

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 10 October 2006 at 7:00pm.

PRESENT

His Worship the Mayor
Deputy Mayor
Councillors

A K Rollond
R D C Edwards
R M Bouchée
P N Crutchett
P W Dixon
P L Holt
C J Lush
P L Macaskill
A C Norton
D J Swiderczuk
S K Tilley - 7:05pm
R T Donaldson
C A Sheffield
C E Umapathysivam
R A Thomas
I S Walker

Chief Executive Officer
General Manager Environment and Engineering
General Manager Social and Organisation
Acting Executive Manager Strategy and Development
Executive Manager Finance and Corporate

1. OPENING

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

2. APOLOGIES

- 2.1 For Absence** Councillor J L Deakin
2.2 Leave of Absence Councillor J Donaldson

3. PRESENTATION Nil**4. CONFIRMATION OF MINUTES**

Councillor Norton moved and Councillor Holt seconded that the minutes of the Ordinary Meeting of Council held on 26 September 2006 be taken as read and confirmed.

CARRIED

5. QUESTIONS BY MEMBERS

5.1 Without Notice

5.1.1 Bindarra Reserve Toilets

Councillor Norton asked a question about the lack of toilets in Bindarra Reserve during construction of the Brighton Surf Life Saving Club.

Manager Community Development provided a response.

5.1.2 Jetty Road Rubbish Collection

Councillor Bouchée asked a question regarding the implementation of the twice daily collection of bins on Jetty Road.

General Manager Environment and Engineering provided a response

5.1.3 Design of Moseley Square

Councillor Bouchée asked a question about the design of Moseley Square and its use as a Market venue.

The Chief Executive Officer advised that Councillor Bouchée's question would be taken on notice.

5.1.4 Bindarra Reserve Toilets

Councillor Lush asked a question about the Bindarra Reserve Exceloo needing planning approval.

Manager Community Development provided a response.

5.1.5 Brian Nadilo Reserve – Ngutinilla Opening

Councillor Lush asked a question about the final figures for Brian Nadilio Reserve - Ngutinilla Opening

Acting General Manager Strategy and Development provided a response

C101006/257 Councillor Lush moved and Councillor Bouchée seconded that the final costs associated with the opening of Brian Nadilo Reserve - Ngutinilla be presented in a further report to Council.

CARRIED

5.1.6 Broadway Kiosk Lease

Councillor Crutchett asked a question about the lease documents for the Broadway Kiosk, concerning the description of the land included in the public consultation documents.

The Chief Executive Officer advised that Councillor Crutchett's question would be taken on notice.

Councillor Crutchett asked a question about the inclusion of costs associated with the construction of the Broadway Kiosk, when public consultation was undertaken.

The Chief Executive Officer advised that Councillor Crutchett's question would be taken on notice.

Councillor Crutchett asked a question about the "buy back" provisions of the proposed Broadway Kiosk Lease (clause 4.1.6) and its impact on Council's financial position due to the liability.

The Chief Executive Officer advised that Councillor Crutchett's question would be taken on notice.

5.1.7 Brian Nadilo Reserve – Ngutinilla Official Opening

Councillor Tilley asked a question about the invitations, Flyers and Posters used for Brian Nadilo Reserve – Ngutinilla Official Opening.

Acting General Manager Strategy and Development provided a response.

5.1.8 Broadway Lease Consultation

Councillor Lush asked a question about the outcomes of the Broadway Kiosk Lease consultation after Council's consideration of the public responses received.

The Chief Executive Officer provided a response.

5.1.9 Broadway Kiosk Lease

Councillor Tilley asked a question about building cost details being provided to the public during the consultation period.

The Chief Executive Officer provided a response.

5.2 With Notice**5.2.1 Confidentiality of Council discussions**

In accordance with this notice Councillor Crutchett asked the following questions:

1. Councils policy C04 Access to Meetings and Documents says "There are very strict circumstances in which a discussion or document considered in a Council or Council Committee meeting can be kept confidential. These provisions are outlined in sections 90 and 91 of the Local Government Act 1999".
2. Do the provisions of confidentiality extend to the discussion (debate) whilst in confidence?

General Manager Social and Organisation answer

Section 90 of the LG Act 1999 empowers the Council to exclude the public from attendance at a meeting in order to " *receive, discuss or consider..*" in confidence any information or matter listed in subsection (3). Accordingly, the provisions of sections 90 and 91 certainly extend to discussions held in confidence . Where the Council proceeds to makes an order to retain the matter in confidence in its entirety, this is additional express reinforcement of the fact that the content of the debate is not be disclosed to any third party.

