



Minutes of the Ordinary Meeting of Bayside City Council

The Meeting was held in the Council Chambers
Civic Centre, Brighton
on Tuesday 11 October 2011

The Meeting commenced at 7.00pm

PRESENT:

Cr Alex del Porto (Mayor)
Cr Louise Cooper-Shaw
Cr Felicity Frederico
Cr Clifford Hayes
Cr James Long
Cr Michael Norris
Cr Simon Russell JP

OFFICERS IN ATTENDANCE:

Adrian Robb	Chief Executive Officer
Shiran Wickramasinghe	Director City Strategy
Heather Johnson	Director Community Services
Sharon Pearsons	Director Corporate Services
Samantha Krull	Acting Director Infrastructure Services
Terry Callant	Governance Manager
Janice Pouw	Governance Officer

The Mayor declared the meeting open at 7.00pm and invited Cr Norris to read the prayer.

1. Prayer

Cr Norris read the prayer at the commencement of the meeting.

O God
Bless this City, Bayside,
Give us courage, strength and wisdom,
So that our deliberations,
May be for the good of all,
Amen

2. Acknowledgement of Original Inhabitants

Cr Hayes read the acknowledgement of the original inhabitants of this land.

- ◆ We acknowledge that the original inhabitants of this land that we call Bayside were the Boon wurrung people of the Kulin nation.
- ◆ They loved this land, they cared for it and considered themselves to be part of it.
- ◆ We acknowledge that we have a responsibility to nurture the land, and sustain it for future generations.

3. Apologies – There were no apologies submitted to the meeting.

4. Disclosure of any Conflict of Interest of any Councillor

- Cr Hayes declared an Indirect Conflict of Interest in item 7.2 – Petition: Beach Road ‘No Stopping Trial’ where residential amenity may be altered given that he owns and resides in a property on St Kilda Street.
- Cr Hayes declared an Indirect Conflict of Interest in item 10.1 – Route 33 Beach Road ‘No Stopping’ trial where residential amenity may be altered given that he owns and resides in a property on St Kilda Street.
- Cr del Porto declared an Indirect Conflict of Interest in item 10.3 – Planning for Elsternwick Park Oval 1 and 2 as the funds are being directed to a pavilion in Hurlingham Park. Cr del Porto lives in close proximity of Hurlingham Park and his residential amenity may be altered.
- Cr Hayes declared an Indirect Conflict of Interest by close association in item 10.6 – Amendment C101 – Bay Street Major Activity Centre as his mother owns a property within the Major Activity Centre.
- Cr Cooper-Shaw declared a Direct Conflict of Interest in item 10.7 – Amendment C102 – Church Street Major Activity Centre as she owns a property within the Church Street Major Activity.
- Cr del Porto declared a Direct Conflict of Interest in item 10.7 – Amendment C102 – Church Street Major Activity Centre as he owns a property within the Church Street Major Activity Centre.

5. Adoption and Confirmation of the minutes of previous meeting

5.1 Confirmation of the Minutes of the Ordinary Meeting of Council held on Tuesday 13 September 2011

Moved: Cr Hayes

Seconded: Cr Long

That the minutes of the Ordinary Meeting of Bayside City Council held on Tuesday 13 September 2011 as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

6. Public Question Time

In accordance with Section 66 of Council's Governance Local Law No 1, the following individuals submitted 16 public questions to the Meeting:

1. Mr Ken Armstrong (Not present in the Chamber)

Please advise when Council intend introducing the parking restrictions in the vicinity of 133-135 Were Street as moved and carried at the Council meeting 22/06/2010 Refer Council Minutes item 10.3.1 and why has has this decision been ignored by Council Officers.

Response

The Council Resolution committed to installing parking restrictions in the vicinity of 133-135 Were Street, Brighton subject to a pending VCAT determination on a planning permit amendment for the former restaurant, and that such installation was to be subject to Council's normal consultation procedures with relevant property owners.

Prior to the installation of any parking restrictions, Council traffic officers monitor the volume and extent of parking and the impact on the local amenity of the area, before developing a proposal for consultation with residents. Parking in Were Street has been monitored regularly and as the restaurant has not been operating at night, the parking volumes have not warranted a parking restriction requirement to be proposed to residents. Limited parking restrictions have been installed on Arthur Street and Hanby Street near the Were Street intersection to improve road safety and vehicle movement at the intersection during the day, after consultation with adjacent residents and traders.

2. Ms Sue Hardiman

The Bayside Council Customer Service Charter, under the heading Our Service Standards states: Letter, email, fax

- Acknowledge receipt of your request within five working days
- Provide a response to your enquiry within 15 working days with either a progress report or a resolution.

My email addressed to the CEO, Mr Robb, in response to my Question to Council at the 23 August meeting has not, as of 4 October 2011, been acknowledged in any way shape or form.

Could you please explain why the Customer Service Charter was not adhered to? And could you also explain why I did not receive a response to my email addressed to Mr Robb, dated 28 August?

Response

Your correspondence dated 27 August 2011, was expressing your opinion on my response to your public question. It did not appear to seek or require a further reply, however if you wish to receive a further acknowledgement, I am happy to provide you with one.

3. Ms Sue Hardiman

As your second question has four parts to it, the Local Law states only the first two parts may be considered at the Council Meeting. I intend to read and respond to the first two parts of your question and the remaining questions will be responded in correspondence.

On Sunday 18 September The George Street Reserve was open to the public for two hours.

- a) How many people attended this opening?
- b) How much funding does the Council put into this Reserve?
- c) And as the Reserve is ratepayer funded why is this Reserve not part of the Council's Open Space.
- d) As Pauline Reynolds said in her letter to the Bayside Leader of 20 September 'we do not want to lose any more precious open space for any reason' and yet her Committee ensures that the community, young and old alike, do not enjoy the delights of the George Street Reserve. Darebin rightly boasts about the Darebin Parklands and rightly boasts about the numbers of birds and people using the parkland. An article in the Bayside Leader of 27 September tells us about the children at Beaumaris North Primary School reconnecting with nature and yet The George Street Reserve is restricted.

