

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 13 November 2007

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 13 November 2007 commencing at 5.15 pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig (Part - arrived 7.17pm) Councillor T Hawker (Part - arrived 7:20pm)
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 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 Macquire
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Public Relations Coordinator	A Baltovska
Executive Assistant	D Arney
Executive Assistant	J Frasca

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

Ordinary Council Meeting

No apologies were tendered.

2. Confidential Business (Committee of the Whole)

In accordance with the *Local Government Act 1993*, and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

Set out below is Section 10A(2) of the Local Government Act 1993, in relation to Confidential Business:

10A(2) Which parts of a meeting can be closed to the public? The matters and information are the following:

- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayer;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law;
- (f) matters affecting the security of the council, councillors, council staff or council property;
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

CONFIDENTIAL ITEMS

2.1 Tender 2007/35 - Design, Supply and Installation of Two Gross Pollutant Traps - Reddall Reserve, Lake Illawarra (8814407)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(d) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it.

Tender details, should they be revealed may result in commercial disadvantage to parties involved in the tendering process. Some information provided to Council by tenderers is provided on the basis that Council will treat it as commercial in confidence.

It is not in the public interest to reveal all details of these Tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to Council's decision.

2.2 Tenders for appointment of External Auditor (8816007)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(g) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

This item has been classified as confidential as Council will be required to discuss material that is subject to legal professional privilege.

This item, if discussed in the Open Meeting of Council, would be contrary to the public interest for the reasons that the discussion will include matters subject to legal privilege and the attachment to this report relates to privileged legal advice.

2.3 Questions by Cr Briggs (8811417)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(e) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (e) information that would, if disclosed, prejudice the maintenance of law

This report contains legal advice, which is legally privileged information and initially must be considered by Council and Council can then decide as to whether it wishes to make the information public. It also contains matters of legal strategy.

2.4 Proceedings before Council's Conduct Committee (8807577)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(e) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (e) information that would, if disclosed, prejudice the maintenance of law

This report deals with Conduct Committee issues and publication may prejudice the legal rights of Council and Councillors.

556 RESOLVED: Rose/Mifsud

1. That Council resolve into Committee of the Whole (in Confidential Session) to consider the above business as listed, together with any late reports tabled at the meeting.
2. That pursuant to Section 10A(1-3) of the *Local Government Act 1993*, the press and public be excluded from the proceedings on the basis that the business to be considered is classified confidential under the provisions of Section 10A(2) (d)(i), (e) & (g) of the Act as outlined above.
3. That the correspondence and reports relevant to the subject business be withheld from access to the press and public in accordance with Section 11(2) of the *Local Government Act 1993*.

Meeting adjourned at 6:47 pm

Meeting resumed at 7:20 pm

3. Recommendations from Committee of the Whole

The following Recommendations to Council from the Committee of the Whole Council (confidential) were read to the Meeting by the General Manager.

2.1 Tender 2007/35 - Design, Supply and Installation of Two Gross Pollutant Traps - Reddall Reserve, Lake Illawarra (8814407)

COMMITTEE RECOMMENDATION:

1. That the Council award the tender for the design, supply and installation of two gross pollutant traps at Reddall Reserve, Lake Illawarra to Cato Constructions Pty Ltd at the tendered price of \$106,550 excluding GST.
2. That the project be funded from 'Pur Pur Bay Swimming Area Stormwater Improvements' allocation.
3. That the budget be amended accordingly.

2.2 Tenders for appointment of External Auditor (8816007)

COMMITTEE RECOMMENDATION:

1. That the tender submitted by KPMG (Wollongong) for the provision of external audit services for the period from 1/07/2007 to 30/06/2013 be accepted, at the quoted tender price of \$49,000 p.a., indexed and exclusive of GST.
2. That the two other tenderers, Pitcher Partners and Spencer Steer be advised of Council's decision and thanked for their tender proposals.
3. That this report and the attached legal advice be released into Open Council following the resolution of this matter.

2.3 Questions by Cr Briggs (8811417)

COMMITTEE RECOMMENDATION:

That the legal Report and advice be received, noted and released to the public.

2.4 Proceedings before Council's Conduct Committee (8807577)

COMMITTEE RECOMMENDATION:

That the report be received and noted and that council take no further action in the matter, that Council pay the subject Councillor's full costs in the matter.

