

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
9 February 2012

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

9 FEBRUARY 2012 (1 of 25)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY 9 FEBRUARY 2012 COMMENCING AT 10.35AM AND CONCLUDING AT 5.58PM
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#1192577

PRESENT: Cr J Barham (Mayor), Cr B Cameron, Cr T Heeson, Cr P Morrissey,
Cr S Richardson (arrived at 11.05am), Cr R Staples, Cr T Tabart, Cr R Tucker and
Cr D Woods

Staff: Graeme Faulkner (General Manager)
Phil Holloway (Executive Manager Community Infrastructure)
James Brickley (Acting Executive Manager Corporate Management)
Ray Darney (Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisational Support)
Catherine Diamond (Executive Manager Society and Culture)
Phil Warner (Executive Manager Water and Recycling)
Joylene McNamara/Mila Jones (Minute Taker)

The Mayor opened the meeting and acknowledged that the meeting was being held on Bundjalung Country.

APOLOGIES: There were no apologies.

REQUESTS FOR LEAVE OF ABSENCE

There were no requests for leave of absence.

DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY

There were no declarations of interest.

TABLING OF PECUNIARY INTEREST RETURNS

In accordance with Section 450A(2) of the Local Government Act 1993 (the Act), Disclosure of Pecuniary Interests and other matters, Section 449(3) Returns have been lodged with the General Manager and are now tabled at this meeting. The Returns have been received from designated persons employed in the Positions as follows:

- *Manager Waste and Recycling*
- *A/Team Leader Natural Resources*
- *Local Approvals and Certification Officer*

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

12-1 Resolved that the Minutes of the following meetings be confirmed:

- Extraordinary Meeting held on 8 December 2011
- Ordinary Meeting held on 15 December 2011 (Tucker/Woods)

The motion was put to the vote and declared carried.

RESERVATION OF ITEMS FOR DEBATE AND ORDER OF BUSINESS

The Mayor suspended standing orders to allow for items to be reserved for debate, being:

GENERAL MANAGER'S REPORTS

- 12.2. Loss of Crown Caravan Parks administered by Byron Shire Holiday Parks Reserve Trust in 2006

EXECUTIVE MANAGERS' REPORTS**Community Infrastructure**

- 12.4. Report of Belongil Creek Floodplain Risk Management Committee meeting held on 13 December 2011
- 12.5. Report of the North Byron Coastal Creeks Floodplain Risk Management Committee meeting held on 13 December 2011
- 12.6. Public submissions on Draft Policy for Wet Weather Sporting Ground Closures
- 12.7. Naming of fields at Bangalow and Byron Regional Sport and Cultural Complex

Corporate Management

- 12.9. Local Government Elections September 2012 Key Dates – Constitutional Referendum or Council Poll
- 12.10. Draft Guidelines – Section 355 Management Committees
- 12.11. Heritage House Bangalow Section 355 Committee – Amended fees and charges
- 12.12. Water, Waste and Sewer Advisory Committee membership
- 12.13. PLANNING – Public submission on the exhibition of the Draft Air Space Policy
- 12.14. Request for reduction in fees – Byron Artisan Market
- 12.16. Council holiday parks financial performance 2010/2011
- 12.17. Investments – November and December 2011
- 12.18. Budget Review – 1 October to 31 December 2011
- 12.19. Council Resolutions Review for the period October to December 2011
- 12.20. Removal of rotunda in Mullumbimby Reserve

Environment and Planning

- 12.22. Evaluation of trial beach scraping episode, New Brighton Beach
- 12.23. PLANNING – Report on expenditure of S94 funds Broken Head Hall at 356 Broken Head Hall at 356 Broken Head Road, Broken Head
- 12.27. PLANNING – 10.2011.191.1 s82A Review – Use of part of the tourist premises for up to 14 functions annually – Limited to a maximum of 70 guests per function – 6/137 Beach Road, Broken Head

Organisational Support

- 12.30. PLANNING – BSC ats Bowen LEC 41265/2012

Society and Culture

- 12.31. Request to join the steering committee for a proposed Byron Shire Local Tourism Organisation
- 12.33. Revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013

CONFIDENTIAL REPORTS**Community Infrastructure**

- 15.1. CONFIDENTIAL – Tender Assessment – Management Contract Multi Purpose Facility BRSCC

LATE REPORT

Community Infrastructure

17.1. CONFIDENTIAL – Interim Management of BRSCC Multi Purpose Facility

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Woods and seconded by Cr Tucker. Each recommendation is recorded with a separate resolution number commencing at Resolution No. 12-2 and concluding with Resolution No. 12-16.

GENERAL MANAGER'S REPORTS

Report No. 12.1. Management Plan Review 2011-2014 for the period October to December 2011

File No: FIN451010 #1177570

12-2 Resolved that Council receive and note the quarterly report and associated Annexures on the 2011-2014 Management Plan Review for the period 1 October to 31 December 2011.
(Woods/Tucker)

Report No. 12.3. Constitutional Recognition of Local Government

File No: COR050505 #1187066

12-3 Resolved:

1. That Council support the Local Government Association of NSW to achieve Constitutional Recognition of Local Government.
2. That Council allocate funding of \$17,247.09 in three equal instalments over three financial years (commencing 2012/13).
3. That Council note, in supporting the campaign, additional work will be required by Byron Shire Council staff to address issues at the local level. (Woods/Tucker)

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER'S REPORT

Report No. 12.8. Status report on Fleet Management Action Plan

File No: ENG550000 #1185516

12-4 Resolved:

