



# Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
GAGEBROOK AT 5.30 P.M. ON TUESDAY,  
17<sup>th</sup> JULY 2012**

**PRESENT:** Cr Foster (Mayor); Cr Taylor (Deputy Mayor); Cr Curran;  
Cr Garlick; Cr Gray; Cr Jeffries and Cr Owen.

**IN ATTENDANCE:** Mr R Sanderson (General Manager); Mr G Davoren  
(Deputy General Manager); Mr L Wighton (Senior  
Technical Officer); Mrs J Banks (Manager Governance &  
Human Services) and Mr J Dryburgh (Senior Planner).

## **1. CONFIRMATION OF MINUTES:**

### **1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 19<sup>th</sup> JUNE 2012.**

*Cr Gray moved, Cr Owen seconded that the Minutes of the Ordinary Council Meeting of  
the 19<sup>th</sup> June 2012, be confirmed.*

**CARRIED**

#### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

### **1.2 CONFIRMATION OF MINUTES OF THE PLANNING COMMITTEE MEETING OF 10<sup>TH</sup> JULY 2012.**

*Cr Curran moved, Cr Gray seconded that the Minutes of the Planning Committee of the 10<sup>th</sup> July 2012, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

**1.3 CONFIRMATION OF MINUTES OF THE SPECIAL COUNCIL MEETING OF 10<sup>TH</sup> JULY 2012.**

*Cr Garlick moved, Cr Curran seconded that the Minutes of the Special Council Meeting of the 10<sup>th</sup> July 2012, be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

**2. APPLICATIONS FOR LEAVE OF ABSENCE:**

Cr Geard requested leave of absence as he is overseas.

*Cr Owen moved, Cr Jeffries seconded that Cr Geard and Cr Williams be granted leave of absence.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	

Cr Garlick  
Cr Gray  
Cr Jeffries  
Cr Owen  
Cr Taylor

### **3. PUBLIC QUESTION TIME AND DEPUTATIONS:**

*There was no requirement for question time.*

### **4. DECLARATION OF INTEREST:**

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2005*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2005*.

*There were no declarations of interest.*

### **5. REPORTS FROM COUNCILLORS:**

#### **5.1 MAYOR'S COMMUNICATIONS:**

FILE REFERENCE: 0205-6

AUTHOR: Mayor  
(Cr T Foster)

The Mayor's communications were as follows:-

June 21 Meeting at Corporate Communications with Ingrid Harrison.  
June 21 Southern Water Owner's meeting in Hobart.  
June 21 S.T.C.A. Board meeting in Hobart.  
June 22 Meeting with senior staff and prospective developer.  
June 23 Noeline and I participated in the "Welcome to Australia walk" and I was also invited to address the participants at the end.

**Ordinary Council Meeting**

17/7/12

- June 27 Attended the launch of "Community Blitz" at the PCYC along with other councillors and senior staff.
- June 27 Meeting with Carolyn Pillans from Southern Water Corporation in Moonah.
- June 28 Meeting at Council with GM, DGM, Heath and Scott Percey.
- July 02 Meeting in Hobart with LGAT CEO Allan Garcia to discuss water and sewerage reforms.
- July 02 Addressed the Brighton Lions Club.
- July 04 Meeting at Southern Water office, Moonah of the owners of Water and Sewerage in the south.
- July 06 Attended the official opening of the Child and Family Care Centre, Bridgewater.
- July 10 STCA Infrastructure committee meeting in Hobart.
- July 10 Attended a meeting of the BIHC Board at Council
- July 10 Attended the Aurecon briefing to Council on the Brighton Local Area Plan.
- July 10 Planning Committee meeting at Council
- Jul 10 Special Meeting of Council.
- July 11 Annual General Meeting of the Local Government Association of Tasmania.
- July 12 Local Government of Tasmania conference.
- July 13 Local Government of Tasmania conference.
- July 16 Meeting with Steven Lewis, Lead Principal of JRLF.
- July 16 Meeting with Tony Fagan, Principal of Brighton Primary School.
- July 17 Ordinary Council Meeting.

**RECOMMENDATION:**

That the Mayor's communications be received.

