

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 01 July 2008 commencing at 7.15 pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig Councillor T Hawker (Part - Left at 7.43pm)
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 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 & Development	M Forland
Group Manager Corporate Services	T Gearon
Group Manager Works & Services	C Watt
Group Manager Customer & Environmental Services	G Standen
Group Manager Development & Tech Services	M Boenisch
Group Manager Corporate Planning	P Masterson
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	N East
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

An apology was tendered on behalf of Councillor Mifsud

222 RESOLVED: Rose/Briggs. That the apology as tendered be accepted.

CARRIED UNANIMOUSLY

2. Confidential Business (Committee of the Whole)

Nil

3. Recommendations from Committee of the Whole

Nil

4. Confirmation of Minutes

4.1 Ordinary Meeting 10 June 2008

223 RESOLVED: Rose/Jeffreys That the Minutes of the Ordinary Council Meeting held on 10 June 2008 be confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

4.2 Extraordinary Meeting 24 June 2008 – 2008/2011 Management Plan

224 RESOLVED: Hawker/Leedham That the Minutes of the Extraordinary Council Meeting held on 24 June 2008 - 2008/2011 Management Plan, be confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

4.3 Extraordinary Meeting 24 June 2008 – Submission in Reply Public Inquiry

225 RESOLVED: Gillett/Hawker That the Minutes of the Extraordinary Council Meeting held on 24 June 2008 - Submission in Reply to Public Inquiry, be confirmed as a correct record of proceedings subject to a correction to the reason for confidentiality at point 2 being amended to read 10A(2)(a) of the Act.

CARRIED 10/2

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 Stewart, 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 Greig: Item 11.3 DA No 22/2008 - Lot 10, DP 11740, 12 Addison Street, Shellharbour - Land use Approval for Signage.

Nature of Interest: Councillor Greig owns the neighbouring property

6. Condolences

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

Mrs Gladys Webb	of	Albion Park
Mr Roy William Troake	of	Albion Park
Mrs Godsieh Vahdat	of	Albion Park
Mrs Kirsti Karoliina (nee Kinnunen) Leppanen	of	Albion Park
Mr Arthur Edward (Ted) Hawkins	of	Albion Park Rail
Mrs Janet (Jennie) Waddell	of	Albion Park Rail
Mrs Martha Hamilton	of	Barrack Heights
Mr Melvin Bower	of	Barrack Heights
Mrs Margaret Gallagher Wistow	of	Barrack Heights
Mr Herman Alfred Kleemeyer	of	Blackbutt
Mr William (Ike) Williams	of	Dunmore
Mrs Rita Wilkinson	of	Lake Illawarra South
Mr Tony Morichovitis	of	Mt Warrigal
Mr Raymond Edgerley Goodwin	of	Oak Flats
Mr Antun Becarevic	of	Shellharbour

Mr Slave Siljanovski	of	Shellharbour
Mr Victor Hugh McKenzie Casson	of	Warilla
Mrs Barbara Graham	of	Warilla
Mrs Helen Stewart Petherick	of	Warilla

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

7. Presentations

Nil

8. Mayoral Minutes

Nil

9. Councillors' Reports

Nil

10. General Manager's Office

**10.1 Sustainable Economic Growth for Regional Australia (SEGRA)
Twelfth National Conference 18-20 August 2008 (8937442)**

227 RESOLVED: Hawker/Briggs

1. That Council approve the attendance at the 12th National SEGRA Conference, being held in Albury NSW from 18-20 August 2008, by any interested Councillor. Further, that any Councillor wanting to attend, advise the Executive Offices no later than Friday, 25 July 2008.
2. That the General Manager be authorised to send any relevant Council officers to the conference

CARRIED UNANIMOUSLY

11. Operations & Services Division

11.1 DA No. 566/2007 - Lot 201, DP 834018, 16B Wollongong Street, Shellharbour - Demolition of Existing Structures, Construction of Infill (Dual Occupancy) Development & Strata Subdivision (8929617)

228 RESOLVED: Rose/Briggs

That the Council approve Development Application No. 566/2007 to demolish existing structures and construct an infill (attached dual occupancy) and strata subdivision development at Lot 201, DP 834018, 16B Wollongong Street, Shellharbour under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, as it complies with Council's requirements. Further that, the General Manager be given delegated authority to apply the applicable conditions of consent for this Development Application in accordance with Council's policies.