1. That Council endorses the Fleet Management Action Plan - Revision 1 (#1186844 Annexure 27).
2. That the Fleet Management Action Plan is implemented as funding and existing staff resources permit.
3. That Council receive another progress report on the implementation of the Fleet Management Action Plan in August 2012. (Woods/Tucker)

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.15. 2011-2012 Financial Assistance Grant

File No: FIN100500 #1170751

12-5 Resolved that the report be received and noted. (Woods/Tucker)

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 12.21. Byron Shire Greenhouse Emission and Energy Consumption Status Report - 2010/11 Period

File No: PLN657900 #1186651

12-6 Resolved that Council note the Byron Shire Corporate Greenhouse Emission and Energy Consumption Status Report 2010/11 (Annexure 26, #1075732). (Woods/Tucker)

Report No. 12.24. PLANNING - 10.2011.377.1 - Subdivision to create 11 lots and balance lot

File No: 237920 #1187202

12-7 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2011.377.1 for subdivision to create eleven lots and balance lot, be granted consent subject to the conditions of consent in Annexure 30(b) (#1187216) of this report. (Woods/Tucker)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

Report No. 12.25. PLANNING - 10.2011.319.1 - Subdivision to create four residential lots and one residual lot

File No: 48400, 163980 #1187083

12-8 Resolved that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2011.319.1 for subdivision to create three residential lots and one residual rural lot, be granted consent subject to the conditions of consent in Annexure 29(b) (#1187099). (Woods/Tucker)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

Report No. 12.26. PLANNING – 10.2011.359.1 - Consent Conditions 1 Mullumbimby Road, Myocum

File No: 238710 #1179783

- 12-9 Resolved** that, as per Resolution 11-1066, Council grant consent to Development Application 10.2011.359.1 for a two lot subdivision subject to the consent conditions listed in Annexure 9(a) (#1183148). (Woods/Tucker)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

Report No. 12.28. PLANNING – DA 10.2010.576.1 Beaches of Byron Caravan Park at 5-37 Broken Head Road, Byron Bay

File No: 111720 #1188148

- 12-10 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2010.576.1 for proposed modifications to layout and facilities of an existing approval to operate a caravan, camping, and relocatable cabin park, be refused for the reasons specified in Annexure 8(d) (#1189894). (Woods/Tucker)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 12.29. PLANNING - Legal Status Report as at 23 January 2012

File No: COR653000 #1186040

- 12-11 Resolved** that this report be noted. (Woods/Tucker)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrissey voted in favour of the motion.

No Councillors voted against the motion.

Cr Richardson was not present for the vote.

SOCIETY AND CULTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.32. Youth Council Appointments 2012

File No: ADM308700 #1187728

12-12 Resolved:

1. That Council note that the Youth Council selection panel met on 18 January 2012 to select new members for 2012.
 2. That Council endorse the selection panel's recommendation for the appointment of the eleven proposed new Youth Council members listed in Confidential Annexure 37.
 3. That Council note that four 2011 Youth Council members have identified that they would like to continue in 2012, consistent with the Youth Council's Constitution.
 4. That Council note that one 2011 Youth Council member, whose age now exceeds the upper limit for membership, has indicated that he would like to continue as 'co-facilitator' of the Youth Council in 2012.
 5. That Council issue a media release identifying the Youth Council members for 2012 and recognising the achievements of the Youth Council in 2011.
 6. That Council write to the unsuccessful applicants for 2012 Youth Council membership thanking them for their applications.
 7. That Council write to thank the outgoing members of the 2011 Youth Council for their contributions. (Woods/Tucker)
-

SOCIETY AND CULTURE - COMMITTEE REPORT

Report No. 13.1. Report of the Tourism Advisory Committee Meeting held on 8 December 2011

File No: ADM900020 #1179066

12-13 Resolved that Council note the minutes of the Tourism Advisory Committee meeting held on 8 December 2011 (#1165676). (Woods/Tucker)

12-14 Resolved that in relation to Report No. 5.3 - 2012 Tourism Advisory Committee Forward Agenda, Council adopt:

Committee Recommendation TAC 5.3.1

That the Tourism Advisory Committee adopt the 2012 forward agenda as outlined in Annexure 3 of the Tourism Advisory Committee's agenda for 8 December 2011 (#1165420). The priority projects for 2012 are:

- a) Development of an agreed identity for Byron Shire
 - b) Implementation of the agreed identity for Byron Shire (tourism education program)
 - c) Tourism Levy and Governance Framework
 - d) Byron Shire Visitor Services Strategy
 - e) Regional Visitor Services Strategy
 - f) Tourism Management Plan annual report
 - g) Volunteer tourism initiative
 - h) Byron Shire visitor trails. (Woods/Tucker)
-

WATER AND RECYCLING - CONFIDENTIAL REPORT

Report No. 15.3. CONFIDENTIAL Land Matters - Myocum Landfill
File No: ENG450000 #1191899

- 12-15 Resolved** that Council approve the cost of land valuations obtained by Leela Plantations associated with land purchases linked to the Myocum Quarry landfill project up to the value nominated in this report. (Woods/Tucker)
-

LATE REPORT – CORPORATE MANAGEMENT

Report No. 16.1. Request for lifting of Caveat - Byron Bay Community Association - 69 Jonson Street Byron Bay Lot 1 DP524709
File No: 34360G #1191401

- 12-16 Resolved** that Council inform the Byron Bay Community Association that it will provide a letter stating that it consents to the lodgement of the mortgage between the National Australia Bank and the Byron Bay Community Reserve Trust and to the caveat being subordinate to the mortgage on the following conditions:
- a) That the registered mortgage in favour of Suncorp-Metway Limited is discharged and removed from the title of the property; and
 - b) That Positive Covenant 8672172 remains registered on the title. (Woods/Tucker)
-

PROCEDURAL MOTION

- 12-17 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being Notices of Motion 8.2, 8.1 and Reports 12.23 12.27, next on the Agenda. (Woods/Barham)
- The motion was put to the vote and declared carried.*
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MAYORAL MINUTE

There was no Mayoral Minute.

