

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 11 October 2005 commencing at 7.15 pm**

Present

A Ward	Councillor M Greig (Chairperson) 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 H Gillett

In attendance

General Manager	B A Weir
Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Shell Cove Commercial Manager	K James
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
Senior Strategic Planner	I Rankine
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Corporate Meetings Officer	J Larsen

Acknowledgement to Country

The Deputy 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 Bird and Mayor Hamilton

1087 RESOLVED: Hore/Briggs That the apologies 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 20 September 2005

1088 RESOLVED: Briggs/Hawker

That the Minutes of the Ordinary Council Meeting held on 20 September 2005 be confirmed as a correct record of proceedings with the correction at Item 12.6 that the Motion was carried 9/4 with Councillor Stewart to be shown as having voted against this item.

4.2 Committee of the Whole Meeting 20 September 2005

1089 RESOLVED: Briggs/Bailey

That the Minutes of the Committee of the Whole Council Meeting held on 20 September 2005 be confirmed as a correct record of proceedings.

4.3 Extraordinary Meeting 20 September 2005

1090 RESOLVED: Hawker/Briggs

That the Minutes of the Extraordinary Council Meeting held on 20 September 2005 be confirmed as a correct record of proceedings.

Councillor Rose sought to introduce an item in the most recent edition of the Lake Times newspaper regarding comments with respect to the election of Councillors to Committees but the Chair refused to allow him to bring forward this issue as it was not related to confirmation of the Minutes.

5. Pecuniary Interest

Nil

6. Condolences

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

Mr Robert (Bob) Clough	of	Albion Park
Mr Martin Dillon	of	Albion Park
Mr John (Jack) Lamb	formerly of	Albion Park
Mr David (Davo) Wright	of	Albion Park
Mrs Mary Belcher	of	Albion Park Rail
Mr Stephen Douglas "Butch" Miller	of	Albion Park Rail
Mrs Joan Price (nee Thistle)	of	Albion Park Rail
Mrs Pam Inskip	of	Barrack Heights
Mr Pando Jovcevski	of	Barrack Heights
Mr Walter Mitschuinig	of	Barrack Point
Mr Thomas Peter Warrington	of	Lake Illawarra
Mrs Joy Eagleton	of	Lake South
Mr Charlie Bennetts	of	Mt Warrigal
Mr Gary Cardiff	of	Mt Warrigal
Mrs Thelma Catlan	of	Mt Warrigal

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 October 2005

Mr Michalakis (Michael) Constantinou	of	Mt Warrigal
Mrs Terrina (Terri) O'Leary	of	Mt Warrigal
Mr Scott James Mills	of	Mt Warrigal
Mr Kevin Douglas Pettit	of	Mt Warrigal
Mr Ron Searle	of	Mt Warrigal
Mr Peter Leoleos	of	Oak Flats
Mr Robert John Ramsay	of	Oak Flats
Mrs Kaethe Zatschler	of	Oak Flats
Mrs Sylvia Estelle Pearson	of	Shellharbour
Mr Herbert Horatio Ashford	formerly of	Warilla
Mr Myles Birmingham	of	Warilla
Mr Albert Klibingaitis	of	Warilla
Mrs Andriana Potonides	of	Warilla
Mr William James (Bill) Thomas	of	Warilla
Mr John Edward (Jack) Walker	of	Warilla

1091 A Motion of condolence was passed by all present standing in one minutes silence.

The General Manager addressed the meeting.

The General Manager said that the Condolences at the last Council Meeting had mentioned the passing of Council's Group Manager Planning Services, Mr Jim Tremain. He advised that the funeral for Mr Tremain had been held a few days after the Council Meeting and that he had been asked to give a eulogy at the funeral. He said that he was honoured to be able to do so.

He noted that Mr Tremain was held in high professional standing by this Council and the broader planning community. Many past colleagues travelled long distances to attend the funeral and pay their respects to Mr Tremain.

He told the meeting that he appreciated the support received from councillors, several of whom attended the funeral and that Mr Tremain's family had expressed thanks for the support and concern given by Council.

7. Presentations

Nil

8. Mayoral Minutes

Nil

9. Councillors' Reports

9.1 Lake Illawarra Authority (8428926)

Note: Councillor Leedham advised the meeting that since this report was written, the application for the northern breakwall has been forwarded to the Minister and is awaiting a determination.

1092 RESOLVED: Rose/Hore

That this matter be received and noted.

10. General Manager's Office

10.1 Shellharbour Cemetery - Upgrade/Sealing of Car Park (8428336)

MOTION: Hawker/Hore

That funding for sealing of the Shellharbour Cemetery car park be made a priority item for the next budget.

