

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 13 February 2007 at 7:05pm.

PRESENT

His Worship the Mayor
Councillors

A K Rollond
R D Beh
R M Bouchée
P N Crutchett
J L Deakin
L R Fisk
P D H Heysen
J D Huckstepp
S C Lonie
T D Looker
A C Norton
L van Camp
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 General Manager Strategy and Development
Executive Manager Finance and Corporate

1. OPENING

His Worship the Mayor, declared the meeting open with prayer and acknowledgement of Kaurna Traditional Owners at 7:05pm.

His Worship the Mayor welcomed Mr Greg Potter, General Manager Alwyndor Aged Care.

2. APOLOGIES

2.1 For Absence Councillor R A Clancy

2.2 Leave of Absence Nil

3. PRESENTATION

Councillor Crutchett left the meeting at 7:07pm.

His Worship the Mayor made presentations to the Members of the previous Council who were unsuccessful at the November 2006 election, Mrs Cheryl Lush, Mr Peter Dixon, Mr Dariusz Swiderczuk and Mr Rod Edwards. Apologies were noted from Mr John Donaldson, Mrs Suzy Tilley and Mr Peter Holt.

Councillor Crutchett rejoined the meeting at 7:15pm.

Mr Gerry England and Mr Ian McGregor, residents and members of the Somerton Coast Park Community Reference Group and Mr Rick Gibki from Planning SA made a presentation on the Coast Park Project.

Councillor Beh left the meeting at 7:49pm.

4. CONFIRMATION OF MINUTES

Councillor Bouchée moved and Councillor Looker seconded that the Minutes of the Ordinary Meeting of Council held on 23 January 2007 be taken as read and confirmed.

CARRIED

5. QUESTIONS BY MEMBERS

5.1 Without Notice

5.1.1 2A King Street, Glenelg North, impacts of development next door.

Councillor Fisk raised concerns about the condition/damage, to the property at 2A King Street, Glenelg North. He asked if the developers and builders could be forced to repair damage to adjacent properties.

Acting General Manager Strategy and Development and Chief Executive Officer provided responses.

Councillor Beh rejoined the meeting at 7:51pm.

Councillor Bouchée asked if Council had a building inspector and what role they played.

Acting General Manager Strategy and Development provided a response.

Councillor Bouchée asked if not a Council role then who checks on the builders and the developers to make sure that they comply with the approval conditions.

Acting General Manager Strategy and Development provided a response.

Councillor Bouchée asked if public information was required regarding Council's building inspection roles and functions.

Acting General Manager Strategy and Development provided a response.

Councillor Beh left the meeting at 7:56pm.

Councillor Beh rejoined the meeting at 7:58pm.

Councillor Lonie asked if Council could help in the matter regarding 2A King Street, Glenelg North.

Acting General Manager Strategy and Development provided a response.

Councillor Beh asked if Council can act when work is not compliant with plans or subsequent amendments.

Acting General Manager Strategy and Development provided a response.

5.2 With Notice

5.2.1 Acknowledgement of Traditional Owners

At the Council Meeting held on 23 January 2007, Councillor Bouchée asked the following question:

"Is the acknowledgement of Kaurna Traditional Owners wording correct in using the term 'owners'".

General Manager Social and Organisation response.

Over the past four years Council has been working with the Kaurna people at two levels, conducting community consultation and obtaining legal advice along the way. The first of these approaches is as a participant in the Tappa Iri Regional Agreement in which Council has joined with the Cities of Marion, Onkaparinga and the District Council of Yankalilla and the State Council to endorse the agreement (refer Report 08/05).

This agreement was extensively communicated to the community and consulted upon through a variety of means and one of the key points was "Recognising traditional ownership".

Council also adopted a set of "Protocols" on 12 September 2006, for dealing with the Kaurna community and in that document the recognition statement that is currently used by Council was included and adopted by Council.

The second is that Council has been represented in the Native Title Claim made by the Kaurna community in the Native Title Court by Norman Waterhouse, Lawyers and in that case the "claim" has been made by the recognised "traditional owners" group. It is a legally accepted term which is used to recognise the local indigenous community that traditionally used a particular land for their day to day living and is the term that separates one Claimant group from another.

6. REPORTS BY DELEGATES OR REPRESENTATIVES

Councillor Looker reported that he had attended a meeting of the Friends of the Holdfast Bay Library.

