

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 03 September 2013

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 03 September 2013 commencing at 6.31 pm**

Present

Mayor	M Saliba
Deputy Mayor	P Rankin
Councillor	K Marsh
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 Finance	T Gearon
Group Manager Infrastructure Services	M Boenisch
Group Manager City Development	G Meredith
Shell Cove Commercial Manager	K James
Business Performance & Development Manager	M Henning
Manager Community & Cultural Life	N Collins
Manager Property & Recreation	D Flanagan
Manager Projects & Contracts	S Gillen
Acting Senior Development Assessment Officer	N Cavallo
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer (minute taker)	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 13 August 2013

257 RESOLVED: Marsh/Stewart

That the Minutes of the Ordinary Council Meeting held on 13 August 2013 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.2 Extraordinary Meeting 12 August 2013

258 RESOLVED: Stewart/Marsh

That the Minutes of the Extraordinary Council Meeting held on 12 August 2013 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.3 Committee of the Whole Extraordinary Meeting 12 August 2013

259 RESOLVED: Stewart/Marsh

That the Minutes of the Committee of the Whole Extraordinary Council Meeting held on 12 August 2013 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

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An apology was tendered on behalf of Councillor Boyle.

Committee of the Whole Council Meeting

An apology was tendered on behalf of Councillor Boyle.

260 RESOLVED: Rankin/Murray

That the apologies as tendered be accepted.

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:
 - (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

4.1 Shell Cove: Australand Retail Proposal (9945022)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(c), (d)(ii) 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:
 - (ii) confer a commercial advantage on a competitor of the council

Candid discussion of this item in any *open* meeting or briefing of Council, would be contrary to the public interest, as this consideration has implications for the commercial, private interests of Council's associate in the Management Agreement. Council is considering its options for acquisition or divestment of land which is part of the Harbour Land defined in the Management Agreement, being residential, retail and commercial precincts of The Waterfront, Shell Cove. Whilst any decision to sell or surrender a land asset must be made by resolution of the Council {LG Act, S.377(1 h)} and any resolution to sell should be made in the public domain, earlier consideration of sales or options or alternative strategies may be best conducted in confidential session, to optimise candid debate of options and strategies and to protect the public interest and debate, from any influence of vested interests.

4.2 The Links Shell Cove - Analysis of Request for Proposal and Next Steps (9997217)

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(c) and (d)(i) and (ii) 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, or
 - (ii) confer a commercial advantage on a competitor of the council

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Council will be considering the possible divestment of a significant, valuable, strategic asset. Whilst any decision to sell such assets should be made in the public domain, early consideration of sales or alternative divestment strategies is best conducted in confidential session, to enable candid debate of commercial details, options and strategies and to protect the public interest and the debate, from the influence of vested interests at this early stage of consideration.

5. Pecuniary Interest and Conflict of Interest Declarations

Nil

6. Condolences

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

Mr Arthur Dagnall	of	Albion Park
Mrs Brenda Bentley	of	Albion Park
Mr John Sharp	of	Albion Park
Mrs Joyce Edith Howe	of	Albion Park Rail
Mr Leon Zietsch	of	Albion Park Rail
Ms Natasha Emeli	formerly of	Albion Park Rail
Mrs Enid Terry	of	Albion Park Rail
Mr Peter Dominic O'Driscoll	of	Barrack Heights
Mr Richard John Clarke	formerly of	Barrack Heights
Mr Ronald Joseph Wren	of	Barrack Heights
Mr Robert Vickers	of	Blackbutt
Mr Graham Tranter	of	Lake Illawarra
Mrs Joyce Taylor	of	Oak Flats
Mr Martin Cicin	of	Oak Flats
Mrs Maureen Margaret Timbs	of	Oak Flats
Mr Robert James Wilson	of	Oak Flats
Mr Robert Walsh	of	Warilla

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Mr Arthur John Hobbs of Warilla

Mr Florencio Paule-Font of Warilla

Mr Paul Haywood of Warilla

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

7. Addresses to Council

Please note the following clauses from Council's Code of Meeting Practice:

13.3 Conduct of Addresses

13.3.1 *The duration of individual addresses is strictly limited to three minutes including any summary and/or conclusion, however, the Mayor may exercise reasonable and limited discretion to extend this limit*

13.3.2 *Only the Chairperson is permitted to ask questions of any person addressing the Council.*

Agenda Item No & Title	Name
11.1.1 Structuring of the Council's Business Activities (992123)	Cathy Massey Sonya McKay
11.3.9 Draft Shipping Containers on Council Land Policy (9991122)	Don Briggs
13.1 Response to Question on Notice submitted by Cr Peter Moran: HARS (9992307)	Sonya McKay
13.5 Response to Questions on Notice submitted by Cr Kellie Marsh: Illawarra Regional Airport	Sonya McKay

262 RESOLVED: Murray/Marsh

That Standing Orders be suspended in order for Items 11.1.1, 11.3.9, 13.1 and 13.5, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.1.1 Structuring of the Council's Business Activities (9992123)

Councillor Moran MOVED a POINT of ORDER that the Mayor should speak to the item last. The Mayor clarified that she was entitled to speak on the item in no particular order and continued her address.