NOTICES OF MOTION

Notice of Motion No. 8.2. College of Marine Studies
COR405527 #1189931

- 12-18 Resolved** that Council reaffirm its support to the Marine College proposal and write a letter to the Minister for Local Government, Don Page, and the Minister for Primary Industries and Small Business, Katrina Hodgkinson, stating its support. (Woods/Barham)
- The motion was put to the vote and declared carried.*
-

Notice of Motion No. 8.1. Exercise Equipment

ENG540000 #1177327

12-19 Resolved that Council receive a report on the installation of exercise equipment at various locations including:

1. Mullumbimby Civic Centre precinct
2. Brunswick Heads Terrace Park
3. Bangalow (a site to be determined)
4. Byron Bay in Railway Park and Main Beach Reserve
5. Suffolk Park

That the equipment be either the same as installed in Waterlily Park at Ocean Shores or other options to be provided and that Council look at Funding opportunities including Grants.

(Woods/Tucker)

The motion was put to the vote and declared carried.

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 12.23. PLANNING - Report on Expenditure of S94 funds Broken Head Hall at 356 Broken Head Road, Broken Head

File No: PLN350500 x 3670 #1181315

12-20 Resolved that this matter be deferred for discussions between staff and the Hall committee and that Councillors undertake a Site inspection when the report returns to Council.

(Morrisey/Barham)

The motion was put to the vote and declared carried.

Crs Woods, Heeson, Staples, Barham, Cameron, Tabart and Morrisey voted in favour of the motion.

Crs Tucker voted against the motion.

Cr Richardson arrived at Chambers at 11.05am.

12-21 Resolved that Cr Tucker be granted a two minute extension to his speech.(Barham/Richardson)

The motion was put to the vote and declared carried.

12-22 Resolved that Cr Cameron be granted a two minute extension to his speech. (Barham/Woods)

The motion was put to the vote and declared carried.

Report No. 12.27. PLANNING - 10.2011.191.1 s82A Review - Use of part of the tourist premises for up to 14 functions annually - Limited to a maximum of 70 guests per function - 6/137 Beach Road, Broken Head

File No: 240572 #1187269

12-23 Resolved:

1. That pursuant to s80 of the Environmental Planning and Assessment Act 1979 development application 10.2011.191.1 for the use of the tourist premises for up to 14
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functions annually be returned to Council's Meeting of 1 March 2012 with draft conditions of consent.

2. That the report address Staff's recommendation No. 4 (Owner's Consent and the Strata Plan) on Report 12.27 (# 1187269). (Tucker/Woods)

The motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson, Staples, Barham, Richardson and Tabart voted in favour of the motion.

Crs Cameron and Morrisey voted against the motion.

PROCEDURAL MOTION

- 12-24** Resolved that Council change the order of business to deal with Notice of Motion 8.5 next on the Agenda. (Barham/Heeson)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.5. Review of Rates for bed and breakfast establishments
COR405527 #1190553

- 12-25** **Resolved** that Council receive a report on the potential and options on the reduction of commercial ratings and/or the recategorisation to residential rating for Bed and Breakfast establishments. (Barham/Staples)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.3. Mullumbimby Civic Centre Precinct Safety Stakeholder Meeting

COR405527 #1191153

Moved:

1. That a meeting be convened with key precinct stakeholders to identify main issues around the safety, security and maintenance of the Mullumbimby Civic Centre Precinct.
2. That a briefing paper be prepared outlining issues and background and be provided prior to the meeting.
3. That the meeting is to be convened before April 2012.
4. That recommendations arising from the meeting be brought to Council.
5. That passive security aspects such as exercise equipment be considered in the briefing paper. (Richardson/Morrisey)

PROCEDURAL MOTIONS

12-26 Resolved that this matter rest on the table. (Barham/Tucker)

The motion was put to the vote and declared carried.

12-27 Resolved that Council change the order of business to deal with Notice of Motion 8.6 and Report 12.20 next on the Agenda. (Barham/Tucker)

The motion was put to the vote and declared carried.

The meeting adjourned at 12.45pm for a lunch break and reconvened at 1.25pm.

NOTICE OF MOTION

Notice of Motion No. 8.6. Review of charges for community markets and holiday park cabins

COR405527 #1190551

Moved: That Notice of Motion 8.6 rest on the table. (Cameron/Barham)

The motion was put to the vote and declared lost.

Crs Tucker, Woods, Heeson, Staples, Tabart and Morrisey voted against the motion.

Moved: That Council:

1. Allocate the fees for the railway park artisan market the same as 2011/12 to the same as 2010/11 in recognition of support for local creative industries and a community safety function and advertise for 28 days intention and not require payment by the market until the matter is clarified. This charge be advertised for public submissions and in the interim the artisan market proceed.

2. Receive a report on the future operation and charges for holiday parks. (Barham/Richardson)

AMENDMENT

12-28 Resolved that the fees for markets be reviewed and a report be produced proposing any changes to the existing fee structure for the next Management Plan for 2012/13. (Staples/Tucker)

The amendment was put to the vote and declared carried.

Crs Barham, Cameron, Richardson and Tabart voted against the amendment.

The amendment upon becoming the substantive motion was put to the vote and declared carried.

Crs Barham, Cameron, Richardson and Tabart voted against the motion.

