



MINUTES

ORDINARY MEETING OF COUNCIL

at 6.00 pm

Monday 5 September 2016

Present

Lord Mayor – Councillor Bradbery OAM (in the Chair), Councillors Kershaw, Connor, Brown, Takacs, Martin, Merrin, Dorahy, Colacino, Crasnich, Curran and Petty

In Attendance

General Manager – D Farmer, Director Corporate and Community Services – Creative, Engaged and Innovative City – G Doyle, Director Infrastructure and Works – Connectivity, Assets and Liveable City – M Hyde, Director Planning and Environment – Future, City and Neighbourhoods – A Carfield, Manager Governance and Information – K Cowgill, Manager Finance – B Jenkins, Manager Property and Recreation – P Coyte, Manager Environmental Strategy and Planning – R Campbell, Manager Community Cultural and Economic Development – K Hunt, Manager Development Assessment and Certification – M Riordan, Manager City Works and Services – M Roebuck and Manager Infrastructure Strategy and Planning – M Dowd

Apology

Min No.

98 **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Dorahy seconded Councillor Connor that the apology tendered on behalf of Councillor Blicavs be accepted.

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CLOSED SESSION

ITEM C1 CONFIDENTIAL: General Manager's Performance Review 8

DISCLOSURE OF INTERESTS

Councillor Takacs declared a significant, non-pecuniary conflict of interest in Item 5 due to his employment at the University of Wollongong. Councillor Takacs advised that he would vacate the Chamber during debate and voting on this matter.

CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON MONDAY, 15 AUGUST 2016

- 99 **COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Dorahy that the Minutes of the Ordinary Meeting of Council held on Monday, 15 August 2016 (a copy having been circulated to Councillors) be taken as read and confirmed.

PUBLIC ACCESS FORUM

HELENSBURGH – STRATEGIC APPROACH - ROADS, FOOTPATHS, WALKING ROUTES AND TOWN CENTRE UPGRADE

Mr S Spiers, speaking on behalf of Ms N Oliver, said that Helensburgh has been allowed to become shabby and neglected in terms of Council maintenance. Vehicles swerve to avoid potholes and due to the lack of footpaths, mothers are forced to walk on roads with small children and prams, and the elderly find it dangerous to walk around many residential areas. Maidstone Street, for example, falls within a school zone and recently resembled a war zone with deep craters which resulted in the sand base underneath washing out and down this steep road, which made the pot holes even deeper and more dangerous for road users.

Mr Spiers continued to outline various concerns in relation to infrastructure and in conclusion, he requested that Council adopt a strategic approach for Helensburgh, particularly in relation to roads, footpaths and pedestrian walking routes, as well as the upgrade of the Town Centre.

STATE OF HELENSBURGH NETBALL COURTS

On behalf of the Helensburgh Netball Club, Ms K Poole described the poor state of the Helensburgh Netball Courts. The courts have cracked over many years and the Club has paid out several thousands of dollars to have them filled with asphalt. However, other areas are still cracking and weeds are also able to make their way through the filler material. Due to the lack of drainage, when it rained, the water pooled on the courts and when the water dried up, a slimy film was left over some surface parts. The Club had hired professional cleaners to high pressure clean the surfaces. Last year, the cleaner took two days, and this year five days were needed for the clean, due to the delicate nature of the surface.

In conclusion, Ms Poole said that the Club was aware of Council's goals to promote a healthy community and its focus on supporting increased physical fitness and, in this respect, she asked Council to consider the allocation of funds towards facilities such as drainage, new lights and two new netball courts. This funding would assist the Club in continuing to provide a community sporting venue.

- 100 **COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Colacino that the speakers be thanked for their presentation and invited to table their notes.

CALL OF THE AGENDA

- 101 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Martin that the staff recommendations for Items 7 to 10, 12, 13, and 15 to 18 inclusive, be adopted as a block, and Item 14 be withdrawn from the Business Paper.

