

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
28/04/11 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), Vince Hunt (Acting Regulatory Services Group Manager), Andrew Smith (Town Planner, Regulatory Services Group), Matthew Wood (Acting Strategic & Community Services Group Manager) and Sandra Bailey (Secretary) were in attendance.

There were 13 people in the gallery at this time.

1. Australian National Anthem

The National Anthem was performed by the Sylvia Smith Singers.

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

280411/ 1 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 March 2011.

FOR VOTE - All Councillors voted unanimously.

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5. Declarations of Interest and Reportable Political Donations

- **Cr Silver** – declared an interest in Item 8.2 – DA 2010/1016 – Summerland House With No Steps. (Nature of Interest: significant non-pecuniary – he has a family business relationship with the applicant and his property is in close proximity to the House With No Steps). He will depart 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: insignificant non-pecuniary – he hold shares in a gas mining company). He will be remaining in the meeting while the matter is discussed and will participate in the voting.
- **Cr Moore** – declared an interest In Item 9.1 – Youth Council – Update. (Nature of Interest: non-pecuniary – one of the young people is his niece). He will be remaining in the meeting while the matter is discussed and will participate in the voting.
- **Cr Silver** - later in the meeting declared an interest in Item 13.3 – Notice of Motion – Moratorium on Coal Seam Gas Mining. (Nature of Interest: non significant non-pecuniary – he is a licensed ground water irrigator). He remained in the meeting while the matter was discussed and participating in the voting.

There were no reportable political donations.

6. Deputations

- **Rick Hyde** – spoke in opposition to the recommendation in Item 8.1 – DA 2010/216 – Retail Development, West Ballina.
- **Robyn Powell, Quota Club of Alstonville/Wollongbar** – spoke in opposition to the recommendation in Item 10.5 – Community Donations.
- **Terry Hanna/Nat Folks, Mojo Surf** – spoke in support of Item 13.2 – Notice of Motion – Surf Schools.
- **Marc Lyndon** – spoke in relation to Item 8.3 – DA 2010/1061 – Residential Flat – Ross Street/Fripp Lane, Ballina.

Cr Silver declared an interest in Item 8.2 and left the meeting at 09:28 AM.

Cr Sue Meehan, Deputy Mayor, assumed the Chair.

- **Brett Lacey, House with No Steps** – spoke in opposition to the recommendation in Item 8.2 – DA 2010/1016 – Summerland House with No Steps.

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7. Mayoral Minutes

Nil items

8. Regulatory Services Group Reports

8.2 DA 2010/1016 - Summerland House With No Steps

File Reference	DA 2010/1016
Applicant	Jason White – Jazz Construction (on behalf of Brett Lacey – Summerland House with No Steps)
Property	Lot 2 DP 554804, No. 253 Wardell Road, Lynwood (Summerland House with No Steps site)
Proposal	To undertake alterations and additions to an existing gift shop to enable the sale of fruit and vegetables.
Effect of Planning Instrument	The land is zoned part 1(a1) – Rural (Plateau Lands Agriculture) zone and Part 7(c) – Environmental Protection (Water Catchment) zone under the provisions of the Ballina LEP.

280411/ 2 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That DA 2010/1016 to undertake alterations and additions to an existing gift shop to enable the sale of fruit and vegetables at Lot 2 DP 554804, No. 253 Wardell Road, Lynwood be **APPROVED** subject to conditions applicable for this type of use in this locality.
2. That Council in approving this application is satisfied that the proposed development is consistent with the objectives of the 7(c) – Environmental Protection (Water Catchment) Zone.
3. The scale and nature of the proposed development is compatible with the current established uses on the site and therefore would be compatible with the rural character of the locality.

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

Cr Silver returned at 09:46 AM and resumed the Chair.

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8.1 DA 2010/216 - Retail Development, West Ballina

File Reference	DA 2010/216
Applicant	Paul R Gray Architect Pty Ltd
Property	Lot 117 DP 857966 No. 501 River Street (Pacific Highway), West Ballina
Proposal	To erect a retail complex (shops) comprising 2453m ² of floor area incorporating bulky goods retailing, general retailing, takeaway food premises, site filling, associated car parking, advertising signage and civil works
Effect of Planning Instrument	The land is zoned 2(a) – Living Area Zone under the provisions of the Ballina LEP.

