

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Attendance

Cr P W Silver (Mayor - in the chair), S L Cadwallader, B C Smith, K H Johnson, P J Moore, R A Hordern, D E Wright, J L Johnson, A J Brown and S M Meehan.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Regulatory Services Group Manager), Karina Vikstrom (Acting Strategic Services Group Manager) and Sandra Bailey (Secretary) were in attendance.

There were 12 people in the gallery at this time.

1. Australian National Anthem

The National Anthem was performed by Nick Wheeler.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

3. Apologies

Nil

4. Confirmation of Minutes

270111/ 1 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 16 December 2010, with a correction to Item 5 – Declarations of Interest and to the declaration made by Cr Cadwallader on Item 11.3. The nature of interest should read “she is a civil celebrant”.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

5. Declarations of Interest and Reportable Political Donations

Cr Cadwallader – declared an interest in Item 8.1 – DA 2007/703 – Dual Key Arrangements – Riverside Suites. (Nature of Interest: pecuniary – she is a holiday accommodation provider in Ballina). She will be departing the meeting while the matter is discussed.

Cr Cadwallader – declared an interest in Item 10.8 – Flat Rock Tent Park – Adoption of Fees and Charges 2011/12. (Nature of Interest: pecuniary – she is a holiday accommodation provider in Ballina). She will be departing the meeting while the matter is discussed.

Cr K Johnson – declared an interest in Item 13.3 – Notice of Motion – Moratorium on Coal Seam Gas Mining. (Nature of Interest: non pecuniary – he is a shareholder in Metagasco who mine gas locally). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Moore – declared an interest in Item 10.6 – Legal Cases – Status. Nature of Interest: non pecuniary - anything related to the Condon Group due to a perceived conflict of interest). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Meehan – declared an interest in Item 10.5 – Policy (Review) – Donations – Rates and Charges, and Item 13.4 – Notice of Motion – Backlog Sewer. Nature of Interest: non pecuniary – she is a recipient of the backlog sewer program). She will be remaining in the meeting while the matters are discussed and voting on the matters.

Cr J Johnson – declared an interest in Item 11.1 – Energy Savings – Hot Water Heating Systems. (Nature of Interest: non pecuniary – he works for a company which deals with solar hot water systems). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Hordern – declared an interest in Item 8.1 – DA 2007/703 – Dual Key Arrangements – Riverside Suites and Item 10.8 – Flat Rock Tent Park – Adoption of Fees and Charges 2011/12. (Nature of Interest: non pecuniary – she is a holiday accommodation provider in Ballina). She will be remaining in the meeting while the matters are discussed and voting on the matters.

Cr Brown – declared an interest in Item 10.1 – Use of Council Seal, and in particular US11/02. (Nature of Interest: non pecuniary – he is a part-time employee of GS & JL Charters Pty Ltd, trading as Avis Northern Rivers). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Brown – declared an interest in Item 10.10 – Tender – Lease of Car Rental Concession Desks. (Nature of Interest: pecuniary – he is a part-time employee of GS & JL Charters Pty Ltd, trading as Avis Northern Rivers). He will be departing the meeting while the matter is discussed.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Cr Silver – declared an interest in Item 8.1 – DA 2007/703 – Dual Key Arrangements – Riverside Suites. (Nature of Interest: significant non pecuniary – he is an owner of a strata lot in the Riverside Suites complex). He will be departing the meeting while the matter is discussed.

Cr Silver – declared an interest in Item 13.3 – - Notice of Motion – Moratorium on Coal Seam Gas Mining. (Nature of Interest: non pecuniary – he is a licensed crown water irrigator). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Silver – declared an interest in Item 17.1 of the Confidential Session – Property Acquisition – Road Widening. (Nature of Interest: pecuniary – he is an owner of commercial property in Main Street, Alstonville). He will be departing the meeting while the matter is discussed.

Cr Silver - later in the meeting declared an interest in Item 10.7 – Joint Regional Planning Panel – Delegations of Functions. (Nature of Interest: significant non pecuniary – he is a member of the panel). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Moore – later in the meeting declared an interest in Item 10.6 – Legal Cases – Status. (Nature of Interest: non pecuniary - anything related to the Condon Group due to a perceived conflict of interest). He departed the meeting during discussions on this item.

There were no reportable political donations.

6. Deputations

- **John Keane** – spoke in support of Item 13.6 – Notice of Motion – Draft Policy – Concealed Water Leaks.
- **Robyn Sparkes** – spoke in relation to Item 11.5 – Registration of Interest – Organics Processing.

