

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 15 May 2012

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 15 May 2012 commencing at 6.30 pm**

Present

Mayor	K Marsh
Deputy Mayor	M Saliba
Councillor	D Boyle
Councillor	H Stewart
Councillor	J Murray
Councillor	P Moran
Councillor	P Rankin

In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Director Corporate Policy	L Furness
Director Shellharbour Enterprises	B Green
Executive Manager / Public Officer	F MastroDomenico
Group Manager City Development	G Meredith
Group Manager Corporate Strategy	K Swinbourne
Manager Property & Recreation	D Flanagan
Manager Financial Services	P Henderson
Manager Links Shell Cove	R Stephenson
Media Officer	C Lewis
Corporate Planning Officer	S Farnham
Property Officer	M Scozzafava
Senior Executive Assistant	L Davey
Public Information Officer	D Arney
Executive Assistant	T Mattila

1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past and present.

Webcasting Statement

The Mayor read the following statement to the Meeting:

Could the Public Gallery please note that Council records and webcasts its Council Meetings live to enhance the accessibility of Council Meetings to the broader Shellharbour City Community.

Council Meetings can now be viewed live via webcast, downloaded from Council's website for later viewing, or purchased from Council for viewing on a computer.

At the appropriate time during the meeting pre registered or invited members of the gallery may Address the Council at which time their image, comments or submissions will be broadcast live and recorded.

Council accepts no responsibility for any defamatory or offensive statements.

Some of the statements that have been supplied to the Council on my Mayoral Minute prior to the meeting could be construed as being defamatory to certain individuals. The Council can be held liable for defamation if it publishes such statements. Clearly, the Council has to ensure that it minimises the risks associated with publishing such statements during its webcast.

I would therefore urge those persons who have asked to make public comment on my Minute to be very mindful of the need not to make any remarks that could be construed as defamatory to any third party.

If the Mayor and/or General Manager determine that a statement made during public address at this meeting could be construed, or is defamatory in nature, or could lead to a defamatory statement, webcasting will be suspended immediately.

In the same vein I would note that unlike state and federal members of parliament, Councillors do not have the same protection of unqualified privilege in relation to any statements they may make in relation to third parties and should also be mindful of statements made at any time during the meeting.

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

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2. Confirmation of Minutes

2.1 Ordinary Meeting 24 April 2012

89 RESOLVED: Rankin/Boyle

That the Minutes of the Ordinary Council Meeting held on 24 April 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.2 Extraordinary Meeting 1 May 2012

90 RESOLVED: Rankin/Stewart

That the Minutes of the Extraordinary Council Meeting held on 1 May 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

Nil

4. Confidential Business (Committee of the Whole)

Nil

5. Pecuniary Interest and Conflict of Interest Declarations

Councillor Stewart: Item 10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)

Nature of Interest: Councillor Stewart declared a pecuniary interest for this item as she was personally involved in the Land & Environment Court matter.

Councillor Moran: Item 10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)

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Nature of Interest: Councillor Moran declared a non pecuniary interest for this item as he was a respondent in the Land & Environment Court matter. He advised that he will remain in the room and vote on the matter.

Councillor Marsh: Item 10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)

Nature of Interest: Councillor Marsh declared a non pecuniary interest for this item as she had signed a statutory declaration regarding fundraising for a charity Race Day in which both she and Councillor Stewart were involved and which involved a witness in the court case. She advised she will remain in the room and vote on the matter.

6. Condolences

The Council acknowledged the following deaths in the Local Government area.