280411/ 3 RESOLVED

(Cr Sharon Cadwallader /Cr David Wright)

1. That development application No. 2010/216 to erect a retail complex (shops) comprising 2453m² of floor area incorporating bulky goods retailing, general retailing, takeaway food premises, site filling, associated car parking, advertising signage and civil works be **APPROVED** subject to standard conditions of consent for a commercial retail development.
2. That Council in approving this application is satisfied that the proposed development is consistent with the current BLEP zone provisions.

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

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8.3 DA 2010/1061 - Residential Flat - Ross Street / Fripp Lane, Ballina

File Reference	DA 2010/1061
Applicant	A E Colledge
Property	Lot 1 DP 367035, No. 27 Ross Street, Ballina
Proposal	To Undertake the Staged Erection and Strata Title Subdivision of a Residential Flat Building comprising four (4) x Two Storey three (3) Bedroom Dwellings and the Demolition of the Existing Dwelling House.
Effect of Planning Instrument	The land is zoned 2(a) – Living Area under the provisions of the Ballina LEP

280411/ 4 RESOLVED

(Cr Ben Smith/Cr Keith Johnson)

That Council **APPROVE** DA 2010/1061 for the Staged Erection and Strata Title Subdivision of a Residential Flat Building comprising four (4) x Two Storey Three (3) Bedroom Dwellings and the Demolition of the Existing Dwelling House subject to the normal conditions for such a development in this locality.

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

AGAINST VOTE - Cr Cadwallader, Cr J Johnson

10.5 Community Donations

280411/ 5 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council donate \$1,000 from the General Fund to the Quota International Alstonville-Wollongbar Club for their 24th District Quota Conference 2011 and that the 2011/12 Donations Budget be reduced accordingly.

FOR VOTE - All Councillors voted unanimously.

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13.2 Notice of Motion - Surf Schools

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Peter Moore.

1. That the number of "Surf School" (typically for beginners) licences in Council's Commercial Activities on Public Land Policy be increased from three to five, under the same terms and conditions as the initial three.
2. That the number of "Stand Up Paddle Board" licences in the same policy be decreased from three to two, as Council has only issued two licences.
3. That the two new licences, as per point one, be offered to the two applicants who were unsuccessful during the recent tender process.
4. That the Commercial Activities on Public Land Policy be reviewed prior to the expiry of the current three year licence period.
5. That the existing Commercial Activities on Public Land Policy be amended to cater for the increased licences in point one.

An **Amendment** was moved by Cr Keith Johnson and seconded by Cr David Wright

1. That the number of "Surf School" (typically for beginners) licences in Council's Commercial Activities on Public Land Policy be increased from three to five, under the same terms and conditions as the initial three.
2. That the number of "Stand Up Paddle Board" licences in the same policy be decreased from three to two, as Council has only issued two licences.
3. That the two new licences, as per point one, be offered to the two applicants who were unsuccessful during the recent tender process.
4. That the Commercial Activities on Public Land Policy be reviewed prior to the expiry of the current three year licence period.
5. That the existing Commercial Activities on Public Land Policy be amended to cater for the increased licences in point one.
6. That those existing licence holders be asked to provide their support in writing before items one to five are enacted.

The **Amendment** was **LOST**.

