

**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 12 July 2016 at 7:00pm.**

**MEMBERS PRESENT**

His Worship the Mayor, S Patterson  
Councillor A Bradshaw  
Councillor S Charlick  
Councillor R Clancy  
Councillor K Donaldson  
Councillor S Lonie  
Councillor R Patton  
Councillor J Smedley  
Councillor R Snewin  
Councillor L Yates  
Councillor A Wilson

**STAFF IN ATTENDANCE**

Chief Executive Officer - JP Lynch  
Acting General Manager City Assets & Services – K O’Neill  
General Manager Community Services - PE Aukett  
General Manager Business Services - IS Walker

**1. OPENING**

His Worship the Mayor declared the meeting open at 7.00pm.

**2. KAURNA ACKNOWLEDGEMENT**

With the opening of the meeting His Worship the Mayor stated:

We acknowledge Kurna 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 Kurna 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 - Councillor R Aust and Councillor M Bouchée

4.2 Absent - Nil

**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****C120716/438**

**That the minutes of the Ordinary Meeting of Council held on 28 June 2016 be taken as read and confirmed.**

Moved by Councillor Clancy, Seconded by Councillor Patton

**Carried****8. PUBLIC PRESENTATIONS**

8.1 **Petitions** - Nil

8.2 **Presentations** - Nil

8.3 **Deputations** - Nil

**9. QUESTIONS BY MEMBERS**

9.1 **Without Notice**

9.1.1 **Scam Emails - Councillor Patton**

Councillor Patton asked a question regarding Scam emails.

The Chief Executive Officer, Mr J Lynch provided a response.

9.1.2 **Lane Sale - Councillor Charlick**

Councillor Charlick asked a question regarding the sale of Tod Lane.

The Chief Executive Officer, Mr J Lynch took the question on notice.

### 9.1.3 **Development Plan Amendment – Councillor Wilson**

Councillor Wilson asked a question regarding the Glenelg Development Plan Amendment.

The Chief Executive Officer, Mr J Lynch took the question on notice.

## 9.2 **With Notice**

### 9.2.1 **Question on Notice – Leasing of Community Land at Discounted Rate to “For Profit” Businesses (Report No: 173/16)**

Councillor Clancy asked the following question:

**“What impediments are there on Council when leasing community land at a discounted rate to “for profit” businesses in competition to other similar local businesses which are compelled to pay commercial rates or purchase their own premises or lease at commercial rates.”**

An example could be the Montessori Child Care facility at Seacliff.

#### **ANSWER – Manager Strategic & Commercial Services**

Legal advice has been obtained from Kelledy Jones Lawyers that clarifies Council’s responsibilities in relation to dealings with “for profit” organisations under Australian Consumer Law (ACL) and the Local Government Act.

There are three relevant considerations that are taken into account when assessing whether there are any impediments to offering a lease at less than market rate. These matters apply to both “not for profit” and “for profit” organisations.

- Council should seek to obtain the best value for the use of its property assets. As a public authority, value can include more than financial value. Arrangements which provide a social or environmental benefit to an area can be considered as obtaining best value from a community asset.
- Council should not enter an arrangement that “substantially lessens competition”. In leasing and rental arrangements this requirement relates to the ability to affect competition within the rental market between landlords. That is, if Council were to substitute rentals across all its properties then it may breach the ACL. A “one off” (or sparingly used) offer to discount a rental is unlikely to substantially lessen competition. The Council is not entering directly into the market in which the “for profit”

businesses are competing and is not in a monopoly situation. It therefore is not able to lessen competition.

- The use must be consistent with the contemplated use of the land under any community land management plan relevant to the site.

Consequently, there is no legal impediment to entering into a lease arrangement at a discounted rate with a “for profit” business. However the Council should clearly document its reasons for entering into such arrangement so as to demonstrate the community benefit and value.

## **10. MEMBER’S ACTIVITY REPORTS**

### **10.1 Councillor Wilson**

Councillor Wilson reported that she attended Winter Wonderland.

### **10.2 Councillor Bradshaw**

Councillor Bradshaw reported that she attended with Councillors Smedley and Donaldson the Brighton Rugby sponsorship day BRC will be hosting the SA Rugby grand finals this year.

### **10.3 Councillor Yates**

Councillor Yates reported that she attended:

- Winter wonderland
- Climate change adaptation conference
- LGA forum for the Murray Darling Basin Authority – Basin Plan Update
- Partridge House – Violet Day talk by Friends of the Library

### **10.4 Councillor Lonie**

Councillor Lonie reported she attended the Rotary Club High Tea fundraiser at Glenelg.