DEPARTURE OF COUNCILLOR

During debate and prior to voting on Item A, Councillor Crasnich departed and returned to the meeting, the time being from 6.25 pm to 6.26 pm.

ITEM A - NOTICE OF MOTION - COUNCILLOR MERRIN - COUNCILLOR REPRESENTATION ON CITY OF WOLLONGONG TRAFFIC COMMITTEE

MOVED by Councillor Merrin seconded Councillor Takacs that -

- 1 Council reinstate an elected Councillor to the Traffic Committee.
- 2 Nominations for the position be called and an election take place alongside other Committee elections at this meeting.
- 3 Members of the public be invited to attend meetings and address the Traffic Committee on matters of concern.
- 4 The agenda for the Traffic Committee be posted to Council's website, one week before the meeting.

At this stage, Councillor Bradbery FORESHADOWED a MOTION should Councillor Merrin's Motion be defeated.

A PROCEDURAL MOTION was MOVED by Councillor Kershaw seconded Councillor Martin that the MOTION be PUT. The PROCEDURAL MOTION on being PUT to the VOTE was CARRIED.

Councillor Merrin's Motion on being PUT to the VOTE was LOST.

In favour Councillors Martin, Takacs, Merrin, Dorahy and Curran
Against Councillors Kershaw, Connor, Brown, Colacino, Crasnich, Petty and Bradbery

Following the defeat of Councillor Merrin's Motion, Councillor Bradbery's FORESHADOWED MOTION became the MOTION.

- 102 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Bradbery seconded Councillor Colacino that -

- 1 A total review be undertaken of the City of Wollongong Traffic Committee.
- 2 The review be workshopped at the next available Councillor Briefing and then referred to the subsequent Council meeting.

Variation *The variation moved by Councillor Curran (the addition of Part 2) was accepted by the mover and seconder.*

ITEM 1 - ELECTION OF DEPUTY LORD MAYOR AND ITEM 3 - ELECTION OF COUNCILLORS TO COMMITTEES, REFERENCE GROUPS AND EXTERNAL ORGANISATIONS

Item 3 was considered in conjunction with Item 1.

103 COUNCIL'S RESOLUTION – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Curran that the term of –

- 1 Councillors appointed to committees, reference groups and external organisations; and,
 - 2 the Deputy Lord Mayor,
- elected on 14 September 2015, be extended to the end of this term of Council.

DEPARTURE OF COUNCILLOR

During the debate and prior to voting on Item 2, Councillor Curran departed the meeting, the time being 7.07 pm.

ITEM 2 - APPOINTMENT OF VOTING DELEGATES TO THE 2016 LOCAL GOVERNMENT NSW ANNUAL CONFERENCE

104 COUNCIL'S RESOLUTION – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Connor that Council delegate (by show of hands) voting rights on motions to seven (7) Councillors, including the Lord Mayor and Deputy Lord Mayor, from Councillors previously authorised to attend the 2016 Local Government NSW Annual Conference.

Following advice from Councillor Petty that he was prepared to attend the Conference as a non-voting delegate, the Lord Mayor, Deputy Lord Mayor and Councillors Blicavs, Brown, Kershaw, Martin and Merrin were declared elected as Council's voting delegates at the 2016 Local Government NSW Annual Conference.

ITEM 3 - ELECTION OF COUNCILLORS TO COMMITTEES, REFERENCE GROUPS AND EXTERNAL ORGANISATIONS

Item 3 was considered in conjunction with Item 1 (refer Minute Number 103).

ITEM 4 - 2017 COUNCIL MEETING CYCLE

105 COUNCIL'S RESOLUTION - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Colacino that Option 1 of the report be adopted as Council's 2017 meeting cycle, as follows –

- Ordinary Council meetings be held on a rolling three weekly cycle on a Monday commencing at 6.00 pm. First meeting to be held on Monday, 30 January 2017.
- Councillor Briefing Sessions be held on the second and third Monday of the cycle commencing at 5.00 pm.
- No Ordinary Council meetings or Councillor Briefing Sessions be held during a public school holiday period.
- Additional Councillor Briefing Sessions be scheduled for Thursdays, when there is an urgent demand.

