

**Minutes of the Ordinary Meeting  
of Shellharbour City Council  
held at the Council Chambers, Warilla  
on Tuesday 04 December 2007 commencing at 5.35 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
Commercial Manager	K James
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 Organisational Development	B Rose
Group Manager Planning Services	G Hoynes
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Executive Assistant	D Arney

## **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**

Nil

#### **Committee of the Whole Council Meeting**

Nil.

### **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 Sale of Land (8737515)**

#### **Reason for Confidentiality**

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

## **SHELLHARBOUR CITY COUNCIL**

Ordinary Council Meeting - Tuesday 04 December 2007

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- (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;
  - (ii) confer a commercial advantage on a competitor of the Council;

This item has been classified as commercial because Council is yet to enter into an exchange of contract to sell the land.

Publication at this time of Council's intention would not be in the public interest because it is possible that other parties may become aware of the intended sale and jeopardise intended contract negotiations with the potential purchaser.

622 RESOLVED: Greig/Bird

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)(a) & (b) 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 5.35pm**

**Meeting resumed at 7.15pm**

### **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 Sale of Land (8737515)**

COMMITTEE RECOMMENDATION:

1. That Council enter into a conditional Contract for the Sale of Land described as Part Lot 1 DP 1062155 being approximately 1.037ha for the amount of \$1.85M exclusive of GST as shown as an attachment to this report in Committee of the Whole (Confidential).
2. That Council enter into the Contract for the Sale of the Land conditional on settlement taking place before 25 June 2008.

## **SHELLHARBOUR CITY COUNCIL**

Ordinary Council Meeting - Tuesday 04 December 2007

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3. Proceeds of sale will be towards Council's internal restriction for S94 commitments for the Civic Centre Project.
  4. That the Mayor and General Manager be authorised to sign any documentation relating to the land sale including affixing of the Seal of Council, where necessary.
- 623 RESOLVED: Hore/Bailey That the recommendation to Council from the Committee of the Whole meeting held earlier today be adopted.

CARRIED UNANIMOUSLY

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

#### **4.1 Ordinary Meeting 13 November 2007**

Councillor Hawker stated that he had abstained from voting on Item 8.1 and had given reasons why.

Councillor Greig stated that regarding Item 4.1, minute 555 she had in fact asked "if it is a summary of the General Manager's interpretation of what I said and what he said".

Councillor Briggs stated that he was recorded in the unconfirmed minutes as voting FOR Item 11.2, Minute 569, but had in fact voted AGAINST.

The General Manager answered other questions regarding the writing up of the minutes to the satisfaction of Council.

- 624 RESOLVED: Hawker/Greig That the Minutes of the Ordinary Council Meeting held on 13 November 2007 be confirmed as a correct record of proceedings subject to the alteration to item 8.1 noting that Councillor Hawker had abstained from the vote, and alteration to Item 4.1 inserting Councillor Greig's wording at the previous Meeting of Council, and alteration to Item 11.2 Minute 569 to show Councillor Briggs voting against the Motion.

CARRIED 11/2

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

AGAINST VOTE - Councillor Stewart

ABSTAINED - Councillor Rose

#### **4.2 Committee of the Whole 13 November 2007**

- 625 RESOLVED: Gillett /Bird That the Minutes of the Committee of the Whole Council Meeting held on 13 November be confirmed as a correct record of proceedings.

## SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 04 December 2007

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### 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 11.10 Community Land Plan of Management - Warilla Surf Life Saving Club

**Nature of Interest:** Councillor Hawker is the auditor for the Warilla Surf Life Saving Club

**Councillor Bailey:** Item 11.10 Community Land Plan of Management - Warilla Surf Life Saving Club

**Nature of Interest:** Councillor Bailey was supported at the last local government elections by a supporter of the Warilla Surf Life Saving Club