**DECISION:**

*Cr Taylor moved, Cr Garlick seconded that the report be received.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

## 5.1A DEPUTY MAYOR COMMUNICATIONS - LGAT STANDARDS PANEL REPORT – CODE OF CONDUCT MATTER:

FILE REFERENCE: 0205-6

AUTHOR: Deputy Mayor  
(Cr G Taylor)

STANDARDS PANEL

### Code of Conduct Determination - Owen/ Foster

(i) Summary of the complaint:-

- 1.1 On January 30 2012 the Deputy Mayor of Brighton Council (the Council), Cr Geoff Taylor, received a letter from Cr Phil Owen alleging that Mayor Tony Foster had breached the Brighton Council Code of Conduct (the Code) on December 20 2011 at the Brighton Council Ordinary Council Meeting and at the Annual General Meeting (AGM) on December 13 2011, and laid a complaint against him.
- 1.2 Cr Owen alleged that at the AGM when apologies were called for only Cr Curran's apology was moved, seconded and carried unanimously. However, when the minutes of the AGM were listed for confirmation at the Ordinary Council Meeting held on December 20 2011 both Cr Curran Cr Taylor had been noted as an apology and granted leave of absence. The Complainant spoke to the motion and stated that the minutes were not a true and accurate record of the AGM. The Respondent stated that he was satisfied that Cr Taylor was an apology and the motion was put to the meeting and carried 7 votes for an 1 against.
- 1.3 The Brighton Council Code of Conduct for Councillors is not numerically or alphabetically referenced making it difficult to quote the exact section/part that has been breached. However, Cr Owen has quoted the following "Will act honestly and in accordance with the law this Code of Conduct and relevant Council Policies and administrative procedures" which appears on page 1 under the heading "REPRESENTATION OF THE COUNCIL" in identifying the breach by Mayor Foster.
- 1.4 According to Cr Owen, the Brighton Council held its Annual General Meeting on Tuesday 13 December scheduled for a 5pm commencement. The meeting was delayed by 5 minutes due to the non-arrival of Cr Taylor. However, once the meeting commenced and apologies were tendered there was only an apology tendered by Cr Curran.
- 1.5 At the conclusion of the Finance Committee meeting which followed the AGM meeting Cr Owen states he heard Mayor Foster say to the minute taker that she "had better put Geoff down as an apology for the AGM".

1.6 At the Ordinary General Meeting of the Brighton Council the AGM minutes were presented for endorsement and included the names of Cr Curran and Cr Taylor as apologies for the AGM. Cr Owen spoke to the motion stating that the minutes were not an accurate and true record of what took place at the AGM. Mayor Foster indicated that “he was satisfied that Cr Taylor was an apology” and the motion was put. Seven Councillors voted in favour of noting Cr Taylor as an apology and one (Cr Owen) against.

**(ii) Determination:**

The Standards Panel dismissed the complaint against Cr Foster.

1.1 The Standards Panel determines that while it is satisfied that minutes of meetings should reflect accurately the exact procedures followed in the meeting and that Mayor Foster agreed with this position, the fact that a majority of Councillors have confirmed the minutes of the AGM, that is now the official record.

1.2 The Standards Panel is satisfied that Cr Taylor has a record of tendering apologies for meetings he is unable to attend and that his situation at the time was acceptable for non-attendance. Further the Panel was convinced he overlooked the need to tender his apology and this was simply an aberration under the circumstances. This view was clearly shared by the majority of Brighton Council Councillors.

1.3 It is suggested that the meeting procedures, including recording of apologies and confirmation of minutes, be reviewed to take into account that it is not always possible for apologies to be tabled prior to the meeting, and that in exceptional circumstances apologies can be tendered within a defined period, and/or the minutes of the subsequent meeting can reflect that an apology had been received in the interim, noting the specific circumstances.

**RECOMMENDATION:**

That the report be noted.

**DECISION:**

*Cr Taylor moved, Cr Garlick second that the report be received.* **CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

## **5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:**

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority - Cr Geard representative.

## **5.3 CORRESPONDENCE FROM SOUTHERN TASMANIAN COUNCILS ASSOCIATION (STCA), LGAT AND JOINT AUTHORITIES:**

Correspondence and reports from the STCA, LGAT and Joint Authorities e.g. Southern Waste Authority are received periodically by Council.

If any Councillor wishes to view documents received contact should either be made with the Manager Governance and Human Services or General Manager.

## **6. NOTIFICATION OF COUNCIL WORKSHOPS:**

In accordance with the requirements of the Local Government (Meeting Procedures) Regulations 2005, it was reported that there were no workshops since the last Council Meeting.

(This includes workshop, seminar or meeting, other than a meeting that is conducted by or on behalf of the council for the councillors.)

## **7. NOTICE OF MOTION:**

*There were no notices of motion.*

## **8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:**

In accordance with the requirements of Part 2 Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2005, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

- (a) the reason it was not possible to include the matter on the agenda, and
- (b) that the matter is urgent, and
- (c) that advice has been provided under Section 65 of the *Local Government Act 1993*.