Councillor Marsh MOVED a POINT of ORDER that Councillor Stewart had already spoken on this item. The Mayor clarified that Councillor Stewart had previously asked questions and had reserved her right to speak.

263 RESOLVED: Murray/Stewart

1. That the Illawarra Regional Airport be managed as a business unit of Council that reports to the General Manager.
2. That appropriate business reporting be developed which includes but is not limited to a profit and loss statement and a balance sheet.
3. That the profit and loss statement includes all direct and indirect costs.
4. That the General Manager report back on the establishment of an Airport Business Unit Board including its proposed composition, appointment process and accountability.

CARRIED UNANIMOUSLY

Councillor Murray left the chamber at 7.18pm

Councillor Murray returned to the Chamber at 7.21pm

11.3.9 Draft Shipping Containers on Council Land Policy (9991122)

The Mayor asked how many shipping containers are currently on council land. The General Manager took this question on notice.

264 RESOLVED: Moran/Marsh

1. That Council adopt the proposed Shipping Containers on Council Land Policy for the purpose of public exhibition for a period of 28 days.
2. That submissions be invited from members of the public during the public exhibition period.
3. That if any submissions are received, a further report be presented to Council outlining the submissions.

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4. That if no submissions are received, the Shipping Containers on Council Land Policy be adopted for trial period of 12 months.

5. That this matter be reported back to Council after the trial period.

CARRIED: 5/1

FOR VOTE - Cr Saliba, Cr Moran, Cr Murray, Cr Stewart, Cr Marsh

AGAINST VOTE - Cr Rankin

13.1 Response to Question on Notice submitted by Cr Peter Moran: HARS (9992307)

13.5 Responses to Questions on Notice submitted by Cr Kellie Marsh: Illawarra Regional Airport (9996386)

That Council receive and note this information.

265 RESOLVED: Murray/Marsh

That standing orders be resumed.

CARRIED UNANIMOUSLY

Meeting adjourned at 7.47pm

Meeting resumed at 7.56pm

8. Mayor's Statements / Reports / Presentations

The Mayor outlined the events she has attended since the last council meeting.

9. Councillors' Reports

Nil

10. Mayoral Minutes

Nil

11. Reports

11.1 General Manager

11.1.1 Structuring of the Council's Business Activities (9992123)

This item was considered following Addresses to Council (refer resolution No.263)

11.1.2 2012/13 Annual Financial Reports (9987898)

266 RESOLVED: Murray/Marsh

1. That Council make the Statements (as attached) and approve the application of the signatures of the Mayor, another Councillor and the General Manager to those statements, as required by Clause 215 of the *Local Government (General) Regulation 2005*.
2. That the Annual Financial Reports be formally referred for audit.

CARRIED UNANIMOUSLY

11.1.3 Monthly Investment Report for July 2013 (9987391)

267 RESOLVED: Stewart/Murray

That Council receive and note the attached Investment Portfolio report, as at 31 July 2013.

CARRIED UNANIMOUSLY

11.2 City Outcomes Directorate

11.2.1 DA No. 172/2013 - Lot 2915, DP 1181803, 25 Haddin Road, Flinders - Three Townhouses (Detached) with Garages & Torrens Subdivision (Multi Dwelling Housing) (9988837)

268 RESOLVED: Murray/Marsh

That the Council determine Development Application No. 172/2013 for Lot 2915, DP 1181803, 25 Haddin Road Flinders, subject to the conditions contained in this report.

CARRIED UNANIMOUSLY

11.2.2 Regional Partnerships Agreement Signatory Report (9987945)

269 RESOLVED: Murray/Stewart

That Council become a signatory of the Illawarra Regional Partnership Agreement (RPA) and an appropriate Council Officer become a member of the RPA Steering Committee as recommended by the General Manager.

CARRIED UNANIMOUSLY

11.3 Corporate Policy Directorate

11.3.1 Proposed Licence Agreement with Savvy Fitness South at Reddall Reserve, Lake Illawarra (9988197)

270 RESOLVED: Marsh/Rankin

1. That Council commence the formal process, including advertising and public exhibition, to enter into a new Licence agreement with Savvy Fitness South for a period of twelve (12) Months.
2. That provided no submissions are received, Council enter into a 12 month Licence Agreement with Savvy Fitness South for the use and occupation of the approved section of Reddall Reserve, Reddall Parade, Lake Illawarra to conduct commercial fitness training activities, for an annual amount of \$1,500 plus GST with Savvy Fitness South being responsible for the cost of preparation of the licence agreement and any applicable legal costs.
3. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

11.3.2 Regional Roads Repair Program and Block Grant 2013/2014 (9989774)

271 RESOLVED: Stewart/Rankin

1. That the Council accept the RMS offer of \$45,000 for the Regional Roads Repair Program 2013/2014 for use on Council's regional road, Terry Street/Jamberoo Road, Albion Park.
2. That the Council accept the RMS' offer of \$193,000 under the 2013/2014 Regional Roads Block Grant.