FORESHADOWED MOTION

12-29 Resolved that Council receive a report on the future operation and charges for holiday parks. (Staples/Woods)

The motion was put to the vote and declared carried.

Crs Tucker, Cameron and Morrisey voted against the motion.

Mayor Barham requested that the minutes note that she is a Council representative on the Byron Bay Community and Cultural Centre Management Committee.

FORESHADOWED MOTION

Moved:

1. In accordance with Clause 2.9(a) of Policy No 2.3 (Debt Recovery) Council write off so much of the debt for the artisan market in 2011/12 to reduce it to the license fee paid for the artisan market in 2010/11 (\$132.00) due to hardship.
2. The debtor is Byron Bay Community Association.
3. The amount of the debt being written off is \$5,628.00 leaving a balance owing of \$132.00 for the period October 2011 to January 2012. (Cameron/Barham)

*The motion was put to the vote and declared lost.
Crs Tucker, Woods, Heeson, Staples and Morrissey voted against the motion.*

**Notice of Motion No. 8.4. CBD & Town Centre Design and Development Conference
COR405000 #1187159**

- 12-30 Resolved** that Council appoint Councillors Richardson and Barham to attend the CBD & Town Centre Design and Development Conference in Sydney from 23-24 May 2012. (Barham/Tabart)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

**Report No. 12.20. Removal of Rotunda in Mullumbimby Reserve
File No: BLD700000 #1168533**

Moved: That Council defer a consideration of this authorisation until a stakeholder meeting concerning the Mullumbimby City Precinct has concluded and suggestions have been brought to Council. (Richardson/Barham)

AMENDMENT

- 12-31 Resolved** that Council authorise the immediate demolition and removal of the rotunda in the Mullumbimby Park and include a budget of \$2,000 to undertake the required works in the December 2011 Quarterly Budget Review. (Tucker/Woods)

*The amendment was put to the vote and declared carried.
Crs Barham, Richardson and Tabart voted against the amendment.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Crs Barham, Richardson and Tabart voted against the motion.*

PROCEDURAL MOTION

12-32 **Resolved** that Notice of Motion No. 8.3. be lifted from the table. (Woods/Tucker)

The motion was put to the vote and declared carried.

NOTICE OF MOTION

Notice of Motion No. 8.3 **Mullumbimby Civic Centre Precinct Safety Stakeholder Meeting**
continued
COR405527 #1191153

12-33 **Resolved:**

1. That a meeting be convened with key precinct stakeholders to identify main issues around the safety, security and maintenance of the Mullumbimby Civic Centre Precinct.
 2. That a briefing paper be prepared outlining issues and background and be provided prior to the meeting.
 3. That the meeting is to be convened before April 2012.
 4. That recommendations arising from the meeting be brought to Council.
 5. That passive security aspects such as exercise equipment be considered in the briefing paper. (Richardson/Morrisey)
-

PROCEDURAL MOTION

Moved: That the matter be put. (Woods/Tucker)

*The Motion was put to the vote and declared lost.
Crs Staples, Barham, Richardson, Tabart and Morrisey voted against the motion.*

The motion (Richardson/Morrisey) was put to the vote and declared carried.

PETITIONS

1. Planting of 2 tiered screen of trees to reduce visual pollution cause by the Woolworths building construction

The Mayor tabled a petition containing 18 signatures which states:

"...request that Council plant and maintain a double-tiered row of suitable indigenous trees along the nature strip on the western side of Prince Street, to create an effect similar to the south end of Prince Street..."

2. Tree planting along Bangalow Road

The Mayor tabled a petition containing 44 signatures which states:

"Please have shade trees planted beside the footpaths from Byron Bay CBD along Old Bangalow Road".

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

1. RTRL Meeting

Cr Staples advised Council in relation to the Library Meeting. Dianna Roberts was the facilitator for that meeting and she has produced a set of notes from it which will do their best to summarise what happened. Basically it was a bit of a stalemate as he understands the Echo has reported it. As Cr Tabart and himself were there, he suggests other Councillors simply liaise with them to get up to speed as much as they need on that situation and no doubt the General Manager as well who was very much on top of the issue and will keep us informed as to where we're heading with it.

The General Manager clarified a matter that came up at the meeting that Byron is going to produce a report for distribution to the other councils re a county council model. He qualified that at the time, his intention is to provide this Council with a report in the normal course of events and to the extent that we can make that public and available to other councils, we will do that.

2. Far North Coast Weeds Meeting

Cr Cameron advised Council in relation to the Far North Coast Weeds meeting, where he is a delegate. Councillors may be aware that there is a process of exploring structural reform within the county councils. It has got to the point of a discussion paper by UTS whose report was part of a NOROC agenda the other day and also as a presentation to FNCW and Richmond River yesterday and he's not sure whether will receive the benefit of the same as well.

That potentially has quite big implications depending on how it goes as to how those county councils are structured, how they operate and within the angle of what's been considered anything is really possible from nothing at all to possibly the top of the tree a merger of those bodies into one county council or something very similar or split it up along catchment lines; there are quite a few things. The discussion paper is about 15 pages long, it's not overly onerous to get through. It sets out the issues quite well and so for those that are interested he suggests they might like to follow up on that. He guesses for Byron Shire Council his view is that we do pretty well in terms of how much we are paid for FNCW for example and were we to have to replicate that here within our own Council he thinks we would be up for more than what we put into the County Council at the moment. So, there are all sorts of implications for Council.

