

**Minutes of the Ordinary Meeting  
of Shellharbour City Council  
held at the Council Chambers, Warilla  
on Tuesday 24 October 2006 commencing at 7.15 pm**

**Present**

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig 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 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
Group Manager Planning Services	G Hoynes
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Financial Services	P Henderson
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Executive Assistant	L Davey

## **Acknowledgement to Country**

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting.

### **1. Apologies / Leave of Absence**

Nil

### **2. Confidential Business (Committee of the Whole)**

Nil

### **3. Recommendations from Committee of the Whole**

Nil

### **4. Confirmation of Minutes**

#### **4.1 Ordinary Meeting 26 September 2006**

- 491 RESOLVED: Briggs/Hore That the Minutes of the Ordinary Council Meeting held on 26 September 2006 be confirmed as a correct record of proceedings with the following correction to item 12.5 New South Wales Illawarra Regional Strategy to read "Attachment (3)" rather than "Attachment (1)" as indicated in the minutes.

#### **Matters arising from Minutes**

Councillor Rose referred to Item 11.1 in the Minutes from the Council Meeting of 26 September 2006 and asked the General Manager whether he would be remiss to ask the Mayor to show his hand when a matter is being voted on. He indicated that the Mayor's voting was not correct for Item 11.1 and it has not been clear on a few occasions and it is important that votes for and against are clear.

The Mayor responded to Councillor Rose by stating that he was too busy checking on the voting around the room by other Councillors and inadvertently forgot to put his own vote until the end. He admitted that he missed the boat on that occasion and that he will endeavour in future, with the assistance of the General Manager, to keep things clear. The Mayor advised he was not using a casting vote, he was using his vote, and that he had stated clearly the reason. The Mayor apologised and indicated in future he will endeavour to make sure his vote is clear.

Councillor Rose endeavoured to ask another question of the Mayor regarding the proposed business park adjacent to the airport, but the Mayor ruled that this was not business arising and directed that Councillor Rose ask this question during Question Time.

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### 4.2 Extraordinary Meeting 26 September 2006

492 RESOLVED: Briggs/Bailey That the Minutes of the Extraordinary Council Meeting held on 26 September be confirmed as a correct record of proceedings.

### 5. Pecuniary Interest

**Councillor Bailey:** Item 11.1 Barrack Point Shareway (8628840)

**Nature of Interest:** Councillor Bailey owns a property in the Barrack Point area.

See also Minute No.500 with respect to Councillor Hawker.

**Councillor Hawker:** Item 11.5 Auction of Surplus and Obsolete Plant & Equipment (8623293)

**Nature of Interest:** Councillor Hawker is auditor of the Albion Park Oak Flats Junior and Minor Rugby League Football Club.

### 6. Condolences

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

Arthur Warren Turner	of	Albion Park
William James Lewis	of	Albion Park
Colin Hedley Muston	of	Albion Park
Donald (Don) Sawyer	of	Albion Park
Everdina (Dinni) Ebens	of	Albion Park Rail
Alan Neil Warburton	of	Albion Park Rail
George Lewis Rudd	of	Albion Park Rail
Edgar Price	of	Barrack Point
Daphne Elsie Gottaas	of	Blackbutt
Stefania Kazman	of	Flinders
Craig Whitby	of	Lake Illawarra
Lesley Kerr (nee Tynan)	of	Lake Illawarra
Baby Haiden Heferen	of	Lake Illawarra
David William Allsopp	of	Oak Flats

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Inge Hofer	of	Oak Flats
Frank Vinckx	of	Oak Flats
Michael Peter Barnes	of	Shellharbour
Harold Ronald DuMughn	of	Warilla
Dorothy June Metcalfe	of	Warilla

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

### **7. Presentations**

Councillor Bird advised that the Illawarra Aboriginal Koori Men's Support Group were awarded the Community Organisation of the Year at the recent NSW Local Government Aboriginal Network Conference in Gunnedah. The Koori Men's Group were nominated for their good work in the following areas: being good role models for men/boys, their preventative programs, their programs against domestic violence/sexual abuse, culturally appropriate interventions for juvenile offenders.

Councillor Bird advised that he was very pleased that the Koori Men's Group received the award as Aboriginal men receive a lot of negative publicity. Uncle Gerald Brown was sponsored by Council to attend the Aboriginal Network Conference and received the award on behalf of the Koori Men's Group. The meeting acknowledged the achievement by acclamation. The award was displayed for the duration of the Council Meeting.