That Council reaffirm its previous resolution to install fencing at Albion Park and Shellharbour cemeteries to utilise the funding allocated within the 2005-2006 budget.

Councillor Mifsud FORESHADOWED a MOTION: That funding for the Shellharbour Cemetery car park be made available equally across Ward allocations or from the general budget.

1093 The MOTION on being PUT to the Meeting was CARRIED (Councillors Rose, Mifsud, Bailey and Stewart dissenting).

10.2 Modification to Delegation to the General Manager (8427799)

The Deputy Mayor addressed the gallery and requested that Public Participants speak either for or against the recommendation contained in the report as they had indicated they would when registering, and that they speak only on the report and issue presently being addressed. She warned that if the speakers deviated from this directive that they would be asked to resume their seats.

PUBLIC PARTICIPATION

Peter Moran

Mr Moran began to speak stating that he was urging Councillors to support the recommendation to delegate authority to the General Manager and to ignore the fact they were elected to make decisions on behalf of the community.

Councillor Briggs called a POINT of ORDER that Mr Moran was actually speaking against the recommendation.

The Deputy Mayor ruled that Mr Moran, by his tone, was not actually speaking for the recommendation as he had indicated he would be speaking, when he registered for Public Participation.

The Deputy Mayor asked Mr Moran to return to his seat.

Mr Moran, after some argument, returned to his seat.

Denise Groons

The Deputy Mayor in inviting Ms Groons to speak advised her that she would not be allowed to speak if she was speaking against the Motion as she had registered to speak for it. Ms Groons acknowledged this.

Ms Groons began to speak.

She stated that "despite criticism of Council processes by the Department of Local Government and ICAC I urge you to adopt this recommendation".

The Deputy Mayor ruled that Ms Groons was not actually speaking for the recommendation as she had indicated she would be speaking when she registered for Public Participation.

Councillor Briggs called a POINT of ORDER that Ms Groons was actually speaking against the recommendation.

The Deputy Mayor asked Ms Groons if she was definitely speaking in favour of the recommendation. Ms Groons declined to confirm this.

The Deputy Mayor asked Ms Groons to return to her seat.

Ms Groons resumed her seat.

As the two first speakers were disallowed, the Deputy Mayor ruled that Mr Bernard Jeffery would be allowed to speak as the third person registered to speak for the recommendation.

Councillor Bailey called a POINT of ORDER against the Deputy Mayor as there had been two speakers in favour.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 October 2005

The Deputy Mayor said that, as the two speakers had been ruled to have not been speaking in favour of the recommendation, she was entitled to call the next listed speaker. The Deputy Mayor then invited Mr Jeffery to speak and cautioned him, as she had the previous speakers.

Mr Bernard Jeffery

- Mr Jeffery advised that he represents the developer
- He is in favour of the recommendation
- Recommendation has been made to streamline the process – with the result that the scale of the developments had exceeded the \$3 million limit.
- Purely an administrative matter, not a planning issue
- Usual planning considerations and conditions being complied with as required.

Paulla Turnbull

- Guidelines set down by the Land and Environment Court have not been followed – deviated from
- Heavy rain is the beginning of problems at the development site

Councillor Briggs MOVED a POINT of ORDER that we are here to discuss the recommendation to delegate, not here to talk about plans or water problems.

The Deputy Mayor ruled not to allow the POINT of ORDER and asked Mrs Turnbull to continue.

- Mrs Turnbull stated that she takes great offence at the idea of the General Manager being given delegated authority to approve this amount of money.
- Approval should be decided individually for each of the developments not all as a whole
- It gives the General Manager authority to change plans in favour of the developer thereby taking away the voice of the people
- Supposed to be working for us
- Alleged that corruption by the General Manager was subject of Department of Local Government & ICAC ongoing investigation, including with respect to Tullimbar.

Mrs Turnbull cited a letter obtained under Freedom of Information from the developer's consultant saying things need to be changed to enable flexibility.

Councillor Briggs again MOVED a POINT of ORDER that Mrs Turnbull was not addressing the report.

The Deputy Mayor warned Mrs Turnbull to stop speaking while she was dealing with Councillor Briggs' Point of Order or she would be asked to leave. She then requested Mrs Turnbull to resume speaking.

Mrs Turnbull alleged complaints against Council and specifically against the General Manager regarding him being investigated for corruption.

The Deputy Mayor called on Mrs Turnbull to stop making such allegations against the General Manager.