The Anti Corruption Branch of SAPOL, in their training material for Elected Members, emphasises that whilst there is no express penalty at Section 90 for members who discuss confidential matters outside the meeting, there is an express and clear obligation in this regard at Section 62(3) of the Act. That is, if a matter is sufficient to warrant the closing of the meeting to the public, then any discussion outside the meeting will fall within the ambit of Section 62(3) and any resultant direct or indirect advantage for the member or a third party or detriment to the Council is an offence. In more serious cases, the abuse of office provisions of Section 251 of the Criminal Law Consolidation Act might also be relevant.

3. Are Elected Members or Staff present entitled to frame questions from confidential discussions and forward these to organisations/persons who may be subject to the confidential discussions?

General Manager Social and Organisation answer

Elected Members are entitled to frame questions about the subject matter of the debate so long as they do not (intentionally or inadvertently) disclose the nature of the debate and/or decisions reached during the confidential proceedings. It is probably more prudent, however, to seek clarification and/or further information about a matter discussed in confidence using the Administration rather than approaching an organisation directly. It is to be remembered in this regard that one of the functions of the Administration is to perform such matters on behalf of the Council and, in accordance with the Act, to provide advice and reports and information to the Council to assist it in the performance of its powers and functions.

4. Following the release of confidential reports or minutes are Elected Members or staff present during the confidential meeting entitled to convey the discussion (debate) of what other fellow elected members said whilst in confidence to third parties?

General Manager Social and Organisation answer

This depends on the nature of the debate and the order to release information previously held in confidence. Council can choose to release all or part of the documents/debate/decision relating to a particular matter.

5. Is it appropriate for an elected member to discuss a complaint for breach of code of conduct with third parties when Councils Executive has considered the matter and the executive resolved and declared the matter confidential on the basis *"the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead) under Section 90(2) and 90(3)(a) of the Act?"*

General Manager Social and Organisation answer

As identified above, in sharing information with third parties, Elected Members need to have regard not only to the provision of Sections 90 and 91 but also Section 62 of the LG Act. Accordingly, it would, usually, be entirely inappropriate for any elected member to share such information with third parties. If a matter is dealt with using the protection of Sections 90 and 91 of the Local Government Act, then members party to the discussion must not discuss the matter with any third party. If a Member has been advised of the outcome of the Executive Committee's deliberation via correspondence marked "confidential" then the Member must regard that information as such sufficient to invoke the requirements of Section 62.

5.2.2 Official Opening of Brian Nadilo Reserve – Ngutinilla and Staffing Questions

In accordance with her notice Councillor Bouch e asked the following questions.

1. Could Administration please advise what the final total expenditure was for the opening of Brian Nadilo Reserve?

Acting General Manager Strategy and Development answer

The final expenditure for the day is not available as all relevant accounts have not yet been received. The estimated cost of the event is \$17,000.

2. How many people attended?

Acting General Manager Strategy and Development answer

119 guests had confirmed attendance prior to the event. On the actual day of the event a few additional people were allowed into the Surf Club building to watch the ceremony due to the outside event being cancelled, making a total of approximately 125 people.

3. How many Staff including partners attended?

Acting General Manager Strategy and Development answer

**10 staff attended with their partners
5 staff attended on their own (including 4 in attendance as Council employees)**

4. Was the attendance of this function included in work time?

Acting General Manager Strategy and Development answer

4 staff were employed to work on the day, including the Tourism and Event Coordinator and three staff who provided assistance in the set up of the event. All other staff attended as invited guests in their own time.

5. If yes, how is this time compensated?

Acting General Manager Strategy and Development answer

Two of these staff will be paid for working at the event (Depot Staff) and two will accrue the time to be taken as Time off in Lieu (Event/Administration staff).

6. What is the policy of "working from home"?

Chief Executive Officer answer

There is no formal administration policy for 'working from home'. No staff have scheduled 'working from home' arrangements as part of their standard employment contract.

On occasions senior staff do perform work at home. In most cases this is in addition to the 'normal' working day (evenings, weekends, early mornings) in order to fulfil output and time frame expectations. On an occasional basis, 'working from home' occurs during 'office hours' with the CEO's or relevant General / Executive Manager's approval, when specific circumstances prevent an officer from being present at the office but there is a requirement for City of Holdfast Bay work to be undertaken. The nature of this work will typically involve working on reports and similar kinds of documents, reviewing written material, and the like, and office contact is generally maintained by telephone and email.

