



12 MAY 2003

Meeting No 1382

MINUTES of a Meeting of the Council of the City of Sydney held in the Reception Room at the Sydney Town Hall, commencing at 5.40pm on 12 May 2003 pursuant to Notice 7/1382 dated 8 May 2003.

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PRESENT

The Right Hon The Lord Mayor Councillor Lucy Turnbull
(Chairperson)

Councillors - Dixie Coulton, Nick Farr-Jones, Kathryn Greiner, Robert Ho and Fabian Marsden.

At the commencement of business at 5.40pm those present were:-

The Lord Mayor, Councillors Coulton, Greiner, Ho and Marsden.

Councillor Farr-Jones arrived at the meeting at 5.42pm during the Chairperson's (the Lord Mayor's) opening remarks.

General Counsel, Director Corporate Services, Director City Development and Projects, Director Living City Services, Acting Director Asset Management and Compliance and the Executive Manager, Office of the General Manager were also present.

Opening Prayer

The Lord Mayor opened the meeting with prayer.

Apology

Mr Robert Domm, General Manager, was absent due to illness.

Photographing of Council Meeting

At this stage of the meeting, the Chairperson (the Lord Mayor) advised Council that a request had been received from the Sydney Morning Herald to take photographs of the Council meeting.

Moved by the Chairperson (the Lord Mayor), seconded by Councillor Greiner -

That permission be granted for photographs to be taken of the Council meeting by the Sydney Morning Herald for a period not exceeding three minutes.

Carried.

Welcome

The Lord Mayor extended a welcome to visitors to the Council meeting, including any new residents from the former Leichhardt and South Sydney Council areas, students from the UTS Business Studies Faculty, and media representatives.

The Lord Mayor invited those in the public gallery to indicate if they were from the Local Government areas recently transferred to the City of Sydney. Michael Gormly indicated that he lived in one of those areas.

The Lord Mayor explained why the Council meeting was being held in the Reception Room, the change in venue being necessitated by the fact that the Council Chamber was currently being upgraded.

This being her first Council meeting as Lord Mayor, the Lord Mayor said that it was a great honour to have been nominated to this position by her colleagues, to whom she conveyed her thanks, and to have been appointed by the Governor. The Lord Mayor stated that Council remained committed to providing high levels of service to existing constituents and would strive to provide this same outcome for new residents from South Sydney and Leichhardt.

Working in the best interests of everyone, everyone had a right to be heard. The protocol at the City of Sydney was that constituents' discussion and input took place at the Committee level, not during the actual Council meetings. Policies, once considered by Council, then went forward for public discussion, eg, as with two of the policies on this meeting's agenda, the Draft Central Sydney Bike Plan and the Street Tree Master Plan. This allowed for discussion and consultation before Council finally determined the policies after they came back from public exhibition.

The Lord Mayor further stated that she had visited the two new Neighbourhood Service Centres in Glebe and Kings Cross last week, which were a great asset to the City and particularly significant in providing service to the people in the new Council areas. The Lord Mayor added that she had also requested a schedule of public community meetings with groups in the new areas and looked forward to forging a solid, consultative and positive working relationship with them.

ITEM 1. CONFIRMATION OF MINUTES

Moved by Councillor Greiner, seconded by Councillor Coulton -

That the minutes of the meeting of Council of 7 April 2003, as circulated to Councillors, be confirmed.

Carried.

ITEM 2. MINUTES BY THE LORD MAYOR

There were no Minutes by the Lord Mayor for this meeting of Council.

ITEM 3. BOUNDARIES MATTERS (CONFIDENTIAL)

Note - no Memorandum by the General Manager was circulated and this matter was not discussed at the meeting of Council.

ITEM 4. MATTERS FOR TABLING

Moved by Councillor Greiner, seconded by Councillor Coulton -

That the Disclosure of Pecuniary Interest returns be received and noted.

Carried.