Mr Alfred Nielson Rieck	of	Albion Park
Mr Lincoln Alan Edward Fletcher	of	Albion Park
Mr Chris Harrison	formerly of	Albion Park Rail
Mrs Moira Mabel Doyle	of	Albion Park Rail
Mrs Gail Butler	of	Blackbutt
Mr Alan Cox	formerly of	Lake Illawarra
Ms Candice Zbroja	of	Mt Warrigal
Mrs Eileen Rawson	of	Oak Flats
Mr George Fleming	of	Oak Flats
Mr Jozsef Szele	of	Oak Flats
Mr Ted Jedynski	of	Oak Flats
Mrs Mary De Abrantes	of	Shellharbour
Mr Gerald Monk	of	Warilla

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

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7. Addresses to Council

Note: Councillor Stewart declared an interest for Item 10.1 and left the Chamber at 6.37 pm whilst Addresses to Council were being considered on this Item pursuant to Section 451 of the Local Government Act 1993.

Note: Councillor Marsh and Councillor Moran declared non-pecuniary interests for Item 10.1 and remained in the Chamber.

Agenda Item No & Title	Name
10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)	Harry Gooden Krystle Marsh Don Briggs Danna Nelse Paula Turnbull Shirley Hollis Alice Scott Sonya McKay Steven Krinks
11.1.1 2011-12 Third Quarter Review of the Operational Plan and Budget (9706665)	Sonya McKay
11.1.2 Appointment of Panel of Conduct Reviewers and Division of Local Government Review of Model Code of Conduct (9663146)	Sonya McKay
11.3.1 Naming a Civic Facility after Bob and Ann Harrison (9707029)	Harry Spicer
11.3.2 Tullimbar Pedestrian Access (9704480)	Ian King Cecil Renfield James Stone Richard Bottom

92 RESOLVED: Rankin/Marsh

That all speakers on Item 10.1 be given an extension of time of one minute to conclude his/her Address to Council.

FOR VOTE - Cr Moran, Cr Rankin, Cr Marsh

AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray

ABSENT. DID NOT VOTE - Cr Stewart

The Mayor declared the Motion CARRIED on the Mayor's casting vote.

Councillor Stewart returned to the Chamber at 7.04pm following Addresses to Council on Item 10.1.

93 RESOLVED: Rankin/Marsh

That Mr Harry Spicer be given an extension of time to conclude his Address to Council on Item 11.3.1.

CARRIED UNANIMOUSLY

94 RESOLVED: Marsh/Rankin

That Mr Ian King be given an extension of time to conclude his Address to Council on Item 11.3.2.

CARRIED UNANIMOUSLY

95 RESOLVED: Saliba/Marsh

That the meeting recess for 5 minutes.

CARRIED UNANIMOUSLY

Meeting adjourned at 7.30pm

Meeting resumed at 7.37pm

96 RESOLVED: Murray/Saliba

That Standing Orders be suspended in order for Items 10.1, 11.1.1, 11.1.2, 11.3.1 and 11.3.2, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

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10. Mayoral Minutes

10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)

Note: Councillor Stewart declared an interest for Item 10.1 and left the Chamber at 7.37 pm whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Note: Councillor Marsh and Councillor Moran declared non-pecuniary interests for Item 10.1 and remained in the Chamber.

The General Manager addressed the Council on this Item.

MAYORAL MINUTE: Mayor Marsh

That the General Manager prepare a report to Council on the background and outcomes of the Land and Environment Court Proceedings in relation to Councillor Helen Stewart (Shellharbour City Council v Stewart [2008] NSWLEC 151).

Councillor Moran FORESHADOWED the following addition to the MAYORAL MINUTE:

1. That such report contain all written legal advice relating to this matter, from both before and since the case ended.
2. That the report also contain strategies to limit the possibility of cases such as this being commenced without resolution of Council.

The General Manager stated that on legal advice amendments cannot be made to a Mayoral Minute but he undertook to include these matters in the report to Council.

97 RESOLVED: Mayor Marsh

That the General Manager prepare a report to Council on the background and outcomes of the Land and Environment Court Proceedings in relation to Councillor Helen Stewart (Shellharbour City Council v Stewart [2008] NSWLEC 151).