Would the Council explain why this precious open space is fenced off and why entry is restricted?

Response

- a) *Approximately sixty people attended the recent Spring Open Day at George Street Reserve. Open days at bushland reserves provide an opportunity for residents to join guided walks through the heathland.*
- b) *Council spends approximately \$20,000 per annum at George Street Reserve as one of the seven designated bushland reserves within Bayside.*
- c) *George Street, and the other reserves, are part of the open space network and comprise less than 2% of the total open space available to residents.*
- d) *George Street Reserve, and the other bushland reserves, are fenced to protect their natural values and biodiversity. They are valuable remnants of the vegetation that once covered much of Bayside and provide important habitat for local birds and other wildlife. All reserves have path access for people walking through and around them, and some also have dog-off-leash areas. They form part of the local open space but access is restricted to sections of the reserves to reduce impacts from users that could degrade vegetation or disturb wildlife.*

4 Ms Eleanor Scacco

The 27 September VCAT decision regarding 33 Crisp Street Hampton (VCAT reference number P1299/2011), identified inadequacies in the the current Planning Scheme with respect to the preferred neighbourhood character for the Hampton Street Major Activity Centre and Residential Opportunity Areas, namely:

[41] "As I have already stated, the Planning Scheme does not assist decision-makers in the task of determining what an acceptable neighbourhood character outcome in Residential Opportunity Areas should be. While acknowledging that these areas will experience a greater degree of change than the remainder of the municipality's residential areas, it does not go on to state how this change is expected to manifest from a character perspective. This lack of clarity does not only affect applicants and decision-makers, it also affects residents in these areas, who are left without a clear understanding of how their neighbourhood is expected to change. In this respect, I endorse that following comments of the Tribunal in the Matter of Innovation One Design Group v Bayside CC [2011] VCAT 1602:

[57] I think council's local policy framework fails to provide adequate direction regarding the role of the housing opportunity areas around activity centres and the scale, form and types of housing expected to be developed in the housing opportunity areas. Policy should guide expectations about how much change is to be anticipated and the types of change that are to be encouraged and supported. Reliance on neighbourhood character is I think insufficient in an area identified as a housing opportunity area. Greater policy direction would provide more certainty for residents and other parties when contemplating change."

This lack of clarity needs to be addressed as a matter of extreme urgency and cannot wait for C103's introduction.

What steps is Council proposing eg interim amendments to urgently rectify the situation?

Response

As part of Council's request for authorisation to prepare Amendment C103 for the Hampton Street Major Activity Centre, Council requested approval from the Minister for Planning approve an amendment to introduce interim controls for Hampton and the other three Major Activity Centres (Amendment C91). The interim controls were to be in force while the amendment for the permanent controls (C103) was progressed.

The Minister for Planning responded to Council on 2 June 2011 advising that he refused Council's request that he prepare, adopt and approve Amendment C91 which proposed to apply interim controls to the four Major Activity Centres. Council is continuing to progress Amendment C103 for the Hampton Street, Hampton Major Activity Centre.

In September this year, Council adopted the Bayside Planning Scheme Review which included a review of past VCAT decisions. It was recommended that Council undertake a review of the Structure Plans for the Major Activity Centres to, among other things, provide greater direction for the form of future development within the Major Activity Centres. The Review identifies this work as being of a critical priority and Council will consider funding this work as part of the 2012/13 Financial Year Budget process.

5. Ms Eleanor Scacco

In rejecting the original proposal, Council's view was that larger developments such as that proposed for 33 Crisp Street (and in this we are talking "larger" when compared with what currently exists as opposed to any technical definition of a "large" development) were only suitable for the more heavily developed areas along the spine of Hampton Street and that there be a clear graduation of built form in terms of scale and form when moving from the centre of the Major Activity Centre through to the residential zone. It was our understanding of Council's decision to reject the original 33 Crisp Street application that Council regarded apartment developments as only being appropriate for the business precinct or immediately adjacent to that precinct and that increased density in the rest of the Major Activity Centre should be by way of dual occupancy and town-house or villa style development.

What form of resolution or public statement can Council pass to encapsulate this policy, noting that it needs to be something that can be relied upon in VCAT?

Response

Council does not have the ability to make a resolution or public statement which would address this matter in a way that would hold weight at VCAT as part of its considerations. The only means by which the outcome sought can be achieved is by including policy and controls within the Planning Scheme or affecting a change to the Planning Scheme, for example Amendment C103.

6. Mr Renzo Scacco (Not present in the Chamber)

Are there grounds to Appeal the VCAT decision re 33 Crisp Street, Hampton (VCAT reference Number P1299/2011) given that the decision fails to address the subject site's location on the interface between the Activity Centre and the adjacent residential areas? In other words, the decision fails to recognise the guidance provided in Clause 21.06-1.2 which directs that built form and amenity considerations on the interface (such as at 33 Crisp St) are to be given greater weight than if the site was located centrally within the Activity Centre?

We ask that Senior Council or Queen's Council advice be sought on this so that it can be acted on prior to the deadline for lodging an appeal.

Response

The policy reference in the question provided relates to changes proposed by Amendment C103 to the Municipal Strategic Statement (MSS). While Amendment C103 has recently completed its exhibition period and the Tribunal did make reference to the amendment, it does not form part of the Planning Scheme and could not be afforded the status of a seriously entertained planning proposal by the Tribunal.

Advice has been sought from Council's Barrister regarding the prospect of appealing the Tribunal's decision to the Supreme Court. To appeal to the Supreme Court Council will need to demonstrate that the Tribunal, in coming to its decision, has made an error of law. Put another way, the Court is required to consider the legal adequacy of the Tribunal's decision making process. Council's Barrister's preliminary advice is that the Tribunal has not incorrectly applied the policy framework in a manner that may invalidate its decision.

