



*Minutes of the Community and Corporate
Standing Committee of the Council
4 March 2008
commencing at 9:15 am*

PRESENT

Councillors – J Sciacca (Chair), M P Berwick (Mayor), D P Egan (Deputy Mayor), W J Bellerio, M J Cox, R Davis and D G Pitt.

Staff – B W Ede (Acting Chief Executive Officer), I B Barton (General Manager Finance & Administration), P M Hoye (Acting General Manager Development & Environment), K Favas (Acting Manager Community, Cultural & Economic) and S K Andrews (Corporate Support).

08/0304/05 DECLARATIONS OF INTEREST

There were no declarations of interest presented to the meeting.

08/0304/06 CONFIRMATION OF MINUTES – 12 FEBRUARY 2008

Moved Cr Berwick

Seconded Cr Cox

“That the minutes of the Community & Corporate Standing Committee Meeting held on 12 February 2008 be confirmed.”

Carried unanimously

The following motion resulted from discussions held after the presentation of a briefing session by the General Manager Finance & Administration, Ian Barton, on the Douglas Shire Council Project Management Report (actuals for the year to 29 February 2008), held prior to the opening of the Community & Corporate Standing Committee Meeting:

08/0304/06A VOTE OF THANKS TO FINANCE & ADMINISTRATION STAFF

Moved Cr Berwick

Seconded Cr Egan

“That the Committee expresses a vote of thanks to General Manager Finance & Administration, Ian Barton, and staff for ensuring a well-documented transition of financial affairs and unfinished projects to the new Cairns Regional Council. The Council urges the Cairns Regional Council to complete the list of projects.”

Carried unanimously



APOLOGY

The Chair informed the meeting that the General Manager Community & Corporate, David Carey, was unable attend the meeting due to taking workers' compensation leave.

REPORTS

08/0304/07 LEASE TO DOUGLAS TENNIS ASSOCIATION INC

Moved Cr Berwick

Seconded Cr Pitt

"That the Committee executes the lease to the Douglas Tennis Association Inc over land described as Lot 18 on PTD20939, Parish of Salisbury, and located at Reynolds Park, 34-56 Davidson Street, Port Douglas, following its approval by the Department of Natural Resources & Water."

Carried unanimously

SUSPENSION OF STANDING ORDERS

As determined at the Community & Corporate Standing Committee Meeting of 12 February 2008, the following item, 08/0212/09 – General Manager Report from Legal Advice, had been left on the table so further matters could be considered in regard to it:

Moved Cr Egan

Seconded Cr Bellerio

08/0304/07A

"That the Committee brings item 08/0212/09 – General Manager Report from Legal Advice, back to the table for consideration."

RESUMPTION OF STANDING ORDERS

Following discussion of whether item 08/0212/09 – General Manager Report from Legal Advice, should be brought back to the table for consideration, the Committee decided to resume standing orders and return to the matter later in the meeting.

08/0304/08 DOUGLAS SHIRE FLORAL EMBLEM

Moved Cr Pitt

Seconded Cr Davis

"That the Committee agrees to situate Betty Hinton's painting of the 'Daintree Orchid' in the Douglas Shire Council Library on a permanent basis and that the 'Daintree Orchid' be adopted as the Douglas Shire's floral emblem."

Carried unanimously



08/0304/09 COMMUNITY ACCESS AUDIT – PUBLIC ENVIRONMENT

Moved Cr Berwick

Seconded Cr Bellerio

“That the Committee:

- 1. receives the ‘Community Access Audit – Public Environment’ compiled by consultant Ian Chill, Access & Equity Projects Officer, Cairns City Council; and*
- 2. approves, in principle, the recommendations contained in the ‘Community Access Audit – Public Environment’ to guide the Council’s Corporate and Operational Plans, and Works Programme, into the future.”*

Carried unanimously

08/0304/10 DOUGLAS SHIRE COUNCIL REGIONAL ARTS DEVELOPMENT FUND ‘OUT OF ROUND’ 2007/08 - COMMITTEE RECOMMENDATION

Moved Cr Sciacca

Seconded Cr Davis

“That the Committee approves the Regional Arts Development Fund Committee’s ‘Out of Round’ recommendation for 2007/08.”

For: Cr Sciacca, Davis, Berwick, Egan, Cox, Pitt

Against: Cr Bellerio

Carried

08/0304/11 MOSSMAN SHIRE HALL AND OLD COUNCIL CHAMBERS STRATEGIC REVIEW

Moved Cr Berwick

Seconded Cr Davis

“That the Committee:

- 1. delays air-conditioning the Mossman Shire Hall until a strategic review of the Mossman Shire Hall and old Council Chambers has been conducted;*
- 2. agrees to transfer funds from the community engagement budget item, in the amount of \$30 000, to the Facilities Management Plan project; and*
- 3. agrees to extend Howell Facilities, Facilities Management Plan, contract to conduct the strategic review of the Mossman Shire Hall and old Council Chambers by July 2008 for \$26 500.”*



ATTENDANCE/WITHDRAWAL

The General Manager Engineering, Bob Baade, attended the meeting at 9:40 am.