Cr Silver declared a pecuniary interest in Items 17.1 and 8.1 and left the meeting at 09:14 AM.

Cr Meehan, Deputy Mayor, assumed the Chair.

- **Sheree Hing, Spastic Centre** – spoke in relation to Item 17.1 of the Confidential Session – Property Acquisition – Road Widening.
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7. Mayoral Minutes

Nil items

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

8. Regulatory Services Group Reports

Cr Cadwallader declared a pecuniary interest in Item 8.1 and left the meeting at 09:19 AM.

8.1 DA 2007/703 - Dual Key Arrangements - Riverside Suites

File References	DA 2007/703
Applicant	sj Connelly Pty Limited (on behalf of owners of the relevant apartments and no longer with the support of the Owners Corporation)
Property	Lots 12,13,16,22,25,30,31,34,37,38 in SP 70891, comprising parts of No. 25-35 Fawcett Street, Ballina known as "Riverside Suites" (formerly "Riverside Ramada Hotel") Commercial/Tourist/Residential Development
Proposal	DA 2007/703 - Change of Use and required Structural/Layout Changes to allow "Dual Key" apartments (for 10 apartments) – i.e. originally involved 11 apartments however one owner has withdrawn from the proposal
Effect of Planning Instrument	The land is zoned Business under the provisions of the Ballina LEP

270111/ 2 RESOLVED

(Cr David Wright/Cr Ben Smith)

1. That Development Application No. 2007/703 for an additional ten (10) "dual key" apartments be **REFUSED** for the following reasons:
 - a) The required consent/support of the Owners' Corporation has not been obtained.
 - b) The development application has provided insufficient information for the Council to reasonably assess and support the physical suitability of the land and building for the proposed development.
 - c) The development application has provided insufficient information with respect to the likely impacts of the proposed development, to enable the Council to reasonably assess and support the proposed development.
 - d) The development application has not demonstrated consistency or adequately considered all relevant matters under Section 79C of the Environmental Planning and Assessment Act 1979.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

- e) The development application has not demonstrated that it can comply with the Environmental Planning and Assessment Regulations 2000.
 - f) The building does not allow for the suitable functioning/level of amenity and services for additional "dual key" apartments and the existing apartments/commercial premises within the building.
 - g) The development application as submitted is not in the public interest.
2. That Council continue to follow through with the previously issued and existing Orders dated 4 July 2008 to ensure that the relevant Strata lots cannot be readily occupied by two unrelated and/or separately paying guests at any time thereby creating a public fire and smoke safety risk and unauthorised land-use.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Silver, Cr Cadwallader

Cr Silver returned at 09:30 AM and resumed the Chair
Cr Cadwallader returned at 09:30 AM

8.2 Compliance Work Plan 2010/2011 - Half Yearly Update

270111/ 3 RESOLVED

(Cr Keith Johnson/Cr Sharon Cadwallader)

That Council notes the contents of the half yearly report for the Compliance Work Program for 2010/11.

FOR VOTE - All Councillors voted unanimously.

8.3 DA Outstanding Report - January 2011

270111/ 4 RESOLVED

(Cr Sharon Cadwallader /Cr Keith Johnson)

That Council notes the contents of the report on the status of outstanding development applications for January 2011.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

8.4 DA Statistic Report - 1 December to 31 December 2010

270111/ 5 RESOLVED

(Cr Susan Meehan/Cr Robyn Hordern)

That Council notes the contents of the report on development consent statistics for 1 December 2010 to 31 December 2010.

FOR VOTE - All Councillors voted unanimously.

9. Strategic & Community Services Group Reports

9.1 Policy (Review) - Vehicle Signs

270111/ 6 RESOLVED

(Cr Alan Brown/Cr Sharon Cadwallader)

1. That Council adopt the amended Vehicle Signs Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

FOR VOTE - All Councillors voted unanimously.

10. General Manager's Group Reports

10.1 Use of Council Seal

270111/ 7 RESOLVED

(Cr Alan Brown/Cr Ben Smith)

That Council approves the attachment of the Common Seal to the following documents.