**Councillor Briggs:** Item 11.10 Community Land Plan of Management - Warilla Surf Life Saving Club

**Nature of Interest:** Councillor Briggs is a life member of the Shellharbour Surf Life Saving Club

### 6. Condolences

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

Mr Eric Douglas Aitken	of	Albion Park
Mrs Doris Violet Vickers	of	Albion Park Rail
Mrs Leone [Mim] Lever	of	Blackbutt
Mrs Mary Marlow	of	Lake Illawarra South
Mrs Vera [Vee] Davison	of	Lake South
Mrs Jean Colyer	of	Mt Warrigal
Mrs Pearl Lane	of	Mt Warrigal
Mr Alan Hoogwerf	of	Oak Flats
Mrs Joyce Brand	formerly of	Oak Flats
Mrs Brenda Fletcher	of	Oak Flats
Mr Matthew George Smith	of	Oak Flats
Mrs Florence Thomson	of	Shellharbour
Mr Peter Gregory Mitchell	formerly of	Shellharbour

## SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 04 December 2007

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Mrs Glenda Benn of Warilla

Mr Raymond George Steele of Warilla

Mrs Lynette Kay Hillier of Warilla

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

### 7. Presentations

Councillor Hawker presented an award to the Mayor from ICLEI, recognising that Shellharbour City Council has *joined the Triple Bottom Line Capacity Building Program to incorporate sustainability principles and practices into Council's operations.*

### 8. Mayoral Minutes

Nil

### 9. Councillors' Reports

Nil

### 10. General Manager's Office

Nil

### 11. Operations & Services Division

#### 11.1 **DA No. 370/2007 - Lot 809, DP 239170, 17 Gray Avenue, Mount Warrigal - Alterations & Additions to Dwelling (8828286)**

627 RESOLVED: Briggs/Greig

That the Council approve Development Application No. 370/2007 for Alterations & Additions to Dwelling at Lot 809, DP 239170, 17 Gray Avenue, Mount Warrigal subject to the usual council conditions.

CARRIED 12/1

FOR VOTE - Councillor Hamilton, Councillor Greig, Councillor Hawker, Councillor Briggs, Councillor Bailey, Councillor Mifsud, Councillor Rose, Councillor Bird, Councillor Hore, Councillor Leedham, Councillor Jeffreys, Councillor Stewart

AGAINST VOTE - Councillor Gillett

**11.2 2007/2008 Local Government Program Bushfire Mitigation (8824375)**

628 RESOLVED: Hawker/Jeffreys

That the Council resolve to endorse the acceptance of \$58,779 under the NSW Rural Fire Service's 2007/2008 Local Government Bushfire Mitigation Program and amend the budget accordingly.

CARRIED UNANIMOUSLY

**11.3 Sport & Recreation Capital Improvement Requests (8826584)**

629 RESOLVED: Leedham/Rose

1. That the Council resolve to allocate:
  - a. \$20,000 from Ward B Sportsfield Funds for the construction of a shade structure at Oak Flats 50m Pool and to amend the budget accordingly
  - b. \$10,000 from Ward E Sportsfield Funds for the installation of hot showers at Beverly Whitfield Pool, Shellharbour and amend the budget accordingly.
2. That the amount of \$20,000 be allocated to the Shellharbour Sharks Football Club to continue with possible funding in other areas and the budget be amended accordingly
3. That the Council resolve to defer consideration of the requests for capital improvements from Albion Park Show Society and Shellharbour Oztag until further investigations are undertaken as a matter of urgency.

CARRIED UNANIMOUSLY

**11.4 ICLEI - Local Governments for Sustainability: Cities for Climate Protection Campaign (8826832)**

630 RESOLVED: Hawker/Jeffreys

1. That the Council resolve to adopt the greenhouse gas emission reduction goals of:
  - a. a 20% reduction in corporate greenhouse gas emissions on 2000 levels by 30 June 2010
  - b. a 15% per capita reduction in community greenhouse gas emissions on 2001 levels by 30 June 2010.

Adoption of the greenhouse gas emission reduction goals will fulfil the requirements of Milestone 2 of the ICLEI – Local Governments for Sustainability: Cities for Climate Protection Campaign.