7. Mr Renzo Scacco (Not present in the Chamber)

Whilst drawing comfort from proposed DD012 as “being indicative of the Council’s latest strategic thinking and is confirmation that Council continues to see the review site as forming part of the Activity Centre” and noting the proposed 3 storey height limit [21], the Tribunal failed to note that in DD012 “The subject site(33 Crisp Street) is located within the Residential Precinct E whereby the overarching strategy is to provide for increased housing densities and diversity of housing types within the centre and direct larger developments to larger sites within or immediately adjoining the business precincts.” (quoting from page 41 of the Council’s planning officers report).

We ask that Senior Council or Queen’s Council advice be sought on whether this provides grounds for appeal of the 27 September 2011 VCAT decision re 33 Crips Street (being VCAT reference number 1299/2011) so that it can be acted on prior to the deadline for lodging an appeal.

Response

For the benefit of clarity, it is important to note that the ‘overarching strategy’ made reference to in the question forms part of the changes proposed to the Municipal Strategic Statement (MSS) within Amendment C103 and not the DDO12.

While Amendment C103 has recently completed its exhibition period and the Tribunal did make reference to the amendment, it does not form part of the Planning Scheme and could not be afforded the status of a seriously entertained planning proposal by the Tribunal.

Advice has been sought from Council’s Barrister regarding the prospect of appealing the Tribunal’s decision to the Supreme Court. To appeal to the Supreme Court Council will need to demonstrate that the Tribunal, in coming to its decision, has made an error of law. Put another way, the Court is required to consider the legal adequacy of the Tribunal’s decision making process. Council’s Barrister’s preliminary advice is that the Tribunal has not incorrectly applied the policy framework in a manner that may invalidate its decision.

8. Ms Carolyn Appelbe

In looking at C103 (even if only to draw comfort), the Tribunal in the 33 Crips Street hearing (being VCAT reference number P1299/2011) should also have looked at the fact that Council intends as part of the Housing Strategy that the subject site is located in an area identified to Incremental change as opposed to Substantial change (substantial change being limited to the Business area within the Major Activity Centres).

We ask that Senior Council or Queen’s Council advice be sought on whether this provides grounds for appeal so that it can be acted on prior to the deadline for lodging an appeal.

Response

Council has prepared a Draft Bayside Housing Strategy and sought feedback on the draft between March and May this year as part of the Bayside Our City’s Future engagement program. The Housing Strategy is a draft and does not form part of the Planning Scheme. Therefore, it typically is not given consideration by the Tribunal.

Advice has been sought from Council’s Barrister regarding the prospect of appealing the Tribunal’s decision to the Supreme Court. To appeal to the Supreme Court Council will need to demonstrate that the Tribunal, in coming to its decision, has made an error of law.

Put another way, the Court is required to consider the legal adequacy of the Tribunal's decision making process. Council's Barrister's preliminary advice is that the Tribunal has not incorrectly applied the policy framework in a manner that may invalidate its decision.

9. Ms Carolyn Appelbe

The entire problem with the site at 33 Crisp Street including the VCAT decision to grant a conditional planning permit despite that permit having been refused by Council (VCAT reference number P1299/2011) stems from the site's inclusion within the boundaries of the Hampton Major Activity Centre.

We ask that a detailed explanation be provided as to the basis on which the Major Activity Centre boundaries came to be determined, what public consultation took place and what specific notice was given to residents directly affected ie whose residences fall within the Boundaries of the Major Activity Centre?

Response

It was necessary to define a boundary as part of the Structure Planning process so that it is clear where the Structure Plan applies. The boundary was defined to include areas in close proximity to public transport, shops, and services and it included sites that have development potential because of their size, orientation and accessibility. The boundary was carefully defined to minimise impacts on heritage buildings and areas.

The characteristics that were used to help define the boundary for the Hampton Street Centre include:

- Walking distance to the railway station
- Large sites
- North south oriented allotments
- Existing medium density development
- Allotments with two street frontages
- Heritage overlay areas and properties
- Neighbourhood character

Further information is provided at pages 70-71 of the Hampton Street Centre Structure Plan Background Report available on Council's website.

There were a range of public consultation activities that took place as part of developing the Structure Plan. The following stages of development included consultation:

- Stage 2: Issues & Opportunities (Consultation 1, 28 Feb – 18 Mar 2005)
- Stage 3: Emerging Ideas (Consultation 2, 30 May – 24 Jun 2005)
- Stage 4: Draft Plan (Consultation 3, 22 Aug – 16 Sep 2006)

Stage 2 (Consultation 1) included:

- Distribution of Community Bulletin 1 (Feb 05)
- Media release
- Centre based workshop, including distribution of invitations
- Interviews with land owners

Stage 3 (Consultation 2) included:

- Distribution of Community Bulletin 2 and invitation to briefing (May 2005)
- Workshop/briefings in each activity centre
- 'Emerging Ideas' display at the Hampton Community Centre from 30 May until 24 June 2005
- "on-street" information display
- Local library display for two weeks with bulletins and feedback sheets

Stage 4 (Consultation 3) included:

- Preparation of consultation product: summary of draft plan proposals
- Distribution of Community Bulletin 3 (Aug 05)
- Display on site at the Hampton Community Centre from 23 August to 16 September 2005
- "on street" information display 2 September 2005
- Information session at the Corporate Centre (for Hampton Centre) 23 August 2005

As part of the 'Emerging Themes' display (Stage 3 of the Structure Plan) the approach for defining the boundary was canvassed and feedback sought. Further, the draft Structure Plan included the proposed boundary for comment.

Council records indicate that Community Bulletins (1, 2 & 3) were distributed to households across the activity centre area.

10. Mr Bill Appelbe (Not present in the Chamber)

Carolyn Appelbe has asked a question about the introduction of the Hampton Major Activity Centre boundaries. For form's sake I repeat the last part of her question about what specific notice was given to residents directly affected ie whose residences fall within the Boundaries of the Major Activity Centre? And ask whether the entire process of the introduction of those boundaries was sufficient to ensure that there was no breach of natural justice for the directly affected residents.

We ask that Senior Council or Queen's Council advice be sought on whether this provides grounds for appeal so that it can be acted on prior to the deadline for lodging an appeal.

Response

For the sake of brevity, the first part of this question has been provided with a response.

