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**WYONG SHIRE COUNCIL**

**MINUTES OF THE  
ORDINARY COUNCIL MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBER  
WYONG CIVIC CENTRE, HELY STREET, WYONG  
ON 12 FEBRUARY 2014  
COMMENCING AT 5.00PM**

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**PRESENT**

Councillors D J Eaton (Chairperson), G P Best, R L Graham, K G Greenwald, L A Matthews, L S Taylor, A Troy, D P Vincent and L D Webster.

**IN ATTENDANCE**

General Manager, Acting Director Development and Building/ General Counsel, Director Infrastructure and Operations, Director Property and Economic Development, Director Community and Recreation Services, Manager Communications, Manager Corporate Governance, Manager IT and Operations , Project Manager Infrastructure and Operations and three administration staff.

The Mayor, Councillor Eaton, declared the meeting open at 5.01 pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

Councillor Eaton delivered the opening prayer and Councillor Vincent read an acknowledgment of country statement.

**APOLOGY**

An apology for the inability to attend the meeting was received on behalf of Councillor Nayna due to work commitments.

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

***57/14 That Council accept the apology and grant leave of absence from the meeting.***

At the commencement of the ordinary meeting report nos 1.1, 1.3, 1.5, 2.1, 4.2, 4.4, 4.5, 5.2, 6.1, 6.2, 4.3, 3.1, 7.1 and 7.2 were 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 Disclosures of Interest**

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**2.1 DA 420/2013 - Service station, drive through takeaway food restaurant (McDonald's), four (4) light industrial units and associated three (3) lot subdivision**

Councillor Eaton declared a non-pecuniary significant interest in the matter for the reason that his family's company is the landowner but not the applicant. Councillor Eaton left the chamber at 5.15 pm, took no part in discussion, did not vote and returned to the chamber at 5.27 pm.

**2.1 DA 420/2013 - Service station, drive through takeaway food restaurant (McDonald's), four (4) light industrial units and associated three (3) lot subdivision**

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that he is an administrative employee of the NSW Police in another location in a totally unrelated area and participated in consideration of this matter.

Councillor Greenwald 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."*

**4.4 CPA/236290 - In-Vehicle GPS - Hardware and Monitoring Services**

Councillor Troy declared a pecuniary interest in the matter for the reason that he knows the principal of one of the tendering businesses. Councillor Greenwald left the chamber at 5.37 pm, took no part in discussion, did not vote and returned to the chamber at 5.39 pm.

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

***58/14 That Councillors receive the report on Disclosure of Interest and note advice of disclosures.***

**PROCEDURAL MOTION**

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

***59/14 That Council allow meeting practice to be varied.***

***60/14 That Council use the exception method to deal with the balance of the Agenda.***

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

***61/14 That with the exception of report numbers 1.1, 1.3, 1.5, 2.1, 4.2, 4.3, 4.4, 4.5, 5.2, 6.1, 6.2, 7.1 and 7.2 and Council adopt the recommendations contained in the remaining reports.***

**1.2 Proposed Inspections and Briefings**

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

**62/14 That Council receive the report on Proposed Inspections and Briefings.**

**1.3 Address By Invited Speakers**

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Councillor Taylor left the meeting at 5.08pm and returned to the meeting at 5.09pm during consideration of this item.

**RESOLVED on the motion of Councillor BEST and seconded by Councillor TROY:**

**63/14 That Council receive the report on Invited Speakers.**

**64/14 That Council note Nicki Freeburn and Jeanie Lawson may address the Council in respect of item 7.1.**

**1.4 Confirmation of Minutes of Previous Meeting**

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

**65/14 That Council confirm the minutes of the previous Ordinary Meeting of Council held on Wednesday 22 January 2014.**

**Business Arising**

There was no business arising.