CARRIED 9/3

FOR VOTE: Cr Greig, Cr Hawker, Cr Briggs, Cr Bailey, Cr Rose, Cr Hore, Cr Leedham, Cr Jeffreys, Cr Stewart

AGAINST VOTE: Cr Hamilton, Cr Bird, Cr Gillett

11.2 DA No. 565/2007 (Section 82A Review) - Lot 2, DP 1021840 & Lot 23, DP 1039967, Princes Highway, Croom - Review of Determination under Section 82 for Use as Plant Nursery & Landscape Supplies (8934587)

229 RESOLVED: Bird/Gillett

That the Council determine the application for Review under Section 82A of the *Environmental Planning & Assessment Act, 1979* as amended by approving the application for the Use as a Plant Nursery and Landscape Supplies at Lot 2, DP 1021840, & Lot 23, DP 1039967, Princes Highway, Croom, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 55 conditions following the conclusion.

CARRIED UNANIMOUSLY

11.3 DA No. 22/2008 - Lot 10, DP 11740, 12 Addison Street, Shellharbour - Land Use Approval for Signage (8935404)

Note: Councillor Greig declared an interest in Item 11.3 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

7.43 pm Councillor Hawker here left the Chamber for personal reasons

In response to a question from Councillor Rose, the Manager Development Services advised that the reason for this application coming before Council was due to the fact that it was an application that did not comply with Council policies and, as it is a Council-owned building, he

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 01 July 2008

was of the view that it should come before Council for determination, rather than be determined under delegated authority by a staff member.

The Mayor called for a Motion.

In response to a question from Councillor Bird, the Manager Development Services advised that the reason that some other buildings in the vicinity were permitted to have above-awning signage was that they had been determined under a prior Development Control Plan.

MOTION: Jeffreys/Bird That delegated authority be given to the General Manager and relevant Council officers to continue negotiations with the Roo Theatre committee to negotiate appropriate and compliant signage at the front of the Roo Theatre building and to report back to Council.

Councillor Rose **FORESHADOWED** a **MOTION** that this item be deferred for inspection and assessment by Councillors and staff of all similar signs in Addison Street.

The Mayor stated that Council could only consider the application before it and that it would not be appropriate to look at other similar signs that had already been determined.

230 The **MOTION** on being **PUT** to the Meeting was **CARRIED** 6/4

FOR VOTE: Cr Hamilton, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham, Cr Jeffreys
AGAINST VOTE: Cr Briggs, Cr Bailey, Cr Rose, Cr Stewart

Matter Arising

Councillor Hore asked that Council officers investigate any OHS issues with access to the sign on the awning of the Roo Theatre to change it as required.

11.4 Proposed BBQ and Shelter for Central Park, Oak Flats (8922219)

Councillor Greig here returned to chamber

231 **RESOLVED:** Rose/Jeffreys

1. That the Council accept the Lake Illawarra Authority's cash contribution of \$9,000 toward the project.
2. That the Council allocates \$9,000 from Oak Flats Streetscape to match the grant.
3. That the budget is amended accordingly.

CARRIED UNANIMOUSLY

11.5 Public Libraries NSW - Country (8936699)

232 RESOLVED: Jeffreys/Bird

That the Council approve the attendance of any interested Councillors at the Public Libraries NSW - Country Conference to be held in Tamworth from 29 July to 1 August 2008.

CARRIED UNANIMOUSLY

Note: Councillor Stewart stated that she wished to attend the conference.

11.6 Tender - Supply of Plant and Equipment 2008 - 2010 (8935366)

The General Manager stated that he would advise the Council to defer its consideration and refer the Tender to the Department of Local Government for review.

233 RESOLVED: Hore/Briggs

That this item be deferred and referred to the Department of Local Government for review.

CARRIED UNANIMOUSLY

11.7 Tender 2008/15 - Dunmore Waste Depot Sand Dredging Operation (8934944)

234 RESOLVED: Bird/Jeffreys

That the Council accept Davidson Dredging Pty Ltd alternative tender to supply and operate a dredge and sand washing plant for a period of two years with the option of a one year extension by mutual agreement at the rates submitted, based on the inclusion of a "Rise and Fall" Clause.

CARRIED UNANIMOUSLY

11.8 Corporate Policy - Asset Management (8922860)

235 RESOLVED: Rose/Jeffreys

That the Council adopt the attached draft Asset Management Policy.