Councillor Hawker asked whether there is any foundation for the allegations Mrs Turnbull is making.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 October 2005

The General Manager advised that he was not prepared to answer that question without notice and research, but that he was not aware that he was specifically under investigation. He stated that Mrs Turnbull had better be able to back up what she had just said and that there are proper channels if she has allegations she wishes to make.

Mrs Turnbull resumed her seat but continued to interject and at one stage made an obscene remark against Councillor Hawker.

Councillor Jeffreys complained to the Chair and outlined what she had said. This was confirmed by Councillor Hore.

1094a RESOLVED: Leedham/Briggs That Mrs Turnbull be asked to leave the meeting.

Mrs Turnbull, following a request from the Chair, refused to leave the Chamber.

1094b RESOLVED: Briggs/Hawker That Council adjourn for a 5 minute recess.

Meeting adjourned at 8.00 pm

Meeting resumed at 8.05 pm

Note: The Deputy Mayor, having spoken to Mrs Turnbull during the recess, stated that based on those discussions she was recommending that the Mover and Seconder of the Motion to have Mrs Turnbull removed withdraw their Motion, with the consent of the other Councillors, to enable the Meeting to continue without delay, which would be the case if the Police were called.

1094c The Mover and Seconder withdrew their MOTION, with the consent of the other Councillors, and thus rescinded the previous resolution (Minute No. 1094a).

Sonya McKay

The Deputy Mayor reminded Ms McKay that she should speak only on the report before Council.

- Ms McKay began to speak raising issues of past concerns regarding the airport and Lot 100 Oak Flats.
- She stated that giving delegated authority would mean that Public Participation would not be required.

Councillor Briggs MOVED a POINT of ORDER that Ms McKay was addressing issues of the airport not the report before Council.

The Deputy Mayor warned Ms McKay to keep to the subject.

Ms McKay stated that the General Manager's past performance was relevant to the issue and that he had been found to be incompetent.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 October 2005

Councillor Briggs MOVED a POINT of ORDER that Ms McKay was casting aspersion against the General Manager's character.

The Deputy Mayor asked Ms McKay to continue, warning her to keep to the subject.

- Recommendation to delegate too broad.
- Setting a precedent for future developers
- She stated that Council had had problems with ICAC – supposed to have more transparency.

The Deputy Mayor asked Ms McKay to resume her seat.

MOTION: Hawker/Briggs

That Council grant delegated authority to the General Manager to approve development applications for 39 residential developments in respect of development at the Tullimbar Village Estate Stage 1b1.

In response to a question from Councillor Mifsud, the General Manager advised that he would sub-delegate assessment of the developments to the Planning Manager. Delegation comes through the General Manager legally as it has to. This particular development has been subject to intense scrutiny over a number of years.

He advised that the fees for one \$6 million approval as opposed to 39 individual ones would be slightly less for the one large approval, however, that would be offset by quicker processing times and administrative costs being reduced. From a planning point of view it would be a better overall result to process all at one time rather than looking at individual developments.

Councillor Mifsud expressed concern about the public being denied "having a say".

The General Manager advised that the developments would still be placed on Public Exhibition and if objections were received they would come back to Council for consideration if they were genuine and not just considered to be spurious objections submitted purely to circumvent delegated authority. He pointed out that Planning laws take account of written submissions not public participation at Council Meetings.

Councillor Mifsud requested that the meeting resolve into confidential session so that he could ask a question.

The General Manager conferred with Councillor Mifsud privately to see if it was appropriate for Councillor Mifsud's question to be dealt with in Committee of the Whole.

The General Manager advised the meeting that he felt that it would be preferable for Councillor Mifsud to ask his question in Open Council.

Councillor Mifsud asked whether this new delegated authority would effect the General Manager's workload to any great degree.

The General Manager said that he appreciated Councillor Mifsud's concern. He advised that after a normal Council meeting he would address his staff in a meeting the next day where how to

execute decisions made at the Council meeting would be delegated. He did not believe the decision would greatly increase his workload.

He agreed that it is his responsibility not to pass on a council delegation too far down the line beyond any staff member's ability.

Councillor Rose FORESHADOWED a MOTION That the status quo remain and that any development over the \$3 million limit comes back to Council for consideration.

1095 The MOTION on being PUT to the Meeting was CARRIED (7/5) with Councillors Stewart, Bailey, Mifsud and Rose dissenting and with Councillor Jeffreys abstaining.

Councillor Jeffreys requested a briefing for Councillors with the developer on this stage of the Tullimbah Village Estate.