**1.5 Mayoral Minute - Reiterate Council Support for Chinese Cultural Village Theme Park**

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**RESOLVED on the motion of Councillor EATON:**

**66/14 That Council reiterate its support for the Chinese Cultural Village Theme Park as a major project for the Central Coast, Wyong Shire Council and the Central Coast business community.**

**2.1 DA 420/2013 - Service station, drive through takeaway food restaurant (McDonald's), four (4) light industrial units and associated three (3) lot subdivision**

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Councillor Eaton declared a non-pecuniary significant interest in the matter for the reason that his family's company is the landowner but not the applicant.

Councillor Eaton vacated the chair and Councillor Webster assumed the Chair for consideration of this item.

Councillor Greenwald declared a non-pecuniary insignificant interest in the matter for the reason that he is an administrative employee of the NSW Police in another location in a totally unrelated area and participated in consideration of this matter.

Councillor Greenwald 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."*

Councillor Eaton left the meeting at 5.15pm and to the meeting at 5.27pm during consideration of this item and as a result took no part in voting.

Councillor Matthews left the meeting at 5.15 pm and returned to the meeting at 5.16pm during consideration of this item.

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

**67/14 That Council grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.**

**68/14 That Council request the General Manager to advise those who made written submissions of its decision.**

**69/14 That Council authorise the General Manager to determine any application for minor modifications to the approved development plans and/or consent conditions.**

FOR: COUNCILLORS BEST, EATON, GRAHAM, GREENWALD, MATTHEWS, TAYLOR, TROY, VINCENT AND WEBSTER

AGAINST: NIL

Councillor Eaton resumed the chair.

**3.1 Classification of Land - Lot 1 DP 663619 - 14 Hope Street, Wyong**

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

- 70/14** That Council classify Council land Lot 1 DP 663619 as Operational Land.
- 71/14** That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.
- 72/14** That Council adopt the classification if no adverse submissions are received.

**PROCEDURAL MOTION**

**RESOLVED unanimously on the motion of Councillor Taylor and seconded by Councillor Webster:**

- 73/14** That Council allow meeting practice to be varied.
- 74/14** That Council recommit Item 3.1- Classification of Land - Lot 1 DP 663619 - 14 Hope Street, Wyong.

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

- 75/14** That Council classify Council land Lot 1 DP 663619 as Operational Land.
- 76/14** That Council advertise the proposal in accordance with Section 34 of the Local Government Act 1993.
- 77/14** That Council adopt the classification if no adverse submissions are received.

**4.1 Contract CPA/235490 - Evaluation and Selection of Tenders - Detailed Design Documentation - Remediation Former Tumbi Landfill**

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

- 78/14** That Council accept the tender from the company nominated as Tenderer No '2', Meinhardt Infrastructure and Environments Pty Ltd in the attached Tender Evaluation Report, for the lump sum amount of \$218,000 (excl GST) for Contract CPA/235490 – Detailed Design Documentation – Remediation of Former Tumbi Landfill.
- 79/14** That Council determine the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10A(2)(d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.
- 80/14** That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.

**4.2 Contract CPA/235478 - Construction of Gross Pollutant Trap at Saltwater Creek (Lions Park) at Long Jetty**

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**RESOLVED unanimously on the motion of Councillor TROY and seconded by Councillor TAYLOR:**

**81/14 That Council accept the tender from the company nominated as Tenderer '1', Collective Civil Pty Ltd in the attached Tender Evaluation Report, for the lump sum amount of \$228,276.00 (excl GST) for Contract CPA/235478 – Construction of Gross Pollutant Trap at Saltwater Creek (Lions Park) at Long Jetty.**

**82/14 That Council determine the Tender Evaluation Report in Attachment A, remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**

**83/14 That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.**

**4.3 Contract CPA/236170 - The Entrance Tile Replacement Project Stage 2**

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**RESOLVED on the motion of Councillor WEBSTER and seconded by Councillor GREENWALD:**