### **8. Mayoral Minutes**

Nil

### **9. Councillors' Reports**

Nil

### **10. General Manager's Office**

#### **10.1 Annual Financial Reports (8627253)**

Mr Warren Shanks of KPMG gave a verbal report to Council on the two formal reports contained in the business paper.

Councillor Mifsud asked a number of questions particularly in regard to the Shell Cove golf course and a number of these were taken on notice.

494 RESOLVED: Hawker/Bailey

That the 2005/2006 Financial and Audit Reports be adopted.

## **10.2 Christmas/New Year Closure of Council Operations (8629116)**

495 RESOLVED: Stewart/Jeffreys

That this report be received and noted, including the closure of Council Library services.

## **11. Operations & Services Division**

### **11.1 Barrack Point Shareway (8628840)**

Note: Councillor Bailey declared an interest in Item 11.1 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

MOTION: Mifsud/Rose

That Council adopt Option 4 as the route for the Barrack Point Shareway.

Councillor Hore FORESHADOWED a MOTION

1. That the Council reaffirm its previous resolution and approve a shareway to be constructed at Barrack Point as per the current proposal (route marked as Option 1 on the attached map).
2. That construction work resume at Barrack Point.
3. That the Council confirm resident contributions referred to in the report to the Council on 13 June 2006 and that these contributions be levied, on the basis of an equivalent 1.2m wide footpath, in accordance with Council's Fees & Charges, that have previously been adopted by Council via the Budget Process, and in accordance with the provisions contained in the *Roads Act*.
4. If the construction of the shareway causes residents financial hardship then Council to make other arrangements to lessen the burden and will notify residents of that option.

The MOTION on being PUT to the Meeting was LOST (3/8).

496 The FORESHADOWED MOTION was formally Moved by Councillor Hore, seconded by Councillor Leedham and on being PUT to the Meeting was CARRIED.

Councillor Bailey here returned to the Chamber.

**11.2 Lake Illawarra Authority - Entrance Works (8628866)**

Councillor Jeffreys asked that the comment during public participation on the surplus that the Lake Illawarra Authority has in its account be clarified. The Director of Operations & Services responded that the surplus referred to is funds already committed to current contracts.

A question was also raised if the State Government is matching the amounts being allocated by Shellharbour and Wollongong Councils. The Director of Operations & Services responded that the State Government is providing 50%, with Shellharbour and Wollongong Councils providing 25% each.

Councillor Mifsud asked for an explanation as to why the spreadsheet "Tag A" seems to have been omitted from the attachment. Arthur Webster responded that a more detailed spreadsheet was provided, but as it is summarised in the information provided, he believed that this would be adequate. Councillor Mifsud indicated that he would like to have the more detailed information.

During debate Councillor Mifsud stated that Council would be irresponsible to vote this money. The Mayor asked Councillor Mifsud to retract that statement. Councillor Mifsud retracted this statement at the request of the Mayor.

During debate, Councillor Mifsud MOVED a POINT OF ORDER against Councillor Hawker stating that Councillor Hawker was mentioning the Federal Government in the debate. The Mayor overruled Councillor Mifsud's point of order as Councillor Hawker was talking about the State and Federal Governments' cost shifting to Local Government.

During further debate, Councillor Hawker MOVED a POINT OF ORDER against Councillor Mifsud who was questioning a response provided by the Director of Operations & Services. Debate continued.

Councillor Mifsud MOVED a POINT OF ORDER against Councillor Leedham during his mover in reply's speech. The Mayor upheld the point of order.

Councillor Jeffreys asked that it be clarified if the \$400,000 to be paid is on top of the \$1M paid. The Director of Operations & Services confirmed this.

During debate several questions were asked about procedural issues and the Mayor explained the rules of debate stating that Councillors could not ask questions after the right of reply has been taken as the right of reply closed the debate.

Also, the General Manager stated that the need to adhere to the rules of debate was an issue highlighted by the Department of Local Government Inspectors in the Local Government Promoting Better Practice Report.

497 RESOLVED: Leedham/Hore

That the Council commit to its share of the additional costs by amending its current budget and allocating \$220,000 from reserves and further refer the allocation of a further \$217,500 for consideration in its 2007/2008 budget.

(CARRIED 9/3, 1 abstention)

**11.3 DA No. 459/2006 - Lot 25, DP 4149, 37 Wollongong Street, Shellharbour - Demolition of Dwelling & Associated Structures, Construction of an Integrated Housing Development & Three Lot Torrens Subdivision (8626842)**

498 RESOLVED: Rose/Mifsud

That the Council approve Development Application No. 459/2006 for the demolition of a dwelling and associated structures and the construction of an integrated housing development and three lot torrens subdivision at Lot 25, DP 4149, 37 Wollongong Street, Shellharbour, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 72 conditions following the conclusion of this report with the amendment to Condition 62 to require widening of the laneway for the full width from the existing driveway of House No. 35 along the laneway as far as the end of the access into the proposed Unit No. 2 at 37 Wollongong Street, Shellharbour.