FOR VOTE - Cr K Johnson, Cr Hordern, Cr Wright, Cr Meehan

AGAINST VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Moore, Cr J Johnson, Cr Brown

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The **Motion** was **CARRIED**, therefore it was

280411/ 6 RESOLVED

(Cr Jeff Johnson/Cr Peter Moore)

1. That the number of "Surf School" (typically for beginners) licences in Council's Commercial Activities on Public Land Policy be increased from three to five, under the same terms and conditions as the initial three.
2. That the number of "Stand Up Paddle Board" licences in the same policy be decreased from three to two, as Council has only issued two licences.
3. That the two new licences, as per point one, be offered to the two applicants who where unsuccessful during the recent tender process.
4. That the Commercial Activities on Public Land Policy be reviewed prior to the expiry of the current thee year licence period.
5. That the existing Commercial Activities on Public Land Policy be amended to cater for the increased licences in point one.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr Smith, Cr Moore, Cr J Johnson, Cr Brown

AGAINST VOTE - Cr K Johnson, Cr Hordern, Cr Wright, Cr Meehan

Adjournment

The Mayor declared the meeting adjourned at 10.57 am

The meeting resumed at 11.31 am

8.4 Asbestos Removal from the Built Environment

280411/ 7 RESOLVED

(Cr David Wright/Cr Sharon Cadwallader)

1. That Council notes the contents of this report in respect to the removal of asbestos from the built environment.
2. That in respect to asbestos management Council endorses the maintenance of the current arrangements, that include:
 - a) distribution of material published by Work-Cover and other authorities to educate people about the risks of asbestos

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- b) applying conditions to development consents where the work involves demolition or modifying buildings likely to contain asbestos material
- c) answering specific enquiries from the public, and providing material or links to authoritative information sources from Council's web-site
- d) dealing with complaints about alleged mismanagement of asbestos and enforce development conditions where necessary.

FOR VOTE - All Councillors voted unanimously.

8.5 Building Code of Australia (BCA) - Cyclone Wind Ratings

280411/ 8 RESOLVED

(Cr Alan Brown/Cr Sharon Cadwallader)

- 1. The Council notes the contents of this report on the Building Code of Australia, with particular relevance to cyclone wind ratings.
- 2. That Council continue to have discussions with the ABCB in regards to Council's concerns relating to wind speeds in the North Coast of NSW.

FOR VOTE - All Councillors voted unanimously.

8.6 Development Applications - Work in Progress - April 2011

280411/ 9 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

280411/ 10 RESOLVED

(Cr Phillip Silver /Cr David Wright)

That DA 2011/105 be called in and dealt with by Council.

FOR VOTE - All Councillors voted unanimously.

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8.7 Development Consent Statistics - March 2011

280411/ 11 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council notes the contents of the report on development consent statistics for 1 March 2011 to 31 March 2011.

FOR VOTE - All Councillors voted unanimously.

9. Strategic & Community Services Group Reports

9.1 Youth Council - Update

280411/ 12 RESOLVED

(Cr Sharon Cadwallader /Cr Peter Moore)

1. That Council notes the contents of this report concerning the establishment of the Ballina Shire Youth Council and its imminent commencement.
2. That Council endorses the following nominations for membership arising from recent recruitment:
 - Ms Amanda Brooker
 - Ms Lauren Magri
 - Mr Hayden Smith
 - Mr John Yu
3. That Council's General Manager is delegated the authority to offer additional placements on the Youth Council as further expressions of interest are received.

FOR VOTE - All Councillors voted unanimously.

280411/ 13 RESOLVED

(Cr Sharon Cadwallader /Cr Peter Moore)

That Council write to the Moree Youth Council inviting it to visit Ballina.

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

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

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9.2 Development Control Plan - Coastal Grove Lennox Head

280411/ 14 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

1. That Council endorses the exhibition of Draft Ballina Shire Combined Development Control Plan Policy Statement 20 - Coastal Grove Lennox Head and associated consequential amendments in accordance with the terms of the *Environmental Planning and Assessment Act* and associated Regulation, as attached to this report.
2. That this matter be reported back to Council for final determination following the conclusion of the public exhibition period.

FOR VOTE - All Councillors voted unanimously.