US11/01	<p>Deed of Consent & Assignment of Lease: Ballina Byron Gateway Airport, aircraft hangar lease site lot 8 DP 1059312 from Presime Pty Ltd as sole tenant, to Presime Pty Ltd and Timbavati Pty Ltd as joint tenants.</p> <p>Explanation: The Director of Presime Pty Ltd, Mr Raemon McEwen, is in the process of selling a part interest in the aircraft hangar to Timbavati Pty Ltd (Director: Johannes Joachim Alberts). The proposed sale of a part interest requires an amendment to the lease agreement by way of a Deed of Consent & Assignment.</p>
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**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

US11/02	<p>Council to GS & JL Charters Pty Ltd trading as Avis Northern Rivers, and Gary Alan Charters and Jennifer Leigh Charters - Licence Agreement to occupy Ballina Byron Gateway Airport Business Centre office spaces designated as 'Area 4A' & 'Area 4B' and the 7 associated car parking spaces fronting the Ballina Byron Gateway Airport Business Centre.</p> <p>Explanation: The 4 year Licence Agreement to occupy Ballina Byron Gateway Airport Business Centre office spaces designated as 'Area 4A' & 'Area 4B' expired on 31 December, 2010. The proposed new Licence Agreement is for the 4 year term 1 January 2011 to 31 December 2014. The new agreement will include a demolition or break clause and is based on a current market valuation.</p>
US11/03	<p>Council to Kingmill Pty Ltd trading as Thrifty Car Rentals - Licence Agreement to occupy Ballina Byron Gateway Airport Business Centre office space designated as 'Area 2' and the 3 associated car parking spaces fronting the Ballina Byron Gateway Airport Business Centre.</p> <p>Explanation: The 4 year Licence Agreement to occupy Ballina Byron Gateway Airport Business Centre office space designated as 'Area 2' expired on 31 December, 2010. The proposed new Licence Agreement is for the 4 year term 1 January 2011 to 31 December 2014. The new agreement will include a demolition or break clause and is based on a current market valuation. For further information, Kingmill Pty Ltd as 'head licensee' is in the process of 'sub-licencing' the licensed area to Jonday Pty Ltd for the continued conduct of the Thrifty car rental franchise at the Airport.</p>
US11/04	<p>Deed of Release of Restriction - 10 Amy Place, Ballina.</p> <p>Explanation: This property adjoins the "Big Prawn" site and at the time of subdivision, a restriction on use was placed on part of this property that no buildings or improvements shall be placed or erected on an area of the property, given its close proximity to an LPG tank located on the "Big Prawn" site. The LPG tank has now been removed therefore the restriction can be lifted.</p>
US11/05	<p>Temporary Licence Agreement from Council to Nasmyth Pty Ltd atf Piper Drive Unit Trust - Lot 89 in an unregistered plan of subdivision of Lot 100 DP 1086895 and Lot 872 DP 1158234. Term of three (3) months from 1 February, 2011.</p> <p>Explanation: Council has issued a Contract of Sale of Land to Nasmyth Pty Ltd atf Piper Drive Unit Trust for Lot 89 on Cessna Crescent. Contracts exchanged on 22 December 2010. The Temporary Licence Agreement for the purpose of occupation and development of the property prior to settlement is required due to advised delays in the plan registration process at the Land and Property Management Authority. Settlement of the</p>

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

	Contract for Sale of Land is subject to and conditional upon the obtaining of any necessary statutory approvals to and the due registration as a Deposited Plan with the Registrar General of a Plan of Subdivision creating the lot (Lot 89). In the event of such Plan of Subdivision not being registered within 6 months of the date of the contract (22/12/10) then either party shall be at liberty to rescind the agreement.
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FOR VOTE - All Councillors voted unanimously.

10.2 Investments - December 2010

270111/ 8 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council notes the record of banking and investments for December 2010.

FOR VOTE - All Councillors voted unanimously.

13.4 Notice of Motion - Backlog Sewer

270111/ 9 RESOLVED

(Cr Alan Brown/Cr Peter Moore)

That Council approve an extension of the backlog sewer program to ten years for the eligible commercial properties with the remainder of the ten years to commence from 1 July 2011.

FOR VOTE - All Councillors voted unanimously.

13.5 Notice of Motion - Smith Drive, Ballina

270111/ 10 RESOLVED

(Cr Alan Brown/Cr Peter Moore)

That an urgent report be prepared relating to the condition of Smith Drive infrastructure including the repair or replacement of flood gates and draining, road widening and pavement maintenance.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

270111/ 11 RESOLVED

(Cr Phillip Silver /Cr Ben Smith)

That Council hold discussions with the RTA Pacific Highway project to investigate early works for Smith Drive in anticipation of it becoming the new Wardell service road as part of the Woodburn-Ballina Pacific Highway upgrade.