557 RESOLVED: Hore/Briggs.

That the Recommendations to Council from the Committee of the Whole Meeting held earlier today be adopted.

Councillor Greig declared that as she was not present at Committee of the Whole she could not vote and requested that this be recorded.

CARRIED UNANIMOUSLY

Councillor Greig abstained from voting

4. Confirmation of Minutes

4.1 Ordinary Meeting 16 October 2007

Councillor Greig asked if the wording of Minute No 555 was a summary of what she had said only, as she did not recall the term "complexity of issue" being mentioned by the General Manager.

The General Manager advised that his recollection was that he did indeed use the term "complexity of issue".

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Councillor Stewart requested a slight alteration to Minute No 532. She stated that she had asked for permission, if it was advisable, if she could prepare a report on the success of the Dogs Day Out, not that she was preparing a report.

558 RESOLVED: Gillett/Briggs That the Minutes of the Ordinary Council Meeting held on 16 October 2007 be confirmed as a correct record of proceedings subject to the alteration to Item 11.8 as outlined in the memo from the General Manager, noting that Councillors Gillett and Briggs should have been recorded as declaring an interest in the item and therefore did not vote, and the alteration requested by Councillor Stewart with respect to Minute No 532.

CARRIED

For Vote - Cr Hamilton, Cr Greig, Cr Hawker, Cr Briggs, Cr Bailey, Cr Mifsud, Cr Bird, Cr Gillett, Cr Leedham, Cr Hore, Cr Jeffreys, Cr Stewart
Against Vote - Cr Rose

5. Pecuniary Interest

Note: Councillors who declare a Pecuniary Interest at the Council Meeting are also required to complete a Pecuniary Interest Declaration form.

Councillor Hawker: Item 11.15 Lease to Advance Finance & Investments Pty Ltd - Shop 134a Lamerton House, Shellharbour City Centre

Nature of Interest: Councillor Hawker advised that the business was similar to his own.

Councillor Stewart: Item 8.2 - Mayoral Minute - Letter from the Department of Local Government

Nature of Interest: Councillor Stewart is alleged to have leaked confidential material.

Councillor Rose: Item 8.2 Mayoral Minute - Letter from the Department of Local Government

Nature of Interest: Councillor Rose is alleged to have leaked confidential material.

Councillor Briggs: Item 8.2 Mayoral Minute - Letter from the Department of Local Government

Nature of Interest: Councillor Briggs has previously declared an interest as he is a close friend of Mr Cicolini, who is accused of having leaked confidential council material.

Councillor Hamilton: Item 2.4 Proceedings before Councils Conduct Committee

Nature of Interest: Conflict of interest as member of Conduct Committee.

6. Condolences

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

Mr Wayne Rodney Hynds	of	Albion Park
Baby Nathaniel Luke Giggins	of	Albion Park
Mr Michael Terrence (Terry, Choppy) Knell	of	Albion Park
Mrs Uliana Genz	of	Barrack Heights
Mr Gary Alan Fulton	of	Blackbutt
Mrs Beryl Emily Jeffries	of	Blackbutt
Mr John Joseph Smith	of	Calderwood
Mr Peter Sheehan	of	Lake Illawarra
Mr William Ernest (Ernie, Bill, Mick) Monaghan	of	Lake Illawarra
Mrs Gloria Jean Hewitt	of	Mt Warrigal
Mrs Maria Barboza	of	Mt Warrigal
Mrs Ingeborg Bosch	of	Oak Flats
Mr James Paterson	of	Oak Flats
Mrs Gladys Ada Little	of	Shellharbour
Mr Anton (Tony) Gorog	of	Shellharbour
Mr Michael (Mick) Healey	of	Warilla
Mr Joseph Wainwright	of	Warilla
Mrs Cheryl Diane Cook	of	Warilla
Mr Raymond Thomas (Ray)	of	Warilla
Mrs Valerie Dawn Jackson	of	Warilla

559 A Motion of condolence was passed by all present standing for one minute's silence.

7. Presentations

Mayor read out a list of awards received by Council, outlined below:

- Friendly Beach Award and the Water Conservation Award categories for Shellharbour North Beach
- The Water Conservation Award
- Community Partnership and Action Award
- Overall Clean Beach Award

8. Mayoral Minutes

8.1 NSW State Government Library Funding - Proposed Day of Action (8817008)

In response to a question to Councillor Briggs the Mayor advised that the Statement was a joint statement from the Southern Councils Group.