9.3 Richmond River Estuary - Management Plan

280411/ 15 RESOLVED

(Cr Alan Brown/Cr Sharon Cadwallader)

That Council provide a formal submission to the Richmond River County Council concerning the Estuary Management Study and draft Coastal Zone Estuary Management Plan for the Richmond River Estuary expressing general support for the draft documents and include the staff comments generally as follows:

- a) The governance and administration for management of the Richmond River Estuary is determined as a matter of priority to ensure effective implementation of the plan
- b) The need for the Estuary Management Committee to consider a financial/ funding model that can sustain the substantial costs associated with priority estuary-wide actions over the duration of the management plan
- c) The need for a monitoring program for the Richmond River Estuary that provides robust scientific data whilst considering the limited human and financial resources of those responsible for its implementation
- d) The review of responsibilities assigned to individual actions in light of ongoing planning reforms, particularly in regard to new planning instruments
- e) The identification of National Parks and Wildlife Service as a lead or support organisation for relevant management actions listed in the plan
- f) A reference to the importance of feral animal eradication programs in contributing to the protection and conservation of existing native floodplain vegetation

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- g) A reference to the strategically targeting of riparian weed species as assisting in the rehabilitation of riparian areas
- h) A revision of the target regarding the review of all un-sewered areas from 2015 to 2020
- i) The reiteration of the importance of the estuary as a migratory bird roosting area by including this as a focus for future community education programs.

FOR VOTE - All Councillors voted unanimously.

10. General Manager's Group Reports

10.1 Use of Council Seal

280411/ 16 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council affix the Common Seal to the following documents.

US11/10	<p>Council to Julie Bartlett - Retail Lease Agreement for Shop 1 Wigmore Arcade.</p> <p>Explanation: Shop 1 within the Wigmore Arcade has been vacant since 1 January 2008, and despite a number of viewings has been a difficult shopspace to lease, largely due to it's small area of 31 sq mtrs. Following discussions and negotiations, staff have now received a direct approach from Ms Bartlett to lease the premises which means that there is no agents 'finders fee' to pay. Ms Bartlett is proposing to open a women's fashion and accessories shop and is hoping to have the business operating from 1 May, 2011.</p>
US11/11	<p>Use of Seal: Deed of Consent & Assignment of Lease, A G McPhie to L Griffiths – Assignment of Retail Lease Agreement for Wigmore Arcade premises located at Shop 5 'Cafe Serafino'.</p> <p>Explanation: Council has received solicitor's advice that Mrs McPhie, as lessee of Wigmore Arcade premises at Shop 5, is in the process of selling her business to Ms Griffiths. Ms Griffiths was a former joint tenant, and joint owner of the 'Cafe Serafino' business for the period 29/10/03 to 17/11/05, before assigning her Retail Lease Agreement to former tenants L & A Bijl. Ms Griffiths was the originator of the current trading name, was well regarded and a satisfactory tenant. Councillors may recall that the proposed assignor, Mrs McPhie, recently purchased the Wigmore Arcade shopping complex business 'Frangipani Lifestyle' that is located at 135 River Street. Council as landlord cannot unreasonably refuse a request to assign the lease.</p>

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US11/12	<p>Deed of Rescission and Release, Arogen Pty Ltd– RFT535 Fishery Creek Water Main Underbore</p> <p>In November 2010 quotations were sought for the design and construction of a replacement of the part of the Fishery Creek watermain with a new underbored main adjacent to the northern side of Fishery Creek Bridge. Council awarded the Contract to Arogen Pty Ltd for a lump sum of \$132,000 (inclusive of GST). The commencement of the work was initially delayed by Arogen in December 2010 and January 2011 due to scheduled work conflicts. Subsequently, the design portion of the engagement was delayed pending Council's review and approval by the RTA. Additionally, Arogen submitted a variation for \$70,808.66 (incl. GST) due to design changes. Arogen were advised in a meeting with Council staff that the variation would not be approved.</p> <p>Arogen subsequently informed Council that the underbore could not be completed until August 2011, which was an unacceptable timeframe and Council issued a Contractual Notice to Show Cause against Arogen. A letter showing Cause was submitted by Arogen defending their execution of the contract and reviewed starting date, however, they offered harmless release from the Contract.</p> <p>Council staff have determined that there is a contractual case against Arogen on this matter to claim site expenses incurred. However, undertaking a legal case to pursue these claims is not considered justified due to the time, effort and costs involved. Council staff and our solicitor have prepared a Deed of Release to dissolve the contract with Arogen.</p>
US11/13	<p>Use of Seal: Deed of Variation - Licence Agreement between Ballina Shire Council and H & A Aristou - Increase in the licence area of 'Cafe Horizon' located at Ballina Byron Gateway Airport</p> <p>Explanation: The Airport Manager has increased the cafe footprint from 96.9sqm up to 127sqm, thus significantly improving the general amenity of the cafe area for the licensee and Airport patrons. The licence fee for the Agreement is currently being reviewed to market by a registered valuer, with the increased cafe floor area being taken into consideration.</p>

FOR VOTE - All Councillors voted unanimously.