7. Is there a maximum of hours that can staff can use this option?

Chief Executive Officer answer

No, because there is no formal policy. It is estimated that the total amount of time spent 'working from home' during what would normally be office hours, would be in the order of ten (10) days per annum across all employees. Working from home is not an option that is promoted, nor is it often used. Specific circumstances dictate when it is considered appropriate for 'working from home' to occur.

8. How are the work cover issues addressed?

Chief Executive Officer answer

There is no formal policy for evaluating or monitoring the home "work place", for the occasions when 'working from home' does occur. Should the practice of 'working from home' become a formal option as part of some employment arrangements with the City of Holdfast Bay, and regularly used, then a range of matters would need to be addressed, including the questions of ensuring an appropriate working environment and clarifying the respective responsibilities of the employee and the employer. Given the nature of the work undertaken and the limited, informal occurrence of 'working from home', any risks are presently low, and on the balancing side, working from home only occurs when organisational benefits are expected to be derived.

9. When Staff are working from home, is this sometimes used "to care for a family member"?

Chief Executive Officer answer

Yes, sometimes. Two of the circumstances that can occur involve either

- family illness, when the staff member is required to be at home in a 'carer' capacity (needless to say, unplanned) but has planned work to complete within a deadline, or**
- planned leave (sometimes for 'carer' purposes, but not always) that is imposed upon by urgent work demands, whereby the work demands are met with minimal interruption from other workplace demands, while fulfilling the personal commitments that were the original reason for the intended leave.**

10. If so, is this administered as part of Carer's Leave entitlement?

Chief Executive Officer answer

Similarly to when work is undertaken after hours, there are occasions when some work is undertaken while a staff member is formally on 'carer's leave' (or other kinds of leave), in which case the time is recorded as carer's leave. As outlined above, there are also occasions when care for a family member occurs at the same time as a requirement to 'work from home', in which case the respective time worked and not worked is apportioned, but the key focus is on completing a specific work output.

11. What budget line are Temporary Staff debited to?

Executive Manager Finance and Corporate answer

The cost of temporary staff is debited to:

- the Salary and Wages expenditure item in respect of Depot personnel engaged through Maxima Tempskill for short-term vacancies, workcover positions and the summer operation of the Glenelg Precinct. Council has budgeted \$45,000 for this expenditure during 2006/07.
- the Temporary Staff expenditure item in respect of temp staff engaged on short-term arrangements to provide cover for employees on leave. Council has budgeted \$25,140 for this expenditure during 2006/07.
- the Professional Services expenditure item in respect of personnel engaged on a contract basis primarily to assist in drafting DAP reports. Council has budgeted \$30,000 for this expenditure during 2006/07.

6.	REPORTS BY DELEGATES OR REPRESENTATIVES	Nil
7.	PETITIONS AND DEPUTATIONS	Nil

8. NOTICES OF MOTION**8.1 Naming Rights Update – Glenelg Oval 379/06**

In accordance with his notice:

Councillor Crutchett moved and Councillor Bouch e seconded that Council rescind the following resolution:

C250706/212 Councillor Swiderczuk moved and Councillor Lush seconded that pursuant to Section 90(2), 90(3)(d) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Report No: 379/06 with the exception of Resolution No: C250706/210 for going into confidence be kept confidential and not available for public inspection on the basis that they deal with information the disclosure of which:

(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party, and

(ii) would, on balance, be contrary to the public interest

under Section 90(2) and 90(3)(d) of the Act.

2. This resolution will be reviewed on or before 31 July 2007 by the Council.

CARRIED

A Division was called.

Voted For

Councillor Bouch e
Councillor Crutchett
Councillor Tilley

Voted Against

Councillor Dixon
Councillor Edwards
Councillor Holt
Councillor Lush
Councillor Norton
Councillor Macaskill
Councillor Swiderczuk

HIS WORSHIP THE MAYOR DECLARED THE MOTION LOST

9. ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET) (7:25PM)

Councillor Lush moved and Councillor Tilley 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 Holt seconded that Council resume at 8:54pm.

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 Holt 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 with the exception of Item 8.6.

CARRIED

Councillor Holt declared a conflict of interest in Item 8.6 of the Social and Organisation Committee Agenda papers, as he may benefit from the purchase of an ADSL modem, and left the Chamber at 8:55pm.

C101006/258 Councillor Lush moved and Councillor Tilley seconded that the recommendations of the Social and Organisation Committee in relation to Item 8.6 of the Social and Organisation Committee agenda of 10 October 2006 be adopted.