11. Operations & Services Division

11.1 Acceptance of Grant Funding & Appointment of Councillor & Community Representatives - Macquarie Rivulet Flood Study (8423499)

N.B. Councillor Hawker was nominated as Representative/Chairperson with Councillor Gillett nominated as alternate. Councillor Bailey was nominated but declined. Councillor Stewart was nominated but declined.

1096 RESOLVED: Hore/Briggs

1. That Council accepts the grant offer and informs the Department of Natural Resources in writing of the acceptance.
2. That Council write to Mr Ian MacDonald MLC, Minister for Natural Resources, Primary Industries and Mineral Resources thanking him for the grant offer.
3. That Council allocate its funding share as follows: \$9,000 from Ward A grant matching funds, \$500 each from Ward B and Ward F grant matching funds.
4. That Council elect Councillor Hawker as its Representative/Chairperson and Councillor Gillett as alternative delegate to the Macquarie Rivulet Floodplain Risk Management Committee.
5. That Council's technical representative establish the Macquarie Rivulet Floodplain Risk Management Committee and conduct advertising for Community Representatives (to be chosen by the Committee at a later date).
6. That this Committee and its representatives be added to Council's Register of Committees.

CARRIED UNANIMOUSLY

11.2 Sport & Recreation Capital Improvements Requests (8423267)

1097 RESOLVED: Rose/Hawker

1. That Council resolve to allocate:
 - a. \$765 from Ward E Sportsfield Funds for wicket improvements at Tom (Scout) Willoughby Oval
 - b. \$1,650 from Ward A Sportsfield Funds for the expansion of the wicket at Keith Grey Oval.
2. That Council resolve to defer consideration of the requests for capital improvements from Shellharbour City Soccer Club and Oak Flats Cricket Club until further discussions are held with the clubs to consider alternative ways to achieve the requested improvements.
3. That Council resolve to defer consideration of requests for capital improvements to our tennis facilities until an assessment is conducted by Tennis NSW.

11.3 Auction of Surplus & Obsolete Plant & Equipment (8427394)

1098 RESOLVED: Bailey/Jeffreys

That Council approve the disposal of the attached list of surplus and obsolete equipment at the next South Coast Auction to be held on 5 November 2005.

CARRIED UNANIMOUSLY

11.4 Asset Maintenance Proposals - Council's Sportsfields (8427372)

PUBLIC PARTICIPATION

Mr George Stojanovski

Mr Stojanovski declined to speak but asked that Mr Andy Campbell be allowed to speak instead.

Andy Campbell

- Mr Campbell advised that he represents Shellharbour Suns Football Club
- Upgrading of Barrack Heights Oval important to club
- Illawarra Football Association have looked at the ground to see what needs to be done to upgrade to Premier League standard
- Main concern getting ground up to standard
- Need about \$15,000 to upgrade ground
- Fence and paint extra \$20,000 extra

1099 RESOLVED: Rose/Bailey

That Council adopts the proposed 2005/2006 Sportsfield Refurbishment Program as detailed in this report.

12. Community Planning & Strategies Division

12.1 inTheBin Film Festival (8428173)

PUBLIC PARTICIPATION

Sonya McKay

- Film Festivals way for community to have a say
- Event great culturally for area
- Building and park used - considerations should be given to local residents
- Annual indoor festival would be good
- Highlighted Tullimbar, Airport, Lot 100, in her documentary, which was shown in Gerringong to show what can happen to a community.

Councillor Gillett MOVED a POINT of ORDER that Ms McKay was deviating from the subject.

1100 RESOLVED: Briggs/Bailey

That the event proceed as planned.

Councillor Mifsud stated that he was very concerned with the level of intervention by the Deputy Mayor and other Councillors when, he believes the speakers should be allowed to speak without interruption.

12.2 Southern Councils Group Meeting Minutes 9 September 2005 (8428186)

The Director Community Planning & Strategies advised that the Minutes reflect the Mayors' desire to get a consistent approach across all Local Government Areas with regard to the Heart Foundation's recommendation to implement smoke-free recreation areas. The Mayors asked that this issue be placed on the next agenda for the General Managers' meeting for discussion. The Director Community Planning & Strategies advised that he will report back developments to Council.

1101 RESOLVED: Gillett/Stewart

That the Minutes of the Meeting of the Southern Councils Group (9 September 2005) as attached to this report, be endorsed.

13. Shell Cove Business Division

Nil

14. Committee Recommendations

Nil

15. Notices of Rescission Motion

Nil

16. Notices of Motion

Nil

17. Items for Information

1102 RESOLVED: Briggs/Hawker

That the Item for Information be received and noted.

18. Questions without Notice

- 1103 Councillor Stewart** asked the Director Operations & Services whether it is correct that Top Gun don't fly out of Albion Park any more.