CARRIED UNANIMOUSLY

11.9 Licence Agreement to occupy part of adjoining section of road reserve, Boronia Avenue/Cedar Street, Albion Park Rail (8935703)

236 RESOLVED: Jeffreys/Bailey

1. That Council enter into a licence agreement with Warrigal Care for the use of part of the road reserve totalling approximately 80m² adjoining Lot 12 DP 828030 Boronia Avenue/Cedar Street, Albion Park Rail for five (5) years at \$250.00 per annum plus GST subject to annual CPI.
2. That the Mayor and General Manager be authorised to affix the Seal of Council and execute any documentation associated with the licence agreement.

CARRIED UNANIMOUSLY

11.10 Lot 1071 DP 1052706 Albatross Drive, Blackbutt - Proposed Transfer to Council (8928236)

237 RESOLVED: Rose/Bailey

1. That Council resolve that Lot 1071 in DP 1052706, Albatross Drive, Blackbutt be transferred to Council in fee simple and be included, for its own management purposes, as part of the adjoining Lot 1073 as remnant bushland/community use.
2. That the Mayor and General Manager be authorised to sign and affix the Seal of Council to any documentation relating to the land transfer.

CARRIED UNANIMOUSLY

Matter Arising

Councillor Briggs requested that the condition of the roadway in Albatross Drive and Rosella Place be investigated and repaired as required as it was crumbling in places.

11.11 Requests for Donation (8930259)

238 RESOLVED: Gillett/Bird

That Council resolve to donate the following contributions totalling \$9,622:

1. Donations
 1. WIRES
 2. The Salvation Army Red Shield Appeal
 3. Cancer Council NSW
 4. St Vincent de Paul – Shellharbour/Warilla Conference
 5. Mount Warrigal Koori RLFC
 6. Shellharbour City U3A
 7. Warilla Public School

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 01 July 2008

8. Illawarra Vocational Training Committee
 9. Nazareth Primary School
 10. Lakeview Residents Association
 11. Para Meadows Ex-students Association
 12. Shellharbour Men's Shed
 13. Koori Men's Support Group
2. That Council grant Fee Reduction/Exemption to the total value of \$800 to the following organisations:
1. Shellharbour City Baptist Church Assist Inc.
 2. Shellharbour City Anglican Church

CARRIED UNANIMOUSLY

Matter arising

Councillor Briggs asked the General Manager to investigate whether Council could initiate a public appeal, and make a contribution towards the travel costs for local Olympic and Paralympics athletes attending the Olympics and Paralympics in Beijing, China and report this back to Council at its next Meeting as a matter of urgency.

11.12 Road Naming of Laneway Between Wollongong & Wentworth Streets Shellharbour (8933349)

MOTION: Rose/Briggs

1. That the following road name be adopted for the Laneway between Wollongong & Wentworth Streets Shellharbour:

Wentworth Lane
2. That the adopted road name be:
 - a. Submitted to the relevant authorities in accordance with Clauses 7 – 10 of the Roads (General) Regulation 2000
 - b. Notified in the NSW Government Gazette

The MOTION on being PUT to the MEETING was LOST 5/6

FOR VOTE: Cr Greig, Cr Briggs, Cr Bailey, Cr Rose, Cr Leedham

AGAINST VOTE: Cr Hamilton, Cr Hore, Cr Bird, Cr Stewart, Cr Jeffreys, Cr Gillett

- 239 RESOLVED: Bird/Hore That the previous decision of Council to name the laneway Wentworth Lane be rescinded.

CARRIED 6/5

FOR VOTE: Cr Hamilton, Cr Hore, Cr Bird, Cr Stewart, Cr Jeffreys, Cr Gillett

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 01 July 2008

AGAINST VOTE: Cr Greig, Cr Briggs, Cr Bailey, Cr Rose, Cr Leedham

240 RESOLVED: Bird/Hore

1. That the following road name be adopted for the Laneway between Wollongong & Wentworth Streets Shellharbour:

Wollongong Lane

2. That the adopted road name be:
 - a. Submitted to the relevant authorities in accordance with Clauses 7 – 10 of the Roads (General) Regulation 2000
 - c. Notified in the NSW Government Gazette

CARRIED 6/5

FOR VOTE: Cr Hamilton, Cr Hore, Cr Bird, Cr Stewart, Cr Jeffreys, Cr Gillett

AGAINST VOTE: Cr Greig, Cr Briggs, Cr Bailey, Cr Rose, Cr Leedham

Matter Arising

Councillor Greig requested advice on the notice that must be given on a Rescission Motion as she did not believe that suitable notice had been given.