REPORTS OF COMMITTEES

Note - as no meetings of any Committees of Council were held in the preceding week, no Reports of Committees were submitted to this meeting of Council.

ITEM 5. INVESTMENTS HELD BY COUNCIL AS AT 31 MARCH 2003 (S02-0960)

Moved by Councillor Farr-Jones, seconded by Councillor Greiner -

That arising from consideration of a report by the Senior Accounting Officer (Creditors) to Council on 12 May 2003, on Investments Held by Council as at 31 March 2003, it be resolved that the report be received and noted.

Carried.

ITEM 6. STREET TREE MASTER PLAN (S020209)

Moved by Councillor Coulton, seconded by Councillor Greiner -

That arising from consideration of report by the Senior Landscape Architect to Council on 12 May 2003, on Street Tree Master Plan, it be resolved that the Draft Street Tree Master Plan (2003), as shown at Attachment A to the subject report, be approved for public exhibition for a period of 28 days.

Carried unanimously.

Note - Councillor Coulton extended her thanks and congratulations to staff from the City Development and Projects Division for their work on the Street Tree Master Plan, particularly Kathleen Ng, Ron Pidcock and Eric Brodie.

ITEM 7. DRAFT CENTRAL SYDNEY BIKE PLAN (S015054)

Moved by the Chairperson (the Lord Mayor), seconded by Councillor Coulton -

That arising from consideration of a report by the Senior Transport Planner to Council on 12 May 2003, on Draft Central Sydney Bike Plan, it be resolved that:

- (A) Council approve placing the Draft Central Sydney Bike Plan, as shown at Attachment A to the subject report, on public exhibition for a period of 28 days; and
- (B) submissions received during the exhibition period be evaluated and, where appropriate, incorporated into the Draft Bike Plan, prior to being submitted to council for final adoption.

Carried.

ITEM 8. QUESTIONS ON NOTICE

STREET FURNITURE

1. By Council Greiner

Question

Lord Mayor, when the tender was awarded to JC Decaux for the street furniture, it was agreed that the Council and JC Decaux would jointly decide where pieces of street furniture were to be placed.

Could you please advise who decided to locate both a public toilet facility and a waste bin on the Elizabeth Street footpath north of the St James Railway Station?

Could you also indicate who positioned the two pieces of furniture to make it impossible for a wheelchair or mother with wide stroller to walk along the footpath at that spot?

Answer by the Lord Mayor

The Acting Director Assets and Contract Management has advised that -

"JCDecaux installed both the toilet and the bin in accordance with Council approvals and instructions. The clearance between the two pieces of furniture is in fact 1.8m wide at its narrowest point The City's Traffic and Access Officers recommend 1.5m as a minimum.

Council officers have not received any complaints about this issue."

BOUNDARY CHANGES

2. By Councillor Greiner

Question

Lord Mayor, the merger with South Sydney and Leichhardt Council areas is imminent, as gazetted by the New South Wales State Government. In the South Sydney section of the expanded boundaries it is essential that the Councillors have a clear understanding of the social issues as well as the built environment. Council has been briefed on the latter but not on the former.

Would you ensure that as a matter of priority Councillors have a briefing on the following issues:

1. Mental Health facilities, both inpatient and outpatient, available to both residents and itinerants in that South Sydney area.

2. The drug and needle exchange programme, its success or not with a view presented by both health authorities and the Kings Cross Chamber of Commerce.
3. The community facilities, e.g. libraries, youth facilities, early childhood centres which are located in the expanded City of Sydney boundary with a view to determining the extra burden which it may put on existing Council facilities.
4. An analysis of the demographic shift in Kings Cross in the last five years - movement in age, occupation, etc.?

Answer by the Lord Mayor

Thank you Councillor Greiner.

I would point out that I have initiated a series of meetings with stakeholders in the new areas, including the Kings Cross Chamber of Commerce. These meetings have proven to be very beneficial in providing a forum to enable concerns to be aired and issues put forward in a constructive way.