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10.2 Investments Summary - March 2011

280411/ 17 RESOLVED

(Cr Keith Johnson/Cr Susan Meehan)

That Council notes the record of banking and investments for March 2011.

Cr Brown left the meeting at 12:26 PM.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Brown

10.3 Councillor - Leave of Absence

280411/ 18 RESOLVED

(Cr Keith Johnson/Cr David Wright)

1. That Cr Hordern be granted leave of absence for the July 2011 Ordinary meeting.
2. That Cr K Johnson be granted leave of absence for the May and June Ordinary meetings.

Cr Brown returned at 12:27 PM

FOR VOTE - All Councillors voted unanimously.

10.4 Councillor Attendance

280411/ 19 RESOLVED

(Cr David Wright/Cr Keith Johnson)

1. That Council approves the attendance of its nominated delegates to the Shires Association Annual Conference to be held in Sydney from 30 May - 1 June 2011.
2. That Council authorises the attendance of Cr Cadwallader at the ALGWA Conference to be held in Sydney from 26 - 28 May 2011.

FOR VOTE - All Councillors voted unanimously.

280411/ 20 RESOLVED

(Cr Susan Meehan/Cr Jeff Johnson)

That Crs Moore and Hordern be authorised to attend the Shires Association Annual Conference to be held in Sydney from 30 May – 1 June 2011.

FOR VOTE - All Councillors voted unanimously.

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10.6 Policy (Final) - Financial Planning

280411/ 21 RESOLVED

(Cr Susan Meehan/Cr Sharon Cadwallader)

That Council adopts the draft Financial Planning Policy, as amended, and as attached to this report.

Cr J Johnson left the meeting at 12:30 PM.

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

10.7 Delivery Program and Operational Plan - 31 March 2011 Review

280411/ 22 RESOLVED

(Cr Sharon Cadwallader /Cr David Wright)

1. Council notes the contents of the 31 March 2011 review of the Delivery Program and Operational Plan.
2. Council approves the removal, from the 2010/11 Operational Plan, of the actions marked as "not proceeding" as per Attachment one.

Cr J Johnson returned at 12:32 PM

FOR VOTE - All Councillors voted unanimously.

280411/ 23 RESOLVED

(Cr David Wright/Cr Sharon Cadwallader)

That Council receive a further report on the following items:

Page 3 - That Council revisit the Town & Village Entry Signs.

Page 16 - Review of Disaster Plan

New Item – Formulation of an information bag, welcome kit for new residents moving to the Shire and a phone ahead service with a follow up visit

Page 1 – Coastline Shared Path – Flat Rock to Pat Morton

Page 5 – Regional Visitor Strategy

Page 6 – Farmers' Markets

Page 8 – Ballina Business Centre

Page 9 – Finalise Ballina Floodplain Risk Management Plan

FOR VOTE - All Councillors voted unanimously.

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12. Public Question Time

12.1 Ralph Moss - Public Hearing Porter Park

Ralph Moss – have you ever read the Local Government & Environmental Assessments Acts Amendment Act 2001?

The General Manager advised that staff members would have read it.

Mr Moss made specific reference to Chapter 12 – consequences of notations on plans and in particular Clause 12.14 which deals with public hearings.

The Mayor advised Mr Moss to table the information and staff would respond.

Adjournment

The Mayor declared the meeting adjourned at 12.57 pm.

The meeting resumed at 1.45 pm

Crs J Johnson and Moore were not in attendance at this stage.