**11.4 Proposed Realignment of Part Calderwood Road, Albion Park (8628382)**

499 RESOLVED: Hawker/Briggs

That this matter be deferred for a Councillor and appropriate staff inspection of the subject site. Further that the residents be invited to the inspection in this instance.

**11.5 Auction of Surplus and Obsolete Plant & Equipment (8623293)**

The debate of this matter included discussion on the Albion Park Oak Flats Junior and Minor Rugby League Football Club. Councillor Hawker declared an interest at that point as he is the auditor of the Albion Park Oak Flats Junior and Minor Rugby League Football Club and left the Chambers at 8.55 pm whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Councillor Greig asked a question about responsibility once equipment is donated to an organisation. The General Manager took this question on notice and advised that he would follow this up.

500 RESOLVED: Bailey/Jeffreys

1. That Council donate a secondhand blower, brush cutter, band saw and two utility mowers to the Koori Mens Group to maintain Council's property at Wilga Close, Albion Park Rail.
2. That the Council approve the disposal of the attached list of surplus and obsolete equipment at the next South Coast Auction to be held on 4 November 2006.
3. That Council delegate authority to the General Manager to consult with the Albion Park Oak Flats Junior and Minor Rugby League Football Club with a view to

possibly providing them with reasonable assistance with any equipment they may require.

**11.6 Renewal of licence with NSW Department of Education & Training (8628557)**

Councillor Hawker here returned to Chambers.

501 RESOLVED: Bailey/Hore

1. That Council renew the licence agreement with the NSW Department of Education and Training for the occupation of Part Lot 23 DP 558774 Trumper Street, Warilla for a five year period at a rental of \$160.00 plus GST per annum.
2. That the Seal of Council be affixed to the licence agreement with the NSW Department of Education & Training for the occupation of part Lot 23 DP 558774 Trumper Street, Warilla.

**11.7 Affixing of Council Seal to the Licence Agreement with the Minister of Lands (8627337)**

During debate Councillor Bailey MOVED a POINT OF ORDER stating that Councillors were "waffling" and should make their speeches short and to the point.

Councillor Greig took exception to Councillor Bailey's point of order. The Mayor overruled the point of order.

Councillor Hawker MOVED a POINT OF ORDER on Councillor Bailey continuing to interrupt debate and stated that this was an example of how Councillors were delaying debate.

The Mayor warned Councillors in regard to their behaviour. He reprimanded them and asked them to wait until he had read an item heading before moving and seconding a motion and not interrupt other Councillors during debate

502 RESOLVED: Bailey/Leedham

That Council resolve to affix the Seal of Council to the licence agreement with the Minister for Lands for occupation of Crown land below mean high water mark adjoining Lot 45 DP 23239, Warilla.

**11.8 Proposed sale of portion of land from Lots 1, 2 & 3 DP 247053 Eastern Avenue, Shellharbour (8508455)**

503 RESOLVED: Rose/Mifsud

1. That Council resolve to negotiate the sale of land to Mr A & Mrs J O'Shea for the 15.24sqm of Council owned land at the rear of 91 Wentworth Street, Shellharbour at a value of \$2,500.00.
2. That Council resolve to negotiate the sale of land to Mr N Cook for the 15.24sqm of Council owned land at the rear of 89 Wentworth Street, Shellharbour at a value of \$2,500.00.
3. That Council resolve to negotiate the sale of land to Mr P Wells for the 15.24sqm of Council owned land at the rear of 87 Wentworth Street, Shellharbour at a value of \$2,500.00.
4. That the Seal of Council be affixed to all necessary documentation associated with the sale of the land.

**12. Community Planning & Strategies Division**

**12.1 Request to contribute to funding for a local Crime Prevention Van (8622387)**

504 RESOLVED: Gillett/Jeffreys

That Council resolves to support a one-off contribution of \$5,000 towards the purchase price of a dedicated Crime Prevention Van to be operated by NSW Police in the Lake Illawarra Local Area Command, and that the funding for this item be identified in the upcoming September Quarterly Budget Review.

**12.2 Laneway between Kingston and Griffiths Streets, Oak Flats (8628573)**

Councillor Greig asked that in future, if possible, could Councillors please be given a copy of the questions asked in surveys.