The consultation process employed in developing the Structure Plan for Hampton was extensive. It is not considered that there was a breach of natural justice as community members were provided with a range of opportunities to make comment and be involved in the Structure Planning process.

Advice has been sought from Council's Barrister regarding the prospect of appealing the Tribunal's decision to the Supreme Court. To appeal to the Supreme Court Council will need to demonstrate that the Tribunal, in coming to its decision, has made an error of law. Put another way, the Court is required to consider the legal adequacy of the Tribunal's decision making process. Council's Barrister's preliminary advice is that the Tribunal has not incorrectly applied the policy framework in a manner that may invalidate its decision.

11. Ms Jill Esplan

Residents in Service Street and Crisp Street are well aware that there are underground streams or springs on the hill. Indeed there is a well on the site at 33 Crisp Street. We understand that a technical study may have been carried out in the past by Council to determine the location and nature of these water sources.

We ask that if such a report exist that it be made publically available; that it be updated to take into account the impact of the subsequent development at 24-26 Service Street; and, if no such report exists or if it cannot be located, that appropriate surveys be conducted and made available (recognising that such a survey will need to take into account the impacts of the seasonality of the water flows experienced by those living on the Service Street/Crisp Street hill including Mrs Joy Brown at 2/29 Crisp Street). In any event, we ask that a water survey be carried out and made publically available taking into the proposed 33 Crisp Street development especially the fact that it is cut into the hill. Again that survey will need to take into account the impacts of the seasonality of the water flows experienced by those living on the Service Street/Crisp Street hill including Mrs Joy Brown.

Response

It is presumed that the question relates to a hydrological study. Council Officers are unaware of such a study being prepared by Council in relation to water sources or flows in the Crisp Street area.

Typically, drainage and engineering matters are considered subsequent to a Planning Permit being issued and dealt with at the Building Permit stage. Drainage and the potential for an underground stream was a matter considered by the Tribunal, that it determined could have been resolved by way of condition.

12. Ms Jill Esplan

Finally condition 1 of the permit granted by VCAT in relation to 33 Crisp Street, Hampton (being VCAT reference no P1299/2011) requires that before development starts revised plans must be submitted to and approved by Council.

Accordingly, what potential is there for Council to reject those plans if, for example:
the deficiencies noted by VCAT had been rectified beforehand (see calls to action 1 and 2);
the boundaries of the Major Activity Centre are redrawn so that 33 Crisp Street falls outside the Centre; or
significant problems are identified with the site as a result of the water survey?

Response

Council cannot refuse to endorse the plans, irrespective of other matters such as possible changes to circumstances or planning controls. The VCAT's decision has been made and a permit must be issued. The mechanism for appealing the decision relates to a matter of law and is through the Supreme Court, however previously stated from advice received, there does not appear to be strong grounds or reason to pursue this path.

13. Mr Andrew Esplan (Not present in the Chamber)

To the extent that the following question asked by Jill Esplan is regarded as being in more than 2 parts, I repeat the question and ask that those additional parts be answered.

Finally condition 1 of the permit granted by VCAT in relation to 33 Crips Street, Hampton (being VCAT reference no P1299/2011) requires that before development starts revised plans must be submitted to and approved by Council.

Accordingly, what potential is there for Council to reject those plans if, for example:

- the deficiencies noted by VCAT had been rectified beforehand (see calls to action 1 and 2);
- the boundaries of the Major Activity Centre are redrawn so that 33 Crisp Street falls outside the Centre; or
- significant problems are identified with the site as a result of the water survey?

Response

Council cannot refuse to endorse the plans, irrespective of other matters such as possible changes to circumstances or planning controls. The VCAT's decision has been made and a permit must be issued. The mechanism for appealing the decision relates to a matter of law and is through the Supreme Court, however previously stated from advice received, there does not appear to be strong grounds or reason to pursue this path.

14. Mr Bill Appelbe (Not present in the Chamber)

In the context of refusing the original planning application for 33 Crips Street, Hampton, Council has expressed concern re the location of the Major Activity Centre boundaries given that there is the resulting potential for development like that proposed at 33 Crisp Street, something that the Council does not support and hence declined planning permission.

What scope is there for Council to seek to move the boundaries of the Hampton Major Activity Centre so that residents and Council's intentions and expectations more closely match the planning intentions expressed in the VCAT decision – VCAT reference number P1299/2011- (assuming of course you accept the underlying premise of that decision that such development is permissible; obviously we do not for the reasons given in this document)?

Response

Council has the scope to consider all aspects of Amendment C103 as it progresses through the amendment process. Further, following receipt of submissions, Council can refer the Amendment to an independent Panel for consideration.

While Council can consider changes to the Activity Centre boundary, it must also consider the implications that such a change may have. In changing the boundary, Council must provide strategic justification for the merits of such a change. Further, any such change at this point in the Amendment process may require the re-exhibition of the amendment.

Further, the Activity Centre Boundary has been used to undertake housing capacity modelling, informing Council's draft Housing Strategy.

15. Mr Kevin Spencer

In councils Road Management Plan policy it states that reported local pavement damage/pot holes etc, under the Asset Defect Service Levels, will be rectified within seven (7) working days. In my case there are a number of outstanding reports that have not been attended to in the required reported time frame. In one instant I have reported it twice and is now over twelve months overdue, and a more recent one of some twenty (20) days overdue. Weather should not be the mitigating factor for any complacency or inability to manage such essential work.

a) As is quite obvious to see the deteriorating road pavements throughout the City of Bayside, question is asked as to when did council last carry out a performance review of the contractor responsible for our local road maintenance and penalty clauses for poor performance under the contract conditions.

b) Or is this a case of the relevant council supervision being negligent in the proper follow up supervision of this contracted work.