FOR VOTE - All Councillors voted unanimously.

Adjournment

The Mayor declared the meeting adjourned at 10.24 am.

The meeting resumed at 10.52 am

10.3 Policy (Draft) - Tender and Quotation Evaluations

270111/ 12 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council approves the exhibition of the draft policy, Tender and Quotation Evaluations, as attached to this report.

FOR VOTE - All Councillors voted unanimously.

10.4 Policy (Review) - Child Protection

270111/ 13 RESOLVED

(Cr Peter Moore/Cr David Wright)

1. That Council adopt the amended Child Protection Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. The Ballina Shire Councillors be subjected to completing a working with children check for working with children in NSW and that this be included as part of the policy and as part of Councillors' induction program.
4. That Council write to the Division of Local Government asking that elected Councillors be required to undertake working with children checks in NSW.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

5. That a motion be submitted to the Shires Association, LGA and other relevant organisations in relation to point 4.

FOR VOTE - All Councillors voted unanimously.

10.5 Policy (Review) - Donations - Rates and Charges

270111/ 14 RESOLVED

(Cr Sharon Cadwallader /Cr Susan Meehan)

1. That Council amend the existing Donations - Rates and Charges policy to allow the policy to focus only on broad categories of properties that are used to provide a community service and to ensure that the donations provided are equitable and consistent across those categories.
2. The categories of organisations and donations based on point one are as per the following table:

Category/ Organisation	Rates	Water		Sewer		Waste	Storm water	On Site Septic
		Access	Consumed	Access	Usage			
Category A (donation of all rates and charges)								
Surf Life Saving Clubs	100%	100%	100%	100%	100%	100%	100%	100%
CWA Halls	100%	100%	100%	100%	100%	100%	100%	100%
SES	100%	100%	100%	100%	100%	100%	100%	100%
Category B (donation of rates and any other fixed charges not directly related to a measurable "user pays" charge)								
Pre-schools Playgroups	100%	100%	Nil	100%	Nil	Nil	100%	100%
Public Halls	100%	100%	Nil	100%	Nil	Nil	100%	100%
Scouts and Girl Guides	100%	100%	Nil	100%	Nil	Nil	100%	100%
Agricultural Societies	100%	100%	Nil	100%	Nil	Nil	100%	100%
Surf Life Saving Clubs - Jet Boat Rescue Service	100%	100%	Nil	100%	Nil	Nil	100%	100%
Category C (as per other Council policies)								
Backlog Sewer	Nil	Nil	Nil	100%	100%	Nil	N/A	N/A

3. That Council include the RSL Sub-Branch building at 13 Bugden Avenue, Alstonville in the same category as public halls due to the building having the same use.
4. The groups now excluded from the policy will, from 2011/12 onwards, need to apply for financial support through Council's annual community donations program.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

5. That Council exhibit the amended policy for public comment with a report to be submitted back to Council following that exhibition period.
6. That Council, as part of the exhibition process, write to all the organisations impacted by any proposed changes in the policy, to inform them of those changes.
7. That Council confirms that these changes are to commence from the 2011/12 financial year, subject to the amended policy being adopted following the exhibition period.
8. That Council advise the Spastic Centre that whilst acknowledging the beneficial services provided by the organisation to the community it is only appropriate that Council decline the request for a donation of rates and charges at 2B High Street Alstonville for the 2010/11 rating year as this commitment was included in lease signed by the Spastic Centre.
9. That Council approves the donation of 2010/11 rates and fixed and service charges levied on the Ballina Jet Boat Rescue leased land at Regatta Avenue Ballina, estimated to total \$688.00, with the service to be responsible for on-going charges based on usage levels (i.e. water consumption and waste).
10. That the donations budget be expanded to \$100,000.
11. That part of the annual donations process Council provide a report for the benefit of the public on the total donations made, both in cash and in-kind.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr J Johnson, Cr Meehan
AGAINST VOTE - Cr K Johnson, Cr Brown

10.6 Legal Cases - Status

270111/ 15 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council notes the contents of the legal status report.
2. That Council approves an increase in the planning legal expenses budget from \$400,000 to \$600,000 with the funding for this increase to be considered as part of the December 2010 Quarterly Financial Review which is scheduled to be submitted to the February 2011 Ordinary Meeting.