DEPARTURE AND ATTENDANCE OF COUNCILLORS

Due to a prior disclosure of interests, Councillor Takacs vacated the Chamber and was not present for the debate and voting on Item 5.

At this stage, the time being 7.12 pm, Councillor Curran returned to the meeting.

During debate and prior to voting on Item 5, Councillor Crasnich departed and returned to the meeting, the time being from 7.18 pm to 7.19 pm.

ITEM 5 - WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN - 2016 UPDATE

106 COUNCIL'S RESOLUTION - RESOLVED on the motion of Councillor Brown seconded Councillor Martin that -

- 1 The draft Wollongong Section 94A Development Contributions Plan 2016 incorporate the following amendments:
 - a Update of the Works Program and maps to reflect the 2016-17 Capital Budget Delivery Program;
 - b Update to clause 13 by deleting reference to 'universities' in clause 13(s) and adding the following exemption provisions for tertiary educational providers:
 - u An application by or on behalf of a tertiary education provider:
 - i *Full exemption may be allowed for facilities that are directly required by the main function of the educational facility, such as - class rooms, lecture theatre, training facility, administrative office, research facility.*
 - ii *Partial (50%) exemption may be allowed for developments that are not directly required by the main function of the educational facility but will provide support to its main function, such as student accommodation, car park, sports facility, play grounds, food-court, display facility, function centre, convention hall, auditorium, community centre.*
 - iii *Nil exemption for developments that are not directly required to the main function of the educational facility and/or have potential to create additional demand for public services and amenities. Development such as but not limited to – shops, supermarket, shopping centre, office for lease, business park, commercial centre, child care centre, entertainment facility.*
 - c Deleting clause 25 (a), (b) and (c) which involve the provisions of Works in Kind Agreement which are not applicable under Section 94A plans and renaming 25 (d) to 25 (a).
 - d Including other minor changes as listed in the report.
- 2 The draft Wollongong Section 94A Development Contributions Plan 2016 (Attachment 1) be exhibited for a minimum period of 28 days.
- 3 A letter be sent to the NSW Department of Planning and Environment seeking confirmation that Section 94A Development Contributions can be levied on Crown Authorities for ancillary development.
- 4 The Draft Plan include the form of words 'tertiary education provider' throughout the document.

A PROCEDURAL MOTION was MOVED by Councillor Dorahy seconded Councillor Colacino that Item 5 lay on the table. The PROCEDURAL MOTION on being PUT to the VOTE was LOST.

Councillor Brown's MOTION was then PUT to the VOTE and was CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Merrin, Colacino, Curran, Petty and Bradbery
Against Councillors Dorahy and Crasnich

ITEM 6 - STANWELL PARK ROCK POOL TRUST FUND - RESULTS OF CONSULTATION WITH STANWELL PARK AND COALCLIFF RESIDENTS

107 COUNCIL'S RESOLUTION - RESOLVED UNANIMOUSLY on the motion of Councillor Colacino seconded Councillor Crasnich that -

- 1 The Stanwell Park Rock Pool Reserve Trust account be introduced into the 2017/18 Annual Plan to pursue the design and construction of the following recreational infrastructure improvements at Coalcliff Pool and Stanwell Park Reserve:
 - a Coalcliff Rock Pool – upgrading the stairs to the north of the concreted platform - \$40,000;
 - b Coalcliff Rock Pool – shade shelter with seating - \$105,000;
 - c Coalcliff Rock Pool – improving the drainage on the concrete platform above the Rock Pool - \$20,000; and
 - d Stanwell Park Public Reserve - footpath network (150 metres) to enhance all weather walking opportunities - \$40,000.
- 2 The design and construction of a concrete path across the rock shelf to the pool at Coalcliff Rock Pool estimated at \$50,000, be included in the proposed Capital Works Program for the 2017/18 Financial Year.