### **10.5 Councillor Patton**

Councillor Patton reported that he attended the Somerton Rotary Club Changeover.

### **10.6 Councillor Clancy**

Councillor Clancy reported that she attended Winter Wonderland.

**10.7 Councillor Charlick**

Councillor Charlick reported that his family attended the Wiggle and Rhyme with Adelaide Symphony Orchestra on Friday 8 July 2016.

**11. MOTIONS ON NOTICE - Nil****12. ADJOURNED MATTER****12.1 Adjourned Report – Brighton Oval – Telecommunications Site Community Consultation (Report No: 174/16)**

Council at its meeting on 22 March 2016 resolved to adjourn Report No 68/16 so that further information on the number of phone towers are located in the Council area could be sought. This report represents Report No: 68/16 for Council's further consideration.

A presentation was provided to elected members at an informal gathering by representatives of the Mobile Carriers Forum, Optus and Telstra on 5 July 2016 detailing how mobile phone networks work, how sites are selected, the regulations that carriers must operate within and an overview about EME and health risks.

Debate on this matter is resumed at the point where it was adjourned. The chamber was debating the motion:

- "1. That Council notes the outcomes of the community consultation on the proposal by Telstra to erect a telecommunications tower and associated infrastructure at the Brighton Oval Complex.*
- 2. That Council enters into negotiations with Telstra for the purposes of erecting a telecommunications tower and associated infrastructure at the Brighton Oval Complex, with an appropriate rental fee.*

*Moved Councillor Lonie, Seconded Councillor Aust"*

And it is at this point that debate on this matter is resumed, following the adjournment.

Members who have spoken in the debate prior to the adjournments are taken to have spoken to the motion. This includes Councillors Lonie, Aust, Bouchee, Clancy, Donaldson and Yates.

**Conflict of Interest**

Councillor Charlick declared a perceived conflict of interest for item 12.1 - Adjourned Report – Brighton Oval – Telecommunications Site Community Consultation (Report No: 174/16). The nature of his perceived conflict of interest (Pursuant to Section 74 of the Local Government Act 1999) was that his parents reside adjacent to the Brighton Oval Complex and the proposed telecommunications tower may have an impact on the amenity of their area.

Councillor Charlick dealt with this perceived conflict of interest by making it known to the chamber and would make a decision in the best interests of the community.

**Motion**

**C120716/439**

1. **That Council notes the outcomes of the community consultation on the proposal by Telstra to erect a telecommunications tower and associated infrastructure at the Brighton Oval Complex.**
2. **That Council enters into negotiations with Telstra for the purposes of erecting a telecommunications tower and associated infrastructure at the Brighton Oval Complex, with an appropriate rental fee.**

Moved Councillor Lonie, Seconded Councillor Aust

**Carried**

**Division called**

A division was called:

Those voting for: Councillors Smedley, Wilson, Charlick, Patton, Yates, Lonie, Clancy (7)

Those voting against: Councillors Bradshaw, Snewin and Donaldson (3).

His Worship the Mayor declared the motion

**Carried**

**13. REPORTS OF MANAGEMENT COMMITTEES, SUBSIDIARIES AND THE DEVELOPMENT ASSESSMENT PANEL**

- 13.1 **Minutes – Special Meeting of the Audit Committee – 29 June 2016** (Report No: 170/16)

The minutes of the special meeting of the Audit Committee meeting for 29 June 2016 are presented to Council for information and endorsement.

**Motion**

**C120716/440**

**That Council receives and notes the minutes of the special meeting of the Audit Committee of 29 June 2016.**

Moved Councillor Smedley, Seconded Councillor Snewin

**Carried**

**14. REPORTS BY OFFICERS**

- 14.1 **Items in Brief** (Report No: 169/16)

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****C120716/441**

**That the following items be noted and items of interest discussed:**

- **Minutes of the Murray Darling Association – Region 7**
- **LGA Discussion Paper – Local Government Boundary Reform**
- **Outstanding Council Meeting Actions**
- **Partridge Street (East, West) Car Parks - Quarterly and Report**

Moved Councillor Lonie, Seconded Councillor Clancy

**Carried**

14.2 **Appointment to Southern Region Waste Resource Authority Board** (Report No: 171/16)

Mr Ian Walker has advised he wishes to step down from the board of Southern Region Waste Resource Authority and it is recommended that Ms Trish Aukett be appointed effective immediately for the term of Council.