MOTION: Briggs/Rose That Council receive and note the recommendation with an amendment to paragraph 3 of the petition preamble, to petition the local State and Federal Members for more funding to libraries in Shellharbour.

Councillor Mifsud MOVED a POINT of ORDER against Councillor Hawker that by his comments he was turning this into a political argument.

Councillor Jeffreys MOVED a POINT of ORDER that the debate return to the Motion.

The Mayor directed that all speakers stick to the subject matter.

Councillor Bird FORESHADOWED a MOTION that Council Receive and Note the recommendation, and lobby the State Government for more funds for libraries.

Councillor Hawker asked if Councillor Bird would consider removing the section from the petition that states: "bring to the attention..."

Councillor Bird stated that he would not consider the amendment.

Councillor Rose moved that MOTION be PUT

Councillor Hawker MOVED a POINT of ORDER that Councillor Rose could not do that because he seconded the motion.

The Mayor allowed the Point of Order.

The MOTION on being PUT to the Meeting was LOST 6/7

For Vote: Stewart, Leedham, Rose, Mifsud, Briggs, Greig
Against: Jeffreys, Hore, Bird, Bailey, Hamilton, Gillett, Hawker

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The FORESHADOWED MOTION was then moved by Councillor Bird and seconded by Councillor Gillett and on being PUT to the Meeting was LOST 6/7

For Vote: Bird, Jeffreys, Hore, Bailey, Hamilton, Gillett

Against Vote: Stewart, Greig, Mifsud, Rose, Briggs, Leedham, Hawker

560 Both the MOTION and the FORESHADOWED MOTION LAPSED.

8.2 Letter from the Department of Local Government (8819451) - LATE REPORT

Note: Councillors Stewart, Rose and Briggs declared an interest in Item 8.2 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

The General Manager read to the Council a letter that had been received by the Mayor from the Minister for Local Government late today.

561 RESOLVED: Bird/Jeffreys

That Council endorse the Mayor's actions in replying to the letter from the Director General and adopt the actions (1-6) proposed in his letter of reply.

CARRIED UNANIMOUSLY

Councillors Stewart, Rose and Briggs here returned to the chamber

9. Councillors' Reports

Nil

10. General Manager's Office

10.1 Management Plan Quarterly Review, July - September 2007 (8816829)

562 RESOLVED: Bird/Briggs

That the report be received noted and endorsed.

CARRIED UNANIMOUSLY

10.2 September 2007 Quarter Budget Review (8814268)

563 RESOLVED: Hawker/Bailey

1. That Council adopt the September 2007 Quarter Budget Review with all new items as contained in this report. This will result in a revised budget deficit for the year ended 30 June 2008, of \$452,652.
2. That the Grants listed in the new items section of this report be accepted.

CARRIED UNANIMOUSLY

10.3 Call for Extraordinary Confidential Meeting of Council to undertake governance training (8803725)

564 RESOLVED: Hawker/Briggs

That an Extraordinary Meeting of Council in Confidential Session be held to consider Council's level of governance and hold governance training. Further, that Council's Conduct Committee chairman, the nominee of the Director General of the Department of Local Government and Council's legal advisors be invited to attend the meeting. Further, that the General Manager invite a representative from the ICAC to attend.

CARRIED UNANIMOUSLY

Matter Arising

MOTION: Briggs/Greig That the General Manager seek advice as to whether it is permissible to bypass Conduct Committee and take allegations directly to the Extraordinary Council Meeting to be held in confidential session to consider Council's level of governance and hold governance training and if permitted, seek approval to do so from persons who have been complained about.

Councillor Jeffreys asked the mover if he would consider adding that there could be separate meetings with a mediator.

