
WYONG SHIRE COUNCIL

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER WYONG CIVIC CENTRE, HELY STREET, WYONG ON 12 May 2010 COMMENCING AT 5:00:00 PM

PRESENT

Councillors R L Graham (Chairperson), G P Best, D J Eaton, L A Matthews, E M McBride, J J McNamara, W R Symington, D P Vincent, L D Webster and S A Wynn.

IN ATTENDANCE

Acting General Manager, Acting Director Shire Planning, Director Shire Services, Director Corporate Services, Acting Manager Future Planning, Manager Development Assessment and Project Director Mardi to Mangrove Project.

Manager Governance and Administration, Manager Customer and Community Services, two strategic planners and two administration staff.

The Mayor reported that:

- ❖ Wyong Shire Council was awarded a *Programs, Projects & Partnerships Award* under the NSW Local Government Cultural Awards 2010 for its 2009 public art program. The public art program involved working with the community to create a variety of public art works within the recently developed Canton Beach Accessible Playground, Spring Creek Reserve and The Entrance Community Centre. The Mayor thanked all involved in this project in particular community artists Margrete Erling and Vicki Sienczuk and Council's Cultural Planner, Stuart Slough.
- ❖ Councillor Matthews reported on two events she attended on behalf of Council at the weekend, a Mother's Day Classic Fun Run held at Long Jetty to raise money for cancer research and also the Mother of the Year fundraising campaign organised by the Australian-Filipino Central Coast Inc. which both she and Councillor McBride attended.
- ❖ Councillor Best attended a meeting held at Warnervale Hall regarding issues relating to the development of the Warnervale Town Centre which was attended by staff, Councillors Eaton and McNamara and also David Harris MP, Member for Wyong.
- ❖ Councillor Wynn advised that she attended a Graffiti removal at San Remo shops which was part of the Keep San Remo Beautiful project. She also reported on the Budgewoi Dune Planting event where Councillor Vincent and staff were also in attendance.

The Mayor, Councillor Graham, declared the meeting open at 5.00 pm and advised in accordance with the Code Of Meeting Practice that the meeting is being recorded.

Mr John Hardwick read an acknowledgment of country statement and delivered the opening prayer.

APOLOGIES

There were no apologies.

At the commencement of the Ordinary Meeting Report No 3.1, was dealt with first then the remaining reports in order. However for the sake of clarity the reports are recorded in their correct agenda sequence.

1.1 Disclosure of Interest

3.1 Woolworths – Lake Munmorah

Councillor Best declared a non-pecuniary insignificant conflict of interest in the matter for the reason that family members have been employed casually with this organisation.

Councillor Best stated:

“I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I believe it will not affect my capacity to vote independently on this issue.”

7.5 Notice of Motion - Independent Legal Advice

Ms Gina Vereker, Acting General Manager declared a non-pecuniary significant conflict of interest in the matter for the reason that there may be a potential conflict on the basis that staff within the Shire Planning Department may be involved in the issues mentioned left the chamber at 7.13 pm, took no part in discussion and returned to the chamber at 7.57 pm.

7.5 Notice of Motion - Independent Legal Advice

Mr Paul Wise, Director Shire Services declared a non-pecuniary significant conflict of interest in the matter for the reason that there may be a potential conflict due to possibility that staff from the Shire Services Department may be impacted by the report and motion, left the chamber at 7.13 pm, took no part in discussion and returned to the chamber at 7.57 pm.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor MATTHEWS:

That Council receive the report on Disclosure of Interest and note advice of disclosures.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.2 Inspections

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor WYNN:

That Council receive the report on Inspections.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA,
SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.3 Address by Invited Speakers

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor MCNAMARA:

- 1 That Council receive the amended report on Invited Speakers.**
- 2 That Council agree meeting practice be varied to allow reports from Directors and/or the General Manager to be dealt with following an Invited Speaker's address.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

1.4 Confirmation of Minutes of Previous Meeting

Councillor Best left the chamber at 5.45 pm and returned to the chamber at 5.47 pm and as a result took no part in voting.

RESOLVED unanimously on the motion of Councillor MCBRIDE and seconded by Councillor MCNAMARA:

That Council confirm the minutes of the previous Ordinary Meeting of Council held on 28 April 2010.