ITEM 7 - UPDATED ASBESTOS POLICY

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION – The updated Asbestos Policy be adopted by Council.

ITEM 8 - EXHIBITION OF PROPOSED NAMING OF PAUL MASON JONES RESERVE - SANDON POINT

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION –

- 1 In recognition of the late Paul Mason Jones and his extensive contribution to the local Sandon Point community, Council endorse naming a portion of Sandon Point Reserve as 'Paul Mason Jones Reserve'.
- 2 Council endorse the application to the Geographical Names Board of NSW to formally assign this section of reserve as 'Paul Mason Jones Reserve' under the Geographical Names Act 1996.

ITEM 9 - REQUEST FOR LEGAL ASSISTANCE - CONTRIBUTION TO LEGAL COSTS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION – Pursuant to section 356 of the *Local Government Act 1993*, Council resolves to grant financial assistance to Bathurst Regional Council in the amount of \$1,708.80 incurred in an appeal relating to the ability of a council to charge for services under a contract.

ITEM 10 - PROPOSED RENEWAL OF LICENCE TO WOLLONGONG TOUCH ASSOCIATION INCORPORATED FOR PART OF AMENITIES BUILDING AND FIVE LIGHTING TOWERS AT THOMAS DALTON PARK

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION –

- 1 Council provides approval to enter into a new licence agreement with Wollongong Touch Association Incorporated for a period of 10 years commencing on 1 August 2015.
- 2 Council delegate to the General Manager the authority to finalise and execute the licence agreement and any other documentation to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the licence agreement and any other documentation, should it be required, to give effect to this resolution.

ITEM 11 - TENDER T16/09 PROPOSED LICENCE OF BALD HILL KIOSK AND MOBILE FOOD VAN

108 COUNCIL'S RESOLUTION - RESOLVED UNANIMOUSLY on the motion of Councillor Colacino seconded Councillor Kershaw that -

- 1 In accordance with the Local Government (General) Regulations 2005, Clause 178 (1) (a), Council accept the tender submission of Bald Hill Company Pty Ltd for the licence to operate the Bald Hill Kiosk and Mobile Food Van in the sum of \$100,000.00 per annum (excluding GST) for a five year term.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required, to give effect to this resolution.

ITEM 12 - TENDER T16/08 - WHYTES GULLY LEACHATE TREATMENT SYSTEM OPERATIONS AND MAINTENANCE SERVICES

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION –

- 1 In accordance with clause 178(1)(a) of the Local Government (General) Regulation 2005, Council accept the tender of Innaco Pty Ltd for Whytes Gully Leachate Treatment System Operations and Maintenance Services, in the sum of \$107,200, excluding GST for the 18 month contract period.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required, to give effect to this resolution.

ITEM 13 - TENDER T15/14 BUILDING CONDITION FUNCTIONALITY AUDIT

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION –

- 1 In accordance with clause 178(1)(a) of the Local Government (General) Regulation 2005, Council accept the tender of SPM Assets Pty Ltd for the completion of Building condition and functionality inspection audits, in the sum of \$525,840.00, excluding GST, over three years.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required, to give effect to this resolution.

ITEM 14 - APPLICATION FOR WORKS ON ROAD/FOOTPATH - 2016-2017 FEES AND CHARGES

Item 14 was withdrawn from the Business Paper (refer to Call of the Agenda, Minute Number 101).

ITEM 15 - JULY 2016 FINANCIALS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION –

- 1 The financials be received and noted.
- 2 Proposed changes in the Capital Works Program be approved.

ITEM 16 - STATEMENT OF INVESTMENTS - JULY 2016

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION – Council receive the Statement of Investments for July 2016.

