



Byron Shire Council



Minutes

Ordinary Meeting
Thursday, 8 November 2012

BYRON SHIRE COUNCIL

Ordinary Meeting Minutes
8 November 2012

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BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

8 NOVEMBER 2012 (1 of 21)

MINUTES OF THE BYRON SHIRE COUNCIL ORDINARY MEETING HELD ON THURSDAY, 8 NOVEMBER 2012 COMMENCING AT 10.30AM AND CONCLUDING AT 4.12PM

#E2012/18113

PRESENT: Cr S Richardson (Mayor), Cr B Cameron, Cr C Cubis, Cr S Ibrahim, Cr P Spooner,
Cr R Wanchap and Cr D Woods

Staff: Phil Holloway (Acting General Manager)
Michael King (Executive Manager Community Infrastructure)
Mark Arnold (Executive Manager Corporate Management)
Ray Darney (Executive Manager Environment and Planning)
Shannon McKelvey (Executive Manager Organisational Support)
Greg Ironfield (Acting Executive Manager Society and Culture)
Phil Warner (Executive Manager Water and Recycling)
Mila Jones/Joylene McNamara (Minute Taker)

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

APOLOGIES: Apologies were received from Crs Dey and Hunter.

12-852 Resolved that the apologies from Crs Dey and Hunter be accepted and leave of absence granted. (Woods/Cameron)

The motion was put to the vote and declared carried.

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 the Local Government Act 1993 Section 450A(2), a Section 449(3) Return was tabled from Councillors and designated staff for the period 1 July 2011 to 30 June 2012.

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

12-853 Resolved that the Minutes of the following meetings be confirmed:

- Ordinary Meeting held on 25 October 2012
- Byron Shire Reserve Trust Committee Meeting held on 25 October 2012 (Woods/Spooner)

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:

ORDINARY MEETING AGENDA OF 25 OCTOBER 2012

EXECUTIVE MANAGERS' REPORTS

Environment and Planning

- 12.20. Review of Sea Level Rise Planning Benchmarks
- 12.21. PLANNING - Proposed West Byron Voluntary Planning Agreement

Organisational Support

- 12.24. PLANNING - Legal Status Report as at 12 October 2012

Society and Culture

- 12.27. Review of Bundjalung of Byron Bay, Arakwal People's Indigenous Land Use Agreements (ILUA) 1,2 and 3 (response to Resolution 12-339)

Water and Recycling

- 12.29. South Byron STP Site Contamination Investigation

ORDINARY MEETING AGENDA OF 8 NOVEMBER 2012

GENERAL MANAGER'S REPORT

- 13.2. Review of Probity of Tender 2012/0007 – Commercial Activities on Coastal and Riparian Reserves

EXECUTIVE MANAGERS' REPORTS

Corporate Management

- 13.3. Presentation of 2011/2012 Financial Statements
- 13.6. 2013 Proposed Compliance Priorities Program

Environment and Planning

- 13.11. PLANNING - Supplementary Report for DA 10.2011.380.1 Multiple Occupancy at Seven Mile Beach Road, Broken Head

Society and Culture

- 13.14. Temporary Vehicle Camping in the Byron Shire

Water and Recycling

- 13.15. Options Report Lot 2 Bayshore Drive Byron Bay

LATE REPORT

Environment and Planning and Organisational Support

- 15.1. BSC ats Kruger LEC 10692/2012

The remaining Recommendations and Committee Recommendations were adopted as a whole, being moved by Cr Woods and seconded by Cr Cameron. Each recommendation is recorded

with a separate resolution number commencing at Resolution No. 12-854 and concluding with Resolution No. 12-865.

ORDINARY MEETING AGENDA OF 25 OCTOBER 2012

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORT

Report No. 12.19. Outstanding financial considerations Coastal and Estuary Work Program – New Brighton Beach Scraping Program and Surveying of the Beach Escarpment

File No: #E2012/4747

12-854 Resolved:

1. That Council notes that although the location of the New Brighton Beach Scraping Program (NBBSP) is on ‘Council land not under Council control’, resolution 11-486 does not apply to the NBBSP as the activity is primarily a coastal hazard risk management strategy as opposed to a maintenance activity.
 2. That Council apply to the State Government’s Coastal Management Program to partly fund the implementation of the 2013/2014 New Brighton Beach Scraping Program.
 3. That Council allocate the full amount of \$114,700 from the Risk Management Reserve to implement the New Brighton Beach Scraping Program in 2013/2014; if grant funding is received a lesser amount will be required.
 4. That Council consider a permanent bi-annual allocation in future budgets to fund the ongoing New Brighton Beach Scraping Program.
 5. That Council allocate an amount of \$6,500 from the Risk Management Reserve to a coastal hazard monitoring and review program in the 2013/2014 budget, and that this amount be allocated to this activity on a permanent and recurring annual basis funded from the Risk Management Reserve. (Woods/Cameron)
-

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 12.22. PLANNING – BSC ats Davis LEC 10604/2012