The Mover accepted the amendment

565 The MOTION on being PUT to the Meeting was CARRIED 12/1

For Vote: Cr Hamilton, Cr Greig, Cr Hawker, Cr Briggs, Cr Bailey, Cr Mifsud, Cr Rose, Cr Bird, Cr Gillett, Cr Leedham, Cr Jeffreys, Cr Stewart
Against Vote: Councillor Hore

10.4 Christmas/New Year Closure of Council Operations (8805686)

566 RESOLVED: Bailey/Rose

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

CARRIED UNANIMOUSLY

11. Operations & Services Division

11.1 Section 96 Application - DA No. 540/2006 (Pt 2) - Lot 2, DP 21994, 6 Wollongong Street, Shellharbour - Amendment to Consent to Allow for Onsite Drainage System in Lieu of Easement (8808450)

567 RESOLVED: Rose/Mifsud

That Council receive and note the report.

CARRIED UNANIMOUSLY

11.2 DA No. 632/2007 - Proposed Use of Office Space in Hangar One of Aerospace Training Service t/as AMC & for Helicopter Joy Flights & Charter Operations & Signage at Illawarra Regional Airport (8807953)

MOTION: Rose/Stewart That this item be deferred until a new Environmental Impact Study is completed and details of what licences are required by the operators are reported back to council.

Councillor Gillett FORESHADOWED a MOTION That:

A) The Council approve Development Application No. 362/2007 for the use of Hangar 1, DP 1092398, for administration of helicopter joy flights and charter operations from the Illawarra Regional Airport at 32 Airport Road, Albion Park Rail, under Section 80 of the Environmental Planning and Assessment Act, 1979, as amended, subject to the 10 conditions following the conclusion.

Further that the following conditions be included:

- i) The use of hangar 1 for the administration of helicopter charter operations and joy flights from the Illawarra regional airport is limited to an initial consent period of 12 months. The consent period will commence from the date of the first flight and if after this 12 month period, it is intended that the use of the hangar space is to continue, a Section 96 application, together with relevant fees must be lodged with, and determined by council, prior to the expiration of this consent.
- ii) Joy flights or charter flights are not permitted prior to 10:00 am on Sundays
- iii) Joy flights or charter flights are not permitted on Christmas Day, Anzac Day or Good Friday

B) Reports be provided at each meeting of the Airport Working Party following commencement of flights and a similar report be provided to Council in 12 months, or with any application to extend the consent period.

The MOTION on being PUT to the Meeting was LOST 4/9

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FOR VOTE - Cr Briggs, Cr Mifsud, Cr Rose, Cr Stewart

AGAINST VOTE - Cr Hamilton, Cr Greig, Cr Bailey, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham, Cr Jeffreys, Cr Hawker,

568 The FORSHADOWED MOTION then became the Motion, was seconded by Councillor Bird and on being PUT to the Meeting was CARRIED 10/3

FOR VOTE - Cr Hamilton, Cr Greig, Cr Hawker, Cr Briggs, Cr Bailey, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham, Cr Jeffreys

AGAINST VOTE - Cr Mifsud, Cr Rose, Cr Stewart

Matter Arising

Councillor Stewart requested that she be given all noise complaints received so that she can monitor them.

569 RESOLVED: Hore/Jeffreys That Council carry out a noise survey after the first flight starts and report back to Council.

CARRIED UNANIMOUSLY

11.3 DA No. 281/2007 - Two Storey Dwelling with Garage and Water Tank, Lot 45, DP 854422, 14 Penrose Street, Blackbutt (8814577)

The Mayor here left the chamber. Councillor Greig took the chair.

570 RESOLVED: Bailey/Hore

That the Council approve Development Application No. 281/2007 for a two storey dwelling with garage and water tank at Lot 45, DP 854422, 14 Penrose Street, Blackbutt, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 38 conditions following the conclusion.

CARRIED UNANIMOUSLY

11.4 DA No. 339/2007 - Lot 302, DP 849257, 48 Shearwater Boulevard, Albion Park Rail - Boundary Fencing, Shed, General Agriculture & Variation to 88B Instrument (8815084)

571 RESOLVED: Jeffreys/Bird

1. That Council resolve to release Item (a) of the Terms of the Restriction thirdly referred to in the Instrument created pursuant to Section 88B of the *Conveyancing Act 1919* accompanying DP 849257, subject to all costs being borne by the applicant.
2. That the Council approve Development Application No. 339/2007 for land use approval of boundary fencing, construction of boundary fencing & shed, use of land for general agriculture & variation to 88B Instrument at Lot 302, DP 849257, 48 Shearwater Boulevard, Albion Park Rail under Section 80 (3) (Deferred

Commencement) of the *Environmental Planning & Assessment Act 1979* subject to the 30 conditions following the conclusion.