**Motion****C120716/442**

**That Council notes the resignation of Mr Ian Walker from the board of Southern Region Waste Resource Authority and appoints Ms Trish Aukett effective from 13 July 2016 for the term of Council.**

Moved Councillor Lonie, Seconded Councillor Yates

**Carried**

14.3 **Persons to Act in the Absence of the Chief Executive Officer** (Report No: 172/16)

Pursuant to Section 102(b) of the *Local Government Act 1999*, the Chief Executive Officer can appoint a suitable person to act in the position of Chief Executive in the absence of the Chief Executive Officer following consultation with the Council.

The purpose of this report is to consult Council on the appointment of persons to act as the Chief Executive Officer from time to time, in the absence of the Chief Executive Officer.

**Motion****C120716/443**

**That Council endorse the appointment, as and when required, of the following General Managers to act in the position of Chief Executive Officer during any periods of absence:**

- **Mr Ian Walker, General Manager Business Services;**
- **Mr Steve Hodge, General Manager City Assets and Services; and**
- **Ms Trish Aukett, General Manager Community Services.**

Moved Councillor Yates, Seconded Councillor Lonie

**Carried**

**14.4 2016 New Years Eve Glenelg Dry Area (Report No: 167/16)**

The City of Holdfast Bay will again lodge an application with Consumer and Business Services to temporarily extend the boundaries of the Glenelg Long-Term Dry Area for 2016 New Year's Eve celebrations.

Over the years the New Year's Eve Dry Area has not only proven vital in assisting South Australian Police to regulate alcohol related anti-social behavior in Glenelg, but it has also assisted Council to create and promote a 'family-friendly' atmosphere on the night. The details of the application are based upon the success, feedback and recommendations from 2015 New Year's Eve stakeholders debrief.

**Motion****C120716/444**

- 1. That Council apply to Consumer and Business Services to temporarily extend the boundaries of the Glenelg Dry Zone for 2016 New Year's Eve celebrations; and**
- 2. That the associated boundaries, conditions and times of the 2016 extension remain the same as in 2015.**

Moved Councillor Clancy, Seconded Councillor Patton

**Carried****14.5 2017 Australia Day Dry Area – Angus Neill Reserve (Report No: 168/16)**

Prior to 2012 Angus Neill Reserve was a popular location for alcohol-fueled Australia Day festivities; which resulted in multiple fights and police arrests, and left significant amounts of waste and property damage in the reserve and adjacent streets. Since 2012 however, the implementation of the Dry Area has proven vital in assisting South Australian Police to control both anti-social behavior and the excessive consumption of alcohol in the area on Australia Day.

As such The City of Holdfast Bay will again lodge an application with Consumer and Business Services to impose a temporary Short-Term Dry Zone on Angus Neill Reserve [and adjacent beach areas] for Australia Day 2017 (Thursday 26 January 2017).

**Motion****C120716/445**

- 1. That Council apply to Consumer and Business Services to temporarily enact Angus Neill Reserve into Short-Term Dry Zone Legislation for Australia Day 2017.**
- 2. That the associated boundaries, conditions and times of the 2017 extension remain the same as in 2016.**

Moved Councillor Snewin, Seconded Councillor Bradshaw

**Carried**



**15. RESOLUTIONS SUBJECT TO FORMAL MOTIONS - Nil****16. URGENT BUSINESS – SUBJECT TO THE LEAVE OF THE MEETING****16.1 Update on Negotiations with MINDA****Motion****C120716/446**

1. That under provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer, General Managers and administrative staff in attendance in order to consider in confidence this item.
  - d. commercial information of a confidential nature (not being a trade secret) the disclosure of which -
    - (i) could reasonably be expected to confer a commercial advantage on a third party; and
    - (ii) would, on balance, be contrary to the public interest and the benefit or detriment to a third party in the matter of Update on Negotiations with MINDA outweighs the public interest at this time.
  - i. information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

Moved Councillor Lonie, Seconded Councillor Clancy

**Carried**

Councillor Patton left the chamber at 7.58pm.

Councillor Patton rejoined the chamber at 8.00pm.

Councillor Donaldson left the meeting at 8.07pm.

Councillor Wilson left the chamber at 8.31pm.

**Motion****C120716/447**

1. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the Minutes relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(d & i).
2. This resolution will be reviewed within 12 months by the Council.

Moved Councillor Patton, Seconded Councillor Lonie

**Carried**

**CLOSURE**

The Meeting closed at 8.32pm.

**CONFIRMED      Tuesday 26 July 2016**

**MAYOR**