**RECOMMENDATION:**

That the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the Local Government (Meeting Procedures) Regulations 2005.

**DECISION:**

**9. REPORTS FROM COMMITTEES:**

**9.1 PLANNING COMMITTEE MEETING – 10/7/12:**

The recommendations of the Planning Committee Meeting of 10<sup>th</sup> July 2012 were submitted to Council for adoption.

*Cr Gray moved, Cr Curran seconded that the recommendations of the Planning Committee meeting of 10<sup>th</sup> July 2012 be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

**10. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2005, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 10. on this agenda, inclusive of any supplementary items.

*There were no Planning items listed on this Agenda.*

**11. REPORTS FROM OFFICERS:**

### 11.1 ROAD OPENING PERMITS:

**FILE REFERENCE:** 0510

**AUTHOR:** Project Engineer  
(Mrs A Wilson)

---

#### **Background:**

Council requires Road Opening Permits to be obtained for any works done in our Road or Road Reservation. The current Road Opening Permit was developed for the roll out of gas in the municipality and has not been revised. This is the permit we use for any works in Councils road reservations that are not covered by other permits or legislation.

A more extensive permit is required which caters for the range of works possible in the road reservation. There is also more information Council now requires from people working in our road reserve for liability purposes and a number of new conditions. We also propose adding a cost recovery fee to some permits to cover some of the costs of inspections.

#### **Consultation:**

Municipal Engineer, Senior Technical Officer, Project Engineer, Executive Officer, Executive Assistant.

#### **Risk Implications:**

There is a risk that Council may be found liable for works done by third parties that are done without a permit or done with the existing permit that is insufficient to provide us with appropriate information.

There is also a risk that a new permit will be challenged by large organisations such as Tas Gas, this will be mitigated by meeting with Tas Gas regarding the permit and fees. We will also arrange memorandums of understanding where necessary with organisations such as Aurora.

#### **Financial Implications:**

We are proposing to attach a fee to some of the new permits. The proposed cost structure is:

Permit A - Works in Road Reservation Only	No Charge
Permit B – Works affecting Driveway or Footpath	\$70 fee
	\$200 reinspection

Permit C - Works affecting Road, Kerb and Channel	\$70 fee
	\$200 reinspection

The \$70 fee is to cover inspection costs involved with these permits.

The \$200 reinspection fee is to encourage contractors and corporations doing works to ensure they are complete before requiring a completion inspection by Council. It will be applied when a final inspection is requested and works are not completed to a sufficient standard thus requiring further inspection by a Council Officer.

### **Other Issues:**

Currently we have a single permit for all works, we will replace this with a multilevel permit which incorporates 3 permit levels.

- Permit A - Works in Road Reservation only - this will cover works in Council land that does not affect Council assets.
- Permit B - Footpath and Driveway Works - This will cover works that affect Council footpath but not roads. It may be used for driveways where the kerb and channel will not be affected.
- Permit C - Roads and Kerb and Channel - This will cover works that affect Council road assets.

We plan to make the permit available online via the Brighton Council website thus making the information and conditions easily accessible and streamlining the permit process.

### **Assessment:**

The new multilevel permit will provide more information and control for Council when works are being done on Council property by third parties. It will also provide more flexibility to adequately condition works and ensure our assets are being reinstated to an appropriate standard. The existing permit is inadequate and updating it is essential.

Attaching a fee to the permit will be new for Brighton Council but as many of these permits require a number of inspections it is reasonable to charge a cost recovery fee. It is hoped a reinspection fee will encourage better works from contractors and reduce Councils time being wasted inspecting incomplete works. These fees, if adopted, will be included in the schedule of fees.

### **Options:**

1. As per the recommendation.
2. Council supports the new permit structure and content but does not support the addition of permit fees.

3. Council does not support the new permit or fee.

**RECOMMENDATION:**

Council supports the implementation of new Works in Road Reservations Permits as provided.

