

BYRON SHIRE COUNCIL

Extraordinary Meeting Minutes
8 December 2011

INDEX OF ITEMS DISCUSSED

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BYRON SHIRE COUNCIL

EXTRAORDINARY MEETING MINUTES

8 DECEMBER 2011 (1 of 11)

MINUTES OF THE BYRON SHIRE COUNCIL EXTRAORDINARY MEETING HELD ON THURSDAY 8 DECEMBER 2011 COMMENCING AT 8.37AM AND CONCLUDING AT 2.02PM
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#1172562

PRESENT: Cr J Barham (Mayor), Cr B Cameron (arrived at 8.39am), Cr T Heeson, Cr P Morrisey, Cr S Richardson (arrived at 11.00am) Cr R Staples, Cr T Tabart, Cr R Tucker and Cr D Woods

Staff: Ray Darney (Acting General Manager)
Mark Arnold (Executive Manager Corporate Management)
Greg Ironfield (Acting Executive Manager Society and Culture)
Phil Holloway (Executive Manager Community Infrastructure)
Shannon McKelvey (Executive Manager Organisational Support)
Sharyn French (Manager Community Planning and Natural Resources)
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

Cr Woods declared a pecuniary interest in an urgency motion that would be raised at the end of the meeting. The nature of the interest being that she is an owner of a residence on The Terrace at Brunswick Heads.

PROCEDURAL MOTION

11-994 Resolved that the order of business be changed to deal with Notices of Motion 8.4 and 8.5 later on the agenda once Cr Richardson has arrived. (Barham/Tabart)

The motion was put to the vote and declared carried.

NOTICES OF MOTION

Notice of Motion No. 8.7. Pre Plan Section 94 funds expenditure report

COR405527 #1166875

11-995 Resolved:

1. That Council receive a report to the first meeting of 2012 identifying the funds held in the Section 94 - Pre-Plan-General Fund with options/limitations for the expenditure of approximately \$1m.
2. That Council undertake consultations with bush fire and surf life saving services in the Shire to explore expenditure of current 2005 dedicated s94 funds.
3. That clarification of balances of funding in that area be identified. (Barham/Tabart)

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Cr Cameron arrived at 8.39am.

The motion was put to the vote and declared carried.

Notice of Motion No. 8.8. Sustainability Advantage and Energy Saver Program

COR405527 #1165358

- 11-996 Resolved** that Council join the Sustainability Advantage program offered by the Office of Environment and Heritage and identify the Environment Levy as a source of funds for the Council contribution to the audit. (Barham/Tabart)

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

Notice of Motion No. 8.9. Disability lift acquisition

COR405527 #1166870

- 11-997 Resolved** that Council allocate funds from S94 Shire Support services to purchase a disability lift that would be available for use at the Byron Regional Sport and Cultural Complex but would also be available for other facilities in the Shire as a transportable piece of equipment. (Barham/Staples)

The motion was put to the vote and declared carried.

COMMUNITY INFRASTRUCTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.6. Bangalow Weir (swimming pool) failure

File No: ENG091067 #1140946

11-998 Resolved:

1. That \$20,000 be allocated from Council's Risk Management Reserves to fund an options study as soon as possible into the preferred actions for resolving the failure of the Bangalow Weir.
2. That Council note the Heritage Study conducted by Angela Jones in 1998 and consult with Rous Water regarding connecting to Country project which involves works below the weir.
3. That, as a matter of urgency, a meeting be held with Councillors, the public, Bangalow Historical Society, Bangalow Weir group, Bangalow Landcare and Bangalow Rivercare.
4. That Council note Question with Notice from the Ordinary Meeting held on 18 December 2008 regarding Bangalow Swimming Pool maintenance and with reference to the risk management report. (Staples/Barham)

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

Management Comment

In relation to a Question with Notice from the Ordinary Meeting held on 18 December 2008 regarding the Bangalow Swimming Pool (Weir) a risk management assessment was undertaken in September 2009 which included a visual assessment of the facility including equipment, public open space, the weir and signage. The risk assessment did not include a structural assessment.