10.8 Capital Expenditure - Quarterly Update

280411/ 24 RESOLVED

(Cr David Wright/Cr Susan Meehan)

That Council notes the contents of the Capital Expenditure - Quarterly Update report for the period ending 31 March 2011.

Cr Moore returned at 01:46 PM

Cr J Johnson returned at 1.51 PM

FOR VOTE - All Councillors voted unanimously.

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11. Civil Services Group Reports

11.1 Naming Proposal - Public Roads

A **Motion** was moved by Cr Ben Smith and seconded by Cr Keith Johnson.

That Council place on exhibition the following proposed names for the Coastal Grove subdivision. If no submissions are received, these names will be adopted for use.

- Road One - Blue Seas Parade
- Road Two - Dossor Street
- Road Three - Brolga Place

An **Amendment** was moved by Cr Sharon Cadwallader and seconded by Cr David Wright

That Council place on exhibition the following proposed names for the Coastal Grove subdivision. If no submissions are received, these names will be adopted for use.

- Road One - Blue Seas Parade
- Road Two - Matilda Street
- Road Three - Brolga Place

The **Amendment** was **CARRIED** on the casting vote of the Mayor

FOR VOTE - Cr Cadwallader, Cr Hordern, Cr Wright, Cr J Johnson, Cr Meehan and the casting vote of the Mayor Cr Silver

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

The **Amendment** then became the **Motion** and was **CARRIED**, therefore it was

280411/ 25 RESOLVED

(Cr Sharon Cadwallader /Cr David Wright)

That Council place on exhibition the following proposed names for the Coastal Grove subdivision. If no submissions are received, these names will be adopted for use.

- Road One - Blue Seas Parade
- Road Two - Matilda Street
- Road Three - Brolga Place

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

AGAINST VOTE - Cr Moore

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11.2 Fishery Creek Watermain Underbore - Contractor Engagement

280411/ 26 RESOLVED

(Cr Alan Brown/Cr Robyn Hordern)

That this matter be deferred until later in the meeting.

FOR VOTE - All Councillors voted unanimously.

11.3 Policy (Revoke) - Access from Unsealed Rural Roads

280411/ 27 RESOLVED

(Cr Ben Smith/Cr Keith Johnson)

That Policy D08 Development Applications Relying on Vehicular Access from Unsealed Rural Roads policy be revoked and removed from the policy register as Council no longer requires it as provisions are adequately covered in the Ballina Shire Combined Development Control Plan (DCP) - Chapter 18 - Rural Lands.

FOR VOTE - All Councillors voted unanimously.

11.4 Policy (Review) - Contributions for Dust Sealing of Roads

280411/ 28 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council place the revised Contributions for Dust Sealing of Roads Policy, as attached to this report, on exhibition for public comment with any submissions received to be resubmitted to Council. If no submissions are received then no further action is required.

FOR VOTE - All Councillors voted unanimously.

13. Notices of Motion

13.1 Notice of Motion - Dredging

280411/ 29 RESOLVED

(Cr Susan Meehan/Cr Peter Moore)

That the draft 2011/12 Operational Plan be amended to include an action for Council to seek funding from the State and Federal Governments to assess the opportunities and constraints associated with dredging the entrance to the Richmond River and North Creek having regard to environmental, social and economic outcomes.

FOR VOTE - All Councillors voted unanimously.

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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. That Ballina Council unreservedly supports the request of the NSW Farmers Association for a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. That Council write to the NSW Premier, NSW Opposition Leader, The Federal Environment Minister and our Local Member to strongly urge a moratorium on CSG exploration and mining in NSW until an independent environmental impact statement has been concluded.

Cr Moore left the meeting at 02:17 PM.

An **Amendment** was moved by Cr Susan Meehan

1. That Ballina Council supports a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. That Council write to the NSW Premier, NSW Opposition Leader, The Federal Environment Minister and our Local Member to strongly urge a moratorium on CSG exploration and mining in NSW until an independent environmental impact statement has been concluded.

The **Amendment LAPSED**.

At this stage of the debate, Cr Silver declared a non significant non pecuniary interest in this matter –he is a licensed ground water irrigator.