Cr Moore declared a non pecuniary interest in this item and left the meeting at 11.44 am

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Moore

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Cr Moore returned at 11:47 AM

10.7 Joint Regional Planning Panel - Delegation of Functions

270111/ 16 RESOLVED

(Cr Susan Meehan/Cr Robyn Hordern)

That Council approves the delegation of the functions outlined in the Minister for Planning's Instrument of Delegation dated 3 December 2010 to the General Manager, as attached to this report.

FOR VOTE - All Councillors voted unanimously.

Cr Cadwallader declared a pecuniary interest in Item 10.8 and left the meeting at 11:47 AM.

10.8 Flat Rock Tent Park - Adoption of Fees and Charges 2011/12

270111/ 17 RESOLVED

(Cr Alan Brown/Cr Susan Meehan)

That Council adopts the draft Flat Rock Tent Park fees and associated notes, as presented to the December 2010 meeting and subsequently exhibited for 2011/12.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Cadwallader

Cr Cadwallader returned at 11:48 AM

10.9 Borrowing Requirements - 2010/2011

270111/ 18 RESOLVED

(Cr Keith Johnson/Cr Susan Meehan)

1. The General Manager is authorised to select the best rate quoted for a borrowing of \$2.5 million for the Teven Bridges.
2. The use of the Council seal is authorised on all loan documentation associated with this report.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Cr Brown declared a pecuniary interest in Item 10.10 and left the meeting at 11:52 AM.

10.10 Tender - Lease of Car Rental Concession Desks

270111/ 19 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council accepts the tenders from:
 - a) AVIS Northern Rivers
 - b) Hertz Rent a Car Lismore
 - c) Budget Car and Truck Rental
 - d) Europcar Australia
 - e) Thrifty Car Rentals

at the tendered rates for a five year period for the Airport Car Rental Concession Desks.

2. That Council authorises the Council seal to be attached to the lease documents.
3. That Council confirms that the number of car rental concession desks at the Ballina Byron Gateway Airport is to be a maximum of six.
4. That Council authorises the General Manager to write and negotiate with other potential lessees for the lease of the remaining car rental concession desk, with the outcomes from these negotiations to be submitted to Council for determination.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr J Johnson, Cr Meehan
AGAINST VOTE - Cr K Johnson
ABSENT. DID NOT VOTE - Cr Brown

10.11 Tender - Flat Rock Tent Park Management

270111/ 20 RESOLVED

(Cr Susan Meehan/Cr Keith Johnson)

1. That Council accepts the tender for the Management of the Flat Rock Tent Park from DK Hally Corporations Pty Ltd for the amount of \$84,000 + GST per annum plus 15% of operating income.
2. That Council authorises the Council seal to be attached to the contract documents.

Cr Brown returned at 12:04 PM

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan
AGAINST VOTE - Cr J Johnson

10.12 Delivery Program and Operational Plan - Timeline 2011/2012

270111/ 21 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council endorse the preliminary 2011/12 Delivery Program and Operational Plan timeline as attached to this report.

FOR VOTE - All Councillors voted unanimously.

10.13 Delivery Program and Operational Plan - 31 December 2010 Review

270111/ 22 RESOLVED

(Cr Sharon Cadwallader /Cr Robyn Hordern)

Council notes the contents of the 31 December 2010 review of the Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

10.14 Capital Expenditure - Quarterly Update

270111/ 23 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council notes the contents of the Capital Expenditure - Quarterly Update report for December 2010.
2. That Council approves the budget changes to the Commercial Property program as outlined in attachment one.

Cr Meehan left the meeting at 12:31 PM.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Meehan

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

11. Civil Services Group Reports

11.1 Energy Savings - Hot Water Heating Systems

270111/ 24 RESOLVED

(Cr Sharon Cadwallader /Cr Robyn Hordern)

1. That Council notes the contents of this report
2. That Council confirms its commitment to an on-going hot water system replacement and efficiency program that results in more sustainable systems being installed.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Meehan

Cr Meehan returned at 12:32 PM

11.2 Policy (Review) - Markets

270111/ 25 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council adopt the amended Markets Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That the General Manager convene a meeting with the Lennox Head Combined Sports Association to identify as to what the layout for the markets will be when Lake Ainsworth is in flood and the markets require relocation to Williams Reserve.

FOR VOTE - All Councillors voted unanimously.

12. Public Question Time

12.1 Ralph Moss - Child & Family Centre Porter Park

Ralph Moss – has the Council applied to Lands Board/Commission for a hearing in relation to Porter Park.