I have asked the General Manager to arrange a briefing for Councillors on those social issues, including the availability of community facilities, where information has already been obtained. I have also asked the General Manager to advise on action that is being taken to gather statistical and other information about other relevant social issues.

QUESTIONS WITHOUT NOTICE**BOUNDARY CHANGES - TRANSFER OF ASSETS (S018730)**

1. By Councillor Coulton -

Question

Lord Mayor, the Minister for Local Government made a determination on 7 May this year pursuant to the boundary change in relation to the transfer of assets, rights, liabilities and employees as between South Sydney and the City. The determination appears to have a number of shortcomings and does not transfer all the properties located in the City's local government area to the City.

Can you please comment on the determination and the City's position on it?

Answer by the Lord Mayor

Thank you Councillor Coulton. You are right in saying that the determination has a number of great deficiencies which the City's lawyers are currently reviewing so that we can get a complete picture of exactly what the determination should have but did not contain.

There seems to be a great deal of uncertainty arising from the determination with respect to the ownership of properties in the transfer areas, and other issues such as income from the JCDecaux Street Furniture contract which has not been transferred to the City.

As for the 10 investment properties located in our local government area that were not transferred to us, all I can say is that the residents and ratepayers of those areas have been robbed by the decision. Many of these assets perform a community function, such as the Police Station at Fitzroy Gardens. It would seem that the City has assumed all the obligations and liabilities that attach to the areas transferred from South Sydney but those areas did not get the assets.

What implications this will have are still unclear to us and we are working on it but the projects and services that we were hoping to fund from income generated by these properties are now at risk and the money will have to be found somewhere else or the projects and services may need to be reviewed.

The City is very disappointed with the outcome of the determination and I have written to the Premier asking for his immediate assistance in rectifying the shortcomings of the determination both from a procedural and a substantive perspective.

Councillor Coulton (Supplementary Question)

So, as it stands at the moment, it appears that the City gets all the burdens of the boundary extensions as opposed to any of the benefits?

Answer by the Lord Mayor

That is correct.

BOUNDARY CHANGES - TRANSFER OF ASSETS (S018724)

2. By Councillor Greiner -

Question

On this side of the table my colleague, Councillor Farr-Jones, and I said from the time that the Government was moving on this absolutely ludicrous boundary change that it would never work and that the citizens of Sydney from Circular Quay to Central Railway, from, effectively, the Cathedral to Ultimo-Pyrmont would end up wearing it and they are well and truly going to wear it. It is over \$7 million, probably closer to \$8 million, that the State Government has duded us.

Now it is all very well to write to the Premier, Lord Mayor, but at the end of the day we are now carrying not just \$9 million effectively of property, but we are now responsible for all of the past benefits for South Sydney staff that have come to Council so, with no renegotiation of existing contracts, this City is going to carry upwards of \$12 million in debt, and that is day one before we even start.

Lord Mayor, it is not a question of writing to the Premier. I would like to see today what it is that this Council is going to effectively do; whether we can take this to court, whether we can actually go back to the determining authority, to go to the Governor who signed the notification in the Government Gazette?

The issue really is what is this Council going to do for the ratepayers of this City, for whom we have worked so hard in my time here. And thank you to former Lord Mayor Sartor who has dumped us into this mess. We told him from the beginning that it wouldn't work and he wouldn't listen to us.

The question is, Lord Mayor, you said in your answer to the Deputy Lord Mayor that you have already written to the Premier. There has to be a much stronger action program than that. Are we going to take legal action? What do you plan to do about it?

Answer by the Lord Mayor

We are seeking legal advice. That's all we can do at this time and after we have that legal advice we will brief Councillors accordingly. I do not propose to otherwise respond to the matters that you have raised at this stage.

