

Minutes of an Extraordinary Meeting of Warringah Council held on Thursday, 24 November 2011 at the Civic Centre, Dee Why, Commencing at 7.00pm

ATTENDANCE

Members

Cr J Sutton (Deputy Mayor) and Crs V De Luca OAM, R Giltinan, Dr C Harris, Dr C Kirsch, V Laugesen, M Ray and Dr H Wilkins.

Officers

General Manager (R Hart), Deputy General Manager Corporate Services (J Warburton), Deputy General Manager Community and Environmental Services (M Ryan), A/ Deputy General Manager Strategic and Development Services (D Kerr), Manager Governance (M Lee), Coordinator Governance (A Moore), A/Group Manager Strategic Planning (M McDermid), Group Manager Marketing and Communications (G Middleton), Group Manager Natural Environment (T Dickinson) IM&T Support Officer (D Mishra).

NOTES

The meeting commenced at 7.00pm and concluded at 8.37pm.

In the absence of the Mayor, the Deputy Mayor Cr Sutton assumed the chair.

ORDER OF BUSINESS

The Business of the meeting was dealt with in the following order:

Items 1.0, 2.0, 3.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11.

1.0 APOLOGIES

Apologies for non-attendance were received from Crs Falinski and Regan.

349/11 **RESOLVED**

Cr Sutton / Cr Harris

That the apologies from Crs Falinski and Regan be received.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Nil.

2.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST

Nil.

3.0 STRATEGIC AND DEVELOPMENT SERVICES DIVISION REPORT

3.1 Changes to the Local Government Act 1993 – Ward and Councillor Numbers – Public Exhibition Results

(BP REF 1)

Cr Harris

That Council note the contents of the report and progress to abolish the wards system.

THE MOTION LAPSED FOR WANT OF A SECONDER.

350/11 RESOLVED

Cr Wilkins / Cr Sutton

That Council note the contents of the report and take no action to reduce Councillor numbers or abolish wards.

VOTING

For the resolution: Crs De Luca, Giltinan, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Cr Harris.

PROCEDURAL MOTION – TRANSACTION OF OTHER BUSINESS

351/11 RESOLVED

Cr De Luca / Cr Ray

That in accordance with Clause 15(2)(a) of Council's Code of Meeting Practice, all items not dealt with at the Council Meeting of 22 November 2011 (Items 9.6, 10.1, 12.1, 12.2, 12.3, 12.4, 12.6, 12.7, 12.8, 12.9, 12.10 and 12.11) be transacted at this meeting.

THE CHAIR SUBSEQUENTLY RULED THAT ITEMS 9.6, 10.1, 12.1, 12.2, 12.3, 12.4, 12.6, 12.7, 12.8, 12.9, 12.10 AND 12.11 FROM THE COUNCIL MEETING 22 NOVEMBER 2011 WERE OF GREAT URGENCY AND WOULD BE DEALT WITH IMMEDIATELY.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Nil.



4.0 MATTERS NOT DEALT WITH AT COUNCIL MEETING 22 NOVEMBER 2011

4.1 Community Gardens - Draft Policy

(BP REF 97)

Cr Kirsch / Cr Giltinan

- A. That Council adopt the Policy on Community Gardens
- B. That this report, together with the Policy on Community Gardens (attached) be placed on public exhibition in accordance with Council's Community Engagement Policy.
- C. That following exhibition any submissions received be reported to Council to consider amendments to the Policy on Community Gardens.

AMENDMENT

Cr Wilkins

- A. That this report, together with the draft Policy on Community Gardens (attached) be placed on public exhibition in accordance with Council's Community Engagement Policy.
- B. That following consideration of submissions the draft policy be reported back to Council for adoption.

THE AMENDMENT LAPSED FOR WANT OF A SECONDER.

352/11 RESOLVED

Cr Kirsch / Cr Giltinan

- A. That Council adopt the Policy on Community Garden
- B. That this report, together with the Policy on Community Gardens (attached) be placed on public exhibition in accordance with Council's Community Engagement Policy.
- C. That following exhibition any submissions received be reported to Council to consider amendments to the Policy on Community Gardens.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Nil.