The Mayor advised that no DA has been received for any structure on Porter Park. If a DA were to be lodged, a public hearing would be held to change the Plan of Management for Porter Park.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

The General Manager advised that the land was classified as community land and Council was required to ensure that the categorisation of the land is consistent with the proposed use. There has been a person appointed to conduct a public hearing and this will be held as soon as Council knows what area of land is required to be recategorised.

Ralph Moss – will the original plans from 1969 be submitted to that public hearing?

The General Manager advised that the public will be able to make submissions to the public hearing and Mr Moss was encouraged to bring any information he has to the public hearing.

Pam Westing is the person appointed to conduct the public hearing.

12.2 Ralph Moss - Flood Gates

Ralph Moss – has anything been done with tidal flood gates given recent flooding with urban stormwater?

John Truman advised that the old gates were rusted and weren't maintained. Where Council upgrades stormwater pipes, floodgates are installed in pits. Installation of new flood gates is limited to when stormwater upgrade works are undertaken.

12.3 Robyn Sparkes - Fluoridation of Water Supply

Robyn Sparkes – approximately 5% of the population is the target group – doesn't it make more sense to target a dental hygiene program for that target group rather than fluoridate the water supply?

The General Manager advised that he believed that the target group was more than 5%.

Robyn Sparkes - were only 100 people surveyed in relation to fluoride? Shouldn't more people be surveyed? Would Council be able to do a more comprehensive survey?

The General Manager advised that Council has relied on the information from the survey, plus other information, and doesn't always survey everyone.

The Mayor advised that the majority position of Council was to advise the Department of Health to fluoride the water.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Adjournment

The Mayor declared the meeting adjourned at 12.59 pm.

The meeting resumed at 1.54 pm

11.3 Tender - Wastewater Treatment Plants Upgrade

270111/ 26 RESOLVED

(Cr Sharon Cadwallader /Cr Keith Johnson)

That a workshop be convened to present to Council information regarding the risk management approach prepared for this project and to examine any questions regarding the design and scope of works, with an Extraordinary meeting being held following the workshop (as an option) to determine the tender. The workshop to be held Tuesday 15 February at 5 pm.

FOR VOTE - All Councillors voted unanimously.

11.4 Tender - Kerbside Organics and Green Waste Collection Service

270111/ 27 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council award the contract for collection of kerbside organics and green waste to Solo Resource Recovery.
2. That Council authorise the General Manager to negotiate with Solo Resource Recovery for the supply and distribution of an in-house kitchen tidy bin to be supplied with the mobile garbage bin, and that these costs be incorporated into the current contract provided acceptable terms are achieved.
3. That Council authorises the seal to be attached to the contract and associated documents.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

11.5 Registration of Interest - Organics Processing

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Susan Meehan.

That Council call tenders for the organics processing service.

The **Motion** was **LOST**.

FOR VOTE - Cr J Johnson

AGAINST VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

270111/ 28 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That the Council not proceed, at this time, to the pricing phase for any of the submissions received in response to the request for Registration of Interest for the processing of green waste and organics, for the following reasons:
 - a. The ROI process has not identified any process substantially different to those already known to Council
 - b. Council has not yet finalised its pyrolysis investigations
 - c. Lismore City Council is in a position to provide an interim solution until the pyrolysis investigation is completed.
2. That the General Manager seek negotiations with Lismore City Council regarding arrangements to process Council's green waste and organics for a period sufficient for Council's investigation into the feasibility of pyrolysis to be completed.
3. That Council receive a further report advising of the outcomes of the negotiations from point two above.

FOR VOTE - All Councillors voted unanimously.

13. Motions on Notice

13.1 Notice of Motion - Visitor Information Centre

270111/ 29 RESOLVED

(Cr Susan Meehan/Cr Ben Smith)

That Council call for expressions of interest for a local tourism / arts and craft / produce business to lease space within the Visitor Information Centre. Any surplus funds generated from the lease are to be contained within Council's tourism budget to assist with on-going main street enhancements such as flags, banners, lights, Christmas decorations etc.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

13.2 Notice of Motion - Raising the Minimum Floor Level for new DAs

A **Motion** was moved by Cr Jeff Johnson

1. Council acknowledge that the frequency and severity of flooding on Ballina Island is likely to increase due to sea level rise and a predicted increase in severe weather events associated with climate change.
2. Council acknowledge the increasing risk that this poses to public infrastructure, private property and the ability to evacuate the Island during severe floods
3. Due to these increased risks, Council raise the minimum floor level height on Ballina Island in line with the NSW Governments Sea Level Rise Policy for all new developments excluding additions/renovations.
4. For those Development Applications affected by the minimum floor level height, that Council removes the requirements to place fill on the block.