**84/14 That Council defer consideration of this item until later in the meeting.**

**CONFIDENTIAL SESSION**

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

**That Council move into Confidential Session to receive Commercial in Confidence information from the Tenderer Assessment Panel to consider Item 4.3 Contract CPA/236170 - The Entrance Tile Replacement Project Stage 2.**

At this stage of the meeting being 6.10 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 being withheld. This action is taken in accordance with Section 10A (2d)(i) of The Local Government Act, 1993 as the items listed come within the following provisions:-

- 2(d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it,

**OPEN SESSION**

Council resumed in open session a 6.52 pm and the of the confidential session of the Ordinary Meeting of Council as follows:

**4.3 Contract CPA/236170 - The Entrance Tile Replacement Project Stage 2**

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**85/14** *That Council decline all tenders.*

**86/14** *That Council thank Tenderers for their submissions.*

**87/14** *That Council delegate the authority to the General Manager to engage in direct negotiations with the tenderers to achieve the most advantageous outcome.*

**88/14** *That Council note that its reasons for not inviting fresh tenders, and to enter into negotiations with the tenderers, is to ensure that the contracted works provide the best price, best value, provide an appropriate match to other tiling works in the vicinity, and ensure timely completion of the tiling works.*

**89/14** *That Council delegate authority to the General Manager to enter into a contract.*

**4.4 CPA/236290 - In-Vehicle GPS - Hardware and Monitoring Services**

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Councillor Troy declared a pecuniary interest in the matter for the reason that he knows the principal of one of the tendering businesses.

Councillor Troy left the meeting at 5.37pm and returned to the meeting at 5.39 pm during consideration of this item and as a result took no part in voting.

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

**90/14** *That Council accept the tender from Tenderer No. 5, Fleet Logistics Pty Ltd (Ezy2c), in the attached Tender Evaluation Report, for a period of up to three years, for the estimated total amount of \$312,816.00 (excl GST) for Contract CPA/236290 – In Vehicle GPS – Hardware and Monitoring Services.*

**91/14** *That Council determine the Tender Evaluation Report in Attachment A remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 with the exception of the name of the successful tenderer which may be disclosed after Council has resolved to accept that tender, as the report contains commercial information of a confidential nature.*

**92/14** *That Council approve the contingency sum as detailed in the Tender Evaluation Report in Attachment A.*

**4.5 Contract CPA/237511 - Expression of Interest - Lease and Operation of Tom Stone and Spotted Gum Care and Education Centres**

Councillor Troy left the meeting at 5.37pm and returned to the meeting at 5.39 pm during consideration of this item.

**RESOLVED on the motion of Councillor WEBSTER and seconded by Councillor BEST:**

**93/14 That Council receive this report on the results of the Expression of Interest.**

**94/14 That Council send invitations to tender to the following Applicants considered to be able to fulfil the requirements of the proposed Contract for the operation and lease of Tom Stone and Spotted Gum Care and Education centres:**

- **Bindari Pty Ltd**
- **GM Educational Consultants Pty Ltd**
- **Lexbede Enterprises Pty Ltd**
- **Lighthouse Early Learning Centre**
- **Wyong Shire Council**

**95/14 That Council determines the EOI Evaluation Report in the confidential Attachment A, remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature.**

**5.1 Proposed Councillors' Community Improvement Grants**

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

**96/14 That Council allocate an amount of \$10,466.90 from the 2013-14 Councillors' Community Improvement Grants as follows:**