The Director Operations & Services advised that the business is not operating one of its aircraft at the moment.

- 1104 Councillor Stewart** asked what landing fees HARS is presently paying.

The Director Operations & Services advised that HARS pay the standard fee that everyone else pays – copy of fees and charges was provided with the budget information earlier this year.

- 1105 Councillor Stewart** said local residents have requested that the carpark at Kingston and Fisher Streets, Oak Flats be tidied up. She also said gardens on the opposite side of the street are overgrown.

- 1106 Councillor Gillett** asked if Council are able to provide population numbers of electors for wards.

- 1107 Councillor Rose** advised that he had received a phone call this morning regarding dogs not on a leash at Little Lake, Barrack Point. The residents complained that this is a regular occurrence before 8.00 am and that they were not able to get assistance at this hour from Council staff.

- 1108 Councillor Rose** advised that a shed at the old golf club is being used inappropriately – syringes left lying around etc. He asked that this be investigated.

- 1109 Councillor Mifsud** asked for advice on the zoning of land next to the sewerage treatment works.

- 1110 Councillor Mifsud** asked that rubbish bins near Shellharbour Swimming Pool be secured so that rubbish cannot be tipped into the pool.

- 1111 Councillor Mifsud** advised that more rubbish has been dumped at the Shallows – building product which could contain asbestos. He asked that the installation of lights be investigated as a deterrent to antisocial behaviour in the area.

- 1112 Councillor Mifsud** asked for approval to work with the Group Manager Corporate Services to find money for funding the cemetery carpark resurfacing in the current budget.

The General Manager initially refused the request but then advised that he would formally get back to him regarding his request.

A heated exchange then followed with repeated interjection by several councillors.

The Deputy Mayor warned Councillor Mifsud to ask questions in Question Time and not make statements.

Councillor Mifsud continued to protest against the Deputy Mayor.

The Deputy Mayor rose to her feet, and Councillor Mifsud ceased speaking. She addressed Councillor Mifsud requesting that he refrain from making further statements and that he show respect for the Chair.

The General Manager addressed the meeting advising that he was making this statement as he could be called to account for his role in the Councillor's behaviour.

He stated that the Chairperson has the absolute right to be treated with deference under the Local Government Act and Code of Meeting Practice and has absolute authority to rule as she sees fit which is then subject to Council's concurrence or otherwise. He reaffirmed the Deputy Mayor's assertion that Question Time is meant to be a time for councillors to ask questions – if concerns are framed as questions they will be addressed.

He explained the rule in the Code of Meeting Practice where if the Chairperson stands all discussion must stop. He warned all Councillors of the need for them to debate and behave in a proper and respectful fashion and not degenerate into a "rabble".

1113 Councillor Bailey asked the Director Operations & Services whether the Constellation aircraft at the airport is damaging the runway.

The Director Operations & Services advised that the runway is designed to cope with aircraft of that type. He added that the runway is designed for the regular use of aircraft up to 25 tonne with the occasional operation of aircraft of a greater weight.

1114 Councillor Briggs asked who was responsible for Woodlands Estate Park and requested that they be asked to clean up the pool in the park which is polluted and full of rubbish. He also requested advice on what is happening with the toilet block which is supposed to have been erected.

1115 Councillor Hawker referred to an article in the Telegraph newspaper about the Planning Minister taking powers from councils for determination of large Development Applications. He asked if the General Manager is aware of how this will effect Council.

The General Manager responded by saying he is aware of Mr Sartor's concern with delays in Councils processing larger strategic projects. The expectation of the new Planning Minister is that approvals should be processed quickly and without delay. Councils have delegated authority only and the Minister will be looking at councils to determine if they are causing unnecessary delays and may take back the delegations if they are. He added he believed the Minister's main concern was a shortage of housing in the Sydney Metropolitan area.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 October 2005

1116 Councillor Hawker said that he is aware of petitions being circulated about the closure of the animal pound. He asked whether Council has approved the closure of the pound.

The Director Operations & Services advised that there has been no resolution of council to close the dog pound. He added that Council will be receiving an options paper on an animal shelter.

1117 Councillor Hawker asked what Council does with other stray animals besides dogs.

The Director Operations & Services advised that at present Council has an arrangement with local vets for cats. Attempts are made to contact the owners of larger animals. The RSPCA is contacted for assistance if the owner of a larger animal is not found.

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

The Deputy Mayor thanked everyone for wearing something pink for National Breast Cancer awareness.

Meeting closed 9.45 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 2 November 2005.

General Manager

Chairperson