CARRIED UNANIMOUSLY

11.5 Forward Program for Capital and Stormwater Service Charge Works (2008/2011) (8806692)

572 RESOLVED: Briggs/Leedham

1. That the Council adopts the draft three year citywide Forward Capital Works Program, the Main Roads Network and the Stormwater Service Charge Program, 'Attachment 1', 'Attachment 2' and 'Attachment 3', subject to any future amendment in conjunction with the annual review of the Program.
2. That the 2008/2009 Capital Works Program and Main Roads Network comprising those projects listed in the three year 2008/2011 Forward Capital Works Program be approved.
3. That the projects included in the Program, which do not have 100% funding be staged or deferred as appropriate.
4. That the 2008/2009 Stormwater Service Charge Program comprising those projects listed in the three year 2008/2011 Forward Stormwater Service Charge Program be approved.
5. That the 2008/2011 Capital Works Program, Main Roads Network and Stormwater Service Charge Program, be included in the draft budget for consideration by the Council at its extraordinary meeting early next year.
6. That any increase in the Financial Assistance Grant (Roads Component) for 2008/2009 be allocated to offset jobs in the Capital Works Program currently funded from general revenue.

CARRIED UNANIMOUSLY

The Mayor here returned to the chamber.

11.6 Albion Park Traffic Study - Public Exhibition (8814045)

573 RESOLVED: Hawker/Greig

1. That exhibition of the Albion Park Study be deferred
2. Council resolve, in line with its policy on the Tripoli Way extension being constructed in a single stage that prior to the exhibition of the Albion Park Traffic Study, to make a formal request to the Minister for the lifting of the heritage order on the old Albion Park dairy in Calderwood Road as a matter of urgency.
3. That pending advice from the Minister a further inspection of the sites in question be arranged.

CARRIED 10/3

For Vote: Hamilton, Hawker, Greig, Briggs, Bailey, Gillett, Bird, Hore, Leedham, Stewart
Against Vote: Rose, Mifsud, Jeffreys

11.7 Formation of Floodplain Risk Management Committee for Macquarie Rivulet Catchment (8814430)

574 RESOLVED: Briggs/Rose

1. That Council endorse the formation of the Macquarie Rivulet Floodplain Risk Management Committee (Macquarie Rivulet FPRMC).
2. That Council consider the election of Councillor representatives (1 - 3) on the committee.
3. That Council advertise for three community representatives to take up roles on the committee including one from the development industry.

CARRIED UNANIMOUSLY

11.8 Small Environmental Project Grants (8807858)

575 RESOLVED: Briggs/Bailey

1. That the Council resolve to approve the following grants and amend the budget accordingly.
 - Warilla Baptist Preschool - Playground Improvements \$2,000
 - Mount Terry Primary School – The Living Classroom \$1,100
 - Body Corporate Group – Creek Restoration \$1,500
 - Nazareth Catholic Primary School – Seeding The Future For All \$2,000
 - St Josephs Catholic High School – Outdoor Classroom \$500
 - Grey Street Reserve Community Group – Bush Regeneration \$2,000
2. That the Council resolve to defer consideration of the applications from Shell Cove Primary School, Shell Cove Bushcare Group and Blackbutt Bushcare Group until further discussions are held with the applicants.
3. That the Council resolve to decline applications from Tullimbah Landcare and Mount Warrigal Bushcare groups as they have already been supported with Council funding under Southern Rivers Catchment Management Biodiversity Program this financial year.

CARRIED UNANIMOUSLY

11.9 Auction of Surplus and Obsolete Plant & Equipment (8810376)

Councillor Briggs here left Chamber.

576 RESOLVED: Hawker/Stewart

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 1 December 2007.

CARRIED UNANIMOUSLY

11.10 Adoption of revised policy on Payment of Expenses & Provision of Facilities to Councillors under S252 and S253 of the Local Government Act 1993 (8813791)

577 RESOLVED: Hawker/Jeffreys

That Council adopt the revised draft policy for Payment of Expenses & Provision of Facilities to Councillors under S252 and S253 of the *Local Government Act 1993*.