Management provided a copy of the assessment dated 28 September 2009 by email (#1172132) to Councillors on 30 November 2011.

PROCEDURAL MOTION

11-999 Resolved that the order of business be changed to deal with Reports 12.11 and 12.19 next on the Agenda. (Barham/Staples)

The motion was put to the vote and declared carried.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.11. Request for Tender - Commercial Activities Sub-Licences
File No: BEN400000 #1161772

11-1000 Resolved:

1. That Council:
 - a) adopt the amendments to Policy 5.52 – Commercial Activities on Coastal and Riparian Crown Reserves as detailed at Annexure 1(a) (#939163), and:
 - i) clarification of sub licence definition; and
 - ii) the attachment of the section 34A license agreement between BSC and the Crown as an annexure to the Policy.

to enable the calling of Tenders for Commercial Activities, and that public comment not be sought on the amended Policy.

- b) call tenders to establish sub-licences for Commercial Activities for Commercial Surf Schools, Personalised Surf Schools and Sea Kayak Tours with the inclusion of the assessment criteria and weightings defined below in the request for tender document:

Tenders will be evaluated against ten (10) Assessment Criteria, which are provided below. The criteria included in the tender specification are:

CRITERIA	WEIGHTING
Sample safety plan	Mandatory
Experience in the activity	Essential
Knowledge of local conditions	Essential
Experience of environmentally acceptable operations	Very Important
Safety generally	Very Important
Education	Very Important
Experience of meeting licence conditions	Very Important
Licence fee	Very Important
Compatibility with reserve purpose	Important
Promotion of reserve	Important

To enable calculation of an accurate and objective score for each tender, the following weightings will be set in the Tender Assessment Plan:

CRITERIA	WEIGHTING
Sample safety plan	Mandatory
Experience in the activity	20%
Knowledge of local conditions	20%
Experience of environmentally acceptable operations	10%
Safety generally	10%
Education	10%
Experience of meeting licence conditions	10%
Licence fee	10%
Compatibility with reserve purpose	5%
Promotion of reserve	5%

2. That a report be provided to the Reserve Trust Committee in relation to the position, access, design and an indicative costing for the provisions of trailer parking for Sea Kayak operators on R82000 at Byron Bay Main Beach adjacent to the Clarkes Beach Car Park.
(Barham/Tucker)

The motion was put to the vote and declared carried.

SOCIETY AND CULTURE – EXECUTIVE MANAGER’S REPORT

Report No. 12.19. Status report on the implementation of the Disability Access and Inclusion Plan 2008-2013

File No: ADM303000 #1162927

11-1001 Resolved:

1. That Council receive in February 2012 a revised Review of the Disability Access and Inclusion Plan 2008-2013 and any subsequent resolutions including 10-1118 and ensure the review of actions correlate to actual numbering in the Plan.
2. That on page 6 of 66 of Annexure 20(b) (#790622), remove the second word of the second paragraph ie remove "draft".
3. That Council investigate the following items:
 - a) storage facility of free wheeler beach wheelchair for Brunswick, consult with Surf Life Saving club;
 - b) explore the purchase of additional or new wheelchair (Crown Reserves funds);
 - c) to update the Mobility Map for the Shire, specifically north of the Shire, refer resolution 10-98.
4. That Council investigate Accessible Communities Funding and any other opportunities for funding to progress actions (page 4 of 7 Annexure 20(a) (#1162829)).
5. That Council receive advice on the new Guidelines to Premises Standards that commenced on 1 May 2011.

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6. That Council develop a media release and advertising to advise of an opportunity identified on page 5 of 7 of Annexure 20(a) with reference to "This Christmas give the gift of respect - no permit, no parking."
7. That Council refer the Disability Access and Inclusion Plan 2008-2013 (#790622) and this progress report (#1162829) to the new Access Committee members on appointment.
(Barham/Cameron)

11-1002 Resolved that Cr Barham be granted an extension of two minutes to her speech.
(Cameron/Staples)

The motion was put to the vote and declared carried.