File No: COR653000 x 80.2012.10.1 x 10.2008.159.2 #E2012/11561

12-855 Resolved:

1. That this report be noted.
2. That Council resolve whether a meeting between Councillors, developers and community representatives to have a without prejudice discussion to consider future development and infrastructure provision as identified in part 2 of Res 12-644 is or is not still required. (Woods/Cameron)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

COMMUNITY INFRASTRUCTURE - COMMITTEE REPORT

Report No. 13.1. Report of the Local Traffic Committee Meeting held on 3 October 2012

#E2012/10364

13.1.1. Federal village, proposed speed and bus management measures

File No: F161 / #E2012/10364

12-856 Resolved:

1. That Council endorse the sealing of a bus bay on Federal Drive, Federal the location of which is identified as Site 4 on Annexure 13, ie at the front of properties Lot 1 and Lot 2 Federal Drive, Federal.
 2. That the bus bay be signed as applicable school days only between 8.00am and 9.30am and 2.30pm and 4.00pm.
 3. That Council not proceed with the works associated with Site 2 on Annexure 13 (#DM1250104), ie at the intersection Federal Drive and Roses Road, Federal.
(Woods/Cameron)
-

ORDINARY MEETING AGENDA OF 8 NOVEMBER 2012

GENERAL MANAGER'S REPORT

Report No. 13.1. Operational Plan Review 2012/2013 for the period July to September 2012

File No: #E2012/15045

- 12-857 Resolved** that Council receive and note the quarterly report and associated Annexures on the 2012-2013 Operational Plan Review for the period 1 July to 30 September 2012.
(Woods/Cameron)
-

CORPORATE MANAGEMENT – EXECUTIVE MANAGER'S REPORTS

Report No. 13.5. Council Resolutions Review July to September 2012

File No: #E2012/14447

12-858 Resolved:

1. That Council receive and note the information provided in this report on outstanding Council resolutions.
 2. That Council note the completed resolutions in Annexure 2(b) (#E2012/14682).
(Woods/Cameron)
-

Report No. 13.7. Community Strategic Plan and other Integrated Planning Documents

File No: #E2012/8839

12-859 Resolved:

1. That Council endorse the Byron Shire Council Community Strategic Plan 2022.
 2. That Council, to meet the legislative timeframe for the adoption of the Delivery Program, Operational Plan and the other Integrated Planning document, adopt the Schedule for the development of the 2013-2017 Delivery Program and 2013/14 Operational Plan, as detailed in the report, and undertake in the development of the related Integrated Planning Documents a review of the content and priorities of the adopted 2012-2016 Delivery Program and the endorsed Byron Shire Council Community Strategic Plan 2022.
(Woods/Cameron)
-

Report No. 13.8. Budget Review - 1 July 2012 to 30 September 2012

File No: #E2012/12718

12-860 Resolved:

1. That Council authorise the itemised budget variations as shown in Annexure 3(b) (#E2012/5023) which includes the following results in the 30 September 2012 Quarterly Review of the 2012/2013 Budget:
 - (a) General Fund - \$120,100 decrease in accumulated surplus
 - (b) Water Fund - \$38,000 decrease in reserves
 - (c) Sewerage Fund - \$1,024,000 increase in reserves
 2. That Council adopt the revised working fund deficit of \$82,100 for the 2012/2013 financial year as at 30 September 2012.
(Woods/Cameron)
-

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 13.9. PLANNING - 10.2011.417.1 Further report on resolution 12-573 dwelling at 79 Paterson Street Byron Bay

File No: Parcel No 70830 #E2012/9666

- 12-861 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application 10.2011.417.1 for alteration/additions to existing dwelling and secondary dwelling, be approved subject to the conditions listed in Annexure 12(b) #E2012/15744. (Woods/Cameron)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

Report No. 13.10. PLANNING – 10.2012.324.1 Rural subdivision SEPP 1 two lots at 345 St Helena Road McLeod’s Shoot

File No: Parcel No 240642 #DM1255856

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

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- 12-862 Resolved** that pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, development application no 10.2012.324.1 for rural subdivision to create two lots, be granted consent subject to the conditions listed in Annexure 4(b) #E2012/13831. (Woods/Cameron)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.12. Draft revised Work Health Safety Policy

File No: #E2012/14913

- 12-863 Resolved** that the draft Work Health Safety Policy be adopted and replace existing Policy 3.6 Occupational Health and Safety Policy (#DM629061) (#E2012/14879). (Woods/Cameron)

Report No. 13.13. Annual Report Code of Conduct Complaints 2011/2012

File No: #E2012/12552

- 12-864 Resolved** that the report be noted. (Woods/Cameron)

ENVIRONMENT AND PLANNING - COMMITTEE REPORT

Report No. 14.1. Report of the Planning Review Committee Meeting held on 17 October 2012

File No: #E2012/13130

- 12-865 Resolved** that the report be noted. (Woods/Cameron)

PROCEDURAL MOTION

- 12-866 Resolved** that the order of business be changed to deal with items discussed during Public Access, those being 12.20, 12.21, 12.24, 12.27, 12.29, 13.2 and 13.11 next on the Agenda. (Woods/Richardson)

The motion was put to the vote and declared carried.

ITEMS REFERRED FOR DEBATE

ORDINARY MEETING HELD 25 OCTOBER 2012

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER’S REPORTS

Report No. 12.20. Review of Sea Level Rise Planning Benchmarks

File No: #E2012/12053

Moved: That a workshop for Councillors be arranged on this matter. (Woods/Cubis)

AMENDMENT

12-867 Resolved:

1. That Council notes that a review of the Climate Change Parameters in the Climate Change Strategic Planning Policy has been undertaken as a result of the withdrawal of the NSW Sea Level Rise Policy Statement (DECCW, 2009), and that as a result of the review, the Climate Change Parameters are considered adequate in light of existing scientific data and available information.
2. That Council re-confirms its commitment to the Climate Change Strategic Planning Policy as formerly adopted by Council on 12 November 2009.
3. That Council supports the motion put forward by Port Macquarie - Hastings Council to the Local Government and Shires Association Conference in Dubbo 28 to 30 October as follows:

In light of the evolving understanding of the complex issues surrounding future sea levels, councils note that the report Assessment of the science behind the NSW Government's sea level rise planning benchmarks (NSW Chief Scientist and Engineer, April 2012) confirms that "the way the science has been used to date to determine benchmarks for sea level rise in NSW is adequate". A consistent framework in which to undertake planning in the coastal zone is required. Therefore, councils call for the NSW Government to provide a scientifically based sea level rise benchmark for use in planning for the coastal zone. (Richardson/Spooner)

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

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

Report No. 12.21. PLANNING - Proposed West Byron Voluntary Planning Agreement
File No: #E2012/12399

Moved: That Council delegate the General Manager and Mayor to negotiate the draft Voluntary Planning Agreement with Department of Planning and the Applicant in accordance with the terms outlined in the Attached Confidential Annexure 10(b) (#E2012/7303) with the following alterations:

- a) That the mini bypass not be included in the VPA and instead the VPA include the major bypass through to Browning Street.
- b) That the VPA include funding for a component of a Park & Ride system.
- c) Delete point 9 in the Confidential Annexure 10(a). (Richardson/Ibrahim)

PROCEDURAL MOTION

12-868 Resolved that the matter rest on the table. (Richardson/Cameron)

The motion was put to the vote and declared carried.

ORGANISATIONAL SUPPORT – EXECUTIVE MANAGER’S REPORT

Report No. 12.24. PLANNING - Legal Status Report as at 12 October 2012

File No: #E2012/12170

12-869 Resolved that this report be noted. (Ibrahim/Richardson)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

SOCIETY AND CULTURE - EXECUTIVE MANAGER’S REPORT

Report No. 12.27. Review of Bundjalung of Byron Bay, Arakwal People's Indigenous Land Use Agreements (ILUA) 1,2 and 3 (response to Resolution 12-339)

File No: #E2012/5599

12-870 Resolved:

1. That Council note the information provided on Bundjalung of Byron Bay Indigenous Land Use Agreements (ILUA) 1, 2 and 3. In particular that Council note it was to receive a total of 1.85 hectares of the Sandhill's Estate in exchange for:
 - a) the management both rights of the Broken Head Caravan; and,
 - b) a parcel of Council owned land at Taylors Lake Suffolk Park. Note part of the proposed Sandhill's Estate land exchanged was for the new library site.
2. That Council note the unresolved land exchange matters from Council's 02-929 resolution 3 September 2003 and the related ILUAs 1,2 and 3 matters be referred to the Arakwal Memorandum of Understanding (MoU) Advisory Committee for consideration in the development of the new MoU between the Arakwal and Council.
3. That Council make enquiry to the Department of Primary Industry Crown Lands – Catchment and Lands Division in relation to the missing balance of 1.65 hectares [1.583 hectares] of land transfers in the Sandhill's Estate identified for civic and community purposes in the 'Agreement involving the Sandhill's Estate, Taylors Lake and Broken Head Caravan Park 2003' at Annexure 16(c) (#DM399047), and note resolution 02-929 part 6. "that the Arakwal Corporation and the native title applicants to agree to all things necessary to facilitate the transfer of the entire 1.85 hectares at Sandhill's Estate to the Council" and seek the continued support from the Arakwal for this transfer. (Woods/Cubis)

The motion was put to the vote and declared carried.

WATER AND RECYCLING - EXECUTIVE MANAGER’S REPORT

Report No. 12.29. South Byron STP Site Contamination Investigation

Executive Manager: Water and Recycling

File No: E2012/7605

- 12-871 Resolved** that Council allocate a budget of \$127,000 to conduct further site contamination investigations and complete a detailed Remedial Action Plan and associated site audit statement for the South Byron STP site. (Cameron/Richardson)

The motion was put to the vote and declared carried.

ORDINARY MEETING AGENDA OF 8 NOVEMBER 2012

GENERAL MANAGER'S REPORT

Report No. 13.2. Review of Probity of Tender 2012/0007 – Commercial Activities on Coastal and Riparian Reserves

File No: #E2012/14542

12-872 Resolved:

1. That the Thornton Review be accepted.
2. That Council note the Thornton review conclusion, "Based on our review of the assessment of tenders submitted, we do not believe there is a sound basis for the panel to make recommendation to award the contracts to the successful tenderers. This opinion is primarily based on our analysis of the scoring of the sub-licence fee criteria.
3. That noting the key findings of the Thornton Review regarding the impact of the scoring of the sub-licence fee criteria (key findings iii dot point 2), tenderer 2 be offered a temporary licence for the duration of the current licence term subject to 4.
4. That this recommendation be forwarded to Cape Byron Marine Park and National Parks and Wildlife Service and Department of Primary Industry Crown Lands for support and approval.
5. That the fees obtained from tenderer 2, be distributed equally between the 4 successful tenderers.
6. That as a result of the Thornton Review, Council adopt a process for future Commercial Activities on these reserves based on setting a standard annual fee for the activity based on a commercial value assessment with qualitative criteria, including experience, local knowledge, safety, education, reference checking, being the determining factor for successful applicants.
7. That all the operators in this sector be invited to participate in a sector review with the aim of strengthening the commercial viability of the sector, maximising community benefit, and securing the best coastal protection outcomes. (Spooner/Richardson)

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

ENVIRONMENT AND PLANNING – EXECUTIVE MANAGER'S REPORT

Report No. 13.11. PLANNING - Supplementary Report for DA 10.2011.380.1 Multiple Occupancy at Seven Mile Beach Road, Broken Head

File No: #E2012/12977

12-873 Resolved that DA 10.2011.380.1 be deferred until the Ordinary Meeting of 20 December 2012 to enable discussion with the applicants and a further report. (Wanchap/Woods)

The motion was put to the vote and declared carried.

Crs Ibrahim, Cubis, Woods, Richardson, Cameron, Wanchap and Spooner voted in favour of the motion.

No Councillors voted against the motion.

MAYORAL MINUTE

1. Wilson's Creek Road Information Session

12-874 Resolved:

1. That a community information and Q&A night be held at the Wilsons Creek Public School as soon as possible in regards to the collapsed portion of the Wilsons Creek Road.
2. That staff be directed to arrange the session in liaison with the School and to undertake a letterbox drop to all properties affected and to the broader school community.
3. That as many Councillors as possible attend, together with all relevant Community Infrastructure staff, to present all relevant information to the community to take and to provide answers to questions.
4. That a representative of NSW DoPI (Fisheries) be invited to attend. (Richardson)

The motion was put to the vote and declared carried.

2. Park and Ride

12-875 Resolved:

1. That Council submit an Expression of Interest (EOI) for the Regional Development Australia Fund Round 4.
2. That the project involve the provision of a park and ride scheme to operate during school holiday and long weekend periods.
3. That the project incorporates the following aspects as part of the submission:
 - a) Use of Byron Regional Sports and Cultural Centre as a Northern parking site and Red Devil Park or other suitable Southern site
 - b) Road and traffic readjustment creating a bus transit lane along Shirley Street
 - c) An entrance into the Jonson Street (North) carpark for buses
 - d) The closure of Jonson street, from Marvel Street to Bay Street to vehicles (not including the Jonson Street/Lawson Street roundabout) for the creation of a pedestrian precinct.
 - e) Changes to parking time limits
 - f) Promotional and marketing development
 - g) Informative Street signage

4. That, as matching funding is a declared RDA preference, matching funding be considered from the following:
 - a) Income derived from parking/bus fees
 - b) A low interest, infrastructure renewal scheme loan
 - c) Paid parking
 - d) Footpath dining fees
 - e) Other possible funding streams identified.
 - f) A combination of the above
5. That staff consult with the Sunshine Coast Council to gain information and logistics from the Noosa Heads park and ride model.
6. That the following plans and policies be considered to support the EOI
 - Byron Shire Council Community Strategic Plan 2022
 - Tourism Management Plan 2008-2018
 - The NSW State Plan (2010)
 - Far North Coast Regional Strategy (2006)
 - Northern Rivers Regional Plan (2011)
 - Community Economic Development Policy
 - Strategic Transport Statement (Transport Policy)
 - Improving the Town Centre
7. That staff present a report to the next Strategic Planning Committee Meeting on 22 November 2012 of possible Round 3 projects. (Richardson)

The motion was put to the vote and declared carried.

3. Suffolk Park Sportsfield/Skatepark upgrade

Moved: That in order to progress the Suffolk Park Sportfield/Skatepark upgrade:

1. Staff liaise with the Suffolk Park Progress Association to determine a priority of works.
2. Subject to agreement arising from the meeting in 1. above:
 - a) Council call for quotes within one week for detailed design and construction documentation for seating, shade, change room facility and small extension of the existing bike track and proposed new kids play area.
 - b) Within the quotes request explicit consideration of ongoing maintenance requirements and anti-vandalism design.
 - c) That up to \$30,000 be allocated, obtained from available s94 open space contributions. (Richardson)

AMENDMENT

12-876 Resolved that a report be brought to Council regarding the following:

In order to progress the Suffolk Park Sportfield/Skatepark upgrade:

1. Staff liaise with the Suffolk Park Progress Association to determine a priority of works.
-

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

8 NOVEMBER 2012 (12 of 21)

2. Subject to agreement arising from the meeting in 1. above:
- a) Council call for quotes within one week for detailed design and construction documentation for seating, shade, change room facility and small extension of the existing bike track and proposed new kids play area.
 - b) Within the quotes request explicit consideration of ongoing maintenance requirements and anti-vandalism design.
 - c) That up to \$30,000 be allocated, obtained from available s94 open space contributions. (Woods/Cubis)

The amendment was put to the vote and declared carried.

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

The meeting adjourned for lunch at 1.00pm and reconvened at 1.35pm.

PROCEDURAL MOTION

- 12-877 Resolved** that Report No 12.21 be lifted off the table. (Richardson/Woods)

The motion was put to the vote and declared carried.

Report No. 12.21. PLANNING - Proposed West Byron Voluntary Planning Agreement

(continued)

File No: #E2012/12399

- 12-878 Resolved** that Council delegate the General Manager and Mayor to negotiate the draft Voluntary Planning Agreement with Department of Planning and the Applicant in accordance with the terms outlined in the Attached Confidential Annexure 10(b) (#E2012/7303) with the following alterations:

- a) That the mini bypass not be included in the VPA and instead the VPA include the major bypass through to Browning Street.
- b) That the VPA include funding for a component of a Park & Ride system.
- c) Delete point 9 in the Confidential Annexure 10(a). (Richardson/Ibrahim)

The motion was put to the vote and declared carried.

All Councillors voted in favour of the motion.

NOTICES OF MOTION

Notice of Motion No. 8.1. Draft LEP Exhibition Period

#E2012/13959

- 12-879 Resolved** that Council extend the exhibition period of the Draft LEP for an additional 30 days making the total exhibition period 90 days. (Woods/Cubis)

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

8 NOVEMBER 2012 (13 of 21)

12-880 Resolved that Cr Cameron be granted a two minute extension to his speech.
(Woods/Richardson)
The motion was put to the vote and declared carried.

The motion (Woods/Cubis) was put to the vote and declared carried.

Notice of Motion No. 8.2. Mayors Discretionary Allowance - Digital TV for Mullumbimby Hospital

2

12-881 Resolved:

1. That Council endorse the donation of \$295 to the Mullumbimby Hospital Auxiliary for the purchase of one digital television.
2. That Council advertise the donation in accordance with Section 356 of the Local Government Act 1993. (Richardson/Woods)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.3. Byron Shire Identity Social Media Case Study #E2012/15256

12-882 Resolved:

1. That two case studies be undertaken at no cost to Council to ascertain the community and visitor response to the Tourism Management Plan identity (#1136785).
2. That the two case studies be:
 - a) A page within a mobile phone App accompanying for the *UpLift Festival* (December 20-23, 2012)
 - b) A page within the *I Love Byron Bay* mobile phone App.
3. That the case study be conducted for the 2012/13 Summer season.
4. That upon completion, data be obtained outlining levels of engagement, user feedback and possible further implementation. (Richardson/Cameron)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.4. Koala Crossing #E2012/14556

12-883 Resolved that this matter be deferred to the Ordinary Meeting of 6 December 2012.
(Woods/Cameron)

The motion was put to the vote and declared carried.

Notice of Motion No. 8.5. Invitation for hardship consideration
#E2012/14902

12-884 Resolved:

1. That Council direct staff to use Council's Rates and Charges - Financial Hardship Policy No. 09/003 to provide guidance to assess any Hardship Application from Ms Michaelis, for Council.
2. That, subject to the associated assessment process determining hardship, a maximum one year repayment plan including a requirement for consent to the registration of a caveat over the subject land be offered for the Water & Sewer Development Charges applicable to Byron Shire Council (being \$21,057, current as at 30 June 2012 subject to indexation) for the strata application 10.2011.565 for 21 Balemo Drive, Ocean Shores.
3. That this resolution does not apply to the Rous Water Bulk Water Charge (being \$8,645 current as at 30 June 2012 subject to indexation)
4. That Council note consideration of this matter has occurred as a result of the review and adoption of the new s64 Development Charging Plans and its specific impact on this particular application. (Richardson/Spooner)

The motion was put to the vote and declared carried.

PETITIONS

1. Settlement Road Mullumbimby

The Mayor tabled a petition containing 49 signatures which states:

"We, the undersigned residents of Settlement Road, wish to draw your attention to the present condition of Settlement Road, Mullumbimby and request an urgent response to our issues of concern....."

SUBMISSIONS AND GRANTS

There were no submissions or grants tabled.

DELEGATES' REPORTS

1. Local Government Association Conference, Dubbo (Cr Richardson)

On one hand it was really disappointing as to the bully boy atmosphere there eg one councillor did a motion about scooter legislation as a transport vehicle that has no legislation whatsoever eventhough bikes do etc. Living around here we know there is an issue with accidents and footpaths and stuff. All this councillor wanted to do was get a motion up to get the State to look at it, she was derided, heckled, laughed at to the point of tears. I sat through that for two days and I was quite shocked to be honest and there was a lot of party political aspects where they

look like the last election of the local government – a lot of wounds were unhealed. Liberal party versus Greens versus labour versus whatever. People were very happy to show their flag and I thought I was at an audition for State and Federal parliamentarian behaviour. It was really disappointing. Outside that, the motions themselves and you can probably gather I won't be rushing off to go again next year – but outside that interestingly there were a few unanimous votes, one of which was our support for trying to remove the copyright nature of DA drawings. I was asked about that again yesterday. So that did get broad support to try to remove that from copyright – there was broad support for coal seam gas motions and there was also broad support for a suite of motions which were focused around our lighting – the fact that its about 30% of our energy bills – our street lights, we used to own our street lights – they were taken away from us and yet we still have to maintain them. So there is a suite of motions to either ask for them back or that if we can't have them back, can we at least influence the type of energy that they use whether they be LED, we have no real input into that. That also went unanimously. There were about 94 motions some of which were pretty city-centric but also there was overwhelming concern about submission fatigue and I wonder whether the Executive Team can support that motion with state government reviews both the Local Government Act and the independent review constantly requiring submissions were during the election campaign and the next bunch is all over Christmas, so you could be cynical and suggest they don't want too many submissions but there is a lot of nervousness and quite overt consternation both about the timing, about the amount that Local Governments are being requested to submit and also that the "A" word that was always in the room of amalgamation. Brad Hazzard spoke and used all those great words like we want to get on with the job and no red tape which generally means no community consultation or no environmental impact studies etc but the devil is in the detail, we will see. It was an interesting couple of days and one which made me very happy to be home

2. Via Byron (Cr Cubis)

There was a request from Via Byron community that an ex officio position be made on the Tourism Advisory Committee because they are going to work in parallel (*indecipherable*) I think, so eventhough that there may be some people on it that may be on both probably better that we officially do it.

Cr Richardson asked Cr Cubis – an ex officio position on Via Byron? Cr Cubis responded that the position be made available on the Tourism Advisory Committee for a Via Byron delegate.

Cr Richardson added probably the best way to do it would be to convene the committee then change its scope because I think we also need to get rid of the subjects, the rural, the small, I think we are grown up enough now to have broader membership, not sure we can do that because we are now already advertising.

Cr Cubis added that there was a request earlier last week and I missed it because we jumped over delegates reports.

Cr Richardson advised he would take that on board and asked the Acting Executive Manager, Society and Culture if there is a way to change the membership format now?

The Acting Executive Manager, Society and Culture advised advertising had closed but Council could resolve to change the Terms of Reference for that group at any time and advised that a report would be given to Council at the Strategic Planning Meeting of 22 November 2012.

3. Far North Coast County Council (Far North Coast Weeds) (Cr Cameron)

First meeting was held several weeks ago and the elected Chair was Cr Hawden from Ballina Shire Council and Deputy Chair was Cr Hewson from Lismore Shire Council. The really big issue for Weeds and for all of us is carried over from the last few years and those who have followed it closely it has been a matter of interest to the previous Council is to who should

conduct the noxious weed function – how it should be conducted – how is it best paid for – what’s the best policy – these have all been issues that have come up. You may be aware that there has been a process of mooted structural reform to try and have the 3 county councils in our area somehow structurally reformed so that we can get better value as constituent councils. That process continues. The real question now is “Where is far north coast weeds from here?” Because the other process that overlaying that is the review of the (old name) Rural Lands Protection Board. There has been a major review over the last 12 months of that and its been suggested that a whole lot of natural resource management functions could be rolled up into a new agency which comes out of that review so that the (old) Rural Lands Protection Board would not just look after health of livestock for example and issues to do with livestock transport but would also run with other functions such as noxious weed control and maybe catchment management authority type functions or under the banner of an agency looking at these sorts of issues. However, if you had seen the result of that review, you will note that whilst it has been suggested that a whole lot of those functions do go over to the (old) Rural Lands Protection Board, noxious weeds has been left out of that so for the time being its going to continue as county council here and the issues for us are to come back to those questions that I mentioned previously is how is it best organised for us as a constituent council and how is it best organised strategically for noxious weed control across the region. Stay tuned. Your thoughts are welcome anytime and hopefully some sort of change soon.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORTS

Report No. 13.3. Presentation of 2011/2012 Financial Statements
File No: #E2012/14660

12-885 Resolved:

1. That the Audited Financial Statements and Auditors Reports for the 2011/2012 financial year be presented to the public in accordance with Section 419(1) of the Local Government Act 1993.
2. That Council undertake revaluation of its Water and Sewer infrastructure assets in 2012/13 utilising external valuers with funding from existing operational water and sewer budgets.
3. That Council undertake revaluations of operational land, buildings, other structures in 2012/13 utilising external valuers with funding from the assets revaluation reserve restricted asset. (Woods/Cameron)

The motion was put to the vote and declared carried.

