

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 13 November 2012

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 13 November 2012 commencing at 6.33 pm**

Present

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

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 Organisational Development	P Batman
Group Manager Infrastructure Services	M Boenisch
Group Manager Finance	T Gearon
Manager Property & Recreation	D Flanagan
Shell Cove Commercial Manager	K James
Manager Assets & Projects	G Standen
Manager HACCC Services & Development	N Williams
Financial Accountant	A Bateman
Accountant	L Mason
Corporate Planning Officer	S Farnham
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer	J Frasca

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 usual advice regarding the webcasting of the meetings of the Council.

2. Confirmation of Minutes

2.1 Ordinary Meeting 16 October 2012

299 RESOLVED: Boyle/Rankin

That the Minutes of the Ordinary Council Meeting held on 16 October 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.2 Committee of the Whole Meeting (in open session) 16 October 2012

300 RESOLVED: Stewart/Rankin

That the Minutes of the Committee of the Whole Meeting (in open session) held on 16 October 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.3 Extraordinary Meeting 5 November 2012

301 RESOLVED: Murray/Rankin

That the Minutes of the Extraordinary Council Meeting (in open session) held on 5 November 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

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2.4 Extraordinary Meeting (in Committee of the Whole - confidential session) 5 November 2012

302 RESOLVED: Stewart/Boyle

That the Minutes of the Extraordinary Meeting (in Committee of the Whole - confidential session) held on 5 November 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

Ordinary Council Meeting

An apology was tendered on behalf of Councillor Marsh.

Committee of the Whole Council Meeting

An apology was tendered on behalf of Councillor Marsh.

303 RESOLVED: Murray/Stewart

That the apologies as tendered be accepted.

CARRIED UNANIMOUSLY

4. 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:

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- (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.

4.1 Expression of Interest (EOI) for Links Hotel (9814203) CONFIDENTIAL

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

- (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

The Mayor asked if there were any members of the public gallery who wished to address the Council in relation this matter being dealt with in Confidential Session of the Council and no members of the public indicated their interest in addressing the Council.

5. Pecuniary Interest and Conflict of Interest Declarations

Nil

6. Condolences

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

Mr Luis Vicente Ruiz	of	Albion Park
Mrs Valerie Pearson	of	Albion Park
Mr Vincent James Rimmer	of	Albion Park
Mrs Pauline Raftery	formerly of	Albion Park
Mr Douglas Robert Miller	of	Albion Park Rail
Mrs May Neate	of	Albion Park Rail
Mr William Devir Lynch	of	Albion Park Rail

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Mrs Gladys Lillian Hurley	formerly of	Albion Park Rail
Mrs Joy Isabella Prince	of	Barrack Heights
Mr Alexander Cochrane	formerly of	Barrack Heights
Mr Kenneth John Burton	of	Barrack Point
Mrs Kathleen Friend	of	Blackbutt
Mrs Helen Catherine Croft	of	Flinders
Mr Sid Buckman	formerly of	Lake Illawarra
Mr Col Coleman	of	Lake South
Mr David Mortimer-Fox	of	Mt Warrigal
Mrs Josefa Karner	of	Oak Flats
Mrs Mediha Yusuf	of	Oak Flats
Mrs Melba Katherine Dennis	of	Shellharbour
Mrs Patricia Mary Lindsay	of	Shellharbour
Mr Vitale Da Lio	of	Shellharbour
Mrs Barbara Prior	of	Warilla
Mrs Ethel Martha Bryan	formerly of	Warilla
Mrs Elsie Hall	of	Warilla
Mrs Enid Kennedy	of	Warilla
Mrs Jacqueline Ramm	of	Warilla

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

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7. Addresses to Council

Agenda Item No & Title	Name
11.2.1 Feasibility of Child Care at Council Meetings (9796104)	Sonya McKay
11.3.2 Loan Borrowings for Local Infrastructure Renewal Scheme (9806427)	Sonya McKay
11.3.3 Requests for Donation - Cash for City Charities and School Presentation Awards (9600036)	Sonya McKay

During Ms McKay's address on Item 11.2.1, Cr Stewart MOVED a POINT of ORDER that Ms McKay's statements did not relate to this item. The Mayor accepted the POINT of ORDER and requested Ms McKay stay on topic.

305 RESOLVED: Stewart/Rankin

That standing orders be suspended in order for Items 11.2.1, 11.3.2 and 11.3.3, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.2.1 Feasibility of Child Care at Council Meetings (9796104)

MOTION: Moran

That Council endorse Option 2 as the preferred options for the provision of childcare services to children of members of the community, councillors and Council staff attending Council Ordinary and Extraordinary Meetings.