*The motion (Cameron/Staples) was put to the vote and declared carried.
Cr Tucker voted against the motion.*

GENERAL MANAGER - COMMITTEE REPORT

Report No. 13.1. Internal Audit Advisory Committee Minutes of 18 October 2011
File No: COR252000 #1166122

11-1003 Resolved that Council note the minutes of the Internal Audit Advisory Committee Meeting held on 18 October 2011.
(Tucker/Woods)

11-1004 Resolved that in relation to Report No. 4.2. – Accumulated Surplus (Working Funds) and Reserves as at 30 June 2011 (Corporate Management FIN551000 #1149500), Council adopt:

Committee Recommendation IA 4.2.1

That Council adopt the accumulated surplus (working funds) and reserves balances as shown at Note 6 to the General Purpose Financial Statements (#1152154) and indicated in the attachments (#1123692, #1135806) to this report as at 30 June 2011.
(Tucker/Woods)

11-1005 Resolved that in relation to Report No. 4.3. – Investigation into Conduct related to Purchasing and Procurement, Gifts and Benefits, Conflicts of Interest and use of Council Property - Review and Report on use of purchase requisition (cheque requisitions) (Corporate Management HRM403500 #1151526), Council adopt:

Committee Recommendation IA 4.3.1

- a) That Council note this report.
- b) That Council include an audit of the cheque requisition records including the electronic funds transfer system in the Audit Plan for provision of Internal Audit Services.
(Tucker/Woods)

11-1006 Resolved that in relation to Report No. 4.4. – BRSCC Revised Procurement Plan 30 September 2011 (Community Infrastructure COR710100 #1149340), Council adopt:

Committee Recommendation IA 4.4.1

That the revised Procurement Plan for the Byron Regional Sport and Cultural Complex (Annexure 3 #1153348) be reported to Council.
(Tucker/Woods)

*The motions were put to the vote and declared carried.
Crs Barham and Cameron voted against the motions.*

Cr Richardson arrived at 11.00am.

The meeting adjourned at 11.01am for a break and reconvened at 11.20am.

NOTICES OF MOTION

Notice of Motion No. 8.4. Audit of pathways and pedestrian crossings as per the Disability Access and Inclusion Plan 2008-2013

COR405527 #1159700

Moved:

1. That a full audit be conducted by Council on the levels of compliance of pathways and pedestrian crossings in Byron Shire and be brought to Council.
2. That the audit commence in Byron Bay as a matter of urgency and a Byron Bay specific report be brought to Council upon its completion. That the report include any costs involved in rectifying any non compliant areas.
3. That the report outline with whom the responsibility lay to rectify any non-compliant public access areas and consider any liability or insurance issues attached to any contracts.
4. That any Council costs be sourced from Section 94 funds if possible.
5. That these measures are considered necessary to mitigate against any potential for indirect discrimination, defined as, "where there is a condition or requirement imposed which may be the same for everyone, but which unfairly, excludes or disadvantages people with a disability", as per Council's Disability Access and Inclusion Plan 2008-2013 and supported by the Disability Discrimination Act 1992 (DDA). (Richardson/Barham)

AMENDMENT

11-1007 Resolved:

1. That in the Disability Access and Inclusion Plan, at section 3.3 Upgrade of Pathways and Pedestrian Crossings be treated as "critical" rather than "ongoing".
2. That a full audit be conducted by Council on the levels of compliance of pathways and pedestrian crossings in Byron Shire and be brought to Council.
3. That the report include any costs involved in rectifying any non compliant areas.
4. That the report outline with whom the responsibility lay to rectify any non-compliant public access areas and consider any liability or insurance issues attached to any contracts.
5. That any Council costs be sourced from Section 94 funds if possible.
6. That these measures are considered necessary to mitigate against any potential for indirect discrimination, defined as, "where there is a condition or requirement imposed which may be the same for everyone, but which unfairly, excludes or disadvantages people with a disability", as per Council's Disability Access and Inclusion Plan 2008-2013 and supported by the Disability Discrimination Act 1992 (DDA). (Staples/Cameron)

The amendment was put to the vote and declared carried.