Report No. 13.4. Council Meeting Schedule for 2013
File No: #E2012/13756

12-886 Resolved:

1. That Council adopts the following schedule of Ordinary and Strategic Planning Committee Meetings for the 2013 calendar year.
-

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

8 NOVEMBER 2012 (17 of 21)

Ordinary Meetings	Strategic Planning Committee Meetings
14 February 2013	
28 February 2013	
14 March 2013	28 March 2013
11 April 2013	
18 April 2013 ¹	
9 May 2013	23 May 2013
13 June 2013	
27 June 2013	

Mid Year Recess July

8 August 2013	
22 August 2013	
12 September 2013	26 September 2013
10 October 2013	
24 October 2013	
14 November 2013 ³	28 November 2013 ³
5 December 2013 ²	
19 December 2013 ²	

1. April date moved due to Anzac Day
2. December dates moved forward due to Christmas
3. May need to change due to Conference

2. That the Ordinary Meetings commence at 10.30am and conclude no later than 6.00pm unless otherwise resolved by Council.
3. That the Strategic Planning Committee Meetings commence at 9.00am and conclude no later than 5.00pm unless otherwise resolved by Council.
4. That Council hold all Ordinary Meetings in the Council Chambers Mullumbimby.
(Richardson/Woods)

The motion was put to the vote and declared carried.

Report No. 13.6. 2013 Proposed Compliance Priorities Program

File No: #E2012/11094

Moved:

1. That this report be noted.
2. That the proposed 2013 Compliance Priorities Program (Annexure 9 #E2012/8276) be adopted.
(Ibrahim/Wanchap)

AMENDMENT

Moved:

1. That this report be noted.
2. That the proposed 2013 Compliance Priorities Program (Annexure 9 #E2012/8276) be adopted with the following amendment to 1. Very High Priorities:
 - 1.1 Any development, action, works, activity or use
 - 1.1.1 that places people's lives at risk,
 - 1.1.2 of the nature of unauthorised commercial shared accommodation

1.1.3 of the nature of unauthorised tourist facilities (noting that legal action against such establishment may only be taken pursuant a resolution of Council).

(Richardson/Spooner)

The amendment was put to the vote and declared lost.

Crs Ibrahim, Cubis, Woods and Wanchap voted against the amendment.

The motion was put to the vote and declared lost.

Crs Cubis, Woods, Richardson and Spooner voted against the motion.

SOCIETY AND CULTURE - EXECUTIVE MANAGER'S REPORT

Report No. 13.14. Temporary Vehicle Camping in the Byron Shire

File No: #DM1239930

- 12-887 Resolved** that the Byron Regional Sport and Cultural Complex not be used for temporary vehicle camping due to the limited availability of facilities and potential for conflict with other users of the complex. (Ibrahim/Richardson)

The motion was put to the vote and declared carried.

WATER AND RECYCLING - EXECUTIVE MANAGER'S REPORT

Report No. 13.15. Options Report Lot 2 Bayshore Drive Byron Bay

File No: #E2012/14262

12-888 Resolved:

1. That Council amalgamates the "access handle" from Lot 1 DP 1004514 with Lot 2 DP 1004514 to create the largest possible useable land area to implement a subdivision on Lot 2 DP1004514 Bayshore Drive, Byron Bay with a budget of \$10,000 from the Property Reserve.
2. That Council authorize the General Manager to sign and/or affix the Council Seal to all documentation, in relation to the amalgamation.
3. That Council receives a report on options and costs for ceasing the stockpile and storage of materials and the subsequent restoration of the site. (Cubis/Woods)

The motion was put to the vote and declared carried.

LATE REPORT - ENVIRONMENT AND PLANNING AND ORGANISATIONAL SUPPORT

Report No. 15.1. BSC ats Kruger LEC 10692/2012

File No: 10.2011.44.1 x 80.2012.12.1 #E2012/16681

12-889 Resolved that subject to Tony Kruger:

- (a) discontinuing Land and Environment Court Proceedings No 10692 of 2012 on the basis of each party bearing their own costs by 16 November 2012; and

BYRON SHIRE COUNCIL

- (b) preparing and submitting to the Council as the relevant planning authority by 30 November 2012 a planning proposal (as described in Section 55 of the Environmental Planning and Assessment Act 1979) with the intended effect of amending Byron Local Environmental Plan 1988 so as to rezone part of the land legally described as Lot 1 DP 857013 (Old Bangalow Road Byron Bay) (Land) to "2(t) Tourist Area Zone" being the land that is generally within the yellow outline shown on the attached plan prepared by Chris Pratt and dated 6 November 2012 and otherwise rezoning the remainder of the Land "7(b) Coastal Habitat Zone";

That Council will:

- (c) consider the planning proposal (referred to in (b)) by 20 December 2012 and thereafter forward the planning proposal to the Minister for Planning for a determination to be made under section 56(2) of the Environmental Planning and Assessment Act 1979 (the "Gateway Determination") with a request for delegation of the relevant plan making functions to Council;
- (d) waive the Council's fees for processing and considering the planning proposal referred to in (b) except for any fees or expenses relating to the public notification and advertising of the planning proposal;
- (e) suspend enforcement action relating to buildings erected on and the use of Lot 1 in Deposited Plan 857013 for the purpose of tourist facilities whilst the planning proposal is being progressed except for any action in respect of a building on the said land that becomes a danger to the public or any action in respect of any activity carried out on the said land that constitutes or is likely to constitute a life threatening hazard or a threat to public health or public safety. (Spooner/Woods)

The motion was put to the vote and declared carried.

URGENCY MOTION

1. Regional Development Australia Funding

- 12-890 Resolved** that Council discuss the Regional Development Australia Funding as a matter of urgency. The urgency being that the Expression of Interest is due by 6 December 2012. (Woods/Richardson)

The motion was put to the vote and declared carried.

URGENCY MOTION

- 12-891 Resolved** that Council prepare an Expression of Interest for Round 3 to RDA Northern Rivers by 6 December 2012:

Part 1 - Support this as the Byron Shire Council project to be submitted for EOI to RDA Northern Rivers and that staff be directed to incorporate this project in 2012-2016 Delivery Program as developed in conjunction with the Community Strategic Plan.

Part 2 - To use part or all of S94 roads funding of \$71,000 (currently available) to conduct detailed road design and quantity survey of master plan precincts so that as future s94 funding becomes available, funding can be used to develop future stages of Tweed Street Redevelopment Project. (Woods/Spooner)

The motion was put to the vote and declared carried.

URGENCY MOTION

2. Environmental Planning and Assessment Amendment Bill 2012

- 12-892 Resolved** that Council discuss the business at this meeting as a matter of urgency as this Bill is being debated upon in State Parliament within a week. (Richardson/Wanchap)

The motion was put to the vote and declared carried.

URGENCY MOTION

- 12-893 Resolved** that Council:

1. Writes to the Minister for Planning, the Minister for Local Government seeking their support to prevent the Environmental Planning and Assessment Amendment Bill 2012 becoming law and calls on the Government to not proceed with those aspects of the Environmental Planning and Assessment Amendment Bill 2012 that limit and restrict Development Control Plans for the following reasons:
 - (a) That these proposed laws are in breach of this government's "[Contract with NSW](#)" where the current Premier promised that his government would '*return planning powers to the community*' and '*give communities a say again in the shape of their community*'.
 - (b) That this proposed change comes in the middle of a State-wide review of planning in NSW and pre-empts the outcome of this process.
 - (c) That Council recognises the importance of Council's Development Control Plans that are the fine-grained planning regulations that set out important planning controls to protect the amenity and character of local areas:
 - (d) That the Government's proposed Environmental Planning and Assessment Amendment Bill 2012 will make a number of changes which will greatly reduce the capacity of DCPs to protect local amenity and character including:
 - (i) Proposed changes will prevent councils from considering the cumulative impact of developments.
 - (ii) Proposed changes so that maximum entitlements under DCPs such as the height and size of buildings will become "as of right entitlements" rather than the maximum allowable.
 - (iii) Providing developers with the ability to avoid compliance with DCPs if the DCP is thought to "unreasonably restrict development";
 - (iv) Restricts the importance of DCPs to merely 'guidelines', without any statutory status.
 - (e) The vital importance of Part J in the Byron DCP in assisting in coastal planning matters. (Richardson/Cameron)

The motion was put to the vote and declared carried.

BYRON SHIRE COUNCIL

ORDINARY MEETING MINUTES

8 NOVEMBER 2012 (21 of 21)

URGENCY MOTION

3. Maintenance of Byron Bay CBD plants

- 12-894 Resolved** that the matter of the urgency be considered – the urgency being the urgent maintenance of Byron CBD plants due to lack of water. (Cubis/Woods)

The motion was put to the vote and declared carried.

URGENCY MOTION

- 12-895 Resolved** that Council provide watering and other maintenance as required to Byron Bay CBD gardens as a matter of urgency. (Cubis/Woods)

The motion was put to the vote and declared carried.

- 12-896 Resolved** to recommit the vote on Report 13.6. (Richardson/Spooner)

The motion was put to the vote and declared carried.

Report No. 13.6. 2013 Proposed Compliance Priorities Program

File No: #E2012/11094

12-897 Resolved:

1. That this report be noted.
2. That the proposed 2013 Compliance Priorities Program (Annexure 9 #E2012/8276) be adopted. (Richardson/Spooner)

The motion was put to the vote and declared carried.

There being no further business the meeting concluded at 4.12pm.

I hereby certify that these are the true and correct Minutes of this Meeting
as confirmed at Council's Ordinary Meeting on 6 December 2012.

.....
Mayor Simon Richardson