3. NOROC Meeting

Cr Cameron advised Council in relation to the NOROC meeting last week that he attended with the General Manager. This was on the Agenda but the other agenda item was the process of transport planning which drags on in an increasingly distressing and slow way. We seem to be

dragging it out here. For those that have been taking notice over the last few years, the suggestion has been for a regional integrated transport plan to be developed within the NOROC footprint integrated with QLD and with a proposal to seek funding from the Federal Government. Since this new State Government has come in they have announced that they wish to develop regional transport plans on a statewide basis over slightly different footprints so we have actually got completed models but it seems to me that the state version is more likely to proceed at this stage however that's going to be a much longer process and any development of a regional transport plan for our region is certainly not going to occur very quickly. The planning framework that has been set out by the State is to first develop a state masterplan based on existing priorities which really don't include any substantial actions, if any at all, on public transport, certainly on infrastructure development for our region. So we are going to have 12 months for that to happen which won't include any for us on public transport and then an unknown timeframe; 12 months at best, but can't imagine that's going to happen before any serious development if a regional transport plan happens. Then you've got to look at what may or may not be included in the finalisation of that and then when you start to add up the years that we're getting to, we are really facing a serious situation here where we're unlikely to see any real substantial development of public transport infrastructure for many, many years and I think that's a major concern and maybe one that we will need to consider at some stage and take a position on.

4. Byron Coast Committee

The Mayor advised Council in relation to the Byron Coast Committee, there is a plan of management out on exhibition. She would appreciate some advice back whether or not staff will be preparing a submission that's relevant to lands that join us and if not, then she thinks we do need to do a submission. She would happily put in a notice of motion to the next meeting.

Hayter's Hill, it's one of the smallest little reserves, it's very important the way it sits on top of the hill and she alerted to the fact that the Cumbebin Nature Reserve plan of management, that unfortunately we didn't do a submission to, that's of interest because there's some outstanding issues of where our lands are joined to their lands along Ewingsdale Road and on Belongil Beach. So we'll do a report for next meeting on that as well. This is us working with our neighbours.

PROCEDURAL MOTION

- 12-34 Resolved** that the order of business be changed to deal with Reports 15.1 and 17.1 next on the Agenda. (Tucker/Barham)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE - CONFIDENTIAL REPORT

Report No. 15.1. CONFIDENTIAL Tender Assessment – Management Contract Multi Purpose Facility BRSCC

File No: BEN353010 x 132490 #1188588

12-35 Resolved:

1. That pursuant to Section 10A(2)(c) and (d) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, CONFIDENTIAL Tender Assessment – Management Contract Multi Purpose Facility – Byron Regional Sport & Cultural Complex.

2. That the reasons for closing the meeting to the public to consider this item be that:
 - (a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
 - (b) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the Council, or
 - (iii) reveal a trade secret.
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential information could compromise the commercial position of the tenderers and/or of Council, could adversely affect Council's ability to contract and/or could affect Council's ability to attract competitive tenders in future tender processes. (Barham/Staples)

The motion was put to the vote and declared carried.

CONFIDENTIAL SESSION

12-36 Resolved:

1. That as per s178 of the Local Government (General) Regulation 2005, Council resolve to decline to accept any tenders for the provision of Management Services for the Multi Purpose Facility at the Byron Regional Sport and Cultural Complex on the basis that no acceptable tenders were received.
2. That as per s178 (3) (e) of the Local Government (General) Regulation 2005, Council:
 - a) resolve to enter into without obligation negotiations with relevant parties with a view to potentially entering into a contract in relation to the subject matter of the tender; and
 - b) note that the reasons for entering into direct negotiations include:
 - i) Council has pursued an open competitive process without success;
 - ii) due to inherent uncertainties associated with the facility being new and having no operating history, it is unlikely that a further tender process would achieve a different result to the first tender process;
 - iii) the services are still required at the earliest possible time in order to provide management services for the Multi Purpose Facility and to allow its continued operation which is a requirement of the funding agreements (and failure to deliver on which could expose Council unreasonable adverse financial implications);
 - iv) inviting fresh applications in accordance with clause 168 from persons interested in tendering for the contract is not an option available to Council due to the lack of tenders received during the first tender process;
 - v) inviting fresh applications in accordance with clause 169 from persons interested in tendering for the contracts of the same kind is also considered not viable as these works are specialised; and
 - vi) Council is not in a position to undertake the works themselves for an extended period of time within existing budget allocations.
3. That Council makes public its decision in accordance with Clause 179(b) of the Local Government (General) Regulation 2005.
4. That progress updates be provided to Councillors monthly via confidential email. (Barham/Tucker)

The motion was put to the vote and declared carried.

Cr Staples voted against the motion.

12-37 Resolved that Council move out of confidential session. (Barham/Cameron)

The motion was put to the vote and declared carried.

CONFIDENTIAL LATE REPORT – COMMUNITY INFRASTRUCTURE

Report No. 17.1. CONFIDENTIAL Interim Management of BRSCC Multi Purpose Facility
File No: BEN351010 X 132490 X 24.2008.5.1 #1193442

12-38 Resolved:

1. That pursuant to Section 10A(2)(c) of the Local Government Act, 1993, Council resolve into Confidential Session to discuss the following report, namely interim management of the Byron Regional Sport and Cultural Complex, Multi Purpose Facility.
2. That the reasons for closing the meeting to the public to consider this item be that information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as disclosure of the confidential information could compromise the commercial position of the facility and the Council's position in potential future tender processes. (Barham/Cameron)

CONFIDENTIAL SESSION

12-39 Resolved:

1. That Council approve internal management by Council staff for up to 12 months as an interim management option for the Multi-purpose facility (MPF) at the Byron Regional Sports and Cultural Complex.
2. That Council allocate an additional budget for 2011/2012 of \$158,600 from the General Fund Accumulated Surplus to implement internal management by Council and note that a budget for 2012/13 will be required for the balance of the 12 month interim arrangement period.
3. That Council confirm that the above budget allocations will accommodate the MPF being open for a maximum of 55 hours per week (and within that a maximum of 12 hours only outside the core business hours of 9 – 5 weekdays, and that the budget allocation will not extend to unlimited use of the facility (for example there will be no cash-handling capacity at the MPF).
4. That in accordance with the Local Government Act 1993 Section 610(f) the proposed fees and charges for the Multi Purpose Facility at the Byron Regional Sport and Cultural Complex be advertised for a period of 28 days to allow for public submissions and:
 - a) that if any submissions are received on the proposed amendments to the fees and charges they be reported back to Council prior to adoption; or
 - b) that in the event that no submissions are received on the proposed amendment to the fees and charges they be adopted after the close of the exhibition period.