11.13 Tullimbar Subdivision - Relocation of Major Transmission Line Easement - Additional Area required for easement purposes - Lot 1522, DP 1125453 (8936178)

241 RESOLVED: Greig/Bird

1. That an additional area (approximately 364m²) of easement for electricity purposes be created along the western boundary of Lot 1522, DP 1125453 and that the terms of the easement replicate the terms previously resolved by Council on 28 November 2006.
2. Compensation being paid by Miltonbrook Land Pty Ltd to Council for the amount of \$12,838 for easement burden referred to in Recommendation 1 subject to final survey.
3. That the compensation amount be directed to Council's 60/40, policy that being 60% of the income to go to Council's Entrepreneurial Fund and 40% to Council's Internal Section 94 restriction.
4. That the budget be amended accordingly.
5. That the Mayor and General Manager be authorised to execute any documents relating to the easement creation and transaction under the Common Seal of Council.

CARRIED 9/2

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

AGAINSTVOTE: Cr Rose, Cr Stewart

Councillor Stewart asked that, in relation to the reconstruction of the transmission station, under the original Development Application, was it to be constructed prior to the opening of the school.

The General Manager advised that the question would be taken on notice.

Councillor Jeffreys requested that she also receive a copy of the response.

11.14 Affixing of Council Seal to Acceptance of Offer of Compensation for Compulsory acquisition of land by Sydney Water Corporation, Lot 1 DP 1091230, Beach Road, Shellharbour (8936516)

242 RESOLVED: Hore/Bird

1. That Council resolve to affix the Seal of Council to the Acceptance of offer of Compensation and any other associated documentation with Sydney Water Corporation for the acquisition of 151.7m² and easement being Lot 1 DP 1091230 for the amount of \$136,475.00.
2. That the compensation amount be directed to Council's 60/40 Policy; that being 60% of the income to go to Council's Entrepreneurial Fund and 40% to Council's internal Section 94 restriction.
3. The budget be amended accordingly.

CARRIED UNANIMOUSLY

Matter arising

Councillor Briggs advised that Sule College had contacted him in relation to DP10930. They asked about the possibility of leasing the block of land for use as a playing field. He asked that Council contact the school.

11.15 Proposed Sub-Lease - The Historical Aircraft Restoration Society ("HARS") Hangar to CHC Helicopters (Australia) Pty Ltd, Lot 201 DP 1111193, Boomerang Avenue, Albion Park Rail (8937911)

243 RESOLVED: Gillett/Jeffreys

1. That Council consent to the proposed sub-lease between HARS and CHC Helicopters for the partial occupation of Lot 201 DP 1111193, Boomerang Avenue, Albion Park Rail for a period of three (3) years at an annual rental of \$1.00 and on the same terms and conditions contained in the Head Lease between HARS and Council.

2. That the Mayor and General Manager be authorised to sign any documentation including affixing the Seal of Council in relation to the sub-lease between HARS and CHC Helicopters.

CARRIED 9/2

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

AGAINST VOTE: Cr Stewart, Cr Rose

11.16 Proposed Sub-lease - The Historical Aircraft Restoration Society (HARS) Hangar to Australian Air Force Cadets (AAFC), Lot 201 DP 1111193, Boomerang Avenue, Albion Park Rail (8938208)

244 RESOLVED: Jeffreys/Gillett

1. That Council consent to the proposed sub-lease between HARS and the Australian Air Force Cadets (AAFC) for the partial occupation of Lot 201 DP 1111193, Boomerang Avenue, Albion Park Rail for a period of twenty-five (25) years at an annual rental of \$1.00 and on the same terms and conditions contained in the Head Lease between HARS and Council.
2. That the Mayor and General Manager be authorised to sign any documentation including affixing the Seal of Council in relation to the sub-lease between HARS and AAFC.
3. That AAFC be requested to formally withdraw from its agreement with Council to lease Lot 111, DP 877164 Airport Road.

CARRIED 9/2

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

AGAINST VOTE: Cr Stewart, Cr Rose

12. Community Planning & Strategies Division

Nil

13. Shell Cove Business Division

Nil

14. Committee Recommendations

14.1 Recommendations from the Traffic Committee Meeting held 4 June 2008 recommended for adoption.

245 RESOLVED: Greig/Hore

That the Recommendations from the Traffic Committee Meeting held 4 June 2008 be adopted.