Council supports the introduction of the fee structure as follows:

Permit A - Works in Road Reservation Only	No Charge
Permit B - Works affecting Driveway or Footpath	\$70 fee
	\$200 reinspection fee
Permit C - Works affecting Road, Kerb and Channel	\$70 fee
	\$200 reinspection fee

**DECISION:**

*Cr Taylor moved, Cr Gray seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

- | <b>In favour</b> | <b>Against</b> |
|------------------|----------------|
| Cr Curran        |                |
| Cr Foster        |                |
| Cr Garlick       |                |
| Cr Gray          |                |
| Cr Jeffries      |                |
| Cr Owen          |                |
| Cr Taylor        |                |

## **11.2 FEES & CHARGES – BUILDING & PLUMBING COMPLIANCE**

### **FEES:**

#### **FILE REFERENCE:**

**AUTHOR:** Manager Governance & Human Services  
(Mrs J Banks)

---

#### **Background:**

When the budget was adopted by Council the fees and charges register was also adopted for the 2012/13 financial year.

A Building Compliance fee and Plumbing Compliance fee were missed from the fees and charges register submitted for adoption.

The building compliance fee relates to building applications and is to cover the costs associated with determining compliance with PD4.

Plumbing compliance is due to the changes in the Act requiring 20% of inspections on all plumbing work.

#### **Consultation:**

Environment & Development Services Officer.

#### **Risk Implications:**

Nil

#### **Financial Implications:**

Costs not recouped for services provided.

#### **Other Issues:**

Nil

#### **Assessment:**

Regardless of whether a development is permitted or discretionary, PD4 compliance or even exempt, record keeping is similar. Council has an obligation to ensure that statistical data is available to relevant agencies upon request and that historical information is also available in relation to a property. Consequently there are administrative processes for Council even for PD4 compliance developments.

The fee is effectively an administrative fee rather than a fee for application or assessment.

In order for Council's Permit Authority to be satisfied that a development complies with PD4, and as there is no accreditation system in place for suitably qualified persons, Council officers must check that a development is compliance with PD4.

Council officers are required to assess the application to determine whether a submitted application is compliant.

If an application has already been determined by Planning Officer staff that it is PD4 compliance then this Building Compliance fee will not be required because the applicant would have already paid a Planning compliance fee.

Plumbing compliance is due to the changes in the act requiring 20% inspections on all plumbing work.

**Options:**

1. As per the recommendation.
2. That Council not charge a building compliance fee.

**RECOMMENDATION:**

That a Building Compliance fee of \$66 and a Plumbing Compliance fee of \$66 be included in Council’s annual Fees & Charges 2012/13.

**DECISION:**

*Cr Curran moved, Cr Gray seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

**11.3 APPOINTMENT OF OWNERS’ REPRESENTATIVES FOR A NEW SINGLE STATE WIDE WATER CORPORATION:**

**FILE REFERENCE:** 985

**AUTHOR:** General Manager  
(Mr R Sanderson)

**Background:**

The LGAT is leading the project to establish a new state wide water corporation. Mayor Foster, as chair of the current Southern Water Owners’ Representatives Group, is a member of the Implementation Steering Committee that has been formed by the LGAT.

It is proposed that councils appoint their owners' representatives for the proposed corporation as soon as possible to enable that group to meet in early September to begin the board selection process. A copy of the draft role statement for these representatives is attached. This is a draft only as the roles may change when final legislation and other formal arrangement are finalised.

Each of the twenty-nine councils is requested to nominate a Representative and a Proxy to the proposed state wide corporation.

There are questions of payment for owners' representatives. Councils have expressed mixed views on this matter but the consensus among the twelve southern councils is that they should not be paid; rather they should be paid for expenses incurred and possibly sitting fees for the onerous task of the board selection process.

**Consultation:**

LGAT CEO and Mayor Foster.

**Risk Implications:**

None.

**Financial Implications:**

Minor; only for contributions to cover expenses and sitting fees.

**Other Issues:**

None identified

**Assessment:**

It is proposed the Brighton Council support the consensus view of the southern Tasmanian councils.

The board selection process will take a considerable amount of time for those representatives involved as it requires establishing selection criteria, choosing a chairman and choosing the board members.

**Options:**

1. Do nothing
2. Propose to pay the representatives.
3. Adopt the recommendation

**RECOMMENDATION:**

1. That Council support the position to pay for the expenses incurred by the owners' representatives and to pay a sitting fee, to be determined, during the board selection process.
2. That Council nominate a Representative and a Proxy to the proposed state wide water corporation.

**DECISION:**

*Cr Owen moved, Cr Curran seconded that recommendation 1 be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

*Cr Garlick moved, Cr Curran seconded that the Mayor, Cr Foster be nominated as Council's Representative and Cr Gray be the proxy.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

**12. QUESTION ON NOTICE:**

*There were no questions on notice.*

Meeting closed: 7.05 pm

Confirmed: \_\_\_\_\_  
(Mayor)

Date: \_\_\_\_\_  
21<sup>st</sup> August 2012