MOTION OF URGENCY – NSW GOVERNMENT GRANT FOR BROOKVALE OVAL

353/11 **RESOLVED**

Cr De Luca / Cr Sutton

That as a matter of urgency, Council considers a motion in relation to NSW Government grant for Brookvale Oval.

VOTING

For the resolution: Crs Laugesen, Ray, Sutton, Giltinan, Kirsch and De Luca.

Against the resolution: Crs Harris and Wilkins.

THE CHAIR SUBSEQUENTLY RULED THAT THE MATTER WAS ONE OF URGENCY.

IN ACCORDANCE WITH CLAUSE 14(3)(b) OF COUNCIL'S CODE OF MEETING PRACTICE, THIS ITEM WILL BE DEALT WITH AS THE LAST ITEM ON THE AGENDA.

4.2 Second Hand Saturday/Garage Sale Trail

(BP REF 134)

Cr Sutton / Cr Wilkins

That Council note the information contained in this report and support Warringah Council's participation in the 2012 Garage Sale Trail throughout the Warringah Local Government Area.

AMENDMENT

Cr Laugesen / Cr Ray

That Council adopt the Second Hand Saturday project as resolved in December 2009 and again in July 2010 and commence the events across the Local Government Area in the first quarter of 2012.

PROCEDURAL MOTION – DEFERMENT OF ITEM

Cr Harris / Cr Wilkins

That the item be deferred to the 14 December Council Meeting.

VOTING

For the motion: Crs Harris and Wilkins.

Against the motion: Crs De Luca, Giltinan, Kirsch, Laugesen, Ray, Sutton.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

ORIGINAL AMENDMENT

Cr Laugesen / Cr Ray

That Council adopt the Second Hand Saturday project as resolved in December 2009 and again in July 2010 and commence the events across the Local Government Area in the first quarter of 2012.

VOTING

For the amendment: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen and Ray.

Against the amendment: Crs Wilkins and Sutton.

THE AMENDMENT, UPON BEING PUT, WAS DECLARED CARRIED.

354/11 RESOLVED

Cr Laugesen / Cr Ray

That Council adopt the Second Hand Saturday project as resolved in December 2009 and again in July 2010 and commence the events across the Local Government Area in the first quarter of 2012.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, and Ray.

Against the resolution: Crs Sutton and Wilkins.



4.3 Notice of Motion 55/2011

Responsibility for the Efficient and Effective Operation of the Council's Organisation in Relation to Management of Code of Conduct Allegations Made against Councillors

(BP REF 155)

Cr Laugesen / Cr Ray

That Council:

A. Notes Clause 14.10 of the Warringah Council Code of Conduct:

14.10 Amendment of the operating guidelines

The Conduct Review Committee/reviewer guidelines may be added to and any additional requirements may be further amended or repealed by resolution of the council.

B. As a cost-saving measure and noting Sections 335(1) and 335(2) (ii) of the Local Government Act, requests the GM to:

i) Refer all pending and future code of complaints against councillors of the 2008-2012 term as per 12.9(b) of the WC Code of Conduct/NSW Model Code of Conduct:

12.9 (b) Resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing

ii) Where complaints are received from anonymous sources that don't supply contact details, that those complaints be determined as being invalid and not subject to the expenditure of public funds or staff time

iii) Place a freeze on spending public funds on external conduct reviewers, code of conduct review panellists or external legal advice on code of conduct allegations made against councillors for the remainder of this term, unless mediation (ie. S12.9 b) fails.

VOTING

For the motion: Crs De Luca, Giltinan, Laugesen and Ray.

Against the motion: Crs Harris, Kirsch, Sutton and Wilkins.

THERE BEING AN EQUAL NUMBER OF VOTES, THE CHAIR USED HER CASTING VOTE AGAINST THE MOTION, WHICH WAS DECLARED LOST.

4.4 Notice of Motion No 56/2011

Sun Shelter at Freshwater

(BP REF 157)

AT THIS STAGE THE MOVER ADVISED THAT THE MOTION HAD BEEN WITHDRAWN.

4.5 Notice of Motion No 57/2011

Manly Dam Security Cameras

(BP REF 158)

Cr Giltinan / Cr Wilkins

That the Manly Dam Committee be allowed to proceed with security cameras at Manly Dam at their own cost.