An **Amendment** was moved by Cr Ben Smith and seconded by Cr Susan Meehan

1. That Ballina Council supports a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. That Council write to the NSW Premier, NSW Opposition Leader, The Federal Environment Minister and our Local Member to strongly urge a moratorium on CSG exploration and mining in NSW until an independent environmental impact statement has been concluded.

The **Amendment was LOST**.

FOR VOTE - Cr Smith, Cr Hordern, Cr Meehan, Cr Silver

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

ABSENT. DID NOT VOTE - Cr Moore

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
28/04/11 AT 9.00 AM**

The **Motion** was **CARRIED**, therefore it was

280411/ 30 RESOLVED

(Cr Jeff Johnson/Cr Sharon Cadwallader)

1. That Ballina Council unreservedly supports the request of the NSW Farmers Association for a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. That Council write to the NSW Premier, NSW Opposition Leader, The Federal Environment Minister and our Local Member to strongly urge a moratorium on CSG exploration and mining in NSW until an independent environmental impact statement has been concluded.

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

AGAINST VOTE - Cr K Johnson, Cr Hordern, Cr Brown

ABSENT. DID NOT VOTE - Cr Moore

14. Advisory Committee Minutes

14.1 Finance Committee Minutes - 7 April 2011

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Ben Smith.

That Council confirms the minutes of the Finance Committee meeting held Thursday 7 April 2011 and that the recommendations contained within the minutes be adopted.

An **Amendment** was moved by Cr Robyn Hordern and seconded by Cr Susan Meehan

That Council confirms the minutes of the Finance Committee meeting held Thursday 7 April 2011 and that the recommendations contained within the minutes be adopted, with a change to Item 4.6 (part 2) - Wardell Community Centre with the review period limited to 180 days.

The **Amendment** was **LOST**.

FOR VOTE - Cr Silver, Cr Hordern, Cr Meehan

AGAINST VOTE - Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Wright, Cr J Johnson, Cr Brown

ABSENT. DID NOT VOTE - Cr Moore

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, BALLINA, ON
28/04/11 AT 9.00 AM**

The **Motion** was **CARRIED**, therefore it was

280411/ 31 RESOLVED

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council confirms the minutes of the Finance Committee meeting held Thursday 7 April 2011 and that the recommendations contained within the minutes be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore

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

15.1 Mayoral Meetings

280411/ 32 RESOLVED

(Cr Phillip Silver /Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Moore

16. Questions Without Notice

16.1 Cr Cadwallader - Burns Point Ferry

Cr Cadwallader – what is the gross weight allowable on the cables on the ferry?

John Truman will take this question on notice.

16.2 Cr Cadwallader - Regional Library

Cr Cadwallader – can we have an update on the Regional Library?

The General Manager advised that Lismore City Council should have the agreement back to Council in May. This will be reported to Council for information.

16.3 Cr Cadwallader - Power Blackouts

Cr Cadwallader reported on a power blackout which occurred at East Ballina last night.

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16.4 Cr Hordern - Builders commencing before 7 am

Cr Hordern – how do we monitor/stop builders commencing work on building sites before 7 am?

Vince Hunt advised that there is always a condition of development consent requiring that no works are to commence before 7 am.

If anyone has a complaint, they should lodge their complaint with Council and staff will investigate.

16.5 Cr Hordern - Shared Pathways

Cr Hordern – asked if segways were allowed on shared pathways

John Truman to liaise with Cr Hordern..

16.6 Cr Wright - Gap Road Alstonville - Drainage

Cr Wright – he has been advised that there is an overflow from the Council Nursery onto the verge on Gap Road.

John Truman to investigate.

16.7 Cr J Johnson - Organics

Cr J Johnson – can we have an update on whether a contract has been signed for the delivery of organics to Lismore.

John Truman advised that the contract has not yet been signed.

16.8 Cr J Johnson - Coast Road Landslip

Cr J Johnson – has the geotechnical report been received for the Coast Road landslip?

John Truman advised that the report had been received in a draft form. John will issue a Cr bulletin response.