7. PETITIONS AND DEPUTATIONS

Nil

8. NOTICES OF MOTION

8.1 United Petroleum Site, Broadway Glenelg

In accordance with his notice:

C130207/023 Councillor Looker moved and Councillor Bouchée seconded that Administration prepare a report that outlines strategies to encourage, or in extreme cases, force land owners and developers to ensure their properties are kept in a safe and visually acceptable manner that will not cause offence or discomfort to the nearby residents and local community.

CARRIED

Background

The United Petroleum site on Broadway has been a visual, health and safety issue for a number of years. The abandoned site has attracted vandals and is attributed as partly responsible for an increase in crime to an adjacent business. The local residents and businesses are distressed at the continuation of this unsatisfactory situation. The property has been neglected by the owner and allowed to deteriorate with a complete disregard of the community. Council's representation to the owner has produced no results.

An agreed strategy to deal with this situation is essential and may be useful should Council be faced with a similar, future case.

8.2 Rehabilitation of Buckle Street Site

In accordance with his notice:

C130207/024 Councillor Crutchett moved and Councillor Looker seconded:

- 1. That Administration report to the next meeting of the Environment and Engineering Committee a financial and environmental cost benefit analysis on not proceeding to rehabilitate the Buckle Street site to a standard suitable for residential development.**
- 2. That Administration establish any savings to ratepayers if rehabilitation only occurs to a standard suitable to maintain the Buckle Street site as an open park, dog exercise area or storage area for community clubs etc.**
- 3. That Administration liaise with community clubs not to install storage sheds on Kibby Reserve pending Council's decision on a suitable non-residential use for the Buckle Street Site.**

CARRIED

Background

We are likely to visit both sites on our bus tour as this motion will allow us to consider some alternatives to save ratepayers money.

8.3 Community Land Register

In accordance with his notice:

C130207/025 Councillor Crutchett moved and Councillor Bouchée seconded that Administration report on the community benefits or detriments on placing the Brighton Caravan Park and the Seacliff Car Park on the Community Land Register and the processes involved in achieving this.

CARRIED

Background

In 2002 the Brighton Caravan Park and the Seacliff Car Park were not included in the Community Land Register against the wishes and concerns of some residents.

Extract from Community Land Register Report presented to the Engineering and Environment Committee on 10 December 2002 by Andrew Smith, Project Engineer.

“Ms. Adriana Heuvel, Christopher Gore, Erika and David Woodgate (Ratepayers) object to the exclusion from the Community Land Classification of the Brighton Library, Seacliff Car Park, Kauri Parade Car Park, Brighton Caravan Park and the Seacliff Yacht Club.

This group of ratepayers is concerned that a future Council may dispose of these properties without adequate consultation and believe that Council should provide a detailed explanation to the public of the reasoning behind the proposed exclusion. “

We have observed in Glenelg what a council can do with publicly owned land. I believe this prime development site at Seacliff should be afforded the best possible long term protection this Council can achieve.

**9. ADJOURNMENT (TO ENABLE PERMANENT COMMITTEES TO MEET)
(8:15PM)**

Councillor Looker moved and Councillor Beh seconded that Council stand adjourned to enable the permanent Social and Organisation and Strategy and Development Committees to meet.

CARRIED

Councillor Fisk left the meeting at 9:52pm.

10. RESUMPTION

Councillor Crutchett moved and Councillor Huckstepp seconded that Council resume at 9:53pm.

CARRIED

11. COMMITTEE RECOMMENDATIONS FOR CONSIDERATION

11.1 Social and Organisation Committee

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

Councillor Heysen moved and Councillor Beh 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 Crutchett reported that the Strategy and Development Committee had met this evening and had processed the business contained in the agenda documents.

Councillor Crutchett moved and Councillor Bouchée 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.

CARRIED

12. DEVELOPMENT ASSESSMENT PANEL

C130207/026 Councillor Bouchée moved and Councillor Huckstepp seconded that the minutes of the Development Assessment Panel meeting held on Wednesday 24 January 2007 be received.

CARRIED

Councillor Fisk rejoined the meeting at 9:55pm.

