

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 12 September 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 L Holt
J L Deakin
P W Dixon
J Donaldson
C J Lush
P L Macaskill
A C Norton
D J Swiderczuk
S K Tilley
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 at 7:00pm.

2. PRESENTATION

His Worship the Mayor made a presentation to Bernadette Stockwell in acknowledgement of her retirement from the Alwyndor Aged Care Board of Management.

Ms Stockwell responded

His Worship the Mayor acknowledged Dennis Chamberlain's resignation from the position of General Manager Alwyndor Aged Care, and thanked Mr Chamberlain for his services over the last 11 years to Alwyndor Aged Care and City of Holdfast Bay.

3. APOLOGIES

- | | |
|-----------------------------|-----|
| 3.1 For Absence | Nil |
| 3.2 Leave of Absence | Nil |

4. CONFIRMATION OF MINUTES

Councillor Holt moved and Councillor Swiderczuk seconded that the minutes of the Ordinary Meeting of Council held on 22 August 2006 be taken as read and confirmed.

CARRIED

5. QUESTIONS BY MEMBERS

5.1 Without Notice

Councillor Lush asked about other Councils with policies/protocols relating to Local Government Elections.

The General Manager Social and Organisation provided a response.

Councillor Lush asked whether it would be practical for Administration to prepare a policy regarding policies/protocols for Local Government Elections for Council's consideration at the next Council meeting.

The General Manager Social and Organisation provided a response.

5.2 With Notice

5.2.1 Brian Nadilo Reserve – Nugutinilla

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

1. Are administration continuing with preparation for a \$25,000 celebration to name the former Magic mountain site: "Brian Nadilo Reserve Nugutinilla" on 24th September 2006 in accordance with council resolution C230506/124 ?

General Manager Social and Organisation response

Yes.

2. What appropriate steps has administration taken to ensure all candidates at the close of nomination for council election on Sept 19th 2006 are provided with the invitation list for this celebration and equal opportunity to attend with their supporters?

General Manager Social and Organisation response

None. It is not considered appropriate to invite candidates and their supporters to this event as to do so would have the effect of politicising a community event.

3. Are there any invited guests on the invitation list who are on the City of Holdfast Bay Council Election roll that closed in August 2006?

General Manager Social and Organisation response

Yes a number of the invited guests are also on the Voters' roll of the City of Holdfast Bay.

4. Will invited guests (who may include electors in the City of Holdfast Bay) at the \$25,000 celebration to name the former Magic mountain site : "Brian Nadilo Reserve Nugutinilla" on 24th September 2006 be offered **food, drink or entertainment** paid for by the City of Holdfast Bay ?

General Manager Social and Organisation response

Yes.

5. Has administration sort advice from the Minister for Local Government and the Electoral Commissioner on any possible breaches of the Local Government Election Act 1999 especially in relation to Part 12 Illegal Practises Section 57, that this celebration may cause candidates to breach.

57—Violence, intimidation, bribery etc

- (1) **A person who exercises** violence or intimidation, **or offers or gives a bribe, with a view to—**

(a) inducing a person to submit or withdraw candidature for election; or

(b) influencing the vote of a person at an election or poll; or

(c) otherwise interfering with the due course of an election or poll, is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for seven years.

- (2) A person who receives a bribe offered in contravention of subsection (1) is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for seven years.

- (3) **In this section—**

bribe includes any pecuniary sum or material advantage including food, drink or entertainment.

General Manager Social and Organisation response

Advice has not been sought from either the Minister or the SEC about Section 57 of the Local Government (Elections) Act 1999, as it relates to issues of bribery or otherwise because it is considered that Section 57 has no application in the circumstances. The celebration for the naming of the Reserve is a corporate Council function and is not, and cannot be said to be, in any way intended to influence the vote of a person at the November elections. By contrast, if a candidate (or any other person who intended to influence candidature and/or voting at an election) were to host this or a similar event at which food, drink and/or entertainment was offered, then that would certainly be a matter to consider under Section 57. The attendance of a candidate (by invitation) and the acceptance of food and drink at the function will not place the candidate in jeopardy of breaching Section 57.

6. REPORTS BY DELEGATES OR REPRESENTATIVES Nil

7. PETITIONS AND DEPUTATIONS

7.1 South Australian Strategic Plan

Mr Jeff Tryens made a 20 minute presentation on the South Australian Strategic Plan and answered Members' questions.

8. NOTICES OF MOTION

Councillor Dixon left the meeting at 7:33pm.

8.1 Palm Tree Removal Jetty Road, Glenelg and Tree Planting Options, Elizabeth Street Car Park

In accordance with his motion

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

EE280605/0087

3. *“Administration proceeds with the removal of the 9 palm trees located in Jetty Road, Glenelg east of Partridge/Gordon Streets and replace them with Celtis australis.*
3. *Administration proceeds with the removal of Melaleucas and Eucalyptus platypus from the northern boundary of Elizabeth Street car park and replace them with the 9 palms from Jetty Road, Glenelg.*
3. *The project be funded through Council’s street tree maintenance budget and funding offered from the Jetty Road Mainstreet Board.”*

CARRIED

Councillor Deakin moved and Councillor Bouch  e seconded

1. That 9 palms in Jetty Road, Glenelg previously earmarked for transplanting, be cut down and their stumps ground out to allow the planting of *Celtis australis*.
2. That the Elizabeth Street car park edges be planted with *Celtis australis*, rather than palms as resolved in Report No: 375/05 as the palms will not survive the relocation process.
3. That stakeholders, residents and ratepayers be notified of Council’s decision in accordance with Council’s Consultation Policy.

CARRIED

His Worship the Mayor left the meeting at 7:35pm having declared a conflict of interest in Item 8.2 as he was named in the motion.

Councillor Edwards left the meeting at 7:35pm having declared a conflict of interest in Item 8.2 as he was named in the motion.

Councillor Deakin moved and Councillor Lush seconded that Councillor Holt be appointed as Acting Presiding Member for the purposes of dealing with Item 8.2.

CARRIED

Councillor Holt assumed the chair at 7:35pm.

8.2 Official Spokesperson for Council during 2006 Local Government Elections

Councillor Crutchett left the meeting at 7:45pm.

Councillor Crutchett returned to the meeting at 7:46pm.

Councillor Crutchett left the meeting at 7:47pm.

Councillor Bouch e left the meeting at 7:47pm having declared a conflict of interest in Item 8.2.

Councillor Tilley left the meeting at 7:47pm having declared a conflict of interest in Item 8.2.

In accordance with her notice

C120906/238 Councillor Macaskill moved and Councillor Swiderczuk seconded that

- 1. Elected Members of the City of Holdfast Bay, including the Mayor and Deputy Mayor not be permitted to speak at Official Council functions or issue media releases from 5 September 2006 when Council nominations open and the close of voting at 5pm Friday 10 November 2006.**

CARRIED

His Worship the Mayor returned to the meeting at 7:52pm.

Councillor Edwards returned to the meeting at 7:52pm.

Councillor Crutchett returned to the meeting at 7:52pm.

Councillor Bouch e returned to the meeting at 7:52pm.

Councillor Tilley returned to the meeting at 7:52pm.

Upon their return, Councillors Bouch e and Tilley advised their reason for their conflict of interest in Item 8.2 was their status as Elected Members (referred to in the motion).

Discussion ensued.

Councillor Holt vacated the chair at 7:59pm.

His Worship the Mayor resumed the chair but advised the Chief Executive Officer that it was his advice that as the Council Meeting constituted "an official Council function" he was not permitted to speak, in accordance with Resolution Number C120906/238 .

The Chief Executive Officer advised the meeting of His Worship the Mayor's advice.

Discussion ensued.

His Worship the Mayor left the meeting at 8:06pm.

Councillor Lush moved and Councillor Holt seconded that the Deputy Mayor take the chair.

The Chief Executive Officer put the Question

A division was called.

Voted For	Voted Against
Councillor Norton	Councillor Crutchett
Councillor Macaskill	Councillor Tilley
Councillor Swiderczuk	Councillor Bouchèe
Councillor Deakin	
Councillor Donaldson	
Councillor Lush	
Councillor Holt	
Councillor Edwards	

THE CHIEF EXECUTIVE OFFICER DECLARED THE MOTION CARRIED

Deputy Mayor Councillor Edwards assumed the chair at 8:11pm.

Councillor Tilley left the meeting at 8:11pm.

Councillor Tilley returned to the meeting at 8:13pm.

His Worship the Mayor returned to the Council Chamber at 8:13pm.

Deputy Mayor Councillor Edwards asked His Worship the Mayor if he would resume the chair and fulfil the role of Presiding Member.

His Worship the Mayor indicated that he would resume the chair but would not speak.

Deputy Mayor Councillor Edwards advised that he would adjourn the meeting based on the response of His Worship the Mayor.

Deputy Mayor Councillor Edwards advised that he would ask Administration to re-list the outstanding agenda items for a resumed meeting.

Deputy Mayor Councillor Edwards declared the Meeting adjourned at 8:15pm.

CONFIRMED

Tuesday 26 September 2006

MAYOR