



Minutes of the Ordinary Meeting of Bayside City Council

The Meeting was held in the Council Chambers
Civic Centre, Brighton
on Tuesday 12 July 2011

The Meeting commenced at 7.00pm

PRESENT:

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

OFFICERS IN ATTENDANCE:

Shiran Wickramasinghe	Acting Chief Executive Officer
Stephen Thorpe	Acting Director City Strategy
Heather Johnson	Director Community Services
Charles Turner	Acting Director Infrastructure Services
Sharon Pearsons	Director Corporate Services
Terry Callant	Governance Manager
Janice Pouw	Governance Officer

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

1. Prayer

Cr Cooper-Shaw 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 Norris 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 Boonwerung 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 – .

An apology from Cr Long was submitted to this meeting.

Moved: Cr Norris

Seconded: Cr Russell

That the apology of Cr Long be received and leave of absence be granted.

CARRIED

4. Disclosure of any Conflict of Interest of any Councillor

- Cr Cooper-Shaw declared a Direct Conflict of Interest in Item 10.4 – Planning Scheme Amendment C98 – Bayside Gaming Policy as she owns a property within the precinct.

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 14 June 2011

Moved: Cr Hayes

Seconded: Cr Cooper-Shaw

That the minutes of the Ordinary Meeting of Bayside City Council held on Tuesday 14 June 2011 as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

5.2 Confirmation of the Minutes of the Special Meeting of Council held on Tuesday 28 June 2011

Moved: Cr Norris

Seconded: Cr Hayes

That the minutes of the Special Meeting of Bayside City Council held on Tuesday 28 June 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 5 public questions to the Meeting:

1. Ms Sue Hardiman

- a) It was reported in the Bayside Leader of 7 June 2011 that the Bayside Council had spent in excess of \$300,000 in legal fees in the financial year 2010-2011 fighting unsuitable development proposals. Is the amount quoted correct? How many applications have gone to VCAT and what is the success rate?
- b) Would the Council list each and every application and the cost to Council of each and every application?

Response

- a) *The amount quoted was correct. The total expense for the financial year was \$384,194. There have been 86 applications for review of decisions made by Council in the financial year 2010-2011. Of these VCAT has handed down 73 decisions (Council is awaiting 13 decisions yet to be handed down). VCAT has supported Council's original decision in 32 cases - or 44% of applications for review.*
- b) *Council cannot readily provide a list of each and every application and the associated individual cost to Council, however the following information regarding representation costs can be provided:*

During financial year 2010/2011 Council expended funds on the following elements of representation at VCAT:

*Legal Representation - \$337,329.
Urban Design Expert Advice - \$30,370.
Traffic Engineering Expert Advice - \$10,458.
Heritage Expert Advice - \$6035.*

2. Mr Kevin Spencer

Given the large number of trees and shrubs overhanging the City of Bayside footpaths and taking into consideration councils policy controls on this matter together with councils Risk Management Policy, why has council not taken these matters seriously by the following;

- A. Include a notice in all Rate Notices bringing to the attention of property owners their responsibility to be in compliance with the local law and the penalty infringement charge.
- B. That Council serve notice to property owners with offending tree and shrub branches hindering or are a potential danger to pedestrians to be removed at a cost to the owner as well as receiving a penalty notice for non compliance with councils policy.

Response

- a) *Council takes this matter seriously and uses a number of methods to notify residents of their responsibilities to cut back overhanging trees and vegetation from their property. Properties are proactively inspected for overhanging trees and vegetation by a dedicated local laws officer for 3 months every year. Further in May 2011 an article was published in "Let's Talk Bayside" to raise community awareness of this matter.*

Council's local laws officers also act on any complaints and randomly inspect properties.

- b) *After inspection of a non compliant property Council's local law officers issue a notice to comply on properties that are in breach and if they fail to comply with Council's request then the appropriate action is taken.*

3. Mr Kevin Spencer

As I understand, four councillors from Bayside City Council including the Mayor attended the Annual Assembly of Local Government festivities in Canberra last month.

- A. What was the total cost to ratepayers of the City of Bayside for this junket by such a large number of councillors including travel, registration accommodation costs.
- B. Following on from council approving its uncompromising budget and bearing in mind councillors promise of accountability and community engagement, would each councillor that attended the Canberra festivities make a public report (Next Ordinary Meeting) as to their own activities at the assembly and an assessment of the various topics covered?