12 February 2014		
<b>Bateau Bay Police and Citizens Youth Club (\$4000)</b>	<b>The Girls Choice Program targeting 16 young females aged between 12 - 15 years</b>	<b>500.00</b>
<b>Central Coast Multiple Sclerosis and Handicapped Group (\$1304.40)</b>	<b>To hold annual Christmas Social Gathering and Festive Lunch</b>	<b>1,304.40</b>
<b>Central Coast Outreach Services (\$4000)</b>	<b>"Back to Basics" training program</b>	<b>2,250.00</b>
<b>Coastal a Cappella (\$2800)</b>	<b>Purchase of Choral Riser Steps</b>	<b>880.00</b>
<b>NSW Justices Association (\$500)</b>	<b>Assist with the cost of an online learning management system</b>	<b>500.00</b>
<b>Season's for Growth Program (\$532.50)</b>	<b>Purchase books to assist children experiencing grief and loss through death/divorce/separation of a parent or significant other.</b>	<b>532.50</b>
<b>The Entrance Town Centre (\$650)</b>	<b>Publication of Sandy the Seahorse Booklet</b>	<b>650.00</b>
<b>Tuggerah Tuffs Winter Swimming Club (\$500)</b>	<b>Purchase 10 stopwatches and two eskys</b>	<b>500.00</b>
<b>Warnervale Wildcats Cricket Club (\$4000) - Emergency Approved by GM</b>	<b>Australia Day Event - Milo T20 Cricket Bash for children 8 to 15 years</b>	<b>3,350.00</b>



**5.2 Review of BASIX by NSW Planning and Infrastructure**

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

- 97/14 That Council note the report on the Review of Basix by NSW Planning and Infrastructure.
- 98/14 That Council request the General Manager to forward the submissions to the NSW Department Planning and Infrastructure for consideration.
- 99/14 That Council request the General Manager to write to our Local State Members to lobby against increasing cost being levied on home buyers.

**5.3 Amended Minutes - Ordinary Meeting 27 November 2014**

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

- 100/14 That Council amend the minutes of the Ordinary Meeting 27 November 2013 for Item 4.3 – The Supply and Delivery of Type S Filter Sand as follows;
- 1470/13 That Council accept the tender from the ~~Boral Resources (Country) Pty Ltd~~ TCX Pty Ltd nominated as Tenderer '1' in the attached Tender Evaluation Report, for a period of up to 3.5 years for Contract CPA/230052 – for the Supply and Delivery of Type S Filter Sand. The estimated annual expenditure against this contract is \$202,580.00 (excl GST), however actual expenditure may vary significantly with fluctuations in demand.
- 1471/13 That Council determine the Tender Evaluation Report in Attachment "A" remains confidential in accordance with Section 10 A (2) (d) of the Local Government Act 1993 as the report contains commercial information of a confidential nature."

**5.4 Councillor Attendance - Central Coast Business Review February Cocktail Evening, West Gosford**

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

- 101/14 That Council authorise any interested Councillors to attend the Central Coast Business Review Cocktail Evening.
- 102/14 That Council meet reasonable expenses incurred by Councillors and their partners attending the above function in accordance with Council's Facilities and Expenses Policy For Councillors.

**5.5 Plan of Management No 16 and Management Plan covering Various Foreshore Reserves**

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

103/14 That Council receive the report outlining the results of the public consultation process following public exhibition of the draft Plan of Management No 16 and Management Plan covering Various Foreshore Reserves.

104/14 That Council adopt the Plan of Management No 16 covering Various Foreshore Reserves from The North Entrance to Shelly Beach.

105/14 That Council request the General Manager to request that the Department of Trade and Investment – Crown Lands to revoke “Plan of Management for The Entrance and Terilbah Reserves” dated 1996 in accordance with Section 115 of the Crown Lands Act.

106/14 That Council adopt the Management Plan for Crown Reserves from The Entrance North to Shelly Beach following the revocation of the previous Plan of Management referred to in recommendation number 3 above.

**6.1 Alison Homestead Rebuild**

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

107/14 That Council receive the report on Alison Homestead Rebuild.

**6.2 Road Capital Works Program**

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Councillor Vincent left the meeting at 6.02pm returned to the meeting at 6.03pm during consideration of this item.

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

108/14 That Council receive the report on the status of the Council’s Road Capital Rolling Works Program.