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

Business Arising

Councillor Eaton referred to a Mayoral Minute on the previous Agenda regarding the sale of the Wyong Police Station and requested an update. The Mayor advised that he met with the Minister for the Central Coast and Mr David Harris MP, Member for Wyong who advised him that this building is to go to auction tomorrow.

1.5 Mayoral Minute - Call for an Extension of the Public Exhibition Period of the Wallarah 2 Coal Project Environmental Assessment

Councillor Best left the chamber at 5.45 pm and returned to the chamber at 5.47 pm during consideration of this item.

RESOLVED unanimously on the motion of Councillor GRAHAM:

- 1 That Council request an extension of the Public Exhibition period for the Wallarah 2 Coal Project Environmental Assessment of 30 days from the Department of Planning to enable the community more time to assess the information provided.**
- 2 That Council seek urgent legal advice as to the validity of the current exhibition process.**
- 3 That Council request the Department of Planning to distribute the exhibition material more widely throughout the Central Coast.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

2.1 Notice of Intention to Deal with Matters in Confidential Session

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor WEBSTER:

- 1 That Council consider the following matter in Confidential Session, pursuant to Sections 10A(2)(b) of the Local Government Act 1993:**

8.1 - Application for Financial Assistance for Relocation of Storage Van at Toowoan Bay Holiday Park.
- 2 That Council note its reason for considering Item No 8.1 in confidential session is that discussion is anticipated on personal matters relating to hardship of residents or ratepayers.**
- 3 That Council request the General Manager to report on this matter in open session of Council.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

3.1 Woolworths - Lake Munmorah

Councillor Best declared a non-pecuniary insignificant conflict of interest in the matter for the reason that family members have been employed casually with this organisation.

Councillor Best stated:

"I choose to remain in the chamber and participate in discussion and voting as the conflict has not influenced me in carrying out my public duty because I believe it will not affect my capacity to vote independently on this issue."

Mr David Hopper, representing Woolworths Ltd, addressed the meeting at 5.13 pm, answered questions and retired at 5.30 pm.

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor WYNN:

- 1 ***That Council endorse the provision of the shared pathway by way of a staged construction as follows:***
 - ***Pathway 1 and Pathway 2 on the attached plan (Figure 1) in conjunction with the construction of Stage 1 of the development.***
 - ***Pathway 5 on the attached plan (Figure 1) in conjunction with the construction of Stage 2 of the development.***
- 2 ***That Council advise the applicant that it does not support rezoning of the entire site, however, incorporation of an additional two hectare area of 3(a) (Business Centre Zone) land to the north of the existing zone boundary and in the south-eastern corner of the site (as illustrated in figure 3 contained in this report) is supported to facilitate adequate carparking and servicing to the proposed development.***
- 3 ***That Council advise the applicant that the rezoning will not be progressed further unless outstanding fees relating to Phase 2 of Council's spot rezoning procedure are received in full.***
- 4 ***That Council advise the applicant that all Asset Protection Zone (APZ) and Urban Interface Area (UIA) requirements shall be located within the land proposed to be zoned 3(a) (Business Centre Zone).***
- 5 ***That on the basis that the applicant has agreed to provide the shared pathways identified in point 1 of the recommendation and any subsequent requirement for the applicant to provide upgraded road and drainage works associated with a future development application for the site, any future commercial development of the site be excluded from any Section 94 Development Contributions Plan.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

4.1 Proposed Councillors' Community Improvement Grants

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor MCBRIDE:

That Council allocate an amount of \$13,750.00 from the 2009-10 Councillors' Community Improvement Grants as outlined in the report.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.1 Information Reports

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor BEST:

That with the exception of report numbers 5.2 and 5.5 Council receive the information reports and adopt the recommendations.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.2 Alternative sites for the North Central Coast GP Super Clinic

Councillor Wynn left the chamber at 6.09 pm and returned to the chamber at 6.10 pm and as a result took no part in voting.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council receive the report on Alternative sites for the North Central Coast GP Super Clinic within the Warnervale/Wadalba area.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT AND WEBSTER

AGAINST: NIL

5.3 Mardi to Mangrove Link Project Status

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council receive the report on Mardi to Mangrove Link Project Status.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.4 Minutes - Wyong Shire Senior Citizens' Council Meeting - 22 April 2010

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council receive the report on Minutes - Wyong Shire Senior Citizens' Council Meeting - 22 April 2010.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

5.5 Canary Island Date Palm at Yellawa Island

Councillor Wynn left the chamber at 6.09 pm and returned to the chamber at 6.10 pm during discussion of this item.