The **Motion LAPSED.**

13.3 Notice of Motion - Moratorium on Coal Seam Gas Mining

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Sharon Cadwallader .

1. Ballina Council unreservedly supports the request of the NSW Farmers Association for a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. Write to the Premier, the Minister for Environment Climate Change, the Leader of the Opposition, the Shadow Minister for the Environment, our Local Member to strongly urge a moratorium on CSG mining and particularly the practice of hydraulic fracturing in NSW until an extensive and independent environmental impact statement has been concluded on the effects of CSG mining on the environment and in particular the effects of CSG mining on groundwater.

The **Motion** was **LOST.**

FOR VOTE - Cr Cadwallader, Cr Wright, Cr J Johnson, Cr Meehan

AGAINST VOTE - Cr Silver, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Brown

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

270111/ 30 RESOLVED

(Cr Keith Johnson/Cr Alan Brown)

That Council request DECCW, the State Department of Mines and the Federal Department of the Environment on what is known on these CSG mining practices, including the process of hydraulic fracturing in Australia and to indicate what environmental problems, if any, are known to occur and in what conditions and circumstances.

FOR VOTE - All Councillors voted unanimously.

13.6 Notice of Motion - Draft Policy - Concealed Water Leaks

270111/ 31 RESOLVED

(Cr Alan Brown/Cr Susan Meehan)

That Council receive a further report on a draft policy to be advertised for public comment on Concealed Water Leaks, similar to that presented to the December 2007 Ordinary meeting of this Council, in order to rationalise certain anomalies dealing with concealed water leaks.

FOR VOTE - All Councillors voted unanimously.

13.7 Notice of Motion - Improving Ratepayer Communication

270111/ 32 RESOLVED

(Cr Ben Smith/Cr Robyn Hordern)

That Council investigate a system that will enable ratepayers to provide feedback via their annual rates notices, potentially in the form of a survey that would then be used in turn to provide the ratepayer with targeted information/updates on their issue and what's being done in Council quarterly/annually.

FOR VOTE - All Councillors voted unanimously.

14. Advisory Committee Minutes

Nil items

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

15. Reports from Councillors on Attendance on Council's behalf

15.1 Mayoral Meetings

270111/ 33 RESOLVED

(Cr Phillip Silver /Cr Sharon Cadwallader)

That Council notes the contents of the report on Mayoral meetings.

FOR VOTE - All Councillors voted unanimously.

15.2 Cr Jeff Johnson - 2010 NSW Coastal Conference

270111/ 34 RESOLVED

(Cr Jeff Johnson/Cr Sharon Cadwallader)

That Council notes the contents of the report from Cr Jeff Johnson on his attendance at the 2010 NSW Coastal Conference.

FOR VOTE - All Councillors voted unanimously.

A **Motion** was moved by Cr Jeff Johnson

That Council receive an urgent report on the implications of using the NSW Government's Sea Level rise prediction of 90 cm instead of the currently used figure of 20 cm when determining the new floor level height for Ballina Island.

The Mayor ruled this motion out of order as this was similar to a motion which was lost earlier in the meeting.

A **Motion** was **Dissent** from the ruling of the Chair was moved by Cr Jeff Johnson

The **Motion of Dissent LAPSED.**

16. Questions Without Notice

16.1 Cr Meehan - Damaged Sign

Cr Meehan – the “Birds of the Gods” sign on the cycleway at Kingsford Smith advising of the Osprey nest has been damaged. Can we approach National Parks & Wildlife Service to have the sign replaced?

The General Manager advised yes.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

16.2 Cr Meehan - Child and Family Centre, Porter Park

Cr Meehan – are we actively engaged with the State Government in asking it to consider additional site options for the new child and family centre?

The General Manager advised that Council has resolved to offer Porter Park subject to conditions and Council does not have any other resolutions with additional sites. We have highlighted other options, but DOCS and the advisory committee have advised that Porter Park is their preferred site.