Notice of Motion – Bay City Roller Loop Bus referred from Strategy and Development Committee

In accordance with his notice:

C130207/027 Councillor Crutchett moved and Councillor Bouchée seconded:

1. **That Administration report to the next meeting of Council, costs associated with extending the coverage area of the loop bus on the approximate route marked on the attached map for the remaining contract.**
2. **That Administration report on the costs and logistics of running a loop bus on the route marked on the attached map using a commercial operator or alternatively using volunteer drivers.**
3. **That Administration report on the management of the community bus program in the City of Unley.**

CARRIED

EXTENSION OF TIME

Councillor Crutchett moved and Councillor Deakin seconded that the meeting continue until 11:00pm to allow all business within the agenda papers to be completed.

CARRIED

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: 48/07)

Report No: 48/07 was presented detailing items which were presented for the information of Members and did not require a separate resolution.

C130207/028 Councillor Crutchett moved and Councillor Bouchée seconded that the report be noted and items of interest be discussed.

CARRIED

15.2 LGA General Meeting – Nominations for State Executive and Notices of Motion (Report No: 55/07)

This report seeks Council's consideration of a nominee for the Metropolitan Adelaide Zone to membership of the Local Government Association (LGA) State Executive Committee and also highlights the call for Notices of Motion for the LGA General Meeting.

C130207/029 Councillor Crutchett moved and Councillor Bouchée seconded that the City of Holdfast Bay nominate Mayor Rollond for election to the Local Government Association State Executive Committee.

CARRIED

**15.3 Amendments to Local Government Act and Regulations
(Report No: 51/07)**

On 25 January 2007, the State Government announced that the Local Government (Financial Management and Rating) Amendment Act 2005) was brought into full operation by proclamation. Complementary regulations to amend the Local Government (General) Regulations 1999 and Local Government (Financial Management) Regulations 1999 were also gazetted on the same day and brought into operation.

C130207/030 Councillor Crutchett moved and Councillor Bouchée seconded that Report No: 51/07 be noted and items of interest discussed.

CARRIED

15.4 Audit Committee – Appointment of Independent Members and Presiding Member (Report No: 53/07)

Council is required to appoint two Independent Members to its Audit Committee. Following its advertisements in local newspapers and on its website, Council has received fifteen expressions of interest from persons seeking to be appointed to as Independent Members of its Audit Committee. Council is also required to appoint one Elected Member as Presiding Member of its Audit Committee.

C130207/034 Councillor Crutchett moved and Councillor Bouchée seconded that the public be excluded from attendance at the meeting, with the exception of Council officers and any other visitors permitted to remain, after taking into account the relevant considerations under Section 90(3), on the basis that it will discuss or consider information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).

CARRIED

Councillor Lonie left the meeting at 10:10pm.

Councillor Lonie rejoined the meeting at 10:12pm.

C130207/035 Councillor Bouchée moved and Councillor Deakin seconded:

- 1. That the complete list of candidates as provided in Report 53/07 attachments 1 and 2 be adopted as the shortlist from which the Independent Members of the City of Holdfast Bay Audit Committee be selected.**
- 2. That the Audit Committee Members, Councillor Crutchett, Councillor Beh and Councillor Looker be authorised to determine the final selection of Independent Members to the Audit Committee.**
- 3. That Councillor Beh, Councillor Crutchett and Councillor Looker be authorised to determine the Chair of the Audit Committee.**

CARRIED

C130207/036 Councillor Crutchett and Councillor Bouchée seconded that Attachments 1 and 2 relating to Report No: 53/07 be kept confidential and not available for public inspection on the basis that they deal with information 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.

CARRIED

15.5 2007 Organisational Issues – Update (Report No: 57/07)

Since 2004, the Chief Executive Officer has reported annually on the organisation's 'hot spot' staffing needs and related issues. This forms part of the background information for consideration when setting the forthcoming budget. Allocated funds will be applied by the Chief Executive Officer (CEO) according to organisational priority needs and opportunities.

The status of current and emerging hot spots is updated in this report, and related considerations discussed. It is recommended that a confidential discussion between Members and the CEO occur in relation to proposed and possible organisational changes.

C130207/031 Councillor Crutchett moved and Councillor Bouchée seconded:

1. That Report No: 57/07 be received.
2. That, pursuant to Section 90(2) and 90(3)(a) of the Local Government Act 1999 the Council order that the public be excluded from attendance at the meeting, with the exception of Council officers and any other visitors permitted to remain, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:
 - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of a person or persons (living or dead).