The Motion lapsed for want of a seconder.

306 RESOLVED: Murray/Rankin

That this item be received and noted.

CARRIED 5 / 1

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

11.3.2 Loan Borrowings for Local Infrastructure Renewal Scheme (9806427)

307 RESOLVED: Murray/Boyle

1. That Council approve the borrowing of \$3 million over a 10 year term for the funding of road infrastructure asset renewal works.
2. That Council accept the offer from the National Australia Bank, for a loan of \$3million over ten years, at a quoted interest rate of 5.18% per annum to be repaid by equal and consecutive and monthly instalments of principal and interest.
3. That the Mayor and the General Manager or his nominated delegate be authorised to execute any loan documents under the Common Seal of Council.
4. That the Mayor and the General Manager or his nominated delegate be authorised to sign and affix the Common Seal of Council to the Local Infrastructure Renewal Scheme Funding Agreement - Division of Local Government.

CARRIED UNANIMOUSLY

11.3.3 Requests for Donation - Cash for City Charities and School Presentation Awards (9600036)

MOTION: Rankin/Stewart

1. That the following groups each receive an equal proportion of the remaining 30% of proceeds from Australia Day Breakfast by the Lake 2013, Cash for City Charities programme, up to the amount requested in their individual applications:
 1. St Vincent de Paul Society - Warilla Conference
 2. St Vincent de Paul Society - Albion Park Conference
 3. Riding for the Disabled Association (NSW), Illawarra Centre
 4. Warilla / Shellharbour Arthritis Foundation
2. That In the event that there is a surplus, that is, more money is available from the allocated 30% of funds than the amounts requested by each of the applicants, that surplus will be added to the 70% which is distributed to the community service groups who assist Council with the Australia Day Breakfast by the Lake event.
3. That Council make the following donation for end of year school presentations totalling \$900:

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1. \$50 Stockland Gift Voucher for each of the eight high schools within the LGA to be presented with an Achievement Certificate as an end of year award.
2. \$25 Stockland Gift Voucher for each of the twenty primary schools within the LGA to be presented with an Achievement Certificate as an end of year award.

Cr Moran proposed an amendment to Item 3 of the Motion that the high schools and primary schools be presented with cheques instead of gift vouchers. The amendment was not accepted by the Mover.

Cr Moran proposed an amendment to Item 3 of the Motion that the high schools and primary schools be presented with cash instead of gift vouchers. The amendment was not accepted by the Mover.

308 RESOLVED: Rankin/Stewart

1. That the following groups each receive an equal proportion of the remaining 30% of proceeds from Australia Day Breakfast by the Lake 2013, Cash for City Charities programme, up to the amount requested in their individual applications:
 1. St Vincent de Paul Society - Warilla Conference
 2. St Vincent de Paul Society - Albion Park Conference
 3. Riding for the Disabled Association (NSW), Illawarra Centre
 4. Warilla / Shellharbour Arthritis Foundation
2. That In the event that there is a surplus, that is, more money is available from the allocated 30% of funds than the amounts requested by each of the applicants, that surplus will be added to the 70% which is distributed to the community service groups who assist Council with the Australia Day Breakfast by the Lake event.
3. That Council make the following donation for end of year school presentations totalling \$900:
 1. \$50 Stockland Gift Voucher for each of the eight high schools within the LGA to be presented with an Achievement Certificate as an end of year award.
 2. \$25 Stockland Gift Voucher for each of the twenty primary schools within the LGA to be presented with an Achievement Certificate as an end of year award.

CARRIED 5 / 1

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

309 RESOLVED: Murray/Stewart

That Standing orders be resumed

CARRIED UNANIMOUSLY

Cr Moran MOVED a POINT of ORDER that a vote was not taken in relation to moving into confidential session. The Mayor clarified that notice of the confidential item was given at Item 4 and that the adjournment into Committee of the Whole in Closed Session is listed at Item 18 and therefore the POINT of ORDER was not required.

8. Mayor's Statements / Reports / Presentations

The Mayor outlined the recent events, meetings and conferences she has attended since the last Ordinary Council Meeting.

9. Councillors' Reports

Cr Rankin outlined some recent events he has attended on behalf of the Council.

10. Mayoral Minutes

Nil

11. Reports

11.1 General Manager

11.1.1 2011/2012 Annual Financial Statements and Annual Report (9808819)

Warwick Shanks of KPMG, Council's External Auditor, addressed the Council in relation to the 2011/2012 Annual Financial Statements.

Cr Murray moved a POINT of ORDER during Cr Moran's address asking if a question is being asked or is it commentary. Cr Moran continued with his address.