270111/ 35 RESOLVED

(Cr Susan Meehan/Cr Sharon Cadwallader)

That the matter of the new Child and Family Centre at Porter Park be dealt with as a matter of urgency.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Moore, Cr Hordern, Cr Brown, Cr Meehan

AGAINST VOTE - Cr K Johnson, Cr Wright, Cr J Johnson

A **Motion** was moved by Cr Susan Meehan and seconded by Cr Sharon Cadwallader .

That Council press the State Government for additional site options for the new Child and Family Centre with particular reference to the DET site adjacent to the rugby fields in West Ballina.

Cr J Johnson left the meeting at 04:06 PM.

Cr Moore left the meeting at 04:16 PM.

Cr Meehan withdrew the motion.

16.3 Cr Wright - Conditino of Carlisle Street, Wardell

Cr Wright –Carlisle Street in Wardell has broken up badly. Requires more than patching.

John Truman to follow up.

16.4 Cr Hordern - Cover for Taxi Ranks

Cr Hordern – advised that she had received correspondence from Cam Reynolds in relation to the provision of cover for taxi ranks.

She believed that this was a good idea and should be investigated.

The matter has been forwarded to Civil Services Group.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

16.5 Cr Hordern - Pavers in River Street, Ballina

Cr Hordern – she has witnessed people fall and slip on wet pavers in River Street, Ballina. Is there anything we can do to stop them becoming slippery in wet weather?

John Truman advised that the pavers were laid in accordance with specifications/standards but that staff would check the standards again.

16.6 Cr Hordern - Random Acts of Kindness Television Program

Cr Hordern – advised that the television program “Random Acts of Kindness” which featured Seabird Rescue and Rochelle Ferris in Ballina, will be aired on Saturday 29 January at 4.30 pm.

16.7 Cr Cadwallader - Wollongbar Sporting Fields

Cr Cadwallader – advised that she had received numerous emails relating to the access road at the proposed Wollongbar Sporting fields. Is there a meeting proposed to discuss this?

The Mayor advised that Cr Wright had attended meetings with affected residents and that a future meeting was planned for a few weeks time to discuss the matter further.

16.8 Cr Cadwallader - Truck Movements in Carlisle Street, Wardell

Cr Cadwallader – enquired as to the compliance issues relating to the quarry truck movements in Carlisle Street, Wardell.

Rod Willis advised that it was hoped that the DAs would be submitted to the February meeting.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

17. Confidential Session

270111/ 36 RESOLVED

(Cr Alan Brown/Cr Sharon Cadwallader)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

17.1 Property Acquisition - Road Widening

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is currently involved in commercial negotiations in respect to the contents of the report.

17.2 Property Acquisition - Airport Operations

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is currently involved in commercial negotiations in respect to the contents of the report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson

Cr Silver declared a pecuniary interest in Item 17.1 and left the meeting at 04:33 PM.

Cr Meehan, Deputy Mayor assumed the Chair.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

17.1 Property Acquisition - Road Widening

CF270111/001 RECOMMENDED

(Cr David Wright/Cr Robyn Hordern)

1. That Council authorises the General Manager to proceed to acquire the land identified within this report, based on an acquisition price as per Council's updated valuation for the land.
2. The Council seal is authorised to be attached to all the contract documents.
3. The funding for this acquisition is to be financed from Council's property reserves.
4. The land is to be classified operational, if acquired.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Silver, Cr Moore, Cr J Johnson

17.2 Property Acquisition - Airport Operations

CF270111/002 RECOMMENDED

(Cr Alan Brown/Cr Keith Johnson)

1. That the General Manager be authorised to finalise negotiations to purchase the site for the price stated in this report.
2. That approval be granted to affix the common seal of Ballina Shire Council upon the Contract for Sale of Land and Deed of Transfer.
3. That the land be classified as operational land in accordance with S31(2) of the Local Government Act.

Cr Silver returned at 4.40 pm and resumed the Chair

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
27/01/11 AT 9.00 AM**

Open Council

270111/ 37 RESOLVED

(Cr David Wright/Cr Susan Meehan)

That Council move into Open Council and out of Committee of the Whole.

(The Council moved into Open Council at 4.43 pm

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

Adoption of Recommendations from Confidential Session

270111/ 38 RESOLVED

(Cr David Wright/Cr Robyn Hordern)

That the recommendations made whilst in Confidential Session, being Minute Numbers CF270111/001 and 270111/002 be adopted.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Moore, Cr J Johnson

MEETING CLOSURE

4.44 pm

The Minutes of the Ordinary Meeting held on 27/01/11 were submitted for confirmation by council on 24 February 2011 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 24 February 2011.