AT THIS STAGE, THE MOVER, WITH THE CONSENT OF THE SECONDER, AMENDED THE MOTION TO READ:

That the Manly Dam Committee:

1. Be allowed to proceed with security cameras at Manly Dam at their own cost and
2. Liaise with Council to ensure compliance with the surveillance devices act and to determine the appropriate locations for the installation of surveillance devices.

355/11 **RESOLVED**

Cr Giltinan / Cr Wilkins

That the Manly Dam Committee:

1. Be allowed to proceed with security cameras at Manly Dam at their own cost and
2. Liaise with Council to ensure compliance with the surveillance devices act and to determine the appropriate locations for the installation of surveillance devices.

VOTING

For the resolution: Crs De Luca, Giltinan, Kirsch, Ray, Sutton and Wilkins.

Against the resolution: Crs Harris and Laugesen.

4.6 Notice of Motion No 58/2011

Passing of Mrs Pam Hall - Co Founder Manly Warringah Netball (Previously Women's Basketball) Association

(BP REF 159)

356/11 **RESOLVED**

Cr De Luca / Cr Sutton

That this Council resolves to:

1. Note:

- a) The passing of Mrs Pam Hall the Co Founder of the Manly Warringah Netball Association who was involved with the sport of netball (previously known as women's' basketball) for over 60 years.
- b) That in 1954 Mrs Hall along with Mrs Iris Gracie and Mrs Evelyn Langbein wrote to local swimming clubs, surf clubs, gas companies, factories and businesses in the Manly Warringah area inviting girls and women to play in the first women's basketball (now netball) competition in the Manly Warringah area. Prior to this, teams such as Manly Y and West Dee Why travelled to the city to play and higher grade teams continued to travel to the city to play up until the mid to late 1960s.
- c) In 1955 Mrs Hall with others founded the Manly Warringah Women's Basketball Group, which went on to become an affiliated Association of New South Wales Women's Basketball Association in 1965 and has developed into the second largest netball association in the world and one of the most successful netball associations in the Country with numerous players and officials representing NSW and Australia.
- d) That in 1960 Mrs Hall founded the Collaroy Plateau Youth Club Netball Division.
- e) Mrs Hall served on the Executive Committees of the Manly Warringah Women's Basketball Group and Manly Warringah Netball Association for in excess of 35 years, was a badged umpire, coach, manager and served on numerous sub-committees of the association.
- f) In honour of Mrs Hall's outstanding service to netball she was awarded Life Membership of the Manly Warringah Netball Association, Life Membership of the Collaroy Plateau Youth Club, the NSW Netball Association's Anne Clarke Service Award, the Centenary Medal and the Warringah Council Outstanding Community Service Award.

2. That Council acknowledges the enormous contribution Mrs Hall has given to the Manly Warringah Community and extends its deepest sympathy to her family and friends on her passing.

VOTING

For the resolution:

Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution:

Nil.

4.7 Notice of Motion No 60/2011

Request for a Copy of the Complete Warringah Council Organisational Chart

(BP REF 161)

AT THIS STAGE THE MOVER ADVISED THAT THE MOTION HAD BEEN WITHDRAWN.

4.8 Notice of Motion No 61/2011

Overturning of General Manager's Ban on Mr Jack Tilburn from Public Forum

(BP REF 162)

Cr Laugesen / Cr Ray

That Council

A. Notes:

- i) Warringah Council General Manager Rik Hart's imposition of a ban on Mr Jack Tilburn from addressing councillors at public forum, effective from 27 September 2011
- ii) Receipt of no notice of concern or other legal proceedings underway or pending against Mr Jack Tilburn by Warringah Council or any of its officers
- iii) The NSW Defamation Act prohibits a Council from commencing defamation proceedings against an individual member of the community
- iv) That the Warringah Council Code of Meeting Practice refers specifically to the role of the general manager in public forum at 12.1 (iii), (iv) and (v) and issues no delegation to the general manager on determining which members of the public may or may not address councillors

B. Reinstates Mr Jack Tilburn's right to address Warringah Council meetings, effective immediately;

C. Requests the General Manager to writes to Mr Jack Tilburn, apologising for the erroneous ban, noting that it was not sanctioned by council resolution and advises Mr Tilburn of his reinstatement to public forum as a welcome member of the Warringah Community whose views and alerts are valued by the elected representatives.