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3. That the General Manager or his delegate be authorised to execute all necessary documents under Council's Seal as appropriate in relation to these grants.

CARRIED UNANIMOUSLY

11.3.3 Tender 2013/43 - Croom Netball Courts Construction (9988564)

272 RESOLVED: Rankin/Murray

1. That Council, in accordance with Section 178 (1)(a) of the Local Government (General) Regulation 2005, enter into a contract (Contract 2013/43) with Dynamic Sports Facilities Pty Ltd for the lump sum amount of \$332,580 (excluding GST);
2. That the General Manager, or his nominated delegate, be authorised to sign the Letter of Award.
3. That Council approve the increase to the Section 94 Budget for this project from \$461,790 to \$485,000 which will be adjusted through the Quarterly Review process.

CARRIED UNANIMOUSLY

11.3.4 Tender 2013/25 - Request for Tender - Structural and Civil Services for Shellharbour City Hub - Stage 1 (9988573)

Councillor Moran MOVED a POINT of ORDER in relation to the Mayor's comments regarding Councillor Marsh.

Councillor Marsh requested that the Mayor retract her comments, and the Mayor apologised to Councillor Marsh.

Councillor Marsh MOVED a POINT of ORDER in relation to the Mayor's apology and stated that she did not accept the Mayor's apology, as she made other remarks.

273 RESOLVED: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, that Council enter into a contract (Contract 2013/25) with Enstruct Group Pty Ltd for the tender sum of \$376,000.00 excluding GST in accordance with Tender Document 2013/25.
2. That the General Manager, or his nominated delegate, be authorised to sign the formal documentation to award the contract.

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FOR VOTE - Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Rankin, Cr Marsh
CARRIED on the Mayor's Casting Vote

11.3.5 Tender 2013/26 - Request for Tender - Hydraulic and Fire Services for Shellharbour City Hub - Stage 1 (9988590)

Following Councillor Murray's Moving of the Motion Councillor Moran MOVED a POINT of ORDER that he had stood up to move the MOTION. The Mayor did not accept the POINT of ORDER and Councillor Moran moved a Motion of Dissent from the Mayor's ruling.

Councillor Stewart attempted to ask a question and Councillor Moran MOVED a POINT of ORDER that no questions were allowed during a MOTION of Dissent.

MOTION: Moran/Marsh

That the Mayor's ruling be dissented from.

274 The MOTION on being PUT to the Meeting was LOST 2/4

FOR: Cr Moran, Cr Marsh
AGAINST: Cr Stewart, Cr Saliba, Cr Murray, Cr Rankin

275 RESOLVED: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, that Council enter into a contract (Contract 2013/26) with WSP Buildings for the tender sum of \$267,300.00 excluding GST in accordance with Tender Document 2013/26.
2. That the General Manager, or his nominated delegate, be authorised to sign the formal documentation to award the contract.

FOR VOTE - Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Rankin, Cr Marsh
CARRIED on the Mayor's Casting Vote

11.3.6 Tender 2013/27 - Request for Tender - Electrical and Mechanical Services for Shellharbour City Hub - Stage 1 (9988608)

276 RESOLVED: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, that Council enter into a contract (Contract 2013/27) with Arup for the tender sum of \$414,500.00 excluding GST in accordance with Tender Document 2013/27.

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2. That the General Manager, or his nominated delegate, be authorised to sign the formal documentation to award the contract.

FOR VOTE - Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Rankin, Cr Marsh
CARRIED on the Mayor's Casting Vote

11.3.7 Tender 2013/28 - Request for Tender - Quantity Surveying Services for the Shellharbour City Hub Stage 1 (9987838)

277 RESOLVED: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, that Council enter into a contract (Contract 2013/26) with WT Partnership for the tender sum of \$110,000 excluding GST in accordance with Tender Document 2013/28.
2. That the General Manager, or his nominated delegate, be authorised to sign the formal documentation to award the contract.