Response

- a) *The Australian Local Government Association (ALGA) is a major event for local government and typically attracts representatives from more than 177 Council's including Mayors, Councillors and Senior Officers. The cost associated with the attendance of 4 Councillors at the Australian Local Government Association conference held in Canberra from 19 to 22 June 2011 including travel, registration and accommodation costs was \$9,240.08.*
- b) *In accordance with Council Policy in relation to attendance at conferences, Councillors are required to report on the activities of the conference which they attend. It is intended that Councillors will report on this conference at this meeting.*

4. Mr George Reynolds

- a) In the light of the substantial damages recently awarded against a Council and the EPA for negligently failing to advise/alert residents to an environmental risk, will Council now reconsider taking the action recommended by the fire risk management committee in October 2009, and
- b) Will Council complete this work in time for residents to protect their properties ahead of the 2011/12 fire season?

Response

- a) *The Bayside City Council Municipal Fire Plan was adopted by Council in October 2009. Actions from the Plan are considered annually by the Bayside Municipal Fire Management Plan Committee and reported to the Emergency Management Committee annually. The plan aims to identify fire risks and establishes programs and treatments to reduce risk and strategies for the management of fire risks.*
- b) *Every year Council officers work closely with the Metropolitan Fire Brigade inspecting Council bushland and foreshore reserves. Actions agreed with the MFB are implemented.*

5. Mr George Reynolds

In relation to the proposed establishment of a bravery garden in honour of recipients of the "bravery medal"

- a) Would Council confirm that there are only two recipients of this medal ever listed as living in Bayside. One of the recipients a (Mr Carp) cannot be confirmed as currently resident in Bayside and the other obtained his medal while living in Balwyn and
- b) Could Council also confirm that this other party is currently a councillor and would be demonstrating a conflict of interest should this matter be considered by Council.

Response

- a) *The proposed establishment of a Bravery Garden is broader in context than only in honour of recipients of a 'Bravery Medal', but is proposed as a place of remembrance of those who have lost their lives or have been injured in saving life or property in perilous circumstances.*

Information available on the "It's an honour" website indicates 2 recipients from the Beaumaris suburb and one recipient from the Cheltenham suburb have received a Bravery Medal. A further two recipients one from Cheltenham suburb and one from Brighton suburb received a Commendation for Brave Conduct.

- b) *As indicated above, three recipients have received a Bravery Award. Cr James Long became a recipient of a Bravery Medal prior to residing in Bayside. In relation to any potential conflict of interest on any matter a Councillor is required to determine if he or she holds a conflict of interest.*

7. Petitions to Council

7.1 Petition: Hampton East Dog Off-Leash Areas

Corporate Services - Governance
File No: COR/1234

Petition for additional dog off leash areas (214 signatures)

"We the undersigned, wish to complain about the lack of fully fenced dog off-leash areas in Hampton East, and petition you to remedy this situation as soon as possible.

As responsible dog owners, or supporters of responsible dog owners, we recognise the need for dogs to be able to run free in secure areas where there is no risk of them escaping onto roads.

Our suggestion is that A B Oliver Reserve, which is home to the Moorabbin Baseball Club (MBC) would be ideal. Our observations are that MBC use it very infrequently and that it is rarely used by other members of the public. As it is bounded by security nets on Summit Avenue, clubrooms on Little Avenue and the back gardens of houses facing Widdop Crescent, it is already about 50% fenced. To ensure all users' needs are met, signage could be installed similar to signage in WL Simpson Reserve in Raynes Park Road which is used for sport – 'No dogs within 20 metres of sports participants' and 'Pick up after your dog'."

This matter, which is related to one specific parcel of open space could be most appropriately considered in the wider context of Council's Domestic animal Management Plan (DAMP). The DAMP must be reviewed by April 2012 under the Domestic Animals Act 1994.

Moved: Cr Cooper-Shaw

Seconded: Cr Frederico

That the petitioners be advised Council will consider the matters raised by their petition in conjunction with the review of the Domestic Animal Management Plan which is due for completion by April 2012.

CARRIED

7.2 Petition: Traffic Management of Cochrane Street

Corporate Services - Governance
File No: FOL/1234

Petition for additional speed hump/ island at the corner of Cochrane and Osborne Close (10 signatures)

“We the undersigned hereby petition Bayside City Council as residents of Cochrane Street Brighton, to consider the installation of an additional speed hump/island at the intersection of Cochrane Street and Osborne Close. This section of road has no existing traffic control measures between Martin Street and North Road. The area is frequented by young families and the elderly of our community, who are the most vulnerable to the dangers of excessive speeding in a residential area.”