BOUNDARY CHANGES - TRANSFER OF ASSETS - BRIEFING (S018729)

3. By Councillor Farr-Jones

Question

Lord Mayor, my question is just a follow on from my colleague's question. Could I ask that we have a weekly briefing on this issue so that we are fully informed, or even advised by email?

Answer by the Lord Mayor

Councillor Farr-Jones, there is only a point in having a briefing if anything is happening. Advice can be forwarded to Councillors by email, unless it is appropriate to have a briefing, and I will certainly brief the Councillors before any legal action is taken.

Councillor Farr-Jones (Supplementary Question)

I raise the question, Lord Mayor, because unfortunately sometimes on this side of the table we are not briefed on critical and enormous issues for this Council. A full briefing would be appreciated.

Answer by the Lord Mayor

I think the General Manager sent you a memo on this issue today and you will be briefed on the matter when we have received legal advice and at other appropriate times so that you are kept up to date.

COMMUNITY FACILITIES (S018724)

4. By Councillor Greiner -

Question

Lord Mayor, I think all of my colleagues and I, and I am sure you too, have had correspondence and representations made by residents in the old South Sydney Council area who are now part of the City of Sydney, concerning the community facilities in the Rex Hotel.

There is apparently an article in the Wentworth Courier in which a spokesman for the Lord Mayor is quoted as saying "the Lord Mayor will be looking at preserving the community space in the former Rex Hotel building for community use" and "we are hoping to have a resolution of that in the next week or so".

Lord Mayor, I ask have you made a determination as to the use of the community space in the former Rex Hotel and I also ask are you aware of any negotiations between the previous South Sydney Council, that was then the consent authority, and the developers of the Rex Hotel, who promised building works, that would have led to an extension of the space for community facilities in the redeveloped site?

The second part of my question is are you aware of any contractual arrangement that was made between the former, the consenting Council, which consented to the development application going ahead and the developer as to the use and the redevelopment of the community facilities in that site?

The third part of my question is what is the decision in the determination of the location of the library in that part of the old South Sydney Council area?

Answer by the Lord Mayor

Councillor Greiner, I think that the spokesman's quote you refer to, that a decision would be made about the community services in the Rex Hotel, must have preceded the determination which does not give us any entitlement to the property in the Rex Hotel.

Insofar as the Rex Hotel is concerned we have nothing to do with the property. As an outcome of the determination it is not our property. There has been no reference or no determination granting that property to us. It is one of the gaps in the determination.

The answer to the second part of your question is, no, I am not aware of the exact terms of that.

In response to the third part of your question, it was foreshadowed when we resolved to buy the Neighbourhood Service Centre in Kings Cross that that would be the location of the new library. That was referred to in the resolution to purchase the Neighbourhood Service Centre, I understand, and in relation to its refurbishment.

It will remain so, especially if we don't have any other property to locate the library in.

ACCESS FORUM (S018729)

5. By Councillor Farr-Jones

Question

Lord Mayor, seeing as we are spending a bit of time on trees and bicycles today, I will get back to my old pet, the access issue.

When the Access Forum or, at least, the Access Committee, which I enjoyed chairing, was closed down in April 2002, I think the representatives on that Committee thought we were making some significant progress. It was agreed in closing that down that there would be, I think, quarterly Access Forums. I think there was one, maybe, in August/September last year.

My question, Lord Mayor, is given that I only have about three to four months to run as a Councillor, I would like to know what your commitment is to honouring the commitment to run continual access forums, where people representing a diverse range of access organisations can at least have a hearing as to issues that affect their people.

Answer by the Lord Mayor

There have been two Access Forums held since the initial one. I chaired one of them. I don't think you were there, Councillor Farr-Jones.

All Councillors were advised about it. The advice would have been distributed to all Councillors with the notice of Community Meetings. I think it was distributed early this year with the Community Meetings schedule.

Councillor Farr-Jones (Supplementary Question)

Can you explain when those meetings were held, who was invited, and whether former members of the Access Committee were invited?