Cr Moran requested details of the donation made to the Kiama Braves Baseball Club listed on page 54 of the Annual Report. The Director Corporate Policy took the question

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on notice. (This was responded to by the General Manager later in the meeting - refer to Item 13.1).

Cr Moran MOVED a POINT of ORDER during his address that he should be allowed to finish speaking before the General Manager responds to his comments. The Mayor requested Cr Moran to continue.

Cr Murray MOVED a POINT of ORDER during Cr Moran's address in relation to criticising staff. The Mayor accepted the POINT of ORDER and asked Cr Moran to stay on topic and stop the personal attacks.

310 RESOLVED: Murray/Stewart

1. That the 2011/2012 Annual Financial Statements be adopted.
2. That the 2011/2012 Annual Report be received and noted.

CARRIED UNANIMOUSLY

11.1.2 Monthly Investment Report - September 2012 (9802000)

311 RESOLVED: Murray/Rankin

That Council receive and note the attached Investment Portfolio reports, as at 30 September 2012.

CARRIED UNANIMOUSLY

11.2 City Outcomes Directorate

11.2.1 Feasibility of Child Care at Council Meetings (9796104)

This item was considered following Addresses to Council (refer to Resolution No 306).

11.3 Corporate Policy Directorate

11.3.1 Debt Write-Off - Shellharbour Hockey Centre Incorporated (9806220)

312 RESOLVED: Murray/Saliba

That the debt listed under the name of Shellharbour Hockey Centre Incorporated for the amount of \$430,517.43, which relates to outstanding loan repayments, be written off and Council's financial records adjusted accordingly.

CARRIED UNANIMOUSLY

11.3.2 Loan Borrowings for Local Infrastructure Renewal Scheme (9806427)

This item was considered following Addresses to Council (refer to Resolution No 307).

11.3.3 Requests for Donation - Cash for City Charities and School Presentation Awards (9600036)

This item was considered following Addresses to Council (refer to Resolution No 308).

11.3.4 Environmental Impact Review of Council's Motor Vehicle Fleet (9809866)

313 RESOLVED: Murray/Rankin

That Council endorse the actions already undertaken in regard to Motor Vehicle management with Council.

CARRIED UNANIMOUSLY

11.3.5 Shellharbour City Stadium - Roof Leaks (10026441)

314 RESOLVED: Murray/Boyle

That Council receive and note this report.

CARRIED UNANIMOUSLY

11.3.6 Tender 2012/32 - Landfill Gas Extraction Design and Construction Project, Dunmore Recycling and Waste Disposal Depot Shellharbour NSW (10025961)

315 RESOLVED: Moran/Murray

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, Council resolves to enter into a contract (Contract 2012/32) with Landfill Gas Industries (LGI) for the tender sum of \$1,004,000 excluding GST in accordance with Tender Document 2012/32.
2. Delegate to the Director Corporate Policy the authority to sign the Letter of Award to the Contractor on behalf of Shellharbour City Council.

CARRIED UNANIMOUSLY

11.3.7 Proposed Streetscape Budget Adjustments (9809225)

316 RESOLVED: Stewart/Rankin

1. That Council endorses the priorities nominated in 'Table 1' for the streetscape program of works.
2. That Council amend budgets for Oak Flats and Shellharbour Streetscapes and Destination Albion Park Stage 2 to align with current cost estimates.
3. That Council funds work in Lot 1, DP 1046094, Russell Street, Albion Park to provide continuous footpath access between Tongarra Road and the privately owned Albion Park Shopping Centre.

CARRIED UNANIMOUSLY

11.3.8 Proposed Partial Road Closure of Shandan Circuit, Albion Park Rail (10026095)

317 RESOLVED: Murray/Boyle

1. That Council note the amended area.
2. That Council submit a letter to Department of Primary Industries - Catchment & Lands - Crown Lands Division stating that Council has no objection to the amended area as set out in the report.
3. That Council also request in the letter that Crown Lands undertake a further advertising and referencing period to allow submissions to be received on the amended area.

CARRIED UNANIMOUSLY

11.3.9 Community Land Plan of Management for Lot 5502 DP 1054105 Killalea Drive, Lot 5335 DP 1059696 and Lot 7221 DP 1044382 Southern Cross Boulevard, Shell Cove (10025935)

Cr Moran referred to his Question on Notice from the Ordinary Council Meeting on 7 August 2012 in relation to whether Council receives a payment for the Shell Cove advertising signs placed on Council land. The Director Shellharbour Enterprises responded that Council does not receive any income from this signage.