RESOLVED on the motion of Councillor MCBRIDE and seconded by Councillor WEBSTER:

1 *That Council receive the report on the Canary Island Date Palm at Yellawa Island.*

2 *That Council monitor the Date Palm on Yellawa Island for the effects on the Island's erosion from the altered dredging program.*

FOR: COUNCILLORS EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: COUNCILLOR BEST

5.6 Outstanding Questions Without Notice and Notices of Motion

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council receive the report on Outstanding Questions Without Notice and Notices of Motion.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.1 Notice of Motion - Pacific Highway from Ourimbah to Tuggerah

Councillor Vincent left the chamber at 6.20 pm and returned to the chamber at 6.21 pm during consideration of this item.

RESOLVED unanimously on the motion of Councillor GRAHAM and seconded by Councillor MATTHEWS:

- 1 That Council note the unacceptable proposal by the NSW Roads and Traffic Authority to transfer responsibility for a 6.5km section of the Pacific Highway from Ourimbah to Tuggerah from the NSW Roads and Traffic Authority to Wyong Shire Council.**
- 2 That Council write to David Harris MP, Member for Wyong and Parliamentary Secretary Assisting the Minister for the Central Coast, expressing Council's concerns with the proposed cost shifting of these assets to the ratepayers of Wyong Shire.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.2 Notice of Motion - Shared Pathways

RESOLVED unanimously on the motion of Councillor WYNN and seconded by Councillor VINCENT:

- 1 That Wyong Shire Council build partnerships with community in building and extending the network of shared pathways throughout the Shire identified in the Draft On-Road Bicycle and Shared Pathway Strategy policy document and community assets consistent with the objectives of the Shire Strategic Vision, including but not limited to halls, community gardens, sporting facilities etc through community fund raising. Funds raised by the community to be matched by Council on a ratio of 1:2. Community must raise a threshold amount of \$10,000 before work on a section would be placed into the forward rolling works program. These projects would be over and above the existing planned works. There would be a limit of \$300,000 per annum dedicated to the scheme by Council.**

- 2 ***That Council consider the inclusion of this scheme in the 2011 – 2012 Management Plan or during the Quarterly Review if the opportunity arises.***
- 3 ***That Council advertise the Scheme widely multiple times throughout the year.***
- 4 ***That Council staff develop a set of guidelines for consideration of these projects and submit to Council for adoption.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.3 Notice of Motion - Proposed closure - Tristram Close and Renee Close Laneway, Lakehaven

RESOLVED unanimously on the motion of Councillor BEST and seconded by Councillor MCNAMARA:

- 1 ***That further to representations made by local residents and ratepayers of the Lake Haven area having regard to the anti-social behaviour, OH&S and general public safety issue, Council now investigate and consider on its merits what options including the permanent closure of the walkway in question, the report should outline past action by Council to minimise public concerns, alternatives and impacts closure may have to the general area.***
- 2 ***That Council use this report to form the basis for a set of criteria to review and consult with the community on similar accessway issues.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.4 Notice of Motion - Gold Pledge Partner to Year of Women in Local Government 2010

RESOLVED unanimously on the motion of Councillor MCBRIDE and seconded by Councillor WEBSTER:

- 1 ***That Council demonstrate its commitment to the “Year of Women in Local Government 2010” by becoming a Gold Pledge Partner.***
- 2 ***That Council assist in the promotion of the “Year of Women in Local Government 2010” by using the logo where possible.***

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

7.5 Notice of Motion - Independent Legal Advice

Councillor Matthews left the chamber at 7.13 pm and returned to the chamber at 7.23 pm during consideration of this item.

Councillor Best left the chamber at 7.28 pm and returned to the chamber at 7.30 pm during consideration of this item.

Councillor Wynn left the chamber at 7.38 pm and returned to the chamber at 7.39 pm during consideration of this item.

