

## CITY OF HOLDFAST BAY

**Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Kingston Room, Civic Centre, 24 Jetty Road, Brighton, on Tuesday 14 March 2006 at 7:00pm.**

### PRESENT

His Worship the Mayor  
Councillors

A K Rollond  
R M Bouchée  
P N Crutchett  
J L Deakin  
P W Dixon  
J Donaldson  
P L Holt  
C J Lush  
P L Macaskill  
A C Norton  
D J Swiderczuk  
R T Donaldson  
D G Chamberlain  
C A Sheffield  
G Millar  
J Hensgen  
R Thomas

Chief Executive Officer  
General Manager Economic and Corporate  
General Manager Environment and Engineering  
Acting General Manager Social and Organisation  
Manager Strategy and Policy  
Manager Development Assessment

### 1. OPENING

His Worship the Mayor, declared the meeting open with prayer at 7:00pm.

### 2. PRESENTATION

Councillor Swiderczuk was presented with a meritorious service certificate and badge marking his extensive service to local government for over 15 years.

### 3. APOLOGIES

3.1 **For Absence** Nil

3.2 **Leave of Absence** Councillors R D C Edwards and S K Tilley

### 4. CONFIRMATION OF MINUTES

**Councillor Macaskill moved and Councillor Donaldson seconded that the minutes of the Ordinary Meeting of Council held on Tuesday 28 February 2006 be taken as read and confirmed.**

**CARRIED**

## **5. QUESTIONS BY MEMBERS**

### **5.1 Without Notice**

#### **5.1.1 Cars on Vacant Land**

At the meeting of Council held on Tuesday 14 February 2006, Councillor Bouchée asked whether Council has any capacity through its by-laws to control cars being offered for sale on vacant land.

#### **Executive Manager Strategy and Development response**

The action available to Council to have such vehicles removed from vacant land is dependent on who owns the land. If the land is Council owned, the vehicle/s can be removed from the site, generally at the owner's expense, as the vehicle is essentially trespassing on Council land.

Similarly, if the vehicle is located on a road or footpath, the vehicle can be removed after 24 hours under the provisions of the Road Traffic Act.

Where the land is in private ownership, the situation is more difficult to resolve. There are no Council by-laws, or legislation over which Council has authority, which specifically enables Council to remove a vehicle from private land. The only means by which this could potentially be achieved is through the Development Act 1993, however, this would require the 'sale' activity to be defined as a change in land use.

The Development Regulations define a 'Service trade premise' as a premises used primarily for the sale, rental or display of, amongst other items, motor vehicles (Schedule 1).

The Environment, Resource and Development Court's interpretation of this definition has been clarified through a number of cases, in particular that it must be determined that the premise or land in question is used 'primarily' for the sale, rental or display of such items. It is Administrations view that unless a number of vehicles are displayed for sale on the land and it reasonably clear that the primary use of the land is for the sale of vehicles, a legal argument that the display of the vehicle/s constitutes a change in land use would most likely be unsuccessful.

However, notwithstanding this, if Members identify sites which are of concern and wish Administration to investigate, appropriate action can be taken and reported back to Council.

#### **5.1.2 Somerton Coast Park Community Reference Group – Minutes**

Councillor Crutchett asked that Minutes of the reference group meetings be distributed to the Council Members and members of the public who have asked to be kept informed.

#### **General Manager Environment and Engineering response**

The Somerton Park Coast Park Reference Group considered the matter and intends to make the meeting outcomes available to the public and to be posted on the website.

It is not intended to post out meeting outcomes to all the public who have asked to be kept informed due to costs and resources.

**5.1.3 Parking of Vehicles**

Councillor Bouchée asked if parking vehicles on the area between a property boundary and kerb is regarded as using public land.

**General Manager Environment and Engineering provided a response.**

**5.2 With Notice Nil**

**6. REPORTS BY DELEGATES OR REPRESENTATIVES Nil**

**7. PETITIONS AND DEPUTATIONS Nil**

**8. NOTICES OF MOTION Nil**

**9. ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET)  
(7:05PM)**

**Councillor Deakin moved and Councillor Holt seconded that Council stand adjourned to enable the permanent Social and Organisation and Strategy and Development Committees to meet.**

**CARRIED**

**10. RESUMPTION**

**Councillor Lush moved and Councillor Deakin seconded that Council resume at 7:50pm.**

**CARRIED**

**11. COMMITTEE RECOMMENDATIONS FOR CONSIDERATION**

**11.1 Social and Organisation Committee**

The Chairperson, Councillor Lush reported that the Social and Organisation Committee had met this evening and had processed the business contained in the agenda documents.

**Councillor Lush moved and Councillor Macaskill seconded that the report of the Social and Organisation Committee be received, and the agenda documents and approved recommendations be received and tabled, together with the additional recommendations from the meeting, and the recommendations be adopted.**

**CARRIED**

**11.2 Strategy and Development Committee**

The Chairperson, Councillor Edwards reported that the Strategy and Development Committee had met this evening and had processed the business contained in the agenda documents.