ITEM 17 - CITY OF WOLLONGONG TRAFFIC COMMITTEE - MINUTES OF MEETING HELD 10 AUGUST 2016

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION – In accordance with the powers delegated to Council, the minutes and recommendations of the City of Wollongong Traffic Committee Meeting held on 10 August 2016 in relation to the Regulation of Traffic be adopted.

ITEM 18 - BI-MONTHLY TABLING OF RETURNS OF DISCLOSURES OF INTEREST AND OTHER MATTERS

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 101).

COUNCIL'S RESOLUTION – Council note the tabling of the Returns of Disclosures of Interest as required by Section 450A of the Local Government Act 1993.

CLOSED COUNCIL SESSION

The Lord Mayor called for a motion to close the meeting for consideration of Item C1 – General Manager's Performance Review.

109 COUNCIL'S RESOLUTION - RESOLVED UNANIMOUSLY on the motion of Councillor Crasnich seconded Councillor Dorahy that -

- 1 The meeting move into Closed Session to consider Item C1 of Confidential Council business which deals with the General Manager's Performance Review, in accordance with –
 - a Section 10A 2(a) of the Local Government Act 1993, as the report contains personnel matters concerning particular individuals (other than Councillors); and,
 - b The Office of Local Government Guidelines for the Appointment and Oversight of General Managers which states that the Performance Review Panel report to a Closed Session of Council the findings and recommendations of the General Manager's performance review.
- 2 On balance, the public interest in preserving the confidentiality of commercial information outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in open meeting.

Prior to putting the above motion to the vote, the Lord Mayor advised members of the gallery that Item C1 relates to the General Manager's Performance Review and is classified as Confidential under Section 10A 2(a) of the Local Government Act 1993, which permits the meeting to be closed to the public as the report contains information on personnel matters concerning particular individuals (other than Councillors). Also the Office of Local Government Guidelines for the Appointment and Oversight of General Managers states that the Performance Review Panel report to a Closed Session of Council the findings and recommendations of the General Manager's performance review.

In accordance with Section 10A (4) of the Local Government Act, the Lord Mayor invited members of the gallery to make representations to the Council meeting as to whether this part of the meeting should be closed.

One submission was received from the gallery. Mr W Erwin felt that this matter should not be discussed in Closed Session and he sought to know the performance of the General Manager over the last 12 months against the targets and goals set by this Council. He said there were a number of issues, including the dumping of industrial waste, which was later discovered to be asbestos, and which added additional cost to the budget.

The MOTION to close the meeting was subsequently PUT to the VOTE and was CARRIED UNANIMOUSLY.

At this stage, the time being 7.51 pm, members of the press and gallery departed the Council Chambers.

The meeting moved into Closed Session, the time being 7.52 pm.

Council resumed into Open Session at 8.11 pm and members of the gallery were invited back into the Council Chambers.

RESOLUTION FROM THE CLOSED SESSION OF COUNCIL

ITEM C1 - GENERAL MANAGER'S PERFORMANCE REVIEW

110 COUNCIL'S RESOLUTION - The Lord Mayor advised that whilst in Closed Session Council resolved to –

- 1 Note –
 - a the General Manager's Performance Agreement Review for 2015-2016,
 - b the General Manager's Performance Agreement 2016-2017, and,
 - c that there has been no salary increase sought, nor granted, over the annual increase approved by the Statutory and Other Officers Remuneration Tribunal.
- 2 Thank the General Manager for his performance over the past five years.
- 3 Acknowledge and appreciate the General Manager's efforts in maintaining the focus of the organisation during these difficult times.

The Lord Mayor also advised that in considering the concerns expressed by Mr Erwin prior to Council moving into Closed Session, Council believes those concerns have been addressed during a previous review in an open Council meeting. The General Manager's response was outlined in that review, along with practices and responses by the organisation, and these were incorporated into the General Manager's performance agreement.

THE MEETING CONCLUDED AT 8.13 PM.

Confirmed as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Wollongong held on 10 October 2016.

Chairperson