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5. That the report and Annexures 43(b) (#1194228) remain confidential until the first tendered contract for management of the MPF has expired together with all options for extension.
6. That Annexures 43(a) (#1194222) and 43(c) (#1194315) be made public if adopted without amendment for advertising but if not adopted, remain confidential until the first tendered contract for management of the MPF has expired together with all options for extension. (Barham/Tucker)

*The motion was put to the vote and declared carried.
Cr Cameron voted against the motion.*

12-40 Resolved that the meeting move out of confidential session. (Tucker/Barham)

The motion was put to the vote and declared carried.

*The meeting adjourned at 3.42pm for a break and reconvened at 3.58pm.
Crs Staples, Cameron and Heeson were not present at the resumption of the meeting.*

GENERAL MANAGER'S REPORT

Report No. 12.2. Loss of Crown Caravan Parks administered by Byron Shire Holiday Parks Reserve Trust in 2006

File No: BEN202000 #1181007

12-41 Resolved:

1. That Council note the report.
2. That a further report be received providing more detail of the circumstances of the departmental takeover of the Council run caravan parks to include:
 - a) the draft report from IAB;
 - b) the BSC submission to the draft report;
 - c) letter from the Minister advising of dismissal;
 - d) media releases and reports;
 - e) the Mayor's letter (#612607) to the Minister at the time; and
 - f) any other Council reporting and resolutions.
3. That the report, if adopted, be sent to the Minister for Lands and the Minister for Local Government. (Tabart/Barham)

Crs Staples and Cameron returned to the meeting at 4.03pm.

12-42 Resolved that Cr Tabart be given a 30 second extension to his speech. (Barham/Staples)

*The motion was put to the vote and declared carried.
Cr Heeson was not present for the vote.*

Cr Heeson returned to the meeting at 4.05pm.

12-43 Resolved that Cr Barham be granted on one minute extension to her speech. (Cameron/Tabart)

The motion was put to the vote and declared carried.

*The motion (Tabart/Barham) was put to the vote and declared carried.
Crs Tucker and Morrisey voted against the motion.*

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORTS

Report No. 12.4. Report of Belongil Creek Floodplain Risk Management Committee meeting held on 13 December 2011

File No: ENG091019 #1181460

Moved:

1. That Council note the minutes of the Belongil Creek Floodplain Risk Management Committee (BCFRMC) Meeting held on 13 December 2011 (Annexure 10(a), #1182550).
2. That in relation to Report 4.2 – Amended Constitution (#1169811), Council adopt:

Committee Recommendation BCFRMC 4.2

That Council endorse the Belongil Creek Floodplain Risk Management Committee Constitution (Annexure 10(k), #1169595) to be amended to accord with resolutions 10-1066 and 11-360, Council’s advisory committee constitution template and the NSW Floodplain Development Manual. (Tucker/Woods)

AMENDMENT

12-44 Resolved that Council note the minutes of the Belongil Creek Floodplain Risk Management Committee (BCFRMC) Meeting held on 13 December 2011 (Annexure 10(a), #1182550).

12-45 Resolved that in relation to Report 4.1 – Presentation of Discussion Papers 5 to 7 (#1165811), Council adopt:

Committee Recommendation BCFRMC 4.1

- a) That the following recommendations be added to the Draft Belongil Creek Flood Risk Management Study and Plan:
 - i) Installation of additional rainfall gauges in the Belongil catchment.
 - ii) Installation of an ALERT water level gauge at the Ewingsdale Road Bridge.
 - iii) Implementation of a multi-faceted community flood awareness campaign targeting accommodation providers and new residents, as well as existing residents.
 - iv) Development of a flood information data set linking water levels to real world outcomes. In order to develop a flood action plan or flood intelligence card which can help Council or the SES understand how a predicted flood water level will affect the community.
 - v) Implementation of an automated telephone and/or SMS flood warning system.
 - vi) A review of existing SES emergency procedures using design flood information.
 - vii) A review of flood and evacuation warning procedures. A wide range of warning methods should be considered and planned for well in advance of future flood events.
 - viii) Identification of an alternative evacuation route. An alternative to Jonson Street is recommended which has greater flood immunity. It is recommended that the SES investigate this alternative and, if deemed suitable, it be adopted in the Byron Shire Local Flood Plan.

- ix) Prioritise evacuation of Belongil Spit. Early and prioritised evacuation of the Belongil Spit area would ensure that the most vulnerable residents have the potential to evacuate prior to the onset of flooding. It is recommended that the SES identify triggers which would prompt the evacuation of Belongil Spit before other areas in the catchment. It is also recommended that the residents in the Belongil Spit area are educated about their increased flood risk and the likelihood of early evacuation.
 - x) Discussion Paper 5 be amended to list the correct responsibilities of the SES, namely that the Bureau of Meteorology is the legislated organisation that issues flood warnings, and amend the emergency response recommendations in discussion paper 5 to incorporate a layered warning system which includes sirens.
- b) That a Flood Planning Matrix be recommended for inclusion in Council's Development Control Plan for Flood as part of the recommendations within the Draft Belongil Creek Flood Risk Management Study and Plan.