Moved: Cr Hayes

Seconded: Cr Norris

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

CARRIED

8. Reports by Advisory Committees

8.1 *Assembly of Councillors Records*

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Cooper-Shaw

Seconded: Cr Russell

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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- 10.1 Beach Parking Permit Policy
- 10.2 DPCD Community Satisfaction Survey 2011
- 10.3 Bayside 2020 Community Plan
- 10.4 Planning Scheme Amendment C98 – Bayside Gaming Policy
- 10.5 Petition on Climate Change Advocacy
- 10.6 Bravery Garden
- 10.7 Bayside Tourism Network Membership
- 10.8 VCAT Decisions
- 10.9 Financial Report for the Eleven (11) Months to 31 May 2011
- 10.10 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 10.2 – DPCD Community Satisfaction Survey 2011

Mr George Reynolds

Item 10.4 – Planning Scheme Amendment C98 – Bayside Gaming Policy

Mr David McLachlan

Item 10.5 – Petition on Climate Change Advocacy

Mr George Reynolds
Dr Margaret Beavis
Ms Christine Ireland
Ms Pauline Reynolds
Ms Mary Dettman
Ms Janet Ablitt
Mr Ken Blackman

Item 10.9– Financial Report for the Eleven (11) Months to 31 May 2011

Mr George Reynolds

10.1 Beach Parking Permit Policy

Infrastructure Services – Amenity Protection
File No: FOL/11/3

Moved: Cr Hayes

Seconded: Cr Cooper-Shaw

That Council:

1. notes the proposed changes to the Beach Parking Permit Scheme as contained in the report; and
2. adopts the Beach Parking Permit Policy as outlined in the report as Attachment 3.

The Chairperson used his casting vote in favour of the Motion, and the Motion was **CARRIED**

10.2 DPCD Community Satisfaction Survey 2011CEO – Communications & Customer Service
File No: COR/2195

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

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

That Council notes the results of the 2011 Victorian Local Government Community Satisfaction Survey and resolves the key results be published on Council's website along with a statement on Council's key activities related to service improvement measures.

CARRIED

10.3 Bayside 2020 Community PlanCEO – Communications & Customer Service
File No: COR/2195

Moved: Cr Hayes**Seconded: Cr Frederico**

That Council:

1. adopts the attached Bayside 2020 Community Plan;
2. authorises the CEO to make any minor editorial changes;
3. develops an online resource that will contain the summary of the public conversations at all the public forums and steering group meetings and identify links to Council's Planning Framework; and
4. writes to all members of the Community Plan Steering Group thanking them for their valuable contribution and encouraging their continuing interest in this initiative for the purposes of implementation.

CARRIED

It is recorded that Cr Cooper-Shaw declared a Direct Conflict of Interest in Item 10.4 – Planning Scheme Amendment C98 – Bayside Gaming Policy as she owns a property within the precinct.

It is further recorded that Cr Cooper-Shaw vacated the Chamber at 7.52pm prior to consideration of this matter.

It is recorded that Cr Norris vacated the Chamber at 7.52pm and re-entered at 7.54pm.

10.4 Planning Scheme Amendment C98 – Bayside Gaming Policy

City Strategy – Urban Strategy
File No: FOL/10/223355-02

It is recorded that Mr David McLachlan spoke in relation to this matter.

Moved: Cr Frederico

Seconded: Cr Russell

That Council:

1. receives all submissions to Amendment C98;
2. modifies the Bayside Gaming Policy 2010 and Amendment C98 to reflect that gaming venues should be located more than 500 metres measured along the road network from public facilities and socially disadvantaged areas, as shown in Attachment 2;
3. amend the Bayside Gaming Policy to reflect the following changes under the following heading:
“Gaming machines should not be located”
second dot point to read:
“In the Mixed Use Zone and Business 1 Zone land located in the Bayside Business Employment Area as shown in Figure 1 Clause 22.05”
4. advises submitters of Council’s consideration of submissions and advises those submitters whose suggested changes are outside Council’s control that Council is unable to address these matters as part of the amendment; and
5. requests that the Minister for Planning appoint an independent panel and refers the submissions and the amendment for the panel’s consideration.

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

DIVISION: **FOR:** Crs Frederico, Norris, Russell and del Porto (4)
 AGAINST: Crs Hayes (1)

CARRIED

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

It is recorded Cr Cooper-Shaw returned to the Chamber at 8.17pm.