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

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

Crs Tucker, Woods and Heeson voted against the motion.

Notice of Motion No. 8.5. Creation of Byron Bay and Surrounds Business Roundtable Initiative

COR405527 #1164505

11-1008 Resolved:

1. The Council note that the title of the Notice of Motion was intended to read "Creation of Byron Shire Business Roundtable Initiative".
2. That Council organise an informal roundtable meeting in order to facilitate clear communication between Councillors, Council staff, business groups and individuals in Byron Shire.
3. That the roundtable be advertised two weeks prior to the meeting and groups and individuals are to be invited to attend and to propose items for discussion.
4. That the relevant Executive Managers attend to address submitted items for discussion and to outline BSC items.
5. That the meetings occur quarterly. (Richardson/Barham)

The motion was put to the vote and declared carried.

Cr Tabart voted against the motion.

CORPORATE MANAGEMENT – EXECUTIVE MANAGER’S REPORT

Report No. 12.8. Council Meeting Schedule for 2012

File No: COR405520 #1148556

11-1009 Resolved:

1. That Council adopts the following schedule of Ordinary and Strategic Planning Committee Meetings for the 2012 calendar year.

Ordinary Meetings	Strategic Planning Committee Meetings
9 February 2012	
1 March 2012	
22 March 2012	29 March 2012
12 April 2012	
26 April 2012	
17 May 2012	24 May 2012
7 June 2012	
28 June 2012	

Mid Year Recess July

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9 August 2012	
30 August 2012	
Local Government Election 8 September 2012	
	27 September 2012
11 October 2012	
25 October 2012	
8 November 2012	22 November 2012
6 December 2012 ¹	
20 December 2012 ¹	

1. December dates moved forward due to Christmas

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 and Strategic Planning Committee Meetings in the Council Chambers Mullumbimby. (Barham/Tabart)

AMENDMENT

Moved:

1. That Council adopts the following schedule of Ordinary and Strategic Planning Committee Meetings for the 2012 calendar year.

Ordinary Meetings	Strategic Planning Committee Meetings
9 February 2012	
23 February 2012	
8 March 2012	22 March 2012
12 April 2012	
26 April 2012	
10 May 2012	24 May 2012
14 June 2012	
28 June 2012	

Mid Year Recess July

9 August 2012	
23 August 2012	

Local Government Election 8 September 2012

	27 September 2012
11 October 2012	
25 October 2012	
8 November 2012	22 November 2012
6 December 2012 ¹	
20 December 2012 ¹	

1. December dates moved forward due to Christmas

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 and Strategic Planning Committee Meetings in the Council Chambers Mullumbimby. (Tucker/Woods)

The amendment was put to the vote and declared lost.

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

The motion was put to the vote and declared carried.

Crs Tucker, Woods and Heeson voted against the motion.

URGENCY MOTION

1. Expression of Interest for Market Licences

11-1010 Resolved that the matter of the Draft Expression of Interest for Market Licences be discussed as a matter of urgency. The nature of the urgency being that an alternative assessment criteria is proposed and that if successful, will need to be placed on public exhibition in a timely manner to coincide with the closure of the current public exhibition of Draft Policy 5.51, Markets on Council Owned and/or Controlled Land, and the Draft Expression of Interest for Market Licences and thus, early resolution is required. (Richardson/Tabart)

The motion was put to the vote and declared carried.

Crs Tucker, Woods and Heeson voted against the motion.

Cr Heeson left the meeting at 12.40pm and did not return.