FOR VOTE - Cr Moran, Cr Rankin, Cr Marsh
AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray
ABSENT. DID NOT VOTE - Cr Stewart

The Mayor declared the Motion CARRIED on the Mayor's casting vote.

Councillor Stewart here returned to the Chamber at 8.01pm.

11.1 General Manager

11.1.1 2011-12 Third Quarter Review of the Operational Plan and Budget (9706665)

98 RESOLVED: Murray/Rankin

1. That the Quarterly Review of the Operational Plan for the quarter ended March 2012 be received and endorsed.
2. That Council adopt the March 2012 Quarter Budget Review with all recommended adjustments as contained in this report and attachments.

CARRIED UNANIMOUSLY

11.1.2 Appointment of Panel of Conduct Reviewers and Division of Local Government Review of Model Code of Conduct (9663146)

MOTION: Saliba/Murray

1. That Council appoint:
 - HR With Ease:
 - Yvonne Walker
 - Locale Consulting:
 - Emma Broomfield
 - John Peedom
 - Maxine Lacey
 - IAB Services:
 - Peter Mulhall
 - Jason Plumridge
 - Rhonda Stein
 - Michelle Wakka
 - O'Connor Marsden:
 - Kelvin Kenney
 - Ivan Perisa
 - Julia Thompson
 - Andrew Firth
 - Impact Forensics:
 - Ian Fargher
 - Brett Goodyer
 - Mediate Today:
 - Robert Lopich

- Lorraine Lopich

to the Panel of Conduct Reviewers.

2. That all successful and unsuccessful applicants be advised in writing.
3. In the event that a suitable conduct reviewer from Council's Panel of Conduct Reviewers is not available when required, authority be granted for the engagement of a reviewer from a panel of conduct reviewers established by a neighbouring Council.
4. That Councillors receive and note the information on the consultation draft documents issued by the Division of Local Government relating to the Model Code of Conduct.

Councillor Murray MOVED a POINT of ORDER that a direction had already been made that the names of those individuals representing commercial entities be included in the Minutes in response to Cr Moran's comments that commercial entities were not individuals.

Councillor Moran FORESHADOWED a MOTION that should the motion be defeated that this item be deferred for further report to Council listing the individuals to be appointed to the Panel of Conduct Reviewers.

The MOTION on being PUT to the Meeting was CARRIED 5/2

99 RESOLVED: Saliba/Murray

1. That Council appoint:
 - HR With Ease:
 - Yvonne Walker
 - Locale Consulting:
 - Emma Broomfield
 - John Peedom
 - Maxine Lacey
 - IAB Services:
 - Peter Mulhall
 - Jason Plumridge
 - Rhonda Stein
 - Michelle Wakka
 - O'Connor Marsden:
 - Kelvin Kenney
 - Ivan Perisa
 - Julia Thompson
 - Andrew Firth
 - Impact Forensics:
 - Ian Fargher

- Brett Goodyer
- Mediate Today:
 - Robert Lopich
 - Lorraine Lopich

to the Panel of Conduct Reviewers.

2. That all successful and unsuccessful applicants be advised in writing.
3. In the event that a suitable conduct reviewer from Council's Panel of Conduct Reviewers is not available when required, authority be granted for the engagement of a reviewer from a panel of conduct reviewers established by a neighbouring Council.
4. That Councillors receive and note the information on the consultation draft documents issued by the Division of Local Government relating to the Model Code of Conduct.

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart

AGAINST VOTE - Cr Moran, Cr Marsh

11.3 Corporate Policy Directorate

11.3.1 Naming a Civic Facility after Bob and Ann Harrison (9707029)

100 RESOLVED: Saliba/Murray

1. That the park situated on the corner of Lake Entrance Road and Minga Avenue (informally known as City Park) be named Harrison Park in recognition of Bob and Ann Harrison's outstanding and extensive service to the community of Shellharbour.
2. That the name Harrison Park be registered with the Geographic Names Board.
3. That appropriate signage be installed at the site denoting the new name.
4. That an appropriate ceremony be held when signage is installed.