CARRIED UNANIMOUSLY

11.11 Interim Review of the Code of Conduct and operation of the Conduct Committee (8816466)

Councillor Briggs here returned to Chamber.

MOTION: Bird/Gillett That Council adopt the following recommendation:

1. That Council rescind its resolution of 22 May 2007 with respect to Item Number 11.9 of the Agenda.
2. That Council extend the appointment of the Mayor, the General Manager, G. Barry Hall QC and Mr Warwick Shanks to Council's Conduct Committee until such time as Council is in receipt of the Department's revised guidelines for the constitution of and procedure before the Conduct Committee.
3. That Mr Michael Mantei Solicitor be appointed to Council's Conduct Committee on the same basis in lieu of Mr John Peedom (retired).
4. That the Mayor and General Manager be authorised to appoint reserve Councillors to sit on the Conduct Committee when either or both the Mayor and General Manager elect to stand down from the Committee in conflict of interest situations to ensure that the Committee is at all times properly constituted by five members.
5. That Council receive a further report on the review of the Code of Conduct and Committee operation, following release by the Department of Local Government of a revised model Code and guidelines expected in early 2008.

Councillor Briggs FORESHADOWED a MOTION that any decision on this report be deferred.

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The MOTION on being PUT to the Meeting was declared CARRIED 7/6 (See item 11.12)

For Vote - Cr Hamilton, Cr Bailey, Cr Bird, Cr Gillett, Cr Hore, Cr Jeffreys, Cr Hawker

Against Vote - Cr Greig, Cr Briggs, Cr Mifsud, Cr Rose, Cr Leedham, Cr Stewart

11.12 Community Land Plan of Management - Lot 1 & Part Lot 2, DP 588826, Benaud Crescent, Warilla - Shellharbour War Memorial Park (8809561)

MOTION: Leedham/Hore

1. That in accordance with the *Local Government Act 1993*, (s38), the draft Plan of Management for Community Land for Lot 1 & Part Lot 2, DP 588826 be placed on public exhibition for a period of not less than 28 days, but allowing a period of not less than 42 days after the date on which the draft plan is first placed on public exhibition, during which submissions may be made to the Council.
2. That following the public exhibition and submission stage, a further report be presented to Council for consideration of any submissions and the adoption or otherwise of the draft Plan of Management for Community Land for Lot 1 & Part Lot 2, DP 588826.

Note

Councillor Greig called the Mayor's attention to the previous item, 11.11 and stated that the vote on the matter had been incorrectly called as Councillor Hawker had abstained from the vote. The Mayor then questioned Councillor Hawker. Councillor Hawker stated to the Mayor that he had abstained from the vote.

MOTION: Rose/Briggs That a revote on item 11.11 be held.

578 The MOTION for a re-vote was PUT to the Meeting was CARRIED 8/5.

579 The original MOTION, for item 11.11 moved by Councillor Bird, seconded by Councillor Gillett and on being PUT to the Meeting was LOST 7/6 with Councillor Hawker abstaining.

The Council then resumed consideration of item 11.12

580 The MOTION on item 11.12 on being PUT to the meeting was CARRIED UNANIMOUSLY

11.13 Proposed Interim Occupation Agreement with St Joseph's High School, Albion Park (8809579)

581 RESOLVED: Hawker/Greig

1. That Council enter into interim land occupation agreements with the Catholic Diocese of Wollongong (St Joseph's High School) for that land owned by Council shown as an

attachment to this report, described as Part Lot 10, DP 575555 and Part Lot 1, DP 260523.

2. That the occupation agreements extend for a period not greater than five (5) years and at the completion of the formal land subdivision (land transfer) and rezoning process, the temporary occupation agreements will cease.