**6.3 Contract Variations and Finalisation for the period covering September 2013 to December 2013**

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

109/14 That Council receive the Contract Variations and Finalisation report for the period covering September to December 2013.

110/14 That Council note the additional expenditure above resolved estimates for the following contracts:

<b>Contract Title</b>	<b>Contract No</b>	<b>Adjusted Contract Value (Excl GST)</b>	<b>Additional Budget Approval (Excl GST)</b>
<b>Asphalt Contract Works</b>	<b>CPA/200746</b>	<b>\$10,762,768.00</b>	<b>\$914,112.85</b>

111/14 That Council note the additional expenditures requested are within approved program budgets.

**6.4 Making of Wyong LEP 2013 by the Minister for Planning & Infrastructure**

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

112/14 That Council note the amendments to Wyong Local Environmental Plan 2013 made by the Department of Planning & Infrastructure, in consultation with Council staff and approved by the General Manager, as set out within this report.

**6.5 Outstanding Questions on Notice and Notices of Motion**

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

113/14 That Council receive the report on Outstanding Questions on Notice and Notices of Motion.

**7.1 Notice of Motion - So Called Scientific Whaling**

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Councillor Webster left the meeting at 6.53 pm and returned to the meeting at 6.54 pm during consideration of this item.

Ms Nikki Freeburn, Resident, addressed the meeting at 6.52pm, and spoke for the motion answered questions and retired at 7.02pm.

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

- 114/14 *That Council reaffirm, on behalf of this Coastal Community, its total opposition and outrage at the continuing slaughter of whales that migrate past our coast only to be slaughtered in their Antarctic Whale Sanctuary by Japanese factory ships for so called scientific Whaling purposes.*
- 115/14 *That Council advocate on behalf of our community, through our Federal Members to continue to encourage the Government to make all responsible representation possible to put an end to this wanton environmental destruction.*
- 116/14 *That Council request the General Manager to provide a progress / issues report on the highly successful upcoming 2014 annual community Whale Watching awareness event (Sunday 6 July 2014) known as the 'Whale Dreamers Festival ' to be held at the Norah Head Light House."*

**7.2 Notice of Motion - Council's 2015 Environmental Showcase Calendar**

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

- 117/14 *That Council seek to strengthen the highly successfully annual Council Photo Competition through broadening its community awareness via the inclusion of annual Calendar Competition.*
- 118/14 *That Council endorse the focus of the 2015 Calendar to be on showcasing the Shire's spectacular natural beauty, while highlighting the excellent work of our environmental volunteers and staff.*
- 119/14 *That Council identify each successful Calendar Competition entrant in the publication, include standard emergency contact detail and in addition to defray costs, make space available for suitable sponsors.*
- 120/14 *That Council endorse distribution (subject to cost) to all suitable community facilities / organisations and a limited distribution to business for display in their prominent public space.*
- 121/14 *That Council fund this initiative through the current Photo Competition budget where practical and it be reviewed in the current budget process, subject to a staff report on operational issue and print recommendations.*

**QUESTIONS ON NOTICE**

**Q55/14 Skills Centre  
Councillor Adam Troy**

*“Mr Mayor, I note recently in the local media (attached) that this exciting \$3.4million federally funded youth employment initiative is now nearing completion. As Council is a strategic partner with CCGT in the complex, I would feel it only appropriate and responsible that Council be updated on this innovative and progressive local employment initiative?”*

**Q56/14 Water Rates Fairness  
Councillor Greg Best**

*“Mr Mayor, my question is on behalf of Local Resident of Kanwal who advises that despite being a senior in public housing, she is denied access to Council’s pensioner water rates. As Council’s billing is in the owner’s name. Also, her bill is being averaged across the units in the complex proving very costly and quite unfair to a person living on their own. This I believe is wide spread affecting many of our elderly residents. Mr Mayor, could you please provide some guidance on how fairness can be reinstated to these charges?”*

**THE MEETING** closed at 7.22pm.