I have asked a number of members of the former Access Committee and they have heard nothing since the first Access Forum was held in, I think, August or September last year.

Also, can you tell me how many people attended the meetings, and whether there are minutes of the meetings?

Lord Mayor

I invite the Executive Manager, Office of the General Manager, to respond.

Executive Manager, Office of the General Manager

All Councillors were invited and all former members of the Access Committee were invited. If, for some reason, your invitation went astray I can't explain that. The last meeting was held in March this year.

Another Access Forum is foreshadowed in the next month or so. I am not sure of the exact date.

The meetings have been very well attended. I think about 50 people attended the last meeting. Minutes are taken of the meetings and distributed to all attendees. I will ensure that the minutes are forwarded to you.

Answer by the Lord Mayor (continued)

The meetings have definitely been held and have been very well attended. I am advised that the next meeting is scheduled for 17 June 2003.

LOCATION OF COMMUNITY FACILITIES (S018724)

6. By Councillor Greiner -

Question

Lord Mayor pursuant to my previous question about relocation of the community facilities in South Sydney, are you aware that the decision to remove the community facilities to the former Woolworths building ignores the fact that in the 1990s the then Kings Cross Police Commander, Mal Brammer, said he was so concerned about public danger in that section of Darlinghurst Road where Woolworths was then located, that he would not let any child of his go to the site when it was operating as a shop? Last year the present Kings Cross Police Commander, Dave Darcy, told a community meeting that that stretch of Darlinghurst Road was the most crime ridden area in his police district.

The community is asking the question as to why the Community and Information Centre, which is currently relocated to a former tailor shop facing the northern face of the Kings Cross Police Station, is located in a crime ridden area and, indeed, why the new library will be located in a crime ridden area which has very difficult site access and ramifications.

Answer by the Lord Mayor

Councillor Greiner, my understanding is that the Neighbourhood Service Centre (NSC), when it is relocated, will have 40 rangers based there who will be responsible for issuing Parking Enforcement Notices, undertaking public health inspections in the area and other functions.

I don't think, Councillor Greiner, you raised this matter at the time we were buying the NSC or at the time that the refurbishment was considered.

It was decided that we would buy the building subject to satisfactory negotiation and it was always anticipated that the NSC would contain community facilities.

Could I just bring to everyone's attention that we are spending \$40 million upgrading the lighting and the ambience of Darlinghurst Road. The whole mission is to improve the level of safety and amenity of Darlinghurst Road with the pedestrian area upgrade and the road upgrade and to enhance lighting and safety generally, and an objective of placing the NSC in that location is to activate pedestrian usage.

ITEM 9. NOTICES OF MOTION

There were no Notices of Motion for this meeting of Council.

Closed Meeting

At 6.35pm the Council resolved -

That, due notice of the intention to close the meeting having been given, the meeting be closed in accordance with the provisions of -

Section 10A(2)(d)(i) of the Local Government Act 1993 to discuss Items 10, 11 and 12 on the agenda as these matters comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it; and

Section 10A(2)(c) of the Local Government Act 1993 to discuss Item 13 on the agenda as this matter comprised discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;

and it was further resolved that the meeting be closed for these items on the basis that discussion of these matters in open session would, on balance, be contrary to the public interest, specifically, there is a need to preserve confidentiality having regard to the subject matter and the circumstances of communications.

Items 10 to 13 inclusive were then dealt with by Council while the meeting was closed to the public.