CARRIED UNANIMOUSLY

11.14 Proposed Lease of Laneway - Nakina Place, Oak Flats (8808019)

582 RESOLVED: Rose/Jeffreys

1. That Council enter into lease agreements with Mr William & Mrs Margaret Lawlor (owner of 5 Nakina Place, Oak Flats), Mr William & Mrs Sandra Lazar (owner of 7 Nakina Place, Oak Flats) for the respective occupation of an equal portion of the currently unleased section of laneway separating Lots 1118 and 1117, DP 263029 for a term of five (5) years at a rental of \$57.20 per annum per section of laneway, which includes GST, subject to Council's usual terms and conditions.
2. Further that the seal of Council be affixed to the lease agreements for the occupation of the laneway between Lots 1118 and 1117, DP 263029 with Mr William Lawlor/Mrs Margaret Lawlor, Mr William Lazar/Mrs Sandra Lazar.

CARRIED UNANIMOUSLY

11.15 Lease to Advance Finance & Investments Pty Ltd - Shop 134a Lamerton House, Shellharbour City Centre (8808709)

Note: Councillor Hawker declared an interest in Item 11.15 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

583 RESOLVED: Briggs/Bailey

That Council resolve to affix the Seal of Council to the lease agreement with Advance Finance & Investments Pty Ltd trading as Advance Finance & Investments, for the occupation of Shop 134a, Lamerton House, Shellharbour City Centre for a period of three (3) years with a three (3) year option at a rental of \$25,830.00 plus GST per annum.

CARRIED UNANIMOUSLY

Councillor Hawker here returned to chamber 10.23

11.16 Lease to Hearsol Pty Ltd - Shop 134b Lamerton House, Shellharbour City Centre (8815677)

584 RESOLVED: Briggs/Mifsud

That Council resolve to affix the Seal of Council to the lease agreement with Hearsol Pty Ltd trading as Hearing Aid Specialists Wollongong, for the occupation of Shop 134b, Lamerton House, Shellharbour City Centre for a period of three (3) years with a three (3) year option at a rental of \$31,570.00 plus GST per annum.

CARRIED UNANIMOUSLY

11.17 Road Naming - Private Access Roads (8811455)

585 RESOLVED: Hawker/Jeffreys

That the following road names be adopted :

Mountainview Mews
Fig Hill Lane
Piper Drive

CARRIED UNANIMOUSLY

12. Community Planning & Strategies Division

12.1 Regional Arts Fund Grant (8808917)

586 RESOLVED: Hore/Briggs

That Council resolves to accept the \$9000 grant and adjusts the current budget accordingly.

CARRIED UNANIMOUSLY

12.2 Warilla Child Care Centre Fees (8808802)

587 RESOLVED: Leedham/Hore

That Council places on exhibition for 28 days the new proposed daily fee of \$50 for Warilla Child Care Centre.

CARRIED UNANIMOUSLY

13. Shell Cove Business Division

Nil

14. Committee Recommendations

14.1 Recommendations from the Traffic Committee Meeting held 10 October 2007 recommended for adoption.

588 RESOLVED: Greig/Briggs

That the Recommendations from the Traffic Committee Meeting held 10 October 2007 be adopted.

CARRIED UNANIMOUSLY

14.2 Recommendations from the Disabilities Services Advisory Committee Meeting held 31 October 2007 recommended for adoption.

589 RESOLVED: Briggs/Bailey

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 31 October 2007 be adopted.

CARRIED UNANIMOUSLY

15. Notices of Rescission Motion

Nil

16. Notices of Motion

Nil

17. Items for Information

- 17.1 Killalea State Park Trust Council Information Report for August 2007 (8816314)**
- 17.2 Land & Environment Court Proceedings No. 10337/2006 - Proposed Aged Care Complex at 118 - 120 Koona Street, Albion Park Rail (DA 965/2003) (8814537)**
- 17.3 Keep Australia Beautiful's Clean Beach Challenge (8814639)**

590 RESOLVED: Hawker/Bird

That Council receive and note the items for information

CARRIED UNANIMOUSLY

18. Questions without Notice

- 591 Councillor Stewart** noted the IRIS survey Councillors had received. She said that it was important for council to gauge the level of community satisfaction. She asked why there were no questions regarding the performance of the Mayor and General Manager for appraisal of the General Manager or Mayor or Councillors' performances.

The Mayor ruled that Cr Stewart was to lodge the request as a written request.

The Mayor reminded the Councillors that Questions Without Notice was for urgent requests only and that non urgent requests should be lodged in writing as was the usual practice for Councillor Requisitions.