2. That the Council resolve to adopt the *Local Action Plan* that will fulfil the requirements of Milestone 3 of the ICLEI – Local Governments for Sustainability: Cities for Climate Protection Campaign.

CARRIED UNANIMOUSLY

**11.5 Smoke Free Sportsfields, Playgrounds and Daytime Council Events (8827510)**

Councillor Jeffreys asked the General Manager if it would be possible for Council to approach the Butt Littering Trust to access funds to assist in the implementation of the Policy.

631 RESOLVED: Briggs/Bird

That Council resolve to:

1. Adopt the Smoke Free Policy which, from 1 January 2009, will ban smoking:
  - on all of Council's sportsfields
  - in and within 10m of children's playgrounds under Council care.
2. Trial the outdoor smoking ban at Council's Festival in the Forest held in September/October 2008.
3. Encourage the voluntary adoption of smoking bans by interested sporting clubs before the ban is mandatory across all sportsfields and playgrounds from 1 January 2009.
4. Erect signage to indicate that these areas are Smoke Free Zones, with funding of up to \$3,000 allocated in the 2007/2008 financial year from the Good Sports Program. Further, that the allocation of the remaining funds be considered in the 2008/2009 budget.
5. Gradually install butt bins in high usage areas to discourage smoking as funding becomes available.

CARRIED UNANIMOUSLY

**11.6 Road Naming Changes - Oak Flats to Dunmore (8823312)**

7.56 pm Councillor Briggs here left the chamber

632 RESOLVED: Bird/Rose That Council defer any decision on this matter pending consultation with the Police, RTA and other emergency service providers on the implications to their provision of services, by the renaming of Dunsters Lane.

CARRIED UNANIMOUSLY

ABSENT, DID NOT VOTE - Councillor Briggs

8.02pm Councillor Briggs here returned to the chamber



**11.7 Composition of the Council from 2012 (8821338)**

633 RESOLVED: Hawker/Rose

1. That Council consider the options listed in this report and determine that the three preferred options for the number of Wards and Councillors excluding the Mayor, to form Shellharbour City Council from September 2012 be as follows:
  1. *Three wards of 3 Councillors, total membership equals 10 including the Mayor*
  2. *Five wards, each of 2 Councillors. Total Membership equals 11 including the Mayor*
  3. *Six wards, each of 2 Councillors. Total membership equals 13 including the Mayor (current system)*
2. That the three preferred options be placed on public exhibition in accordance with the processes described in this report and that the adopted option be the subject of a Constitutional referendum to be conducted in conjunction with the Local Government elections scheduled for September 2008.
3. That Council commence the process of informing the public of the implications of the proposed change(s) in the composition of the Council.
4. That a further report be submitted to council, to consider any changes required to ward boundaries for 2012, as a result of the proposed change(s) in the composition of the Council.

CARRIED UNANIMOUSLY

**11.8 Revision of Rules for Public Participation (8826642)**

MOTION: Jeffreys/Greig

1. That Council's Public Participation (Public Forum) Rules – Section 3 Clause ii be amended to include the following additional provision:

"Any member of the public who is considered by the Mayor or Chairperson to bring the Public Participation (Forum) process and Council into disrepute by overt acts of contempt towards the Forum, the Chair, the Councillors, or other persons, be requested to immediately amend their behaviour. Continuation of inappropriate behaviour will result, upon ruling by the Chair, in the offender being required to immediately leave the Forum venue."
2. That Council's Public Participation (Public Forum) Rules – Section 3 Clause iii be amended to include the following additional words / provision:

"Provided further that any member of the public who is judged by the Chairperson on three separate occasions to have committed the offence of contempt of the Forum will be refused permission to attend future forums for a period to be determined by Council."

## **SHELLHARBOUR CITY COUNCIL**

Ordinary Council Meeting - Tuesday 04 December 2007

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Councillor Mifsud stated that he did not think that three minutes was long enough time for some people to put their point across during PP.

The Mayor stated that the General Manager had previously given an undertaking to report back to Council in the near future.