The Acting General Manager Development & Environment, Paul Hoye, withdrew from the meeting at 9:40 am and re-attended at 9:43 am.

Cr Davis withdrew from the meeting at 9:43 am and re-attended at 9:44 am.

The Mayor, Cr Berwick, withdrew from the meeting at 9:46 am.

For: Cr Davis, Egan, Sciacca, Cox, Pitt

Against: Cr Bellerio

Carried unanimously

ATTENDANCE/WITHDRAWAL

The Mayor, Cr Berwick, re-attended the meeting at 9:55 am.

SUSPENSION OF STANDING ORDERS

As discussed earlier in the meeting item 08/0212/09 – General Manager Report from Legal Advice, was brought back to the table for further consideration:

Moved Cr Egan

Seconded Cr Bellerio

08/0304/11A

“That the Committee agrees to include the issue of the termination of the contract of the General Manager Community & Corporate, David Carey, and that it be brought back to the table for inclusion in the agenda for the meeting .”

ATTENDANCE/WITHDRAWAL

The Acting General Manager Development & Environment withdrew from the meeting at 10:07 am.

For: Cr Egan, Bellerio, Sciacca, Pitt, Cox

Against: Cr Berwick, Davis

Carried



The following motion was then moved in relation to item 08/0212/09 – General Manager Report from Legal Advice, which had been brought back to the table for consideration:

Moved Cr Egan

Seconded Cr Bellerio

“That the Committee agrees to terminate the contract of the General Manager Community & Corporate, David Carey, pursuant to clause 9.1.6 of the contract.”

There was a request that a reason for the dismissal be given, but no reason was provided.

ADVICE FROM CHIEF EXECUTIVE OFFICER

The Acting Chief Executive Officer, Bruce Ede, provided advice that the matter, if it was pursued, would be regarded very seriously by the Industrial Relations Commission, and would likely place a financial burden on Cairns Regional Council.

ATTENDANCE/WITHDRAWAL

The Acting General Manager Development & Environment re-attended the meeting at 10:21 am.

An amendment to the motion was moved:

Moved Cr Davis

Seconded Cr Berwick

“That the matter of the termination of the contract of the General Manager Community & Corporate, David Carey, lies on the table until he returns from sick leave.”

For: Cr Davis, Berwick, Cox

Against: Cr Egan, Bellerio, Pitt, Sciacca

Lost

The original motion was then further considered.



During consideration of the matter the Mayor, Cr Berwick, inferred that there may be some collusion between four councillors and some people in Cairns City Council that has led to the General Manager Community & Corporate being left off the new Cairns Regional Council staff structure.

The Mayor read the following statement to the Council:

“The situation has changed since [Council] got the legal advice from King and Company, [Solicitors], because David Carey is now on sick leave and the situation is being investigated by the Workers’ Compensation Board and as the Acting Chief Executive Officer, Bruce Ede, said, and I think it’s pretty obvious, sure you have a legal right to terminate the contract but the implications are huge and may well be personal and will certainly leave the new Council with a major liability.

The next point is, there is no reason that has been given that whilst you may or may not have a legal right, and I think that is far from clear – you’ve got conflicting legal views – you may have a legal right to terminate him, that there is no moral or ethical basis for your actions. It appears to be driven by pure vindictiveness. Because of that [and] the reasons that were spelt out beforehand by [Cr] Bill Bellerio which was that the Bernhardt report that the minutes had been unreasonably altered. Bernhardt sent us an email dismissing that and saying there’s no way you can use his report to dismiss anybody.

David has been a very productive member of the staff and we’ve got two Acting Chief Executive Officers to testify to his capabilities and productivity. There have been no warnings given, no suggestion by either of those Acting Chief Executive Officers that he should have any corrective action, punitive action, warnings or any of the things that you would normally do before you dismiss someone, and finally, I think that this Council is just continuing on its path of self-destruction that it started some time ago and it is rather sad at the last meeting that we would have something as appalling as this to finish the term.”

Voting on the original motion then took place:

For: Cr Egan, Bellerio, Pitt, Sciacca

Against: Cr Berwick, Cox, Davis

Carried



NOTICES OF MOTION

There were no notices of motion submitted to the meeting.

TERMINATION OF THE MEETING

The meeting was closed at 10:39 am.

Presented to and noted by the Cairns Regional Council on the day of
April 2008.

J Sciacca
Chair

Unconfirmed