- 592 Councillor Stewart** stated that she had previously requested the General Manager to investigate the possibility of council hosting training for Councillors on Financial Issues and has he received any feedback on that.

The Manager Executive Offices advised Councillor Stewart that she was the only Councillor who had indicated any interest.

Councillor Stewart said that she would be happy to sit with a council officer when they had time to undertake training in house at their convenience.

- 593 Councillor Stewart** asked why the Library Working Party has never met, during the time that she has been a delegate.

The General Manager advised that Working Parties are for specific projects and he would investigate and get back to her.

- 594 Councillor Stewart** asked if the NSW Public Country Libraries has met this year and who attended last year.

- 595 Councillor Jeffreys** asked Councillors if she could forward them copies of a written submission from the LGSA in relation to Infrastructure Contributions. She stated that the LGSA were seeking responses by the end of the week.

- 596 Councillor Jeffreys** asked if a curfew for flights in and out of the Illawarra Regional Airport was in place.

The Director of Operations & Services advised that we have an arrangement that all training should cease by 10 pm on any evening.

- 597 Councillor Jeffreys** advised that the LGSA were offering conflict resolution training - Verbal Judo - and asked that the General Manager look into making that training available to Councillors.

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598 **Councillor Leedham** asked when was the last time the General Manager has a performance appraisal. He stated that he was giving the General Manager 10 days notice that he would be required to appear before the Staff Committee for a performance appraisal.

The Mayor ruled that Councillor Leedham's question was out of order and he should submit it in writing.

599 **Councillor Leedham** asked the General Manager when Councillors will get information from council instead of reading in the media. He specifically mentioned the letter received by the Mayor from the Director General of the Department of Local Government.

The Mayor stated that the letter was confidential.

600 **Councillor Hore** asked if lifeguards could be placed at the southern end of Warilla beach

601 **Councillor Rose** stated that the Traffic Engineer had advised that he could not find the sign in Wollongong Street Shellharbour, outside the ocean Beach Hotel, that was pointing the wrong way. He also asked that a clearer sign be placed at the taxi rank, indicating hours of use.

602 **Councillor Rose** asked why mail clearly addressed to Councillors from residents, that formed part of submissions on Development Applications was not being forwarded to all Councillors?

The General Manager advised that he would discuss the issue with Councillor Rose in the next day or so, as it was a continuing problem.

603 **Councillor Mifsud** stated that his involvement with youth suicide and that his concerns were known by council. He stated that Council needs to look at how it can address this issue. He said that he wants to see council address the youth suicide issue.

604 **Councillor Mifsud** advised that the toilets at the Scout hall, near Shellharbour Road, Shellharbour are locked and need to be open at appropriate times.

605 **Councillor Bailey** advised that Landy Drive was deteriorating rapidly and asked that it be looked into as a matter of urgency.

606 **Councillor Briggs** asked that with the announcement of a \$17m police station in the press, when were Councillors to be consulted or briefed. He asked if it was an in principle agreement.

The General Manager advised that negotiations were ongoing and before being finalised would be brought to council for its consideration.

607 **Councillor Briggs** noted that the Princes Highway entrance to Shellharbour City has improved remarkably. He asked that council look at the amount of weeds on the roundabout and clean it up.

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The Director of Operations & Services advised that it was an RTA issue and that he would speak with the RTA to have the weeds cleared.

608 Councillor Hawker asked for council to provide an all weather power point in RL Mood Park.

609 Councillor Hawker asked that road works at Terry & Church Streets, Albion Park be more flexible with traffic flows as there were often long queues, at times as far as Daintree Drive.

610 Councillor Hawker stated that a number of delegations were put through by council, he requested that a list of these delegations be reported to council.

611 Councillor Greig asked that the areas around charity bins, on council owned land, be cleared as some had a large amount of furniture etc. lying around them.

612 Councillor Greig asked how Councillors would obtain their confidential Business Papers under the new procedure if they were working or not in the area.

The General Manager stated that he would write to all Councillors in the next few days on the new practice.

19. Confirmation of the Minutes of the Committee of the Whole Council Meeting (in Confidential Session).

20. Recommendations from the Committee of the Whole Council Meeting (in Confidential Session)

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

Meeting closed 10.53 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 4 December 2007.

General Manager

Chairperson