The proposed planning matrix would:

- i) More stringently restrict incompatible floodplain development within high hazard areas of the floodplain.
 - ii) Restrict development of critical Infrastructure and emergency services to flood liable lands.
 - iii) Prescriptively list development control measures based on land-use type and flood hazard category.
 - iv) The controls within the Planning Matrix would be based on current flood risk and future flood risk increases due to climate change projections have been taken into account where appropriate.
- c) i) That the one (1) property that has been identified as eligible for voluntary house purchase and the four (4) properties that have been identified as eligible for voluntary house raising be listed in the Draft Belongil Creek Flood Risk Management Study and Plan.
- ii) That additional properties, which were included in the voluntary house raising assessment, be considered for flood proofing.
- d) The flood planning level in the draft Byron LEP be based on 2100 event and that the draft DCP for flooding include controls for FPL1, FPL2 and FPL3, based on updated Discussion Paper 7 (#1173861, #1173875).

12-46 Resolved that in relation to Report 4.2 – Amended Constitution (#1169811), Council adopt:

Committee Recommendation BCFRMC 4.2

That Council endorse the Belongil Creek Floodplain Risk Management Committee Constitution (Annexure 10(k), #1169595) to be amended to accord with resolutions 10-1066 and 11-360, Council's advisory committee constitution template and the NSW Floodplain Development Manual.

12-47 Resolved that in relation to Agenda Item 5.2 – Flood Modification Measures (#1159552), Council adopt:

Committee Recommendation BCFRMC 5.2

The committee recommends that the consultant prepare a report which identifies tangible cost/benefits relating to four flood modification measures, which include:

- a) Training the Belongil Creek mouth versus existing opening strategy.

- b) The Byron Bay Drainage Strategy 2010 including identification of structures that may need modification.
- c) A full maintenance program for the existing drainage system.
- d) Cost/benefit analysis of works on the Clarkes Beach drain. (Tabart/Staples)

*The amendment was put to the vote and declared carried.
Cr Tucker voted against the amendment.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Cr Tucker voted against the motion.*

Report No. 12.5. Report of North Byron Coastal Creeks Floodplain Risk Management Committee meeting held on 13 December 2011

File No: ENG0910201 #1181570

Moved:

1. That Council note the minutes of the North Byron Coastal Creeks Floodplain Risk Management Committee (NBCCFRMC) meeting held on 13 December 2011 (Annexure 11(a), #1182551).
2. That in relation to Report 4.1 - Presentation and Acceptance of Model Calibration (#1165826), Council adopt:

Committee Recommendation NBCCFRMC 4.1.1

That Council note the results of the BMT WBM calibration assessment (Annexure 11(c) #1174610) and that the accuracy of the calibration is of a sufficient level that the model can now be used for the preparation of design flood event mapping for the final flood study.

3. That in relation to Report 4.1 - Presentation and Acceptance of Model Calibration (#1165826), Council adopt:

Committee Recommendation NBCCFRMC 4.1.2

That BMT WBM provide the committee with a more detailed analysis of the resident survey including information about what geographic areas the survey respondents come from and their suggestions for reducing flooding, in accordance with the government guidelines on floodplain management.

4. That in relation to Report 4.2 – Amended Constitution (#1169636), Council adopt:

Committee Recommendation NBCCFRMC 4.2.1

That Council endorse the North Byron Coastal Creeks Floodplain Risk Management Committee Constitution (Annexure 11(d), #1169503) to be amended to accord with resolutions 10-1066 and 11-360, Council's advisory committee constitution template and the NSW Floodplain Development Manual. (Tucker/Woods)

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AMENDMENT

12-48 Resolved that Council note the minutes of the North Byron Coastal Creeks Floodplain Risk Management Committee (NBCCFRMC) meeting held on 13 December 2011 (Annexure 11(a), #1182551).

12-49 Resolved that in relation to Report 4.1 - Presentation and Acceptance of Model Calibration (#1165826), Council adopt:
Committee Recommendation NBCCFRMC 4.1.1

That Council note the results of the BMT WBM calibration assessment (Annexure 11(c) #1174610) and that the accuracy of the calibration is of a sufficient level that the model can now be used for the preparation of design flood event mapping for the final flood study.

The committee accept the report on the proviso that the consultants (BMT WBM) meet with Mr Lambourne and discuss apparent discrepancies of rainfall data and that a review of assumptions regarding entrance maximum depth of scour is undertaken.

12-50 Resolved that in relation to Report 4.1 - Presentation and Acceptance of Model Calibration (#1165826), Council adopt:

Committee Recommendation NBCCFRMC 4.1.2

That BMT WBM provide the committee with a more detailed analysis of the resident survey including information about what geographic areas the survey respondents come from and their suggestions for reducing flooding, in accordance with the government guidelines on floodplain management.