FOR VOTE - Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Rankin, Cr Marsh
CARRIED on the Mayor's Casting Vote

11.3.8 Office of Environment & Heritage: Coastal Management Program - Grant Funding Offer: Lake Illawarra Entrance Channel Dredging and Warilla Beach Nourishment (9978437)

278 RESOLVED: Saliba/Murray

1. That the Council accept the grant funding of \$200,000 from the NSW Office of Environment & Heritage for Lake Illawarra Entrance Channel Dredging and Warilla Beach Renourishment on the proviso that matching funding is also received from the Lake Illawarra Authority.
2. Shellharbour City Council will seek to collaborate with Wollongong City Council in the pursuit of funding and grant opportunities for dredging and beach renourishment.

CARRIED: 5/1

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

11.3.9 Draft Shipping Containers on Council Land Policy (9991122)

This item was considered following Addresses to Council (refer resolution No.264).

11.4 Shellharbour Enterprises Directorate

11.4.1 Shell Cove Progress Report to 25 August 2013 (9980364)

279 RESOLVED: Marsh/Murray

1. That the progress report for the period from 13 May 2013 to 25 August 2013 for the Shell Cove Project be received and noted.
2. That the Mayor and the General Manager, or his nominated delegate, be authorised to sign the Subdivision Plan and 88B Instrument for the subdivision of Lots 5334 & 5335 DP 1059696, and any documents as associated with the sale (including the Transfers) of proposed lots 5601 to 5610 (Stage 5C2), under Council Seal.
3. That the Mayor and the General Manager, or his nominated delegate, be authorised to sign the Subdivision Plan and 88B Instrument for the subdivision of Lot 6727 DP 1171495, and any documents as associated with the sale (including the Transfers) of proposed lots 6767 to 6793 (Stage 6F3), under Council Seal.

CARRIED UNANIMOUSLY

12. Committee Recommendations

12.1 Recommendations from the Aboriginal Advisory Committee Meeting held 30 July 2013 recommended for adoption.

280 RESOLVED: Marsh/Moran

That the Recommendations from the Aboriginal Advisory Committee Meeting held 30 July 2013 be adopted.

CARRIED UNANIMOUSLY

12.2 Recommendations from the Disabilities Services Advisory Committee Meeting held 31 July 2013 recommended for adoption.

281 RESOLVED: Stewart/Murray

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 31 July 2013 be adopted.

CARRIED UNANIMOUSLY

12.3 Recommendations from the Shellharbour Traffic Committee Meeting held 7 August 2013 recommended for adoption.

282 RESOLVED: Stewart/Rankin

That the Recommendations from the Shellharbour Traffic Committee Meeting held 7 August 2013 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

13.1 Response to Question on Notice submitted by Cr Peter Moran: HARS (9992307)

This item was noted following Addresses to Council.

13.2 Response to Question on Notice submitted by Cr Marsh: Reddall Reserve Amenities (9995929)

13.3 Response to Questions on Notice submitted by Cr Kellie Marsh: Pedestrian Crossing at Shell Cove Public School (9996142)

13.4 Response to Question on Notice submitted by Cr Peter Moran and Cr Kellie Marsh: City Hub (9996154)

13.5 Responses to Questions on Notice submitted by Cr Kellie Marsh: Illawarra Regional Airport (9996386)

This item was noted following Addresses to Council.

13.6 Response to Questions on Notice submitted by Cr Kellie Marsh: City Hub (9997167)

That the Items for Information be formally noted.

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

15.1 Notice of Motion submitted by Cr Peter Moran: Shell Cove Project (9979935)

283 RESOLVED: Moran/Marsh

That Council officers prepare a report on what steps are being taken to preserve any Aboriginal artefacts uncovered during construction of the Shell Cove project so that such artefacts can be displayed at the proposed Aboriginal Interpretive centre.

CARRIED UNANIMOUSLY

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

17. Urgent Business

18. Committee of the Whole in Closed Session: Adjournment

284 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) and (ii) 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: 4/2

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

Meeting adjourned at 9.10pm

Meeting resumed at 10.04pm

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

4.1 Shell Cove: Australand Retail Proposal (9945022)

COMMITTEE RECOMMENDATION:

1. That Council not exercise its first-purchase of Harbour Land right under the Management Agreement for the proposed Stage 1 retail section of the Shell Cove Town Centre and, thereby, not retain the lots to be created for the proposed Stage 1 Retail section.
2. That Council authorise the Mayor and General Manager, or his nominated delegate, to execute the final deeds of agreement (and any associated documents) with Australand (and/or its subsidiaries) for the proposed new Stage 1 Retail section of the Shell Cove Town Centre, under Council Seal.

4.2 The Links Shell Cove - Analysis of Request for Proposal and Next Steps (9997217)

COMMITTEE RECOMMENDATION:

That the Council proceed to a full open tender including but not limited to Sale as freehold of the entire site and/or Sale of the Hotel and Accommodation site and long term lease of The Links Golf Course.

285 RESOLVED: Murray/Marsh

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

CARRIED UNANIMOUSLY

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

Meeting closed 10.06pm