CARRIED

Councillor Beh left the meeting at 10:15pm.

Mr Sheffield, Mr Walker, Ms Thomas left the meeting at 10:15pm.

Councillor Beh rejoined the meeting at 10:17pm.

Council officers remaining: Mr Donaldson and Mrs Umapathysivam.

C130207/033 Councillor Crutchett moved and Councillor Fisk seconded:

That pursuant to Section 90(2), 90(3)(a) and 91(7) of the Local Government Act 1999:

- a) The Council orders that the document at Attachment 1 to Report Number 57/07 and the related discussion and minutes be kept confidential and not available for public inspection on the basis that they deal with information 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.
- b) This resolution will be reviewed by the Chief Executive Officer as soon as practicable, and the Chief Executive Officer is hereby authorised to determine that the relevant documents be released for public access, having regard to responsible human resource management principles.

CARRIED

Mr Walker and Ms Thomas rejoined the meeting at 10:41 pm.

16. URGENT BUSINESS**16.1 Elected Member Bus Tour**

The General Manager Environment and Engineering advised Members that due to the extreme weather being predicted for the Bus Tour on Saturday 17 February 2007, the program will be accelerated. Members were advised to bring a hat and wear appropriate clothing on the day.

17. ITEMS IN CONFIDENCE**17.1 Major Event Opportunity (Report No: 46/07)**

Council officers remaining: Mr Donaldson, Mrs Umaphysivam, Mr Walker and Ms Thomas.

C130207/037 Councillor Crutchett moved and Councillor Fisk seconded that, pursuant to Section 90(2) and 90(3)(d) of the Local Government Act 1999 the Council order that the public with the exception of Council officers and any other visitors permitted to remain, be excluded from attendance at the meeting, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:

- **commercial information of a confidential nature (not being a trade secret) 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.**

CARRIED**EXTENSION OF TIME**

Councillor Bouchée moved and Councillor Heysen seconded that the meeting continue until all business within the agenda papers is completed.

CARRIED**Major Event Opportunity (Report No:46/07)****ORDER TO RETAIN DOCUMENTS IN CONFIDENCE**

C130207/039 Councillor Bouchée moved and Councillor Fisk 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: 46/07 with the exception of Resolution No:C130207/037 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 December 2007 by the Council.**

CARRIED

17.2 Notice of Motion – Confidential Documents

Council officers remaining: Mr Donaldson, Mrs Umaphysivam, Mr Walker and Ms Thomas.

C130207/040 Councillor Fisk moved and Councillor Looker seconded that, pursuant to Section 90(2) and 90(3)(g) of the Local Government Act 1999 the Council order that the public with the exception of Council officers and any other visitors permitted to remain, be excluded from attendance at the meeting, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:

- information or matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

CARRIED

Notice of Motion – Confidential Documents

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C130207/042 Councillor Bouchée moved and Councillor Beh seconded that pursuant to Section 90(2), 90(3)(g) and 91(7) of the Local Government Act 1999:

1. The Council orders that the documents and minutes relating to Notice of Motion – Confidential Documents with the exception of Resolution No:C130207/040 for going into confidence be kept confidential and not available for public inspection on the basis that they deal with information or matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty under Section 90(2) and 90(3)(g) of the Act.
2. This resolution will be reviewed on or before 31 December 2007 by the Council.

CARRIED

17.3 Legal Advice on a Contractual Matter (Report No: 67/07)

Council officers remaining: Mr Donaldson, Mrs Umaphysivam, Mr Walker and Ms Thomas.

C130207/043 Councillor Heysen moved and Councillor Huckstepp seconded that, pursuant to Section 90(2) and 90(3)(h) of the Local Government Act 1999 the Council order that the public be excluded from attendance at the meeting, with the exception of Council officers and any other visitors permitted to remain, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:

- legal advice.

CARRIED

Councillor Crutchett left the meeting at 11:29pm.

Councillor Crutchett rejoined the meeting at 11:31pm.

Legal Advice on a Contractual Matter (Report No: 67/07)

Council has engaged the services of senior counsel to review the contract entered into with the developer of the Broadway Kiosk to determine whether there are any grounds to obtain relief from the contract and an injunction to prevent its construction.