318 RESOLVED: Rankin/Murray

That Council adopt the Draft Plan of Management for Lot 5502 DP 1054105 Killalea Drive, Lot 5335 DP 1059696 and Lot 7221 DP 1044382 Southern Cross Blvd, Shell Cove.

CARRIED 5 / 1

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

11.3.10 Proposed Management Agreement between Shellharbour City Council and Shellharbour Fishing and Yachting Club Incorporated (10026016)

319 RESOLVED: Boyle/Stewart

1. That Council enter into a Management Agreement with Shellharbour Fishing and Yachting Club Incorporated for a period of five (5) years for the management of the boat ramp slipway facility and winch house being part of Cowrie Island (580064) Reserve Trust.
2. The Mayor and General Manager or his nominated delegate be authorised to sign and execute all necessary documentation associated with the Management Agreement including affix of the Seal of Council.

CARRIED UNANIMOUSLY

11.3.11 Renewal of Licence Agreement between Shellharbour City Council and Illawarra Shoalhaven Local Health District (10025791)

320 RESOLVED: Rankin/Stewart

1. That Council enter into the Licence Agreement with Illawarra Shoalhaven Local Health District for the policing of the disabled parking spaces at Shellharbour Public Hospital for a term of ten (10) years.
2. The Mayor and General Manager or his nominated delegate be authorised to sign and execute all necessary documentation associated with the Licence Agreement including affix of the Seal of Council.

CARRIED UNANIMOUSLY

11.4 Shellharbour Enterprises Directorate

11.4.1 Shell Cove - 2012 Feasibility Study (9777849)

321 RESOLVED: Murray/Boyle

That Council:

1. Notes the 2012 Feasibility Study, lodged by Australand, provides for 2 development scenarios called Option 1 and Option 2, with Option 1 based upon a standard lot size for feasibility purposes.
2. Approves the 2012 Feasibility Study with Option 2 to be the "Baseline" option for the Feasibility Study.
3. Notes that market analysis over the coming 18 months will impact upon the suggested development scenarios for the Boatharbour Precinct.
4. Re-affirms to Australand, the project manager of the Shell Cove Project, for all planning and development of the future Boatharbour and the Boatharbour Precinct to include measures that satisfy the key objectives of the Shell Cove Project in creating sustainable employment and economic benefits.
5. Supports the public release of the 2012 Feasibility Study but excluding any contents that are determined to be commercial in confidence.
6. Delegates to the General Manager the determination of which sections of the 2012 Feasibility Study are commercial in confidence.

CARRIED 5 / 1

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

12. Committee Recommendations

Nil

13. Items for Information

13.1 Items for Information - Review of the Donations Policy (9813154)

MOTION: Stewart/Rankin

That Council receive and note this report.

Cr Moran proposed the following addition to the Motion as follows:

That this Council believes it is appropriate that no Council Officer approve a donation without it going through the Council's Donation Working Party.

The General Manager advised that he is seeking legal advice on a proposed notice of motion received by Cr Moran in this matter and it will be reported to a future Council Meeting for consideration by the Council. On receiving this advice from the General Manager, the Mover and Seconder did not accept the amendment to the Motion.

Cr Rankin MOVED a POINT of ORDER during Cr Moran's address in relation to his remarks about staff. The Mayor accepted the POINT of ORDER and asked Cr Moran to stick to the item and not make personal comments.

In relation to Cr Moran's earlier question in relation to the donation made to the Kiama Braves Baseball Club, the General Manager responded that it was a donation made in kind for the Club to play at The Links Golf Course and Council benefited from the takings made from the bar.

322 RESOLVED: Rankin/Stewart

That the Motion be put.

CARRIED 5 / 1

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

323 RESOLVED: Stewart/Rankin

That Council receive and note this report

CARRIED 5 / 1

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

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

Nil

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

Nil

17. Urgent Business

Nil

18. Committee of the Whole in Closed Session: Adjournment

324 RESOLVED: Murray/Rankin

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)(c) and (d)(i) 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*.

CARRIED 5 / 1

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

Meeting adjourned at 8.45 pm

Meeting resumed at 9.19 pm

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

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

4.1 Expression of Interest (EOI) for Links Hotel (9814203) CONFIDENTIAL

COMMITTEE RECOMMENDATION:

1. That the Council invite those entities that responded to the Expressions of Interest (EOI) to submit firm proposals as part of a Request for Proposals (RFP) process.
2. That the Council note the timetable as outlined.

325 RESOLVED: Murray/Boyle

That the recommendations to Council from the Committee of the Whole meeting held earlier today be adopted.

CARRIED 5 / 1

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

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

Nil

Meeting closed 9.22 pm