11-1011 Resolved:

1. That Council place on public exhibition, Draft 2 Expression of Interest for Market Licences, for a period of 28 days, with the following amendments from the Draft Expression of Interest for Market Licences:

Replace the assessment criteria 1, 2 and 3 (page 8) with:

- a) Sample draft plan of management, including stallholder and product criteria, safety and site management - 20%
- b) Experience in the activity and of meeting licence conditions - 20%
- c) Knowledge of local market culture - 20%
- d) Experience and/or commitment to environmentally responsible operations and initiatives - 10%
- e) Experience in and/or commitment to socially responsible operations and initiatives, as per Council's Policy 09/008 "Social Impact Assessment Policy"- 10%
- f) Licence fee - 10%
- g) Commitment to Public Value Objectives contained in Council's Policy 5.51 "Markets on Council Owned and/or Controlled Land" - 10%
 - i) Small business
 - ii) Tourism
 - iii) Employment
 - iv) Registered charities and/or incorporated not-for-profit associations
 - v) Art, craft and cultural heritage/sustainable agriculture

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2. That Council note that the above criteria are in accordance with principles of adopted plans and strategies including Tourism Management Strategy, Community Economic Development Strategy, Sustainable Agriculture Strategy and the Cultural Policy and Plan.
3. That at the end of the first exhibition period, all authors of submissions be advised of the second exhibition. (Richardson/Tabart)

PROCEDURAL MOTIONS

11-1012 Resolved that Cr Cameron be granted a two minute extension to his speech. (Barham/Staples)

The motion was put to the vote and declared carried.

11-1013 Resolved that Cr Barham be granted a two minute extension to her speech. (Tabart/Staples)

The motion was put to the vote and declared carried.

11-1014 Resolved that the matter rest on the table while the meeting adjourns for lunch.

(Barham/Tabart)

The motion was put to the vote and declared carried.

Crs Barham, Richardson and Tabart voted against the motion.

The meeting adjourned at 1.03pm for lunch and reconvened at 1.30pm. Cr Cameron left the Extraordinary Meeting to attend another Council meeting.

11-1015 Resolved that the matter be lifted from the table.

(Tucker/Woods)

The motion was put to the vote and declared carried.

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

Crs Tucker and Woods voted against the motion.

URGENCY MOTIONS

2. Official opening of the Byron Regional Sport and Cultural Complex

11-1016 Resolved that Council consider the matter of setting a date for the official opening of the BRSCC as a matter of extreme urgency, the nature of the urgency being that:

- a) Council/Mayor needs to contact official guests in a timely manner; and
- b) Council will be in recess until after the proposed date. (Tucker/Barham)

The motion was put to the vote and declared carried.

11-1017 Resolved:

1. That Council sets the date for the official opening of the of the BRSCC as 3/4 February 2012.
2. That Council seek approval from the Department of Infrastructure in relation to the proposed official opening in accordanc with the requirements of the Funding Agreements (RLCIP and Better Regions Funding). (Tucker/Barham)

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The motion was put to the vote and declared carried.

3. Compulsory acquisition of Brunswick Heads road reserve land

Cr Woods left the meeting at 1.40pm in accordance with her earlier declared pecuniary interest in this matter.

11-1018 Resolved that the matter of Brunswick Heads road reserve land be discussed as a matter of urgency. The nature of the urgency being that the process of acquisition appears to be well advanced (as far as councillors are informed) and if action is to be taken it needs to be initiated before the Christmas break. (Tabart/Staples)

The motion was put to the vote and declared carried.

11-1019 Resolved that Council seek urgent legal advice on the validity of the state government's compulsory acquisition of the Brunswick Heads road reserve lands with a view to initially seeking an injunction to halt the process and then, if justified, to have the acquisition overturned. (Tabart/Staples)

*The motion was put to the vote and declared carried.
Crs Tucker and Staples voted against the motion.*

There being no further business the meeting concluded at 2.02pm.

I hereby certify that these are the true and correct Minutes of this Meeting as confirmed at Council's Ordinary Meeting on 9 February 2012.

.....
Mayor Jan Barham