Councillor Jeffreys MOVED a POINT OF ORDER against Councillor Gillett during her discussion regarding antisocial behaviour. The Mayor upheld the point of order and Councillor Gillett withdrew her comments and stated she was not referring to a Councillor.

Councillor Bailey MOVED a POINT OF ORDER against Councillor Gillett stating that Councillor Gillett was assuming that everyone who walks in the subject laneway is fit. The Mayor did not accept the point of order and stated that Councillor Gillett was entitled to give her opinion.

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MOTION: Stewart/Mifsud

That Council not approve the closure of the laneway between Kingston and Griffiths Streets, Oak Flats.

Councillor Gillett FORESHADOWED a MOTION:

1. That Council resolves to close the laneway forthwith between Kingston and Griffiths Streets, Oak Flats and to lease it as a whole or in parts to appropriate lessees, with the details of the lessees to be reported back to Council for final approval.
2. Further that Council investigate a proposal to construct a footpath on the western side of David Avenue and report back to Council.

The MOTION on being PUT to the Meeting was LOST (5/7)

505 The FORESHADOWED MOTION then became the MOTION moved by Councillor Gillett and seconded by Councillor Bird and was subsequently CARRIED (Councillors Rose, Bailey, Mifsud, Stewart against).

Councillor Briggs left the Chambers 9.25 pm

Councillor Jeffreys left the Chambers 9.33 pm

### **13. Shell Cove Business Division**

Nil

### **14. Committee Recommendations**

#### **14.1 Recommendations from the Traffic Committee Meeting held 4 October 2006 recommended for adoption.**

Councillor Briggs returned to Chambers at 9.34 pm

Councillor Jeffreys returned to Chambers 9.35 pm

506 RESOLVED: Greig/Rose

That the Recommendations from the Traffic Committee Meeting held 4 October 2006 be adopted.

### **15. Notices of Rescission Motion**

Nil

**16. Notices of Motion**

Nil

**17. Items for Information**

**17.1 Alcohol-free zone designations (8622868)**

**17.2 Dog Microchip Implant Day (8628796)**

**17.3 Investments (8630308)**

507 RESOLVED: Briggs/Bailey

That Council receive and note the items for information.

**18. Questions without Notice**

**508 Councillor Stewart** referred to the Local Government Conference motion about compulsory desexing of cats. She asked that the voting delegates support this at the Local Government Conference to be held next week.

**509 Councillor Stewart** asked if there is S94 money owing from the Shell Cove Project.

The Director of the Shell Cove Business Unit stated that S94 is paid with each lot that is constructed.

**510 Councillor Stewart** asked if Council is anywhere near starting the median near the Railway Station at Oak Flats.

**511 Councillor Stewart** stated that there is a strong rumour going around that Council has initiated investigations into the community web site.

The Mayor stated that Council would not be commenting on this as it was following a Council resolution.

**512 Councillor Jeffreys** stated that it was good to see that the streetscape work has commenced in Oak Flats. She stated that one of the seats has been placed too close to the Post Office mail box and is obstructing the post van when accessing the post box and asked whether it could be moved.

**513 Councillor Jeffreys** asked that in the interests of attracting employment to Shellharbour City, that our Economic Development Advisory Committee lobby peak industries to set up business in the existing empty commercial areas within our City.

**514 Councillor Jeffreys** stated that some time ago she had contacted Council's Manager Development Services, Mr Graham Mitchell regarding the development over shops at Oak Flats and she would follow this up again with him.

**515 Councillor Jeffreys** asked if it would be possible to recommend that Councillors limit their speaking time to 3 minutes as per public participation.

The General Manager stated that the Council's Code of Meeting Practice gives Councillors 5 minutes to speak.

The Mayor advised that if Councillors so wished he would monitor the length of speeches.

**516 Councillor Leedham** stated that he was organising a site inspection of the Lake Entrance for any interested Councillors some time next week. He stated that he would liaise with the Councillor Liaison Officer to organise this inspection.

- 517 Councillor Rose** stated that he had asked a question at the last Council Meeting about the condition of Veronica Street near the entrance to Warilla Grove.

The Director of Operations & Services stated that this issue was being investigated and that it was included in Council's Road Maintenance Program.

- 518 Councillor Rose** stated that he had received an enquiry from the Albion Park Oak Flats Junior and Minor Rugby League Football Club asking where the football shed was up to. The Director of Operations & Services stated that this was still going through Council's insurance process.