Ms Gina Vereker, Acting General Manager declared a non-pecuniary significant conflict of interest in the matter for the reason that there may be a potential conflict on the basis that staff within the Shire Planning Department may be involved in the issues mentioned left the chamber at 7.13 pm, took no part in discussion and returned to the chamber at 7.57 pm.

Mr Paul Wise, Director Shire Services declared a non-pecuniary significant conflict of interest in the matter for the reason that there may be a potential conflict due to possibility that staff from the Shire Services Department may be impacted by the report and motion, left the chamber at 7.13 pm, took no part in discussion and returned to the chamber at 7.57 pm.

It was MOVED by Councillor EATON and SECONDED by Councillor WYNN:

- 1 *That Council engage Sparke Helmore Solicitors to provide independent legal advice to the Councillors on:*
 - a *The release of the full Adams report into illegal waste operations to all Councillors, and*
 - b *the legality of the non-tendering of Body Hire arrangements.*
- 2 *That Council authorise the Mayor to prepare and finalise the brief with assistance from staff.*

FOR: COUNCILLORS BEST, EATON, MCNAMARA, WEBSTER AND WYNN

AGAINST: COUNCILLORS GRAHAM, MATTHEWS, MCBRIDE, SYMINGTON AND VINCENT

The MOTION was LOST on the casting vote of the Mayor.

7.6 Notice of Motion - Warnervale Town Centre Viability

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor BEST:

That Council staff report on the viability of developing the 1,100 units proposed for Warnervale Town Centre and possible variation of proposed densities to ensure viable town centre development.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

LEAVE TO INTRODUCE A MOTION OF URGENCY

Councillor Eaton sought leave to introduce a motion of urgency concerning the installation of solar panels on Council buildings in order to avail of both State and Federal Government incentive schemes that are currently available.

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor GRAHAM:

That Council consider a Motion of Urgency regarding the installation of solar panels on Council buildings .

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

The Mayor ruled that the matter was of great urgency and could be introduced as a motion of urgency.

U18/10 Motion of Urgency - Installation of Solar Panels on Council Buildings

RESOLVED unanimously on the motion of Councillor EATON and seconded by Councillor WYNN:

That Council urgently arrange the installation of 1.5 kW solar panel systems at the 24 sites listed in report 6.4 subject to the subsidies outlined in the report still being available.

FOR: COUNCILLORS BEST, EATON, GRAHAM, MATTHEWS, MCBRIDE, MCNAMARA, SYMINGTON, VINCENT, WEBSTER AND WYNN

AGAINST: NIL

QUESTIONS WITHOUT NOTICE

**Q79/10 Works Planned for the use of the Environmental Levy in the Lake Macquarie area
Councillor Wynn**

“Could the Director of Shire Services please provide a list of forward works planned for the use of the Environmental Levy for the Lake Macquarie portion in the 4 year Management Plan?”

**Q80/10 RTA Proposals for Beautification of Median Strip at San Remo
Councillor Wynn**

“Could the Director of Shire Services provide information if the RTA proposes any median strip beautification for the Pacific Highway, north of San Remo?”

**Q81/10 Details of Council's Legal Costs over the Past Five Years
Councillor Best**

“Could you please provide information preferably in a bar graph format outlining Council’s legal costs over the past five calendar years and as to why this Council has not seen the need to consider the appointment of an on staff legal counsel?”

**Q82/10 Residential Suburb of Minister for the Central Coast
Councillor Best**

“Could staff tell Council what suburb does the Minister for the Central Coast, Mr Ian Macdonald come from/live?”

CONFIDENTIAL SESSION

At this stage of the meeting being 8.17 pm Council moved into confidential session with the members of the press and public excluded from the meeting of the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session are withheld. This action is taken in accordance with section 10a of the Local Government Act, 1993 as the items listed come within the following provisions:-

“2(b) the personal hardship of any resident or ratepayer”

OPEN SESSION

Council resumed in open session at 8.19 pm and the Acting General Manager reported on proceedings of the confidential session of the ordinary meeting of Council as follows:

**8.1 Application for Financial Assistance for Relocation of Storage Van at
Toowoomba Bay Holiday Park**

That Council decline the application for financial assistance from K and C Morris as the claim for hardship has not been proved.

THE MEETING closed at 8.20 pm.