 DP 817317, Central Avenue, Oak Flats.

11.8 Fees and Charges - Enclosed Parking Facility - Illawarra Regional Airport (8390971)

PUBLIC PARTICIPATION

Ms Sonya McKay

- Ms McKay stated that she had not prepared a submission.
- She advised that she was concerned about who would benefit most financially from management of the car park.

In response to a question from Councillor Briggs, the Director Operations & Services advised that the operators of the restaurant would be managing the carpark and would be paid a 15% commission for this.

951 RESOLVED: Hawker/Jeffreys

That Council adopt the fees and charges for the enclosed parking facility.

11.9 Alfresco Dining DCP (Amendment 2) (8391563)

952 RESOLVED: Briggs/Bird

1. That Council resolve to adopt the amendments to the Alfresco Dining DCP (Amendment 2).
2. That an advertisement be placed in the Lake Times notifying Council's adoption of the Alfresco Dining DCP (Amendment 2).

CARRIED 12/1 (Councillor Bailey dissenting)

12. Community Planning & Strategies Division

12.1 Southern Councils Group Minutes of 8 July 2005 (8393012)

953 RESOLVED: Jeffreys/Leedham

That the Minutes of the Southern Councils Group Meeting, held 8 July 2005 be endorsed.

**12.2 Commencement of New Development Contributions Legislation
(8392983)**

954 RESOLVED: Leedham/Hore

That the report be received and noted

**12.3 Proposed Lease to Aero V Australia P/L - Illawarra Regional Airport
(8393015)**

Note: Councillor Bailey declared an interest in Item 12.3 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

PUBLIC PARTICIPATION

Ms Sonya McKay

- Asked why the lessee has been given three months rent free.
- Taking revenue from Council.

955 RESOLVED: Hawker/Gillett

That Council lease the proposed Lot 4 on the attached plan, and hangar facilities to Aero V Australia Pty Ltd on the terms and conditions detailed in this report.

That the Mayor and General Manager be authorised to execute any documents associated with this lease under the Common Seal of Council.

Councillor Bailey here returned to the Chamber.

13. Shell Cove Business Division

Nil

14. Committee Recommendations

- 14.1 Recommendations from the Economic Development Advisory Committee Meeting held 20 July 2005 recommended for adoption.**
- 14.2 Recommendations from the Staff Committee Meeting held 21 July 2005 recommended for adoption.**
- 14.3 Recommendations from the Staff Committee Meeting (in Committee of the Whole) held 20 July 2005 recommended for adoption.**
- 14.4 Recommendations from the Aboriginal Advisory Committee Meeting held 26 July 2005 recommended for adoption.**

956 RESOLVED: Hawker/Gillett

That the Recommendations from the above named Committee Meetings be adopted.

15. Notices of Rescission Motion

Nil

16. Notices of Motion

Nil

17. Items for Information

Nil

18. Questions without Notice

957 Councillor Stewart requested that a bus time table be displayed at the Oak Flats railway station next to the train timetable.

958 Councillor Stewart asked what had happened to proceeds from the sale of Lot 100, Industrial Road, Oak Flats of which 60% was to go to the entrepreneurial fund and 40% to debt repayment seeing there was no debt repayment necessary.

The General Manager advised Councillor Stewart that Council had resolved that the 40% would go to Section 94 facilities.

959 Councillor Stewart stated that she was pleased with the improvement to the appearance of Warilla Hotel as they had sprayed their roof with a new coating.

960 Councillor Rose asked what the situation was with the proposed appointment of a Personal Assistant for the Mayor.

The Mayor advised that this is still under review.

961 Councillor Rose asked what had happened with the submission by the Heritage Society of suggested street names for Tullimbar village.

962 Councillor Rose asked if the results from the police initiated safety audit at Shellharbour are available.

963 Councillor Rose commented on the public rally at the telecommunications tower site in Junction Road. He asked if Council could consider reviewing the decision to allow erection of the tower.

The Mayor advised that it is now out of Council's hands as Council has already approved the Development Application.

964 Councillor Mifsud thanked the Director Operations & Services for installation of a stop sign near Shellharbour Links on Southern Cross Boulevard.

965 Councillor Mifsud requested figures on how much Council has spent on the airport since 2001 to current. He also requested details of revenue received from the airport for the same period.

966 Councillor Mifsud expressed concern with delay in progressing the upgrade of the war memorial at Caroline Chisholm Park. Requested an urgent meeting of the working party.

SHELLHARBOUR CITY COUNCIL

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967 Councillor Mifsud attended the public rally attended by approximately 150 people in protest to the installation of the Telecom tower.

He stated that he believed the Mayor had indicated, on the night the DA for the tower was approved, that if new evidence in the DVD which Councillor Mifsud attempted to have viewed at that meeting, proved relevant that Council could reassess the approval.

The Mayor stated that he had suggested that the councillors view the DVD at a more appropriate time and consider its contents so that it could assist them in any decisions in the future.

968 Councillor Mifsud asked if Council could contact Telstra to find an alternate site for the telecommunications tower.

The Mayor stated that Council cannot go back to Telstra now as the decision has already been made by Council. He agreed that Councillor Mifsud could approach Telstra personally on his own behalf.

969 Councillor Bailey commented on a recent attack on a person at Shellharbour City Centre and asked for progress on a requisition he submitted earlier on a report regarding criminal activity in that area.

970 Councillor Briggs advised that he had received complaints that people from outside the area have had difficulty trying to find Shellharbour Private Hospital as the only directional sign is not prominent enough. He asked if a more prominent sign could be erected.

971 Councillor Briggs advised that there is a large pothole on Towns Street Shellharbour that needs fixing and asked that it be attended to.

972 Councillor Briggs advised that he had received a request from shop owners in George Street Warilla for a rubbish bin to be installed outside the IMB. He asked if this could be investigated.

973 Councillor Hawker advised that he had received complaints about trail bikes being ridden in Croome Sporting complex late in the evening. He asked if it would be possible for an area to be set aside specifically for trail bikes at the complex to encourage more appropriate use of the area for trail bikes.

974 Councillor Hawker advised that the car park behind the tennis court and police station at Albion Park needs repair and asked that it be attended to.

975 Councillor Hawker asked if anything could be done about dust from the Tullimbar development spreading in windy conditions.

19. Late Items of Business / Urgent Business (as introduced by the Chairperson)

Meeting closed 10:20 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 30 August 2005.

General Manager

Chairperson