12-51 Resolved that in relation to Report 4.2 – Amended Constitution (#1169636), Council adopt:

Committee Recommendation NBCCFRMC 4.2.1

That Council endorse the North Byron Coastal Creeks Floodplain Risk Management Committee Constitution (Annexure 11(d), #1169503) to be amended to accord with resolutions 10-1066 and 11-360, Council's advisory committee constitution template and the NSW Floodplain Development Manual. (Staples/Tabart)

*The amendment was put to the vote and declared carried.
Crs Tucker and Woods voted against the amendment.*

*The amendment upon becoming the substantive motion was put to the vote and declared carried.
Crs Tucker and Woods voted against the motion.*

PROCEDURAL MOTION

12-52 Resolved that the order of business be changed to deal with 12.18 and 12.9 and 12.7, 12.14 next on the Agenda. (Barham/Staples)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 12.18. Budget Review - 1 October to 31 December 2011

File No: FIN451010 #1185717

12-53 Resolved:

1. That Council authorise the itemised budget variations as shown in Annexure 5(b) (#1189041) which includes the following results in the 31 December 2011 Quarterly Review of the 2011/2012 Budget:
 - a) General Fund - \$33,000 increase in accumulated surplus
 - b) Water Fund - \$30,400 decrease in reserves
 - c) Sewerage Fund - \$310,150 increase in reserves
2. That Council authorise the creation of the Structural Change reserve as outlined in the below report, initially funded by \$100,000 from the Employee Leave Entitlement (ELE) reserve.
3. That Council authorise the budget allocation of \$13,600 to cover the costs incurred for the Sandhills’ review from the savings made within this review.
4. That Council adopt the revised working fund surplus of \$340,800 for the 2011/12 financial year. (Tucker/Woods)

The motion was put to the vote and declared carried.

Report No. 12.9. Local Government Elections September 2012 Key Dates – Constitutional Referendum or Council Poll

File No: ADM450000 #1182845

Moved:

1. That the information provided by the NSW Electoral Commission on the LG Election to be held on 8 September 2012 be noted.
2. That Council advise the NSW Electoral Commission that it will be holding a Constitutional Referendum and/or a Council Poll at the next election in relation to ward divisions and the possibility of any other issues, to be advised by June. (Woods/Tucker)

AMENDMENT

12-54 Resolved:

1. That the information provided by the NSW Electoral Commission on the LG Election to be held on 8 September 2012 be noted.
2. That Council advise the NSW Electoral Commission that it will be holding a Constitutional Referendum and/or a Council Poll at the next election. (Tabart/Richardson)

*The amendment was put to the vote and declared carried.
Crs Tucker, Woods and Heeson voted against the amendment.*

The amendment upon becoming the substantive motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson and Staples voted against the motion.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.7. Naming of Fields at Bangalow and Byron Regional Sport and Cultural Complex

File No: COR050505 #1182400

12-55 Resolved:

1. That Council note the one public submission received for the community requests for the naming of sportsfields at Bangalow and the BRSCC.
2. That Council adopt the:
 - a) naming of the north-western portion of the Byron Regional Sport and Cultural Complex (BRSCC) as the ‘Cornell Family Fields’;
 - b) naming of the north eastern portion of the BRSCC as ‘Herb Elliott Field’;
 - c) naming of the western portion of the Bangalow Sporting fields as the ‘Jeff Schneider Field’.
(Tabart/Barham)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.14. Request for reduction in fees - Byron Artisan Market

File No: BEN400000 #1187488

Moved: That Council note the report. (Woods/Tucker)

AMENDMENT

12-56 Resolved:

1. That Council propose the allocation by resolution of a Section 356 Donation to the Byron Bay Community Association Inc of \$2,814.00 as a contribution to the temporary market licence fee for the Artisan Market.
2. That this proposal be placed on exhibition in accordance with Section 356 and if no submissions are received, the donation be granted and if submissions are received a report be brought back to Council.
3. That if the donation is endorsed, \$233.00 be funded from the Mayor's discretionary fund and \$2,581.00 be allocated from the Section 356 Donation budget. (Richardson/Tabart)

The amendment was put to the vote and declared carried.

Crs Tucker, Woods, Heeson and Morrissey voted against the amendment.

The amendment upon becoming the substantive motion was put to the vote and declared carried.

Crs Tucker, Woods, Heeson and Morrissey voted against the motion.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.6. Public submissions on Draft Policy for Wet Weather Sporting Ground Closures

File No: COR050505 #1169508

12-57 Resolved:

1. That Council note the one public submission received on the draft Wet Weather Sporting Ground Closure Policy but not support the requested change.
2. That Council adopt the Wet Weather Sporting Ground Closures Policy as publicly exhibited and attached as Annexure 2(b) (#1190285).
3. That a meeting be held with the Mullumbimby Brunswick Heads Cricket Club to discuss their submission. (Tabart/Barham)

The motion was put to the vote and declared carried.

The meeting closed at 5.58pm. The remaining items were referred to an Extraordinary Meeting to be held on Thursday 23 February 2012 at 10.00am.

Corporate Management

- 12.10. Draft Guidelines - Section 355 Management Committees
- 12.11. Heritage House Bangalow Section 355 Committee – Amended fees and charges
- 12.12. Water, Waste and Sewer Advisory Committee membership
- 12.13. PLANNING - Public submission on the exhibition of the Draft Air Space Policy
- 12.16. Council Holiday Parks Financial Performance 2010/2011
- 12.17. Investments –November and December 2011
- 12.19. Council Resolutions Review for the period October to December 2011

Environment and Planning

- 12.22. Evaluation of Trial Beach Scraping Episode, New Brighton Beach

Organisational Support

- 12.30. PLANNING - BSC ats Bowen LEC 41265/2012

Society And Culture

- 12.31. Request to join the steering committee for a proposed Byron Shire Local Tourism Organisation
- 12.33. Revised status report on the implementation of the Disability Access and Inclusion Plan 2008-2013

Environment and Planning - Confidential Report

15.2. CONFIDENTIAL Old Byron Bay Beach Resort site, Bayshore Drive, Byron Bay

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 1 March 2012.

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Mayor Jan Barham