CARRIED 6/1

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart, Cr Marsh

AGAINST VOTE - Cr Moran

11.3.2 Tullimbar Pedestrian Access (9704480)

101 RESOLVED: Murray/Boyle

1. That Council approve 'Option 3' involving road shoulder widening along the southern side of the Illawarra Highway approximately between Church Street and Broughton Avenue.
2. That Council allocate \$40,000 in savings from the Poplar Avenue Extension toward the project.
3. That Council's budget be amended accordingly.

CARRIED UNANIMOUSLY

102 RESOLVED: Saliba/Marsh

That the meeting recess for 5 minutes.

CARRIED UNANIMOUSLY

Meeting adjourned at 8.48pm

Meeting resumed at 8.53pm

Standing orders were resumed.

8. Mayor's Statements / Reports / Presentations

The Mayor stated that she was fortunate to attend the 2012 Wings over Illawarra Air Show on 6 May 2012 and congratulated the organising committee, HARS, volunteers, members of the SES, Tourism Shellharbour and Director Shellharbour Enterprises Bruce Green for making the event a success.

The Mayor also advised of the meetings she held with Stephen Jones MP and Gareth Ward MP this week and the issues discussed.

The Mayor also stated that she attended the launch of KidsFest on Monday and thanked the Federal Government for their funding of the event, as well as Barnardos and Communities 4 Children for their involvement.

The Mayor also referred to the opening of Stage 1 of the Stockland Shellharbour redevelopment and thanked Stockland for investing in the City.

9. Councillors' Reports

Nil

10. Mayoral Minutes

10.1 Mayoral Minute: Request for Report - Shellharbour City Council v Stewart (2008) NSWLEC 151 (9712838)

This Item was considered following Addresses to Council (refer to resolution No. 97).

11. Reports

11.1 General Manager

11.1.1 2011-12 Third Quarter Review of the Operational Plan and Budget (9706665)

This Item was considered following Addresses to Council (refer to resolution No. 98).

11.1.2 Appointment of Panel of Conduct Reviewers and Division of Local Government Review of Model Code of Conduct (9663146)

This Item was considered following Addresses to Council (refer to resolution No. 99).

11.1.3 2012/13 Calendar of Events (9708357)

103 RESOLVED: Murray/Saliba

1. That Council endorse the Calendar of Events attached for 2012/2013.
2. That any additional non-budgeted events that do not fall under Civic Functions that are proposed to be included in the calendar be reported to Council individually for consideration.

CARRIED UNANIMOUSLY

11.1.4 One Association Update and Status Report and Appointment of Voting Delegates to Vote on One Association (9710815)

104 RESOLVED: Murray/Saliba

1. That Council nominate its four (4) voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.
2. That Councillor Saliba, Councillor Murray, Councillor Moran and Councillor Marsh be appointed as voting delegates.

CARRIED UNANIMOUSLY

11.1.5 Monthly Investment Report - March 2012 (9692948)

105 RESOLVED: Boyle/Rankin

That Council receive and note the Investment Portfolio reports, as at 31 March 2012.

CARRIED UNANIMOUSLY

11.2 City Outcomes Directorate

11.2.1 Precinct Development Strategy for Seniors Housing & Associated Facilities at Lot 2, DP 1043053, Wattle Road, Shellharbour City Centre - Precinct M (9706791)

106 RESOLVED: Murray/Rankin

That the Council approve the Precinct Development Strategy as contained in Attachment 1 of the report, subject to all public uses being centred around the public square.

CARRIED UNANIMOUSLY

11.2.2 DA No. 221/2011 - Designated Integrated Development Wetlands 3 & 5 (Artificial Waterbodies) & Associated Landscaping At Lots 8250 & 8251, DP 1153225, Shell Cove (9654154)

107 RESOLVED: Murray/Saliba

That the Council endorse the recommendation of the IDAP to approve Development Application No. 221/2011 for Designated Integrated Development Wetlands 3 & 5 (Artificial Waterbodies) & Associated landscaping at Lots 8250 & 8251, DP 1153225, Shell Cove, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the conditions following this report.

CARRIED UNANIMOUSLY

11.3 Corporate Policy Directorate

11.3.1 Naming a Civic Facility after Bob and Ann Harrison (9707029)

This Item was considered following Addresses to Council (refer to resolution No. 100).

11.3.2 Tullimbar Pedestrian Access (9704480)

This Item was considered following Addresses to Council (refer to resolution No. 101).

11.3.3 Proposed Acquisition of Lot 11, DP 1099281, 26 Croome Road, Croom (9704636)

108 RESOLVED: Rankin/Boyle

1. That Council acquire the land being part Lot 11 DP 1099281 Croome Road Croom in accordance with clause 71(1) of the Shellharbour LEP 2000 for an amount of Five Hundred and Fifty Thousand Dollars only (\$550,000).
2. That the subject land be classified as Operational Land once acquired, under the Local Government Act 1993.
3. That the Mayor and General Manager be authorised to sign any documentation associated with the acquisition including affix of the Seal of Council.

CARRIED UNANIMOUSLY

11.3.4 Proposed Licence Agreement with Albion Park Outlaws Rugby League Football Club at Part Lot 100, DP 813443, Tongarra Road, Albion Park (9705469)

109 RESOLVED: Rankin/Saliba

1. That Council commence the formal process of advertising the proposal to enter into a licence agreement with Albion Park Outlaws Rugby League Football Club for a period of twelve (12) months.
2. Provided no submissions are received, Council enter into a licence agreement with Albion Park Outlaws Rugby League Football Club for a period of twelve (12) months, for the occupation of the canteen facility at an annual rental of \$100.00 GST Exclusive.
3. That the Mayor and General Manager or designated officer be authorised to sign the licence agreements.

CARRIED UNANIMOUSLY

11.3.5 Proposed Licence Agreement with Tullimbar Titans Junior Rugby League Football Club at Part Lot 100, DP 813443, Tongarra Road, Albion Park (9705501)

110 RESOLVED: Saliba/Rankin

1. That Council commence the formal process of advertising the proposal to enter into a licence agreement with Tullimbar Titans Junior Rugby League Football Club for a period of twelve (12) months.
2. Provided no submissions are received, Council enter into a licence agreement with Tullimbar Titans Junior Rugby League Football Club for a period of twelve (12) months, for the occupation of the canteen and storage facility at an annual rental of \$100.00 GST Exclusive.
3. That the Mayor and General Manager or designated officer be authorised to sign the licence agreements.

CARRIED UNANIMOUSLY

11.4 Shellharbour Enterprises Directorate

Nil

12. Committee Recommendations

12.1 Recommendations from the Aboriginal Advisory Committee Meeting held 1 May 2012 recommended for adoption.

111 RESOLVED: Stewart/Murray

That the Recommendations from the Aboriginal Advisory Committee Meeting held 1 May 2012 be adopted.

CARRIED UNANIMOUSLY

12.2 Recommendations from the Traffic Committee Meeting held 2 May 2012 recommended for adoption.

112 RESOLVED: Stewart/Boyle

That the Recommendations from the Traffic Committee Meeting held 2 May 2012 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

Nil

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

Nil

16. Questions on Notice (must be submitted in writing)

Nil

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17. Urgent Business

Nil

18. Committee of the Whole in Closed Session: Adjournment

Nil

19. Committee of the Whole: Consideration of Adoption of Decisions Reached in Closed Session

Nil

20. Consideration of Motions to Declassify Reports Considered in Closed Session

Nil

Meeting closed 9.12 pm