Response

Council's Road Management Plan identifies defects intervention levels and response times for rectification for all Council assets in the road reserve. This includes a defect intervention level for potholes which requires rectification within 7 working days. All road related defects identified by inspections or notified by the public, are assessed by Council's Infrastructure Maintenance contractors to determine if the intervention levels have been reached. Defects which meet or exceed the intervention levels are repaired within the appropriate timeframes as per the Road Management Plan. In cases where the intervention levels have not been reached, defects are monitored and/or programmed for future works.

a) *Council's Infrastructure Maintenance contractor's key performance indicators are reported on and assessed monthly and any areas of non-conformance are addressed and actioned in accordance with the contract.*

b) *Council's Field Officer undertakes a significant number of daily random audits of all components of the Infrastructure Maintenance contractor's work to ensure compliance with contract specifications.*

16. Mr Kevin Spencer

As I understand Bayside Council along with other council's are footing the bill for the extravagant long standing superannuation policy of Vision Super & "defined benefits" fund for council employees. Vision Super has a short fall of \$71million. Financial year 2009/10 council paid out in excess of \$2 million to top up this fund.

- a) How much money have the Ratepayers of Bayside paid to top up this fund in the last ten (10) years.
- b) What action is council taking together with the State and Federal Governments to reduce this unwarranted cost burden on the primary stake holding Ratepayers of the City of Bayside.

Response

- a) *Council makes regular superannuation contributions on behalf of Council staff to a range of superannuation funds including Vision Super, this is in line with government superannuation regulations. In 2009/2010 the "in excess of \$2m" referred to in the question was Council's payment to superannuation funds representing the government required contributions and did not represent a "top-up".*

In 2010/2011 a "top-up" payment was made to the Vision Super Defined Benefits Fund of \$992,000. This payment was Bayside City Council's share of the funding shortfall identified at 31 December 2008 and confirmed by an actuarial review conducted by Vision Super Fund Trustees in late 2010.

Over the last 10 years 'top up' payments totalling \$3.3M to Vision Super have been made towards funding shortfalls, this figure includes the \$992,000 paid in 2010/2011.

- b) *Local Government's defined benefit scheme must have sufficient funds to meet the benefit owed to members now and in the future, through a combination of authority contributions, member contributions and the funds investment returns. Council through its Audit Committee monitors the investment performance of the fund. Neither the Federal nor State Governments are required to fully fund their defined benefit scheme liabilities.*

7. Petitions to Council

7.1 Petition: Netball Courts in Bayside

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Frederico

Seconded: Cr Hayes

That the petition be received and a report submitted to Council on this matter.

CARRIED

It is recorded Cr Hayes declared an Indirect Conflict of Interest in item 7.2 – Petition: Beach Road ‘No Stopping Trial’ where residential amenity may be altered given that he owns and resides in a property on St Kilda Street.

It is further recorded Cr Hayes vacated the Chamber at 7.29pm prior to consideration of the matter.

7.2 Petition: Beach Road ‘No Stopping Trial’

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Norris

Seconded: Cr Frederico

That the petition be received and considered in conjunction with the ‘No Stopping Trial’ report to be considered as a separate item to this meeting of Council.

CARRIED

It is recorded that Cr Hayes vacated the Chamber prior to the consideration of this matter and was absent whilst the vote was taken on this item.

It is recorded that Cr Hayes entered the Chamber at 7.30pm.

7.3 *Petition: Tree Vandalism*

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Frederico

Seconded: Cr Hayes

That the petition be received and noted.

CARRIED

8. Reports by Advisory Committees

8.1 *Assembly of Councillors Records*

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Long

Seconded: Cr Hayes

That Council notes the Assembly of Councillor records submitted as required by the Local Government Act.

CARRIED

9. Reports by Special Committees

There were no reports by Special Committees submitted to the meeting.

10. Reports by the organisation

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- 10.2 Climate Change Strategy
- 10.3 Planning for Elsternwick Park Ovals 1 and 2
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- 10.5 Amendment C100 – Sandringham Village Major Activity Centre
- 10.6 Amendment C101 – Bay Street Major Activity Centre
- 10.7 Amendment C102 – Church Street Major Activity Centre
- 10.8 Strategy and Policy for street and park trees
- 10.9 Review of Footpath Trading Fees, Objectives and Urban Design
- 10.10 Traffic Signal Upgrade
- 10.11 Community Engagement Policy
- 10.12 Building Asset Management Plan
- 10.13 Asset Management Strategy
- 10.14 Drainage Asset Management Plan
- 10.15 Municipal General Electoral Services 2012
- 10.16 Submission to the Expert Panel on Constitutional Recognition of Local Government
- 10.17 Council Offices, Libraries, Gallery and MHC Centres – Christmas and New Year period arrangements
- 10.18 Financial report for two (2) months to 31 August 2011
- 10.19 VCAT Decisions
- 10.20 Council action awaiting report

REQUESTS TO BE HEARD:

In accordance with Council's Governance Local Law No.1 Clause 68, individuals cannot speak for more than 3 minutes.

Requests to be heard were received from the following people:

Item 10.1 – Route 33 Beach Road 'No Stopping' Trial

Mr Pete Dowe

Item 10.4 – Sail Melbourne – Yachting Victoria inc – ISAF World Cup

Mr Steve Walker

Item 10.6 – Amendment C101 – Bay Street Major Activity Centre

Mr Gerald Dorset

Item 10.7 – Amendment C102 – Church Street Major Activity Centre

Mr Nick Wirdnam

Item 10.8 – Strategy and Policy for street and park trees

Mr George Reynolds

Item 10.16 – Submission to the Expert Panel on Constitutional Recognition of Local Government

Mr George Reynolds

Item 10.18 – Financial report for two (2) months to 31 August 2011

Mr George Reynolds

It is recorded that Cr Hayes declared an Indirect Conflict of Interest in item 10.1 – Route 33 Beach Road ‘No Stopping’ trial where residential amenity may be altered given that he owns and resides in a property on St Kilda Street.

It is further recorded Cr Hayes vacated the Chamber at 7.34pm prior to consideration of the matter.

10.1 Route 33 Beach Road ‘No Stopping’ Trial

Infrastructure Services – Asset Management Services
File No: FOL/11/1006

It is recorded that Mr Peter Dowe spoke in relation to this matter.

Moved: Cr Frederico

Seconded: Cr Norris

That Council:

1. resolves to extend the Beach Road weekend 6am to 10am ‘No Stopping’ trial until a further report is presented to Council in May 2012 at which time the permanency or otherwise of the controls will be considered.
2. informs the head petitioner of item 7.2 of the decision.

CARRIED

It is recorded that Cr Hayes was absent from the Chamber whilst this matter was discussed and was not present in the Chamber whilst the vote was being taken on this item.

It is recorded that Cr Hayes entered the Chamber at 7.48pm.

10.2 Bayside Climate Change Strategy

City Strategy – Environmental Sustainability & Open Space
File No: FOL/10/215888

Moved: Cr Norris

Seconded: Cr Cooper-Shaw

That Council:

1. endorses the Bayside Climate Change Strategy for public comment for release for public comment from 17 October to 16 December 2011; and
2. develops an expanded summary document covering the Bayside Climate Change Strategy and broader issues affecting community responses to climate change to be released with the Bayside Climate Change Strategy.
3. Write to the members of the Community Peer Review Panel and thank them for their contribution and involvement in the Climate Change Strategy.

CARRIED

It is recorded that Cr del Porto declared an Indirect Conflict of Interest in item 10.3 – Planning for Elsternwick Park Oval 1 and 2 as the funds are being directed to a pavilion in Hurlingham Park. Cr del Porto lives in the proximity of Hurlingham Park and his residential amenity may be altered.

It is further recorded Cr del Porto vacated the Chamber at 7.56pm prior to consideration of the matter.

In the absence of the Chairman, the CEO called for nominations for the position of Acting Chairperson for the consideration of item 10.3.

Moved: Cr Russell

That Cr Long take the Chair for consideration of Item 10.3.

The Motion LAPSED for want of a Secunder.

Moved: Cr Hayes

Seconded: Cr Norris

That Cr Cooper-Shaw take the Chair for consideration of Item 10.3.

CARRIED

10.3 Planning for Elsternwick Park Oval 1 and 2

Community Services – Recreation & Social Development

File No: A/21153

Moved: Cr Norris

Seconded: Cr Long

That Council:

1. approves the preparation of a Community Facility Funding Program Planning Category funding application for the purposes of undertaking a master planning and feasibility study project in respect of Elsternwick Oval 1 and 2;
2. commits to the allocation of \$10,000 in 2012/13 Budget as Council's contribution to match funding for any funded planning project: and
3. endorses the reallocation of \$60,000 included in the 2011/12 Budget for the detailed design of the Elsternwick Park No.2 pavilion toward the preparation of detailed designs for a pavilion redevelopment at Hurlingham Park.

CARRIED

It is recorded that Cr del Porto was absent from the Chamber whilst this matter was discussed and was not present in the Chamber whilst the vote was being taken on this item.

Moved: Cr Hayes

Seconded: Cr Long

That Cr del Porto take the Chair for the remainder of the meeting.

CARRIED

It is recorded that Cr del Porto entered the Chamber at 8pm.

10.4 Sail Melbourne – Yachting Victoria Inc – ISAF Sailing World CupCity Strategy – Urban Strategy
File No: FOL/11/855

It is recorded that Mr Steve Walker spoke in relation to this matter.

It is recorded Cr Norris vacated the Chamber at 8.08pm and re-entered at 8.10pm.

Moved: Cr Frederico**Seconded: Cr Cooper-Shaw**

That Council:

1. resolves to sponsor the 2011 ISAF – Sailing World Cup for 2011 at an amount of \$25,000;
2. resolves to waive of fees and charges associated with the use of Council car parks, Trey Bit Reserve and associated grassed areas;
3. requires that a post evaluation report be prepared by Sail Melbourne, which details the economic impact of the event on the local Bayside economy and that this be reported to Council by April 2012 as a condition of providing sponsorship;
4. sponsors the event for 2011 on the basis that the funding be provided for this financial year only and that future funding be subject to Council being satisfied that sufficient local economic benefit has been achieved from the additional sponsorship;
5. ensures Bayside branding is included in all marketing material; and
6. requests the ISAF to facilitate a meeting with all relevant Chambers of Commerce within Bayside.

AMENDMENT**Moved: Cr Long****Seconded: Cr Norris**

That Council:

1. resolves to sponsor the 2011 ISAF – Sailing World Cup for 2011 at an amount of \$20,000;
2. resolves to waive of fees and charges associated with the use of Council car parks, Trey Bit Reserve and associated grassed areas;
3. requires that a post evaluation report be prepared by Sail Melbourne, which details the economic impact of the event on the local Bayside economy and that this be reported to Council by April 2012 as a condition of providing sponsorship;
4. sponsors the event for 2011 on the basis that the funding be provided for this financial year only and that future funding be subject to Council being satisfied that sufficient local economic benefit has been achieved from the additional sponsorship; and
5. ensures Bayside branding is included in all marketing material.

The Motion was Put and a **DIVISION** was called.

DIVISION: **FOR:** Crs Norris, Russell and Long (3)
 AGAINST: Crs Hayes, Frederico, Cooper-Shaw and del Porto (4)

The Amendment was Put and **LOST**

The Original Motion became the Motion before the Chair.

The Original Motion moved by Cr Frederico and seconded by Cr Cooper-Shaw was Put and a **DIVISION** was called.

DIVISION: **FOR:** Crs Hayes, Frederico, Cooper-Shaw and del Porto (4)
 AGAINST: Crs Norris, Russell and Long (3)

CARRIED

It is recorded that Cr Hayes declared an Indirect Conflict of Interest by close association in item 10.6 – Amendment C101 – Bay Street Major Activity Centre as his mother owns a property within the Bay Street Major Activity Centre.

It is further recorded Cr Hayes vacated the Chamber at 8.58pm prior to consideration of the matter.

10.6 Amendment C101 – Bay Street Major Activity Centre

City Strategy – Urban Strategy
File No: FOL/11/453

It is recorded that Mr Gerald Dorset spoke in relation to this matter.