8.07 pm - the Mayor vacated the chair  
Councillor Greig took chair

Councillor Jeffreys stated that she felt some vexatious residents have attempted to monopolise the PP forum in the past.

Councillor Stewart MOVED a POINT of ORDER against Councillor Jeffreys that "vexatious" was not an appropriate word to use in relation to residents.

Hawker MOVED a POINT of ORDER against Councillor Stewart, stating that Councillor Jeffreys has a right to state her opinion and moved that they go straight to a vote.

Councillor Greig ruled that Councillor Jeffreys would be able to continue with her right of reply.

634 The MOTION on being PUT to the Meeting was CARRIED 11/1

FOR VOTE - Councillor Greig, Councillor Hawker, Councillor Briggs, Councillor Bailey,  
Councillor Mifsud, Councillor Rose, Councillor Gillett, Councillor Bird, Councillor Hore,  
Councillor Leedham, Councillor Jeffreys  
AGAINST VOTE - Councillor Stewart  
ABSENT, DID NOT VOTE - Councillor Hamilton

The Mayor here returned to the chamber

Councillor Mifsud and Councillor Stewart attempted to raise further matters but the Mayor ruled that the matter was concluded.

### **11.9 Salary Sacrificing by Councillors to Complying Superannuation Funds (8827508)**

Councillor Stewart here left the chamber

635 RESOLVED: Briggs/Hawker

That Council accept the attached ruling of the ATO and permit Councillors to register with Council to salary sacrifice a defined proportion of their Councillors' allowance to a complying superannuation fund, to be identified in consultation with Council's Financial Services department.

CARRIED UNANIMOUSLY

ABSENT, DID NOT VOTE: Councillor Stewart

Councillor Stewart here returned to the chamber

**11.10 Community Land Plan of Management - Lot 2 DP 224845, Warilla Surf Life Saving Club (8829898)**

Note: Councillor Hawker declared an interest in Item 11.10 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Note: Councillor Briggs declared an interest in Item 11.10 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Note: Councillor Bailey declared an interest in Item 11.10 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

636 RESOLVED: Hore/Leedham

That Council adopt the draft Plan of Management for Lot 2 DP 224845 Osborne Parade, Warilla that incorporates the minor boundary alteration of two adjoining parcels of Community land to create a single allotment.

CARRIED 8/2

FOR VOTE - Councillor Hamilton, Councillor Greig, Councillor Gillett, Councillor Bird, Councillor Hore, Councillor Leedham, Councillor Jeffreys, Councillor Stewart

ABSTAINED - Councillor Mifsud, Councillor Rose

ABSENT, DID NOT VOTE - Councillor Briggs, Councillor Hawker, Councillor Bailey

Councillor Briggs, Councillor Hawker and Councillor Bailey here returned to the chamber

**11.11 Affixing of Council Seal to Plan of Subdivision for Lease Purposes and 88B Instrument - Lot 700 DP 1102696 (8829289)**

637 RESOLVED: Jeffreys/Gillett

That Council resolve to affix the Seal of Council to the Plan of Subdivision for Lease Purposes and 88B Instrument for a subdivision at the Illawarra Regional Airport for the Rural Fire Control Centre.

CARRIED UNANIMOUSLY

**12. Community Planning & Strategies Division**

**12.1 Temporary alcohol-free zone for "In the Bin Travelling Film Festival (8828509)**

638 RESOLVED: Bird/Hore

That Council resolves to establish a temporary alcohol-free zone on the area designated on the attached map from 8.00 p.m. to 12 midnight on Friday 29 February 2008, to notify such intention through an advert in the media and, in the absence of any substantive

objections after a seven day exhibition period, to declare the zone effective from 8.00 p.m. on 29 February 2008.