ITEM 10. PARK HEALING PROJECT - TENDER 0308 (S021952)

Moved by the Chairperson (the Lord Mayor), seconded by Councillor Marsden -

That arising from consideration of a report by the Project Manager, City Development and Projects to Council on 12 May 2003, on Park Healing Project - Tender 0308, it be resolved that:

- (A) Council reject all tenders;
- (B) Council decline to invite fresh tenders as it is unlikely that a more satisfactory result would be achieved by inviting fresh tenders. It is doubtful that a new tender with the same specification would attract additional tenderers or achieve greater cost savings for Council;
- (C) the General Manager, with the concurrence of the Lord Mayor, be authorised to negotiate with the preferred tenderer identified in the subject report to achieve cost savings;
- (D) authority be delegated to the General Manager directly to enter into a contract following negotiations, subject to the concurrence of the Lord Mayor;
- (E) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 11. MAYBANKE RECREATION CENTRE, RETAINING WALL - QUOTATION (S024111)

Moved by Councillor Greiner, seconded by Councillor Farr-Jones -

That arising from consideration of a report by the Senior Property Manager to Council on 12 May 2003, on Maybanke Recreation Centre, Retaining Wall - Quotation, it be resolved that:

- (A) Council not invite tenders for the proposed works due to the following extenuating circumstances:
- (i) a process of calling for quotations has already been carried out, quotations were requested from six parties capable of carrying out the works and two quotations were received;
 - (ii) other prospective contractors who visited the site indicated that either the job was too difficult in terms of access, or they could not provide a quotation in the near future;
 - (iii) the need to ensure that the earth embankment of the Maybanke Recreation Centre is made stable as soon as possible,
- and accordingly a satisfactory result would not be achieved by inviting tenders;
- (B) approval be given to accept the quotation from Kuringai Civil Pty Limited at \$124,629 (excl. GST) plus the additional geotechnical costs of \$6,000 for the installation of a new concrete crib retaining wall and 1.5 metre steel fence, subject to the specifications provided by Coffey Geosciences Pty Limited;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried.

ITEM 12. UNDER THE FREEWAY PROJECT - TENDER (S015883)

Moved by the Chairperson (the Lord Mayor), seconded by Councillor Ho -

That arising from consideration of a report by the Project Manager, City Development and Projects to Council on 12 May 2003, for Tender No 0307, Under the Freeway Project - Tender, it be resolved that:

- (A) Council reject all tenders;
- (B) Council decline to invite fresh tenders as it is unlikely that a more satisfactory result would be achieved by inviting fresh tenders. It is doubtful that a new tender with the same specification would attract additional tenderers and achieve greater cost savings for Council;

- (C) the General Manager, with the concurrence of the Lord Mayor, be authorised to negotiate with the preferred tenderer identified in paragraph 16(b) of the subject report and, if necessary, the other tenderers;
- (D) authority be delegated to the General Manager directly to enter into a contract following negotiations, subject to the concurrence of the Lord Mayor;
- (E) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

Declaration of Interest

Prior to discussion on Item 13, Councillor Greiner declared an interest in this item, in that she was associated with the proposed lessee named in the subject report. Councillor Greiner participated in discussion on this item, but indicated a wish to abstain from voting on this matter. Pursuant to the provisions of clause 24(1) of the Local Government (Meetings) Regulation 1999, Councillor Greiner is taken to have voted against the motion.

ITEM 13. LEASING OF LEVEL 4, CUSTOMS HOUSE (S02 2040)

Moved by Councillor Marsden, seconded by Councillor Coulton -

That arising from consideration of a report by the Manager Property to Council on 12 May 2003, on Leasing of Level 4, Customs House, it be resolved that:

- (A) a lease be granted to the organisation named in paragraph 1 of the subject report for the whole of Level 4 Customs House on the terms set out in the subject report;
- (B) authority be delegated to the General Manager, with the concurrence of the Lord Mayor, to finalise negotiations with the proposed tenant on the extent of works to be undertaken by the tenant and the contribution to be made by Council in respect of the work;
- (C) Council's Attorney be authorised to execute all necessary or appropriate documentation to give effect to the proposed lease.

Carried.

At 6.55pm the meeting concluded.

Chairperson of a meeting of the Council of the City
of Sydney held on 2 June 2003 at which
meeting the signature herein was subscribed.