

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 08 April 2014

Minutes of the Ordinary Meeting of Shellharbour City Council

held at the Council Chambers, Council Administration Centre

Shellharbour City Centre

on Tuesday 08 April 2014 commencing at 6.31 pm

Present

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

In attendance

| | |
|--|-------------------|
| General Manager | M Willis |
| Acting Director City Outcomes | M Boxall |
| Director Corporate Policy | L Furness |
| Acting Director Shellharbour Enterprises | C McIntyre |
| Executive Manager / Public Officer | F MastroDomenico |
| Group Manager Finance | T Gearon |
| Group Manager City Strategy | G Hoynes (part) |
| Acting Group Manager Corporate Strategy | T James (part) |
| Acting Group Manager Infrastructure Services | B Short (part) |
| Manager Property & Recreation | D Flanagan (part) |
| Tourism Manager | D Johnston (part) |
| Media Officer | C Lewis |
| Senior Executive Assistant (Minute Taker) | 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 and Emergency Plan Statement

The Mayor read the usual advice regarding the webcasting of the meetings of the Council and the emergency plan for Council Meetings.

2. Confirmation of Minutes

2.1 Ordinary Meeting 18 March 2014

80 RESOLVED: Marsh/Rankin

That the Minutes of the Ordinary Council Meeting held on 18 March 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.2 Committee of the Whole 18 March 2014

81 RESOLVED: Rankin/Murray

That the Minutes of the Committee of the Whole Council Meeting held on 18 March 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.3 Extraordinary Meeting 11 March 2014

82 RESOLVED: Rankin/Boyle

That the Minutes of the Extraordinary Council Meeting held on 11 March 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

2.4 Extraordinary Meeting held in Committee of the Whole 11 March 2014

83 RESOLVED: Murray/Marsh

That the Minutes of the Extraordinary Council Meeting held in Committee of the Whole on 11 March 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

Ordinary Council Meeting

Nil

Committee of the Whole Council Meeting

Nil

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 The Links Hotel and Golf Course (10137181)

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

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.

5. Pecuniary Interest and Conflict of Interest Declarations

Nil

6. Condolences

The Mayor offered condolences to Councillor Peter Moran on behalf of Council on the recent passing of his father. Councillor Moran's father, Mr Doug Moran, himself served as an Alderman of Shellharbour Council from 1983 to 1987. Councillor Stewart also expressed her personal condolences.

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

| | | |
|------------------------------|----|------------------|
| Mr Harold Snelson | of | Albion Park Rail |
| Mrs Roxanne Florentine-Delia | of | Albion Park Rail |
| Mrs Mitra Talevska | of | Barrack Heights |

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| | | |
|-----------------------------|-------------|---------------|
| Ms Carol Baker | of | Barrack Point |
| Mr Douglas Moran | formerly of | Oak Flats |
| Mr Ennio Frezza | of | Oak Flats |
| Mrs Suzanne Marian McMaster | of | Oak Flats |
| Mrs Dorothy Bailey | of | Warilla |
| Mrs Fay Ryan | formerly of | Warilla |
| Mrs Joyce Berwick | of | Warilla |
| Mr Leslie Fawcett | of | Warilla |
| Mr Ronald Oswald Chapman | of | Warilla |
| Mrs Fay Ryan | formerly of | Warilla |

84 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 four minutes with no extensions permissible*

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

| Agenda Item No & Title | Name |
|---|---|
| 11.2.1 Albion Park Town Centre Plan for Endorsement (10132445) | Sonya McKay - Not present |
| 11.3.1 Public Private Partnerships Draft Policy (10130913) | Sonya McKay - Not present |
| 11.3.2 The Links Hotel and Golf Course - Funding of Operations (10123551) | Mark Jones Sonya McKay - Not present |

85 RESOLVED: Rankin/Murray

That Standing Orders be suspended in order for Item 11.3.2, the subject of an Address to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.3.2 The Links Hotel and Golf Course - Funding of Operations (10123551)

MOTION: Murray/Rankin

That Council waive the restricted golf course liability balance remaining, of \$891,384 as previously established, with no implication for Council's balance sheet as outlined in this report.

Councillor Marsh moved a POINT of ORDER that the clock had not commenced when the Mayor stated that she would take Councillor Stewart's questions as her contribution to the debate. The Mayor then referred Councillor Stewart's questions to the General Manager to respond.

Councillor Moran stated that at the Ordinary Meeting on 31 May 2011 Council passed a resolution that Council would provide a decreasing amount of money to subsidise The Links on a per annum basis and asked, as there is a resolution of Council to reduce the amount that is paid in subsidies to The Links golf course, why in the last financial year did Council in fact increase it by \$154,000. The General Manager took the Question on Notice.

86 RESOLVED: Murray/Rankin

That Council waive the restricted golf course liability balance remaining, of \$891,384 as previously established, with no implication for Council's balance sheet as outlined in this report.

CARRIED 4/3

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

Business Arising

MOTION: Moran/Marsh

That Council notes its displeasure at frequent public comments by former General Manager Weir and former Mayor David Hamilton that the golf course would not cost the community a cent and expresses its disappointment that

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those statements have not been reflected in the situation Council now finds itself in.

- 87 The MOTION on being PUT to the Meeting was LOST 3/4
FOR VOTE - Cr Moran, Cr Stewart, Cr Marsh
AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin

Business Arising

- 88 RESOLVED: Moran/Marsh

That a Council Officer provide a report to the earliest available meeting of Council detailing all costs associated with The Links since 2000.

CARRIED 4/3

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

Business Arising

MOTION: Moran/Marsh

Given the Council resolution of May 31 2011, when losses at The Links reach \$346,000 within any financial year, operations be ceased until the end of that financial year.

- 89 The MOTION on being PUT to the Meeting was LOST 1/6
FOR VOTE - Cr Moran
AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart, Cr Marsh

- 90 RESOLVED: Murray/Rankin

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

Meeting adjourned at 7.40pm

Meeting resumed at 7.49 pm

8. Mayor's Statements / Reports / Presentations

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

9. Councillors' Reports

9.1 Executive Certificate for Elected Members 2013 (10132951)

MOTION: Rankin/Murray

That Council receive and note the report.

Councillor Murray moved a POINT of ORDER in relation to Councillor Stewart's comments and asked how they relate to this report.

During Councillor Moran's comments on the POINT of ORDER, Councillor Marsh moved a POINT of ORDER in relation to discourtesy being shown to the speaker due to other people speaking.

The Mayor ruled against the POINTS of ORDER and asked Councillor Stewart to complete her address.

91 RESOLVED: Rankin/Murray

That Council receive and note the report.

CARRIED UNANIMOUSLY

Councillor Stewart raised comments that had just been made to her by Councillor Rankin. The Mayor asked that Councillors be respectful to each other. Councillor Marsh called on Councillor Rankin to apologise to Councillor Stewart. Councillor Stewart then moved a POINT of ORDER in relation to comments made by Councillor Murray. The Mayor asked for order in the Chamber and stated that she was not going to ask a Councillor to apologise for comments allegedly made between Councillors privately. The Mayor asked Councillors to respect each other and ruled against the POINT of ORDER.

10. Mayoral Minutes

Nil

11. Reports

11.1 General Manager

11.1.1 Monthly Investment Report - February 2014 (10127091)

92 RESOLVED: Murray/Marsh

That Council receive and note the attached Investment Portfolio report, as at 28 February 2014.

CARRIED UNANIMOUSLY

11.2 City Outcomes Directorate

11.2.1 Albion Park Town Centre Plan for Endorsement (10132445)

93 RESOLVED: Moran/Marsh

That Council endorse the Town Centre Plan for Albion Park as a basis for the review of relevant Council policy including Shellharbour Local Environmental Plan 2013, Shellharbour Development Control Plan, Shellharbour City Council Section 94 Contributions Plan 2013 and the capital works program.

CARRIED UNANIMOUSLY

11.2.2 Value of Tourism to Shellharbour City Council (10131811)

94 RESOLVED: Marsh/Boyle

That Council note the information provided on the benefits that flow to Shellharbour City Council through support for Shellharbour Tourism.

CARRIED 6/1

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

11.3 Corporate Policy Directorate

11.3.1 Public Private Partnerships Draft Policy (10130913)

95 RESOLVED: Murray/Rankin

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1. That Council adopt the Draft Public Private Partnership Policy the purposes of public exhibition.
2. That the Draft Public Private Partnership Policy be placed on public exhibition allowing for public submissions for a period of twenty-eight (28) days.
3. That following the close of the public exhibition period, if any relevant submissions are received, the Draft Policy, together with those public submissions, be reported back to Council for consideration.
4. That if no submissions are received during the public exhibition period, the Draft Public Private Partnership Policy be adopted without a further report to Council.

CARRIED UNANIMOUSLY

11.3.2 The Links Hotel and Golf Course - Funding of Operations (10123551)

This item was considered following Addresses to Council (refer to Resolution No 86).

11.4 Shellharbour Enterprises Directorate

Nil

12. Committee Recommendations

12.1 Recommendations from the Aboriginal Advisory Committee Meeting held 4 March 2014 recommended for adoption

96 RESOLVED: Saliba/Marsh

That the Recommendations from the Aboriginal Advisory Committee Meeting held 4 March 2014 be adopted.

CARRIED UNANIMOUSLY

12.2 Recommendations from the Traffic Committee Meeting held 5 March 2014 recommended for adoption

97 RESOLVED: Stewart/Marsh

That the Recommendations from the Traffic Committee Meeting held 5 March 2014 be adopted.

CARRIED UNANIMOUSLY

12.3 Recommendations from the Australia Day Committee Meeting held 19 March 2014 recommended for adoption

98 RESOLVED: Marsh/Boyle

That the Recommendations from the Australia Day Committee Meeting held 19 March 2014 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

13.1 Response to Question on Notice Received from Cr Marsh: Shell Cove Progress Report to 16 February 2014 (10130802)

That the Item for Information be formally noted.

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

Nil

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

17. Urgent Business

Councillor Moran stated that it has been brought to his attention that a development proposal advertised in the Lake Times this week sets out an exhibition period from 31 April 2014 to 30 April 2014. Councillor Moran requested that the development proposal be readvertised for the appropriate period of time.

Councillor Stewart congratulated Councillor Marsh and Manager Property & Recreation for their recent Women in Local Government nominations.

Councillor Marsh referred to the flooding damage to a property at 4 Blackbutt Way, Barrack Heights and asked that a letter be forwarded to Sydney Water to rectify the issues.

Councillor Stewart referred to the previous resolutions of Council to waive the Waste Depot fees during flood events. Councillor Stewart asked if a policy can be put in place rather than reporting to Council each time there is a flooding event. The Mayor called for a report in relation to this issue.

18. Committee of the Whole in Closed Session: Adjournment

MOTION: 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*.

Prior to the vote being taken, the Mayor asked if anyone in the gallery wished to speak on the reasons why Item 4.1 The Links Hotel Golf Course should not be held in Confidential Session (closed to the Public). No members of the public gallery expressed their interest in addressing the Meeting.

99 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 6/1

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

Meeting adjourned at 8.37 pm

Meeting resumed at 9.42 pm

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

4.1 The Links Hotel and Golf Course (10137181)

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

1. That Shellharbour City Council reaffirms its commitment to the retention and operation of a golf course facility at The Links, Shell Cove. Council recognises the long term complimentary value of this asset to the Shell Cove Project; to the Tourist industry and to the city as a whole.
2. That Council retain CBRE to test the national and international market by a tender invitation for a long term lease of the whole Links Hotel and golf course facility. That any tender proposals be analysed by Council and CBRE. The results of this analysis be reported to Council in compliance with the relevant legislation and regulations.
3. That parallel to the actions and processes contained in recommendation 2, Council prepares an alternate plan to enable Council to successfully manage the facility for the future, in the advent that recommendation 2 does not unearth a successful result. The alternate plan would include recommendations on a suitable business corporate governance structure; a business plan; the establishment of a 'capital backing fund' to underwrite future operations and other relevant matters to promote the success of this enterprise.
4. That the completed results of the actions undertaken in enacting recommendations 2 and 3 be reported back to Council by 29 July 2014.

100 RESOLVED: Murray/Rankin

That the Recommendations to Council from the Committee of the Whole Meeting held earlier today be adopted.

CARRIED 4/3

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

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

Meeting closed 9.45 pm