10.5 *Petition on Climate Change Advocacy*

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

It is recorded that Mr George Reynolds, Dr Margaret Beavis, Ms Christine Ireland, Ms Pauline Reynolds, Ms Mary Dettman, Ms Janet Ablitt and Mr Ken Blackman spoke in relation to this matter.

Moved: Cr Norris

Seconded: Cr Hayes

That Council:

1. writes to the Prime Minister, the Premier of Victoria, MPs, Greg Combet, Mark Dreyfus, Tony Abbott, Greg Hunt, Daniel Andrews, Ryan Smith, Lisa Neville, and to Victorian Federal MPs asking the Australian Government to work collaboratively with local government in the provision of information about opportunities for minimising the social and economic impacts of a price on carbon; and
2. includes consideration of the impacts of a price on carbon in the Bayside City Council Climate Change Strategy that is currently under development.

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

DIVISION: **FOR:** Crs Hayes, Norris, Cooper-Shaw and del Porto (4)
 AGAINST: Crs Frederico and Russell (2)

CARRIED

10.6 Bravery GardenCity Strategy – Environmental Sustainability & Open Space
File No: FOL/11

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

That Council:

1. endorses the concept of a Bravery Garden being developed at the Triangle Gardens Hampton;
2. funds the amount of up to \$20,000 for the development of the Bravery Garden at the northern end of Triangle Gardens to be accommodated within the open space budget with the adjustment to be assessed at the first quarter review;
3. funds the amount of \$40,000 for the upgrade to the path and drainage network to be accommodated within the capital works budget with the adjustment to be assessed at the first quarter review;
4. refers \$20,000 for upgrading the gateway landscaping and appropriate signage to the 2012/2013 budget; and
5. conducts an appropriate ceremony to acknowledge the opening of the Bravery Garden to be hosted by the Mayor of the Day.

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

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

The Chairperson used his casting vote in favour of the Motion, and the Motion was
CARRIED

10.7 Bayside Tourism Network MembershipCity Strategy – Urban Strategy
File No: FOL/11/753

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

That Council:

1. reappoints to the Bayside Tourism Network the following renominating members for two year terms:
 - Mr Jason Douglas
 - Ms Maureen Griffiths
 - Ms Penny Irons
 - Mr Stephen Le Page
 - Ms Michele Waddington
2. appoints the following new members to the Bayside Tourism Network for two year terms:
 - Ms Danee Georgiou
 - Ms Caroline Hartley
 - Mr David Elias
3. writes to the retiring Bayside Tourism Network members and thank them for their contribution.

CARRIED

10.8 VCAT DecisionsCity Strategy – Statutory Planning
File No: COR/1234

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

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

CARRIED

10.9 *Financial report for eleven (11) months to 31 May 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 Norris

That Council notes the financial report for the eleven month period ended 31 May 2011.

CARRIED

10.10 *Council Action Awaiting Report*

Corporate Services - Governance
File No: FOL/1234

Moved: Cr Norris

Seconded: Cr Hayes

That Council notes the Council Action Awaiting Report for the period to June 2011.

CARRIED

11. Reports by Delegates

Association of Bayside Municipalities – Cr Norris

Cr Norris reported on his attendance at the recent ABM meeting where it was announced that a consortium, which includes the ABM, has received a grant of \$500,000 from the Federal Government towards the total cost of nearly \$1 million.

MAV Strategic Environment Advisory Group – Cr Hayes

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

No report was submitted to the meeting.

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.

Australian Local Government Association Conference

Cr del Porto was prepared to report on Councillors recent attendance at the ALGA conference held in Canberra in June 2011. Given the community interest shown in this matter, and no members of the community were present in the gallery, Cr del Porto withheld his report until the next Ordinary Meeting of Council.

Moved: Cr Russell

Seconded: Cr Hayes

That the Councillors' reports be received and noted.

CARRIED

12. Urgent Business

Moved Cr Norris

Seconded Cr Cooper-Shaw

That the matter relating to the attendance of a Councillor at the Waste Summit 2011 be considered as a matter of urgent business.

CARRIED

Moved Cr Russell

Seconded Cr Hayes

That Council approves the attendance of the Mayor Cr del Porto at the Waste summit 2011 for the 2 day program to be held at Melbourne Park Function Centre from 15 to 17 August 2011.

CARRIED

13. Notices of Motion

There were no Notices of Motion submitted to the meeting.

14. Confidential Business

Moved: Cr Frederico

Seconded: Cr Russell

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

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14.1 Independent Living Units

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 9.35pm.

CONFIRMED THIS 2 DAY OF AUGUST 2011

CHAIRMAN: