

**Minutes of the Ordinary Meeting of Council of the City of Holdfast Bay held in the Council Chamber, Glenelg Town Hall, Moseley Square, Glenelg, on Tuesday 24 September 2013 at 7:00pm.**

**MEMBERS PRESENT**

His Worship the Mayor, AK Rollond  
Councillor RM Bouchée  
Councillor PW Dixon  
Councillor KM Donaldson  
Councillor LR Fisk  
Councillor JD Huckstepp  
Councillor SC Lonie  
Councillor TD Looker  
Councillor S Patterson  
Councillor RC Patton  
Councillor LJ Yates

**STAFF IN ATTENDANCE**

Chief Executive Officer - JP Lynch  
General Manager City Assets - SG Hodge  
General Manager Corporate Services - IS Walker  
Manager Organisational Sustainability - PE Aukett  
Manager Development Services – A Marroncelli

**1. OPENING**

His Worship the Mayor declared the meeting open at 7.02pm.

**2. KAURNA ACKNOWLEDGEMENT**

With the opening of the meeting His Worship the Mayor stated:  
We acknowledge Kaurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kaurna People today.

**3. PRAYER**

His Worship the Mayor requested all present to pray and read the following Prayer:

Heavenly Father, we pray for your presence and guidance at our Council Meeting.

Grant us your wisdom and protect our integrity as we carry out the powers and responsibilities entrusted to us on behalf of the community that we serve.

**4. APOLOGIES**

- 4.1 Apologies Received - Deputy Mayor RA Clancy, Councillor AP Roe
- 4.2 Absent

**5. ITEMS PRESENTED TO COUNCIL - Nil****6. DECLARATION OF INTEREST**

Members were reminded to declare their interest before each item.

**7. CONFIRMATION OF MINUTES****Motion****C240913/1035**

**That the minutes of the Ordinary Meeting of Council held on 10 September 2013 be taken as read and confirmed.**

Moved by Councillor Huckstepp, Seconded by Councillor Donaldson

**Carried****8. QUESTIONS BY MEMBERS****8.1 Without Notice****8.1.1 Wallis Development – Councillor Bouchee**

Discussed the carpark arrangements for the former Wallis site.

The Chief Executive Officer provided a response.

**8.2 With Notice - Nil****9. MEMBER'S ACTIVITY REPORTS****9.1 Mayoral Report - Nil**

- 9.2 Councillors Donaldson and Looker attended the Holdfast Bay Community Centre meeting. Their AGM will be held at 2pm Thursday 26 September 2013.

Councillor Patton attended the Jetty Road Mainstreet Awards. Noted congratulations to the Jetty Road Development Manager, Linda Johnson.

Councillor Patton attended a meeting on the Glenelg Nth Community Centre, including the community garden.

Councillors Yates and Looker also attended Jetty Road presentations

Councillor Huckstepp attended the Seacliff Hockey Club presentation night.

Councillors Yates and Huckstepp attended the SRWRA AGM.

## 10. PUBLIC PRESENTATIONS

10.1 **Petitions** - Nil

10.2 **Presentation**

10.2.1 **Reg Sprigg's Diving Chamber**

*Dr Richard Harris from the Hyperbaris Medicine Unit at the Royal Adelaide Hospital was unable to make his presentation due to work commitments. He will be given an opportunity to make his presentation at a later date.*

10.3 **Deputations** - Nil

## 11. MOTIONS ON NOTICE

11.1 **Motion on Notice – Resident/Ratepayer Parking Permit Scheme – Councillor Bouchee** (Report No: 327/13)

### **Background**

Many local residents now regularly do their weekly shopping outside of Holdfast Bay because of the perceived difficulty of parking near to Jetty Road and needing to hurry due to parking time restraints. These shoppers need to be enticed back to Jetty Rd by making parking available for genuine shopping for all year round shopping and with less emphasis on the short 3 month summer season.

I believe this motion will re-invigorate Residential/Ratepayer visitation to Jetty Road, Glenelg.

As has been indicated by the CEO/Mr Taplin and Jetty Rd Retailers, we need to encourage local Residents to return to Jetty Road for their shopping.

This proposed exemption is similar to that operating in large shopping malls and other interstate Councils

The Glenelg shopping strip is not able to compete with the large shopping centres such as Marion/West Lakes and Harbour Town. These 2 car parks are central, short walking distance to adjacent to shopping/Entertainment Precinct.

### **Administration Comment**

Councillor Bouchee has previously asked council to consider this motion, at the council meeting held on 14 August 2012 where it was lost. The resolution is shown below.

11.2 *Resident/Ratepayer Parking Permit Scheme – Councillor Bouchee*

Motion

C140812/608

*That the CEO implement a Resident/ratepayer Parking Permit Scheme:*

- (a) one permit per rateable property within the City of Holdfast Bay;*
- (b) up to 4 hours free parking at Cowper/Milton Street/Partridge Street Car parks only.”*

*Moved Councillor Bouchee, Seconded Councillor Fisk*

Lost

*Background from Councillor Bouchee*

*Many local residents now regularly do their weekly shopping outside of Holdfast Bay because of the perceived difficulty of parking near to Jetty Road and needing to hurry due to parking time restraints. These shoppers need to be enticed back to Jetty Rd by making parking available for genuine shopping for all year round shopping and with less emphasis on the short 3 month summer season.*

*I believe this motion will re-invigorate Residential/Ratepayer visitation to Jetty Road, Glenelg.*

*As has been indicated by the CEO/Mr Taplin and Jetty Rd Retailers, we need to encourage local Residents to return to Jetty Road for their shopping.*

*This proposed exemption is similar to that operating in large shopping malls and other interstate Councils*

*The Glenelg shopping strip is not able to compete with the large shopping centres such as Marion/West Lakes and Harbour Town... these 2 car parks are central, short walking distance to adjacent to shopping/Entertainment Precinct.*

Motion

**That the CEO implement a Resident/ratepayer Parking Permit Scheme:**

- (a) one permit per rateable property within the City of Holdfast Bay;**
- (b) up to 4 hours free parking at Cowper/Milton Street/Partridge Street Car parks only.**
- (c) the commencement of 4 hours free parking to coincide with the operation of the Cinema.**

*Moved Councillor Bouchee, Seconded Councillor Fisk*

Lost

**A division was called:**

Those voting for: Councillors Fisk, Bouchee, Patterson, Donaldson (4)

Those voting against: Councillors Dixon, Huckstepp, Lonie, Looker, Patton, Yates (6).

His Worship the Mayor declared the motion

**Lost**

11.2 **Motion on Notice – Glenelg Cinema Project – Councillor Fisk** (Report No: 329/13)

**Background**

The Cinema proposal was presented to Council as the only way to resurrect the fortunes of the Jetty Road Shopping strip.

It has been stated that without this Cinema complex being constructed Jetty Road will die, and it has also been stated that the proposal provides a very cost efficient way of creating extra car parking, and to entice thousands of visitors per week down to Jetty Road to attend a movie and shop in the precinct.

If the Cinema is so important to the precinct, let this Council ensure that the Cinema remains as it is intended for an extended length of time, to maintain the stated visitations to the precinct.

Failure to support this Notice of Motion will demonstrate that the Heads of Agreement are not about creating a specific planning and business outcome for the Jetty road shopping precinct but a straight transfer of community wealth from the ratepayers of this city to a private developer.

**ADMINISTRATION COMMENT**

Legal advice was sought and received from Norman Waterhouse as follows.

In this instance, Council's roles as planning authority under the *Development Act 1993* and member of the proposed community corporation need to be considered separately.

If such a resolution is intending to prevent a future council (as planning authority) from considering (or subsequently making a decision on) a change of use application from the owner/s of the cinema lots, this is certainly *ultra vires* (beyond power) of the *Development Act 1993*.

If such a resolution is seeking to prevent the Council at some point in the future (as owner of a lot in the community division and member of the community corporation) from considering a request from the other member/s of the community corporation to amend the scheme description/by-laws to allow a different use, this is potentially *ultra vires*, in that it is seeking to fetter the discretion of the Council to make such a decision in the future.

Where a body is given statutory responsibilities or functions, that body cannot 'fetter' its exercise of those responsibilities or functions, such as by an agreement with another party for example, by agreeing not to exercise a statutory power or function it has. Any such purported fetter is *ultra vires* and invalid. We have not fully considered this aspect as it is somewhat complex and requires a consideration of the nature of the power which the motion is seeking to restrict the Council from exercising in the future. In the case set out in the second paragraph above the Council has a duty to exercise its development assessment function in accordance with the law and it would clearly be unlawful for the Council to agree not to exercise its powers or not to exercise its powers in a particular way. It is less clear if it would be unlawful for the Council to agree not to amend a scheme description/by-laws. It is likely to depend on how the court would characterise the power to amend the scheme description/by-laws.

In any event, such a resolution will have no practical effect. There would be nothing to prevent the Council from revoking a resolution made in terms of the motion at any time (subject to complying with the procedural requirements regarding rescission motions etc).

The HOA requires that the use of the cinema lots as a cinema be enshrined in the scheme description and by-laws (together with the use of the car park lot as a car park). However it may be that in 20 years time, there are good reasons (from all parties' perspectives) for the use to change. It will be a matter for the Council at the time to make that decision, based on the information available and prevailing community sentiment at that time.

### **Motion**

**Since the Council has voted that it will hand, free, some millions of dollars worth of strata to a developer for a specific planning purpose - the creation and operation of a cinema complex on a strata above the Cowper Street Council owned site – there should be no opposition to a motion that the Council will not entertain any proposal for change of use for twenty years from the date of signature of the Heads of Agreement, approved on 27 August 2013, and therefore the Council so resolves not to consider any application for change of use for twenty years from the signature of the Heads of Agreement concerning the Cowper Street Council owned sites.**

Moved Councillor Fisk, Seconded Councillor Bouchee

**Lost**

### **A division was called:**

Those voting for: Councillors Fisk and Bouchee (2)

Those voting against: Councillors Dixon, Huckstepp, Lonie, Looker, Patton, Yates, Patterson and Donaldson (8).

His Worship the Mayor declared the motion

**Lost**

**12. ADJOURNED MATTER - Nil****13. REPORTS OF MANAGEMENT COMMITTEES, SUBSIDIARIES AND THE DEVELOPMENT ASSESSMENT PANEL****13.1 Minutes – Development Assessment Panel – 28 August 2013** (Report No: 304/13)

Council's Development Assessment Panel is established under the Development Act 1993.

The minutes of the Development Assessment Panel meeting held 28 August 2013 are presented to Council for information.

**Motion****C240913/1036**

**That the minutes of the Development Assessment Panel meetings held on 28 August 2013 be received.**

Moved Councillor Looker, Seconded Councillor Dixon

**Carried****13.2 Minutes – Alwyndor Management Committee – 17 September 2013** (Report No: 328/13)

The Minutes of the Alwyndor Aged Care Management Committee for 17 September 2013 are provided for information.

**Motion****C240913/1037**

**That the Minutes of the Alwyndor Aged Care Management Committee for 17 September 2013 be noted by Council.**

Moved Councillor Lonie, Seconded Councillor Huckstepp

**Carried****14. REPORTS BY OFFICERS****14.1 Items in Brief** (Report No: 321/13)

These items are presented for the information of Members.

After noting the report any items of interest can be discussed and, if required, further motions proposed.

**Motion****C240913/1038**

**That the report be noted and items of interest discussed.**

Moved Councillor Looker, Seconded Councillor Lonie

**Carried**

**14.2 Monthly Financial Report – August 2013 (Report No: 322/13)**

Attached are financial reports as at 31 August 2013. They comprise a Funds Statement and a Capital Expenditure Report for Council's municipal activities and Alwyndor Aged Care. The municipal funds surplus forecast is affected by the prepayment in the prior year of the Financial Assistance Grant which contributed to the prior year municipal funds surplus result.

**Motion****C240913/1039**

**That Council receives the financial reports to 31 August 2013 and notes no changes to the 2013/14 budget:**

**1. Municipal Activities**

- a projected operating surplus for 2013/14 of \$309k
- a projected capital expenditure for 2013/14 of \$11.635 million
- a projected funding requirement for 2013/14 of \$2.449 million

**2. Alwyndor Aged Care**

- a projected operating surplus for 2013/14 of \$612k
- a projected capital expenditure for 2013/14 of \$2.631 million
- a projected funding requirement for 2013/14 of \$1.264 million

Moved Councillor Donaldson, Seconded Councillor Bouchee

**Carried**

Councillor Patton left the chamber at 7.42pm

Councillor Patton entered the chamber at 7.44pm

**14.3 Naming of Public Road Purdeys Lane Glenelg East (Report No: 325/13)**

This report formalises the naming of the public road known as Purdeys Lane so that it is legally identifiable on property titles managed by the Registrar General.

**Motion****C240913/1040**

**Pursuant to Section 219(1) of the Local Government Act, 1999 as amended, the City of Holdfast Bay resolves that Allotment 231 in Deposited Plan 3010 and Allotment 53 and portion of Allotment 56 in Deposited Plan 1008 together being a laneway running north-south between Wilson Terrace and Cliff Street Glenelg East be assigned the name Purdeys Lane.**

Moved Councillor Bouchee, Seconded Councillor Looker

**Carried**



**14.4 Environmental Team Quarterly Snapshot (Report No: 326/13)**

The Environmental Team Quarterly snapshot is presented for Council's information.

**Motion****C240913/1041****That the Environmental Team Quarterly snapshot be received.**

Moved Councillor Yates, Seconded Councillor Lonie

**Carried**

Councillor Donaldson left the meeting at 7.47pm

Councillor Donaldson entered the meeting at 7.49pm

**14.5 Fraud, Corruption, Misconduct and Maladministration Policy (Report No: 330/13)**

The Council is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency which are all key components of good governance.

Fraud, corruption and maladministration in public administration has the potential to cause significant financial and non-financial harm and the control of fraud, corruption and maladministration is an important feature within the systems and procedures of a responsible council.

To assist in establishing a framework for the identification of fraud, corruption, misconduct and maladministration the Fraud, Corruption, Misconduct and Maladministration Policy is presented for Council's adoption. Once adopted, this policy establishes the high level principles of good governance and makes a public commitment to up-hold the expected standards of public administration.

**Motion****C240913/1042****That the Fraud, Corruption, Misconduct and Maladministration Policy be adopted.**

Moved Councillor Looker, Seconded Councillor Huckstepp

**Carried****15. RESOLUTIONS SUBJECT TO FORMAL MOTIONS - Nil**

**16. URGENT BUSINESS – SUBJECT TO THE LEAVE OF THE MEETING - Nil**

**17. ITEMS IN CONFIDENCE - Nil**

**CLOSURE**

The Meeting closed at 7.51 pm.

**CONFIRMED Tuesday 8 October 2013**

**MAYOR**