CARRIED UNANIMOUSLY

14.2 Recommendations from the Disabilities Services Advisory Committee Meeting held 18 June 2008 recommended for adoption.

246 RESOLVED: Jeffreys/Hore

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 18 June 2008 be adopted.

CARRIED UNANIMOUSLY

15. Notices of Rescission Motion

Nil

16. Notices of Motion

Nil

17. Items for Information

Nil

18. Questions without Notice

247 Councillor Stewart asked whether a date and venue had been set for the Dogs Day Out.

248 Councillor Stewart asked for the location of the area in Flinders where the dog agility area will be positioned and whether a suitable area with access to water had been identified.

249 Councillor Gillett stated that she appreciated the work and help she had received from the General Manager, executive staff, indoor and outdoor staff over last 4 years.

250 Councillor Rose stated that he had not yet received an answer to previous questions on insurance on the runway at the airport.

The Director of Operations & Services advised that the question he had received was in two parts. The first being "Who is Council's insurer", to which he advised that Statewide was the insurer and Jardines were the insurance broker. The second part of the enquiry was whether Council's insurer was aware of arrangements in providing runway concessions and he replied that they are aware of arrangements.

251 Councillor Rose asked if it was true that outdoor staff were doing the job of greenkeepers at the golf course.

The Director of Operations & Services advised that Council has six accredited greenkeepers on staff and that three of those staff were currently working at the golf course. He also advised that Council has one accredited golf club superintendent working at the golf club for an initial period of 12 months. They were being paid from the income received from the Golf Club.

252 Councillor Bailey advised that the Lavis Drive & Morgan Ave, Mt Warrigal, rumblebars have affected the surface of road to a dangerous degree and asked that this be investigated.

253 Councillor Bailey stated that the Killalea proposal had been off the agenda for some time and requested an update.

254 Councillor Briggs stated that at the Council meeting on the 29th April 2008 a proposed Motion, item 16.2, had been deferred for a legal opinion. He stated that this opinion had not yet been brought back to council and that this was concerning him.

The Corporate Solicitor suggested that it would be appropriate for Councillors Rose and Stewart to leave the Chamber before giving his advice.

9.13pm Councillors Rose and Stewart here left the Chamber.

The Corporate Solicitor advised that on the 23rd June 2008 the matter came before Justice Biscoe in the Land & Environment Court. On the 23rd June Justice Biscoe gave

judgement on the cost applications. He advised that those orders will form part of Councillor Stewart's holding appeal before the Court of Appeal and that it would be inappropriate for Council to pass a resolution with regards to payment of costs while it was still before that Court.

With regard to Councillor Rose, he stated that judgement had been given and Councillor Rose's application for indemnity costs was refused. The order was made by Justice Biscoe for costs on a party/party basis.

The Mayor asked what would be the likely outcome for Councillors if they were to resolve to pay full costs against the Judge's order.

The Corporate Solicitor advised that all Council could lawfully do was reimburse what the Councillor was entitled to at law. That was party/party costs and not Solicitor/Client costs. He advised that if Council were to resolve to pay 100% (Solicitor/Client) of Councillor Rose's costs it would give way to the Department of Local Government to then surcharge the Council (individual Councillors). He stated that Shoalhaven Councillors had tried to introduce an allowance for election funding and a resolution was passed. The Department of Local Government intervened and threatened that those Councillors would be individually surcharged. The Corporate Solicitor's considered view was that that would be what would happen if Council were to resolve to pay 100% of Councillor Rose's costs.

255 Councillor Greig requested that the Shell Cove Management Agreement response she had received be forwarded to all Councillors.

256 Councillor Greig stated that she had looked at the Code Of Meeting Practice regarding Rescission Motions and was confused with the decision of Wollongong Lane. She asked that it be clarified that Notice was duly given.

The General Manager advised that there were several scenarios for Council if it wants to overturn a previous decision. One way was for Councillors to submit a 'Notice of Rescission Motion'. Another way was where the intention is mentioned in the report before Council, where a decision may be overturned. He further stated that the word 'Rescission' did not have to be in the report as long as notice is given and that the intent is there. This is often the case when in a Council report the officer is saying that the circumstances have changed since the issue was first brought before the Council.

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 9.24 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 22 July 2008.

General Manager

Chairperson