Moved: Cr Frederico

Seconded: Cr Long

That Council:

1. receives all submissions made in response to the statutory exhibition of Bayside Planning Scheme Amendment C101 – Bay Street Major Activity Centre;
2. adopts the position on the submissions as set out in Attachment 2 to this report;
3. refers submissions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22 and 23 as contained within Attachment 3 to an independent Panel for consideration;
4. requests the Minister for Planning appoint a Panel pursuant to Section 153 of the *Planning and Environment Act 1987* to consider the submissions received in response to exhibition of Amendment C101; and
5. advises all submitters accordingly.

CARRIED

It is recorded that Cr Hayes was absent from the Chamber whilst this matter was discussed and was not present in the Chamber whilst the vote was being taken on this item.

It is recorded that Cr Hayes entered the Chamber at 9.12pm.

It is recorded that Cr Cooper-Shaw declared a Direct Conflict of Interest in item 10.7 – Amendment C102 – Church Street Major Activity Centre as she owns a property within the Church Street Major Activity.

It is recorded that Cr del Porto declared a Direct Conflict of Interest in item 10.7 – Amendment C102 – Church Street Major Activity Centre as he owns a property within the Church Street Major Activity Centre.

It is further recorded that Cr del Porto and Cr Cooper-Shaw vacated the Chamber at 9.12pm prior to consideration of the matter.

In the absence of the Chairperson the CEO called for nominations for the position of the Acting Chairperson for the consideration of item 10.7.

Moved: Cr Norris

Seconded: Cr Russell

That Cr Long take the Chair for consideration of item 10.7.

CARRIED

10.7 Amendment C102 – Church Street Major Activity Centre

City Strategy – Urban Strategy
File No: FOL/11/454

It is recorded that Mr Nick Wirdnam spoke in relation to this matter.

Moved: Cr Norris

Seconded: Cr Frederico

That Council:

1. receives all submissions made in response to the statutory exhibition of Bayside Planning Scheme Amendment C102 – Church Street Major Activity Centre;
2. adopts the position on the submissions as set out in Attachment 2 to this report;
3. refers submissions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 21, 22, 23, 24 and 25 in Attachment 5 to an independent Panel for consideration;
4. requests the Minister for Planning appoint a Panel pursuant to Section 153 of the *Planning and Environment Act 1987* to consider the submissions received in response to exhibition of Amendment C102;
5. undertakes further work considering the expansion of the Neighbourhood Character Overlay Schedule 9 (NCO9) boundary to include numbers 178-180 Church Street, 188 Church Street, 190 Church Street and 10 Halifax Street as part of a separate amendment;
6. receives a further report once this work has been completed; and
7. advises all submitters accordingly.

The Motion was Put and a **DIVISION** was called.

DIVISION: **FOR:** Crs Frederico, Norris and Russell (3)
 AGAINST: Crs Hayes and Long (2)

CARRIED

It is recorded that Crs del Porto and Cooper-Shaw were absent from the Chamber whilst this matter was discussed and was not present in the Chamber whilst the vote was being taken on this item.

Moved: Cr Hayes

Seconded: Cr Russell

That Cr del Porto take the Chair for the remainder of the meeting.

CARRIED

It is further recorded that Cr del Porto and Cr Cooper-Shaw entered the Chamber at 9.32pm.

It is recorded Cr Norris vacated the Chamber at 9.32pm and re-entered the Chamber at 9.36pm.

10.8 Strategy and Policy for street and park trees

City Strategy – Environmental Sustainability & Open Space
File No: FOL/11/383

It is recorded that Mr George Reynolds spoke in relation to this matter.

Moved: Cr Hayes

Seconded: Cr Long

That Council:

1. endorses the Bayside Tree Strategy and the Street and Park Tree Management Policy for release for public comment from 17 October to 16 December 2011;
2. receive comment on the draft procedures during the public comment period; and
3. receives a further report regarding the Bayside Tree Strategy and the Street and Park Tree Management Policy at the conclusion of the public comment period.

CARRIED

10.9 Review and Footpath Trading Fees, Objectives and Urban Design

Infrastructure Services – Amenity Protection
File No: COR/1234

Moved: Cr Norris

Seconded: Cr Long

That Council notes this report and resolves the Council report “Review of Footpath Trading Fees, Objectives and Urban Design” will be now received within three meeting cycles of this meeting of Council.

CARRIED

10.10 Traffic Signal Upgrade

Infrastructure Services – Asset Management Services
File No: FOL/11/334

Moved: Cr Frederico

Seconded: Cr Long

That Council:

1. approves the upgrade of traffic signals at nine locations, which are owned by Bayside City Council and maintained by VicRoads on Council’s behalf, as part of the VicRoads state wide LED traffic signals upgrade through a contract awarded and managed by VicRoads; and
2. approves expenditure of \$195,000 for the upgrade of the traffic signals and that funding for this capital expenditure be approved as an unbudgeted item in the 2011/2012 financial year, to be accommodated in the midyear budget review.

CARRIED

10.11 Community Engagement Policy

CEO – Communications & Customer Service
File No: COR/2195

Moved: Cr Long

Seconded: Cr Cooper-Shaw

That Council adopts the attached Community Engagement Policy.

AMENDMENT

Moved: Cr Norris

Seconded: Cr Hayes

That Council adopts the attached Community Engagement Policy subject to an addition dot point in part 6 relating to Policy Statement to read:

- that our commitments will include community input in relation to significant actions that contradict, or are not foreshadowed in Open Spaces, Reserves, Streetscapes and Activity Centre Master Plans.

The Amendment was withdrawn with the consent of the Mover and Seconder.

The Original Motion was PUT and **CARRIED**.

10.12 Buildings Asset Management Plan

Infrastructure Services – Asset Management Services
File No: FOL/11/1029

Moved: Cr Long

Seconded: Cr Cooper-Shaw

That Council endorses the Buildings Asset Management Plan dated October 2011.

CARRIED

10.13 Asset Management Strategy

Infrastructure Services – Asset Management Services
File No: FOL/11/1029

Moved: Cr Long

Seconded: Cr Cooper-Shaw

That Council adopts the revised Asset Management Strategy as attached.

CARRIED

10.14 Drainage Asset Management Plan

Infrastructure Services – Asset Management Services
File No: FOL/11/1029

Moved: Cr Long

Seconded: Cr Cooper-Shaw

That Council endorses the Drainage Asset Management Plan dated October 2011.

CARRIED

10.17 Council Offices, Libraries, Gallery and MCH Centres – Christmas and New Years period arrangementsCorporate Services - Governance
File No: COR 1234

It is recorded that Cr Cooper-Shaw vacated the Chamber at 10.52pm.

Moved: Cr Russell**Seconded: Cr Frederico**

That Council:

1. authorises the closure of the Corporate Centre, Branch Libraries, Maternal and Child Health Centres and the Bayside Gallery on the following hours during the Christmas and New Year Period:
 - a) Corporate Centre to close at 4.00pm on Friday 23 December and 4.00pm Friday 30 December 2011;
 - b) Maternal and Child Health Centres to close at 4.00pm on Friday 23 December and 4.00pm Friday 30 December 2011;
 - c) Bayside Gallery to close at 5.00pm Wednesday 21 December 2011 and re-open at 11am on Wednesday 11 January 2012;
 - d)
 - i. All Branch Libraries close at 5.00pm Friday 23 December 2011;
 - ii. All Branch Libraries open Saturday 24 December 2011 from 10.00am to 3.00pm;
 - iii. Brighton, Sandringham and Beaumaris branch libraries open on:
Wednesday 28 December 10.00am-6.00pm,
Thursday 29 December 10.00am-6.00pm,
Friday 30 December 10.00am-6.00pm,
Saturday 31 December 10.00am-4.00pm
 - iv. Hampton Branch library closed from 28 December 2011 to 2 January 2012;
 - v. All Branch Libraries resume standard hours on Tuesday 3 January 2012; and
2. gives public notice of the early closure of these facilities during the Christmas and New Year period via Bayside Leader, Council's website, Let's Talk Bayside and appropriate signage on the various facilities.

CARRIED

It is recorded that Cr Cooper-Shaw entered the Chamber at 10.56pm.

10.18 Financial report for two (2) months to 31 August 2011

Corporate Services - Finance
File No: COR20686

It is recorded that Mr George Reynolds spoke in relation to this matter.

Moved: Cr Hayes

Seconded: Cr Long

That Council notes the financial report for operating and capital for the two month period ending 31 August 2011.

CARRIED

Moved: Cr Long

Seconded: Cr Frederico

That Council extend the Ordinary Meeting for a further 30 minute period.

CARRIED

10.19 VCAT Decisions

City Strategy - Statutory Planning
File No: FOL/10/215916

Moved: Cr Cooper-Shaw

Seconded: Cr Norris

That the report on VCAT decisions on planning applications handed down since the last Council Meeting be received and noted.

CARRIED

10.20 Council Action Awaiting Report

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Russell

Seconded: Cr Hayes

That Council move in-camera to consider item 10.20 in accordance with Section 89(2)(d) of the Local Government Act given the content of the report relates to a contractual matter.

CARRIED

Moved: Cr Russell

Seconded: Cr Long

That Council move out of camera and resume the Ordinary Meeting of Council.

CARRIED

Moved: Cr Frederico

Seconded: Cr Cooper-Shaw

That Council notes the Council Action Awaiting Report.

CARRIED

11. Reports by Delegates

Association of Bayside Municipalities – Cr Norris

Cr Norris reported on his attendance at the General Meeting held on 22 September 2011. The next meeting is scheduled for Thursday 3 November 2011.

MAV Environment Committee – Cr Norris

No report was submitted to the meeting.

Metropolitan Transport Forum – Cr Russell

No report was submitted to the meeting.

Municipal Association of Victoria – Cr Long

No report was submitted to the meeting.

Victorian Local Governance Association – Cr Norris

Cr Norris reported on his recent attendance at a meeting held on 6 October 2011.

Inner South Metropolitan Mayors' Forum – Cr del Porto

No report was submitted to the meeting.

Metropolitan Waste Management Forum – Cr Long

No report was submitted to the meeting.

Moved: Cr Long

Seconded: Cr Cooper-Shaw

That the Councillors' reports be received and noted.

CARRIED

12. Urgent Business

There were no items of urgent business submitted to the meeting.

13. Notices of Motion

There were no Notices of Motion submitted to the meeting.

14. Confidential Business**Moved: Cr Long****Seconded: Cr Norris**

That pursuant to Section 89(2) of the Local Government Act 1989, the Council resolves that so much of this meeting be closed to members of the public, as it involves Council consideration of matters coming within some or all of the following categories listed in Section 89(2) of such Act.

- (a) *Personnel matters;*
- (b) *The personal hardship of any resident or ratepayers;*
- (c) *Industrial matters;*
- (d) *Contractual matters;*
- (e) *Proposed developments;*
- (f) *Legal advice;*
- (g) *Matters affecting the security of Council property;*
- (h) *Any other matter which the Council or Special Committee considers would prejudice the Council or any person;*
- (i) *A resolution to close the meeting to members of the public.*

CARRIED**Moved: Cr Hayes****Seconded: Cr Norris**

That the meeting be adjourned for a two minute period at 11.05pm.

CARRIED**Moved: Cr Hayes****Seconded: Cr Long**

It is recorded that the Council Meeting resumed at 11.07pm.

CARRIED

It is further recorded that Cr Norris was not present in the Chamber when the meeting was resumed.

Table of Contents

- 14.1 Contract No: 111206X – Boss James Oval Reconstruction, Bluff Road Hampton East
- 14.2 Contract No: 111208X – Sandringham Family Leisure Centre – Building Works including Roof Purlin Replacement
- 14.3 Children’s Services Review – Child Care Services

It is recorded that the public gallery was vacated to enable Council to consider the above listed items in Confidential Business.

Following consideration of Confidential Business the Chairperson declared the meeting closed at 11.29pm.

CONFIRMED THIS 8 DAY OF NOVEMBER 2011**CHAIRMAN:**