Cr J Johnson - can the timing on the red light in the afternoon be looked at?

John Truman will investigate.

16.9 Cr Meehan - Vale John MacGreagor

Cr Meehan – Vale Mr John MacGregor, a well known local identity, who passed away recently.

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16.10 Cr Meehan - Illegal Clearing

Cr Meehan – could Council have an update on the cutting into the rainforest at Compton Drive/Hill Street.

Vince Hunt advised that this was illegal clearing and building works undertaken by a ratepayer. He advised that Council was currently following a legal process to resolve the situation.

16.11 Cr Meehan - Illegal Landuse

Cr Meehan – could Council have an update on the illegal selling of shipping containers on the highway near the Richmond Christian College.

Vince Hunt advised that this is an illegal use of the land and the owners have been written to.

Cr K Johnson left the meeting at 03:19 PM.

16,12 Cr Silver - Public Hearing on Porter Park

Cr Silver – what is Council's degree of participation in the public hearing relating to Porter Park.

The General Manager advised that the public hearing is to be held on Tuesday 31 May at 6 pm at the Ballina RSL Club.

He advised that members of the public may make a submission to the hearing. Given that there is an independent person conducting the hearing, Councillors may or may attend depending on their own personal preference.

17. Confidential Session

280411/ 33 RESOLVED

(Cr David Wright/Cr Ben Smith)

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 Land Acquisition - Water Reservoirs

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: -

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- (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 with the owner of the property and any publication of this information could prejudice those negotiations.

17.2 Land Sale - Southern Cross Industrial Estate

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 and any publication of this information could prejudice those negotiations.

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

Cr K Johnson returned at 03:23 PM during the Confidential Session

17.1 Land Acquisition - Water Reservoirs

CF280411/001 RECOMMENDED

(Cr Ben Smith/Cr Ben Smith)

1. That Council adopts Option One as outlined in this report and authorises the General Manager to proceed to acquire the subject site identified within this report, based on the terms and conditions negotiated.
2. The Council seal is authorised to be attached to all the contract documents.
3. The site is to be classified as operational land.

Cr K Johnson returned at 03:23 PM during the Confidential Session

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

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17.2 Land Sale - Southern Cross Industrial Estate

CF280411/002 RECOMMENDED

(Cr David Wright/Cr Sharon Cadwallader)

That Council not proceed with the sale of the subject land as outlined in this report.

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

AGAINST VOTE - Cr Silver

ABSENT. DID NOT VOTE - Cr Moore

Cr J Johnson left the meeting at 03:46 PM and Cr K Johnson left the meeting at 03:52 PM during the Confidential Session.

Open Council

280411/ 34 RESOLVED

(Cr David Wright/Cr Robyn Hordern)

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

FOR VOTE - All Councillors voted unanimously.

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

(The Council moved into Open Council at 3.52 pm)

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

Adoption of Recommendations from Confidential Session

280411/ 35 RESOLVED

(Cr David Wright/Cr Robyn Hordern)

That the recommendations made whilst in Confidential Session, being Minute Numbers CF280411/001 and CF280411/002 be adopted.

FOR VOTE - All Councillors voted unanimously.

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

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11.2 Fishery Creek Water Main Under Bore - Contractor Engagement

280411/ 36 RESOLVED

(Cr David Wright/Cr Ben Smith)

1. That Council accept the quotation from Rock Drilling Australia Pty Ltd to complete RFQ558 Fishery Creek Water main Under Bore for an amount of \$233,112 including GST.
2. That Council record, in accordance with Section 55(3) of the Local Government Act 1993, that in the extenuating circumstances of incurring ongoing site maintenance costs, the calling of tenders for the contract referred to in point one, would not have provided a satisfactory result or financial benefit to Council.
3. That Council authorises the General Manager to sign the contracts and attach the Council seal to the documents.

FOR VOTE - All Councillors voted unanimously.

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

MEETING CLOSURE

3.54 pm

The Minutes of the Ordinary Meeting held on 28/04/11 were submitted for confirmation by council on 26 May 2011 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 26 May 2011.