Senior counsel has delivered preliminary advice which concludes that there are serious reservations as to whether Council could successfully challenge the contract and obtain the relief that it seeks.

C130207/044 Councillor Bouchée moved and Councillor Huckstepp seconded

1. That Report: 67/07 be received and items of interest discussed.
2. That Council accepts the preliminary opinion from senior counsel and discontinues further legal review of the contract.
3. That Council re-affirms its obligations under the contract and instructs Administration to work with the Developer to complete construction of the Broadway Kiosk as soon as practicable.

CARRIED**ORDER NOT TO RETAIN DOCUMENTS IN CONFIDENCE****C130207/045 Councillor Looker moved and Councillor Deakin seconded that pursuant to Section 90(2), 90(3)(h) and 91(7) of the Local Government Act 1999:**

1. The Council orders that the documents and minutes relating to Report No: 67/07 not be kept confidential and be made available for public inspection.

CARRIED**17.4 Notice of Motion – Release of Confidential Minutes**

Council officers remaining: Mr Donaldson, Mrs Umapathysivam, Mr Walker and Ms Thomas.

Councillor Lonie left the meeting at 11:37pm.

C130207/046 Councillor Crutchett moved and Councillor Bouchée seconded that, pursuant to Section 90(2) and 90(3)(g) of the Local Government Act 1999 the Council order that the public with the exception of Council officers and any other visitors permitted to remain, be excluded from attendance at the meeting, after taking into account the relevant considerations under Section 90(3), on the basis that it will receive, discuss or consider the following:

- information or matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

CARRIED**Notice of Motion – Release of Confidential Minutes**

In accordance with his notice:

C130207/047 Councillor Crutchett moved and Councillor Bouchée seconded that Council release the confidential minutes, report 379/06, attachment and the signed agreement between the Glenelg Football Club & the Council pertaining to the renaming of the Glenelg Oval.**CARRIED**

Background

Council approved the renaming of the Glenelg Oval in July 2006. At a meeting of the Glenelg Oval Advisory committee on Monday 5 February we were unable to talk about it because Councillors were bound by confidentiality. The Football Club was allowed to talk about it.

This week's Messenger carries a report on how the financial position of the club has improved by selling off the name of the Glenelg Oval.

We cannot represent the ratepayers in open discussion when bound under confidentiality provisions.

Chief Executive Officer comment.

It may be prudent to confirm with the Glenelg Football Club whether any of the information contained in the documents to which this motion refers, remains "commercial in confidence", prior to releasing all of the information.

ORDER NOT TO RETAIN DOCUMENTS IN CONFIDENCE

C130207/048 Councillor Bouchée moved and Councillor Looker seconded that pursuant to Section 90(2), 90(3)(g) and 91(7) of the Local Government Act 1999:

1. **The Council orders that the documents and minutes relating to Notice of Motion – Release of Confidential Minutes not be kept confidential and be made available for public inspection.**

CARRIED

Councillor Lonie rejoined the meeting at 11:40pm.

17.5 Confidentiality Provisions

C130207/049 Councillor Bouchée moved and Councillor Looker seconded that, pursuant to Section 90(2) and 90(3)(b) of the Local Government Act 1999 the Council order that the public be excluded from attendance at the meeting, with the exception of Council officers and any other visitors permitted to remain, after taking into account the relevant considerations under Section 90(3)(b), on the basis that it will receive, discuss or consider the following:

- **information or matter the disclosure of which –**
 - (i) **could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and**
 - (ii) **would, on balance, be contrary to the public interest.**

CARRIED

Confidentiality Provisions

ORDER TO RETAIN DOCUMENTS IN CONFIDENCE

C130207/050 Councillor Crutchett moved and Councillor Bouchée seconded that pursuant to Section 90(2), 90(3)(b) and 91(7) of the Local Government Act 1999:

1. The Council orders that the discussion relating to Item Number 17.5 Confidentiality Provisions, with the exception of Resolution No:C130207/049 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 confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and

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

under Section 90(2) and 90(3)(b) of the Act

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

CARRIED

18. RESUMPTION

Councillor Crutchett moved and Councillor Looker seconded that Council resume as an open meeting of Council at 11:44pm.

CARRIED

19. CLOSURE

The Meeting closed at 11:44pm.

CONFIRMED

Tuesday 27 February 2007

MAYOR