AMENDMENT

Cr Harris / Cr Kirsch

That Mr Tilburn be allowed to speak at public forums as he has sent an apology and if he reconfirms that he will only use appropriate language at public forums.

VOTING

For the amendment: Crs Giltinan, Harris, Kirsch, Sutton and Wilkins.

Against the amendment: Crs De Luca, Laugesen and Ray.

THE AMENDMENT, UPON BEING PUT, WAS DECLARED CARRIED.

357/11 RESOLVED

Cr Harris / Cr Kirsch

That Mr Tilburn be allowed to speak at public forum as he has sent an apology and if he reconfirms that he will only use appropriate language at public forum.

VOTING

For the resolution: Crs Giltinan, Harris, Kirsch, Laugesen, Sutton and Wilkins.

Against the resolution: Crs De Luca, and Ray.

4.9 Notice of Motion No 62/2011

Fees Paid to Dismissed Conduct Reviewer

(BP REF 164)

Cr Laugesen / Cr Ray

That Council

- i) Requests from the General Manager, the fee paid by Warringah Council to the conduct reviewer in the pending code of conduct investigation, "Anonymous" v Laugesen (May 2011), in which the conduct reviewer was dismissed by the general manager before the matter was resolved, following the reviewer's declaration of apprehended bias in the case;
- ii) Notes the Warringah Council Internal Ombudsman's recommendation to Cr Laugesen via email on 31 October 2011 that a resolution of council is required to divulge the fee paid to the conduct reviewer.

VOTING

For the motion: Crs De Luca, Laugesen and Ray.

Against the motion: Crs Giltinan, Harris, Kirsch, Sutton and Wilkins.

THE MOTION, UPON BEING PUT, WAS DECLARED LOST.

4.10 Notice of Motion No 63/2011

Policy For Reviewing Conceptual Plans Specialising in Solar Design

(BP REF 165)

358/11 **RESOLVED**

Cr Wilkins / Cr Kirsch

That Council:

Investigates and implements a policy for reviewing conceptual plans and/or draft designs for new construction of, and major renovations to, council-owned buildings, by architects and/or architectural firms that specialise in passive and active solar design, prior to progressing to the working drawing and/or tender phase.

VOTING

For the resolution: Crs Giltinan, Harris, Kirsch, Laugesen, Sutton and Wilkins.

Against the resolution: Crs De Luca and Ray.

4.11 MATTER OF URGENCY – PASSING OF JOHN BOOTH

359/11 **RESOLVED**

Cr De Luca / Cr Sutton

That this Council notes with sadness the passing of the former member for Wakehurst, John Booth and pass on condolences to his family.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Nil.

4.12 MATTER OF URGENCY – NSW GOVERNMENT GRANT FOR BROOKVALE OVAL

360/11 **RESOLVED**

Cr De Luca / Cr Sutton

That this Council:

1. Notes:
 - a) The announcement of the NSW Treasurer in the Sydney Morning Herald on 24 November 2011 that he will not consider any allocation of State Funding until Warringah Council explains how it spent a \$6 million grant for Brookvale Oval allocated by the previous lemma Labor Government;
 - b) Mr Baird's comments in the Sydney Morning Herald of 24 November 2011 that information he has been waiting for from Warringah Council since October 2011 and has now received does "not distinguish between state and council funds".
2. In an effort to expedite matters and show transparency for the benefit of the Warringah community, the Sea Eagles and NSW Government, in the hope of obtaining a State Government Grant in the future, the General Manager be requested to furnish a Report to the next Council meeting outlining:
 - a) A full breakdown of works the \$6 million NSW Government grant was expended on and dates of commencement and completion of those respective works.
 - b) A full breakdown of works Warringah Council funds were expended on, how much those respective works cost Warringah Council and the dates of commencement and completion of those respective works.

VOTING

For the resolution: Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Sutton and Wilkins.

Against the resolution: Nil.

The meeting concluded at 8.37pm.

This is the final page of the Minutes comprising (??) pages numbered (1) to (??)
of meeting 2011/19 of Warringah Council held on 24 November 2011
and confirmed on 13 December 2011.

Mayor

General Manager