- 519 Councillor Rose** asked who would be responsible for any damage to the runway caused by the incident a few weeks ago where a plane failed to land on its wheels.

The Director of Operations & Services stated that any damage would be paid by the owner of the plane through their insurance coverage.

- 520 Councillor Rose** requested that the General Manager answer the following questions in relation to the proposed business park adjacent to the airport which has been the subject of media publicity recently:

- who provided Council's in principle support to this proposal?
- will there be a joint venture between the business owner and Council?
- could he please define the Mayor's role as per the Local Government Act.

The Mayor stated that he would answer the questions relating to his actions with the media as per his mayoral duties and the General Manager will answer any legal question. He stated that he would be remiss not to reply to this question and drew attention to Council's business paper and minutes of its meeting on 26 September 2006 where it was moved by Councillor Briggs and seconded by Councillor Jeffreys that the report prepared by Mr Geoff Hoynes, Council's Group Manager Planning Services, be adopted. He read out sections of the report which stated that Council was supportive of economic development and growth, the Airport and the Albion Park employment lands. He stated that he was following Council's resolution when answering questions from the media.

The General Manager defined the role of the Mayor as stated in the Local Government Act. He stated that the Mayor is accountable to Council, however, each Mayor has his own particular style. The General Manager is the Chief of Administration Offices under the Local Government Act with the statutory responsibility of the Council administration and the Mayor had no role in this under the Act.

The General Manager also stated that there is no joint venture between Council and the proposed business park owner.

Councillor Mifsud then asked a question in regard to the Mayor's role and performance.

Councillor Hawker MOVED a POINT OF ORDER against Councillor Mifsud and stated that Councillor Mifsud was repeating the questions asked by Councillor Rose and it appears to be a witch hunt against the Mayor and suggested that these types of questions would be best answered by making an appointment to see the Mayor directly.

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Councillor Mifsud MOVED a POINT OF ORDER on Councillor Hawker's point of order and stated that he took offence to Councillor Hawker's comments.

Councillor Mifsud was advised that he cannot move a point of order on a point of order. The Mayor ruled this as out of order and stated that Councillor Hawker was entitled to his opinion

Several Councillors indicated that question time was set up for Councillors as an avenue to provide verbal requisitions for urgent works to be noted and should not be used to address these type of issues. Councillor Mifsud stated that the Mayor could take these questions on notice. The Mayor replied by stating that he would agree to meet with Councillor Mifsud if he wished.

**521 Councillor Mifsud** asked when the work will start at Shellharbour Cemetery and could it be completed before Christmas.

**522 Councillor Mifsud** stated that some time ago he had requested a site meeting in regard to Mr Ron Costello's property and requested advice as to when this meeting will be held. The Director of Operations & Services stated that he did reply to this requisition with regards to the process.

**523 Councillor Mifsud** asked how much work has been done for asset maintenance and does it look like Council will be fulfilling its obligation for this financial year.

The Director of Operations & Services stated that a report was presented to the last Council Meeting as to progress.

**524 Councillor Mifsud** requested advice as to whether Councillor mobile phone accounts were being monitored.

The Mayor advised that the account staff process the accounts as per Council's policy.

**525 Councillor Bailey** stated that several street signs in Mount Warrigal were removed and requested that this be investigated with a view to replacing them.

**526 Councillor Bailey** stated there are reports of rats behind the shops on the Princes Highway, Albion Park Rail and asked for this to be followed up.

**527 Councillor Briggs** stated that the closed section of Industrial Road had not yet been renamed and could this be followed up.

**528 Councillor Hawker** advised that the street lights opposite Mt Terry Public School have never been fixed and requested this be followed up.

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**529 Councillor Hawker** advised that there are street lights in Daintree Road, Albion Park that are not working and requested that this be followed up.

**530 Councillor Hawker** advised that the 40 km speed sign outside St Josephs School in Church Street, Albion Park is missing and asked could this be replaced.

**531 Councillor Hawker** referred to an article in the Local Government Weekly regarding the Water Savings Fund and requested that Council staff investigate whether any of Council's projects would qualify for this fund.

**532 Councillor Greig** asked what the rule was when Councillors abstain from voting as it was happening quite a bit lately.

The General Manager replied that when a Councillor abstains from voting it was a vote taken in the negative and it would be important to note this if the vote was very close. He stated that any abstention should be made clear as it made counting the votes difficult at Council Meetings.

**533 Councillor Stewart** passed on thanks from the owners and staff of Contours Express for Council's assistance with the charity breakfast held recently.

**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 14 November 2006

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General Manager

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Chairperson