**Councillor Donaldson moved and Councillor Lush seconded that the report of the Strategy and Development Committee be received, and the agenda documents and approved recommendations be received and tabled, together with the additional recommendations from the meeting, and the recommendations be adopted except for Item 8.2.**

**CARRIED**

**Councillor Swiderczuk declared a conflict of interest due to forthcoming matters affecting his employment, and left the meeting at 7:51pm.**

**C140306/057 Councillor Donaldson moved and Councillor Holt seconded that the Strategy and Development Committee recommendations in relation to Item 8.2 in the Strategy and Development Agenda papers be adopted.**

**CARRIED**

**Councillor Swiderczuk returned to the meeting at 7:52pm.**

**12. DEVELOPMENT ASSESSMENT PANEL MINUTES Nil**

**13. REPORTS OF ADVISORY COMMITTEES AND/OR SUB-COMMITTEES Nil**

**14. REPORTS OF REGIONAL SUBSIDIARIES Nil**

**15. REPORTS BY OFFICERS**

**15.1 Items in Brief (Report No: 128/06)**

Report No: 128/06 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

**C140306/058 Councillor Swiderczuk moved and Councillor Macaskill seconded that the report be noted and items of interest be discussed.**

**CARRIED**

**15.2 SRWRA Membership – Confirmation of Proxies for Board Member (Report No: 124/06)**

Report No: 124/06 was presented advising that Council's current appointments to the Board of the Southern Region Waste Resource Authority result in Councillor Bouchée being able to deputise for Councillor Deakin when required, but not for Mr Chamberlain. It is appropriate that the appointment of Councillor Bouchée as a proxy member be confirmed in relation to either of the two appointed members, so that she can deputise for either of them when required.

**C140306/059 Councillor Lush moved and Councillor Dixon seconded that Council appoints Councillor Bouchée as proxy Member of the Southern Region Waste Resource Authority Board to deputise and act for either Councillor Deakin or Mr Chamberlain (being the current appointed Board Members) as and when required, until the end of the current Council term.**

**CARRIED**

**15.3 Elected Member Attendance/Absence at Meetings (Report No: 129/06)**

Report No: 129/06 was presented to Council as a result of a notice of motion from Councillor Macaskill, at the meeting of 24 January 2006 where it was resolved that:-

“Administration prepares a report for Council on the attendance/absence of all Elected Members from May 2003 until and including December 2005. The report to include Council meetings, Committee meetings and external Board and Committees on which Elected Members serve.”

This report includes a detailed list of Elected Member attendance/absence at all Council and Committee meetings.

**C140306/060 Councillor Bouchée moved and Councillor Crutchett seconded that the additional late information on meeting attendance be received.**

**CARRIED**

**Councillor Macaskill moved and Councillor Swiderczuk seconded that the attendance/absence of Elected Members at meetings from May 2003 until and including December 2005, as reported in Report No: 129/06 be noted.**

**POINT OF ORDER**

**In accordance with the Local Government (Procedures at Meetings) Regulations 2000, Councillor Bouchée raised a point of order, drawing the Presiding Member’s attention to an alleged breach of Regulation 29(1)(a) by Councillor Macaskill.**

**In accordance with Regulation 29(3) of the Local Government (Procedures at Meetings) Regulations 2000, His Worship the Mayor advised that he considered that Councillor Macaskill may have acted in contravention of Regulation 29(1)(a).**

**In accordance with Regulation 29(3) of the Local Government (Procedures at Meetings) Regulations 2000, Councillor Macaskill gave a personal explanation.**

**In accordance with Regulation 29(4) of the Local Government (Procedures at Meetings) Regulations 2000, Councillor Macaskill left the meeting at 8:07pm.**

**C140306/061 Councillor Deakin moved and Councillor Swiderczuk seconded, in accordance with Regulation 29(5) of the Local Government (Procedures at Meetings) Regulations 2000, that Council resolve that Councillor Macaskill did not contravene the meeting regulations, that no further action be taken and that Councillor Macaskill be invited to return to the meeting.**

A Division was called.

Voted For

Voted Against

Councillor Deakin  
Councillor Dixon  
Councillor Donaldson  
Councillor Holt  
Councillor Lush  
Councillor Norton  
Councillor Swiderczuk

Councillor Bouchée  
Councillor Crutchett

**HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED**

**Councillor Macaskill returned to the meeting at 8:13pm.**

**Councillor Bouchée left the meeting at 8:13pm**

**Councillor Bouchée returned to the meeting at 8:16pm**

**AMENDMENT**

**C140306/062 Councillor Deakin moved and Councillor Lush seconded that the Chief Executive Officer report on the most fair and appropriate form of public reporting of the Council's meeting attendance record, for Council's further consideration.**

**CARRIED  
THE AMENDMENT BECAME THE MOTION**

A Division was called.

Voted For

Voted Against

Councillor Deakin  
Councillor Dixon  
Councillor Donaldson  
Councillor Holt  
Councillor Lush  
Councillor Norton  
Councillor Swiderczuk

Councillor Bouchée  
Councillor Crutchett

**HIS WORSHIP THE MAYOR DECLARED THE MOTION CARRIED**

**16. URGENT BUSINESS****16.1 Letter from Minister Paul Holloway MLC, Minister for Urban Development and Planning**

His Worship the Mayor reported that he was in receipt of a letter from the Minister for Urban Development and Planning confirming that a grant up to \$500,000 would be advanced in the 2006/2007 financial year to assist Council to complete the Moseley Square Redevelopment Project.

**C140306/063 Councillor Macaskill moved and Councillor Lush seconded that Council write to the Minister for Urban Development and Planning to express its sincere appreciation for this grant.**

**CARRIED**

**17. CLOSURE**

The meeting closed at 8:38pm.

**CONFIRMED**

**Tuesday 28 March 2006**

**DEPUTY MAYOR**