CARRIED

Councillor Holt returned to the Chamber at 8:56pm

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 Edwards moved and Councillor Holt 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 with the exception of Item 8.3.

CARRIED

Councillor Swiderczuk declared a conflict of interest in Item 8.3 of the Strategy and Development Committee Agenda papers, due to his employment, and left the Chamber at 8:58pm.

C101006/259 Councillor Edwards moved and Councillor Lush seconded that the recommendations of the Social and Organisation Committee in relation to Item 8.3 of the Strategy and Development Committee agenda of 10 October 2006 be adopted.

CARRIED

Councillor Swiderczuk returned to the Chamber at 8:58pm

12. DEVELOPMENT ASSESSMENT PANEL

C101006/260 Councillor Lush moved and Councillor Tilley seconded that the minutes of the Development Assessment Panel held on Wednesday 27 September 2006 be received.

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

Executive Committee of Council meeting held 7 September 2006.

C101006/261 Councillor Norton moved and Councillor Lush seconded that the minutes of these committees be received.

CARRIED**14. REPORTS OF REGIONAL SUBSIDIARIES**

Western Region Waste Management Authority Annual Report

C101006/262 Councillor Bouch e moved and Councillor Edwards seconded that the annual report of this committee be received.

CARRIED**15. REPORTS BY OFFICERS****15.1 Items in Brief (Report No: 498/06)**

Report No: 498/06 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

C101006/263 Councillor Edwards moved and Councillor Tilley seconded that the report be noted and items of interest be discussed.

CARRIED**15.2 Election for the Positions of Representative Members of the Local Government Finance Authority Board of Trustees (Report No: 488/06)**

Notice has been received of the Annual General Meeting (AGM) of the Local Government Finance Authority (LGFA) to be held on 20 October 2006. Part of the business to be considered is the election of the Local Government Association's representative members to the board. Councils may, by resolution, cast a vote by postal ballot to be received by the LGFA by 13 October 2006.

C101006/264 Councillor Bouch e moved and Councillor Lush seconded that Council resolve to cast its vote for membership of the Board of the Local Government Finance Authority, as follows:-

1. Councillor John Sanderson, City of Mitcham
2. Councillor Dianne Woidt, Coorong District Council

CARRIED

15.3 Jetty Road Mainstreet Board - Delegations (Report No: 497/06)

Having regard to recent Governance advice in relation to policies, procedures and the like, it is now appropriate that the authorisation for the Jetty Road Mainstreet Board to act as required for the proper management of the area for which the Board has responsibility, be expressed as a formal delegation of powers from Council to the Board, so that there is no doubt as to Council's intent that the Board should be responsible for, and can exercise the powers of Council in accordance with the recently endorsed Jetty Road Mainstreet Board Constitution.

C101006/265 Councillor Bouch e moved and Councillor Macaskill seconded that pursuant to Section 44 of the Local Government Act 1999, Council delegates to the Jetty Road Mainstreet Board the power and duty to act on behalf of the Council in all things necessary for the efficient and proper fulfilment of the objectives set out in the Jetty Road Mainstreet Board Constitution as amended from time to time, and in particular (but without limiting the generality of the foregoing):

1. The Board may expend such funds as it considers necessary pursuant to the objects of the Jetty Road Mainstreet Board Constitution, within the financial constraints of any budget;
2. The Board shall implement internal systems as required by the Local Government Accounting Regulations;
3. The Jetty Road Mainstreet Board Constitution shall be available upon request and shall be provided to all members upon appointment by Council;
4. The Board shall biannually review the City of Holdfast Bay Jetty Road Mainstreet Board Constitution document;
5. The Board shall not borrow any funds;
6. The Board shall not undertake public infrastructure works without the prior written approval of the Council;
7. The Board may do all things necessary to effectively carry out its objectives, including:
 - 7.1 Raising and receiving funds.
 - 7.2 Working with the State and Federal Governments.
 - 7.3 Working with private companies and individuals.
 - 7.4 Engaging and disposing of consultants or contractors to handle specific projects within approved budgets.
 - 7.5 Establishing sub committees, the members of which must contribute to the separate rate levy.

And for this purpose the board shall take heed of the yearly operational budget adopted by Council when calling on administrative resources.
8. The Board may further delegate these powers and duties to employees of the City of Holdfast Bay.

CARRIED

COUNCIL

2664

10.10.2006

16. URGENT BUSINESS

Nil

17. CLOSURE

The Meeting closed at 9:04pm

CONFIRMED

Tuesday 24 October 2006

MAYOR