CARRIED UNANIMOUSLY

**12.2 Rezoning Application to amend Shellharbour Local Environmental Plan 2000 to rezone and reclassify land at Pioneer Drive and Addison Street, Shellharbour to facilitate the construction of Harbour Boulevard, Shell Cove (8823490)**

639 RESOLVED: Greig/Briggs

That Council resolve

- a) To prepare a Draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act 1979 to consider:
  - i) the rezoning of Lot B DP 420074 from 6(b) Private Open Space to 2(f) Mixed Use Residential F; and
  - ii) the rezoning of Lot 74 DP 229374 from 2(a) Residential A and to 2(f) Mixed Use Residential F; and
  - iii) the rezoning of parts of Pioneer Drive and Addison Street, Shellharbour (as indicated on the draft plan) attached to this report from unzoned land to 6(a) Public Open Space; and
  - iv) the reclassification of Lot 2 DP 109304 and Lot 82 DP 729172 from 'community land' to 'operation land' under the Local Government Act 1993.
- b) to conduct a public hearing in accordance with Section 29 of the Local Government Act 1993 for those lands proposed to be reclassified (subject to a Section 65 Certificate being issued).
- c) to request the Director General of the NSW Department of Planning to issue a Section 65 Certificate to enable exhibition of the amendments.
- d) that a report be submitted to Council at the completion of the exhibition.

CARRIED UNANIMOUSLY

**13. Shell Cove Business Division**

**13.1 Shell Cove Quarterly Report (8806876)**

640 RESOLVED: Mifsud/Hore

1. That this report be received and noted.
2. That Council adopt the following names, and the changes outlined in this report, for public roads to be created in Stage 6 of Shell Cove:

Barnbougale Mews  
Brookwater Crescent  
Capricorn Way  
Coolum Parkway  
Ellerston Parkway  
Huntingdale Close  
Joondalup Parkway  
Kooralbyn Place  
Lakelands Close  
Ranfurlie Parkway  
Seatemple Way  
Vines Avenue

CARRIED UNANIMOUSLY

**14. Committee Recommendations**

**14.1 Recommendations from the Traffic Committee Meeting held 7 November 2007 recommended for adoption.**

641 RESOLVED: Greig/Leedham

That the Recommendations from the Traffic Committee Meeting held 7 November 2007 be adopted.

CARRIED UNANIMOUSLY

**14.2 Recommendations from the Australia Day / Special Promotions Committee Meeting held 14 November 2007 recommended for adoption.**

642 RESOLVED: Hawker/Briggs

That the Recommendations from the Australia Day / Special Promotions Committee Meeting held 14 November 2007 be adopted.

CARRIED UNANIMOUSLY

**14.3 Recommendations from the Aboriginal Advisory Committee Meeting held 20 November 2007 recommended for adoption.**

Councillor Bird advised Council that Shellharbour City Council had been approached by Marrickville Council to allow members of their own Aboriginal Advisory Committee to visit this council, such was Council's profile as a result of being declared Council of the Year at the recent Local Government Aboriginal Network Conference.

643 RESOLVED: Bird/Jeffreys

That the Recommendations from the Aboriginal Advisory Committee Meeting held 20 November 2007 be adopted.

CARRIED UNANIMOUSLY

Matter Arising

Councillor Jeffreys advised that there was an ongoing request for a recycling bin outside the Oakleigh Park Hall and asked that Council consider the request.

**15. Notices of Rescission Motion**

Nil

**16. Notices of Motion**

Nil

**17. Items for Information**

**17.1 Clean Up the Lake Day (8827413)**

**17.2 Investments (8829162)**

Councillor Leedham thanked the Waste Manager for his and the volunteers' efforts at Clean up the Lake Day.

644 RESOLVED: Hawker/Leedham

That Council receive and note the items for information.

CARRIED UNANIMOUSLY

**18. Questions without Notice**

**645 Councillor Rose** noted that there was restoration work being undertaken at the Lake wall and asked what that was for.

The Director Operations & Services advised that a certain amount of rock had been stored at our depot that had to be removed before a waste levy was charged. The rock was taken to the Lake Entrance to strengthen the wall.

**646 Councillor Greig** asked if Council could continue to pay at extra attention to maintenance of roads in prominent areas during the busy tourist season.

**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 8.40pm**

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 18 December 2007.

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General Manager

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Chairperson