



Minutes of the Ordinary Meeting of Bayside City Council

The Meeting was held in the Council Chambers
Civic Centre, Brighton
on Tuesday 13 December 2010

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 BM JP
Cr Michael Norris
Cr Simon Russell

OFFICERS IN ATTENDANCE:

Adrian Robb	Chief Executive Officer
Shiran Wickramasinghe	Director City Strategy
Sharon Pearsons	Director Corporate Services
Heather Johnson	Director Community Services
Gen Hindman	Manager Amenity Protection
Michael Top	Environmental & Sustainability Advisor
Terry Callant	Governance Manager
Janice Pouw	Governance Officer

The Chairman declared the meeting open at 7.00pm and invited
Cr Hayes to read the prayer.

1. Prayer

Cr Hayes 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 – There were no apologies submitted to the meeting.

4. Disclosure of any Conflict of Interest of any Councillor

- Cr Russell declared an Indirect Conflict of Interest that is an indirect financial interest on Item 10.3 – Sandringham Baseball Club Liquor Licence Request, as Cr Russell's wife has a business which has a liquor licence within close proximity of the club.

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 23 November 2010

Moved: Cr Frederico

Seconded: Cr Cooper-Shaw

That the minutes of the Ordinary Meeting of Bayside City Council held on Tuesday 23 November 2010 as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

5.2 Confirmation of the Minutes of the Annual Meeting of Council held on 2 December 2010.

Moved: Cr Hayes

Seconded: Cr Cooper-Shaw

That the minutes of the Annual Meeting of Council held on Tuesday 2 December 2010 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 4 public questions to the Meeting:

1. Mrs Shirley Joy (present in the Chamber)

Did Bayside City Council engage a Senior Legal Counsel to represent the City of Bayside at the Hearing, if in the affirmative, what is his/her name?

Response

Following the Council resolution to engage senior legal counsel, Maddocks engaged Chris Wren QC to represent Council. Staff and Maddocks were actively involved in briefing Mr Wren QC over a period of weeks, preparing the case and the commissioning of expert witness statements, and undertaking site inspections.

2. Mrs Shirley Joy

Did the Councillors of the City of Bayside vote to rescind their motion, if not, what is the name of the person or persons who decided to set aside the Councillors' motion?

Response

A week prior to the hearing Mr. Wren QC advised that he was unable to continue with the case as a prior matter he was involved with had been listed for a further hearing in the Supreme Court at the same time. Maddocks immediately made contact with other recognised planning Senior Legal Counsel and at short notice secured Michael Wright QC. A couple of days later Mr Wright QC advised that he also now has a conflict. No other planning senior counsel were available at short notice for a 4 day hearing. It is also problematical in having sufficient time to brief a new lawyer on the complex details of this case prior to the hearing commencing.

In the circumstances Terry Montebello, the senior planning partner with Maddocks was instructed to present Council's case.

Councillors were advised of the decision to continue with Mr. Montebello by Mr. Michael Top, the then Director City Strategy on 19 November 2010.

3. Ms Sue Hardiman (not present in the Chamber)

In respect of complaints received in the last 12 months concerning the conduct of a councillor or councillors –

- (a) Would Council please provide particulars of those complaints including the number of complaints, the number of councillors involved, the nature of the complaint/s and how the complaint was resolved
- (b) With reference to the complaint made by me on 1 October 2010 could Council advise why a period of 38 days elapsed before I was provided with a final response.

Response

- a) *The question is not particularly clear and we have had some difficulty understanding the question and determining, therefore a suitable response. A response will be prepared over the next several days and forwarded.*

- b) *The final response to the matter raised on 1 October 2010 required clarification and legal advice. The correspondence was acknowledged via email on 4 October and this response indicated that a further reply would be forwarded.*

4. Ms Sue Hardiman

Concerning the legal obligations of Councillors when making administrative decisions can Council state whether a Councillor may take part in the decision making process when he/she –

- a) has any association with any party promoting or opposing a proposal especially when that association extends to a prior expression of support or opposition, or a subsequent celebration of the outcome; and
- b) Otherwise demonstrates any prejudgement of the merit of the matter under consideration or bias in considering the matter whether at Council meeting or of any committee there of.

Response

A Councillor must disclose any conflict of interest which he or she has, in an item of business at the time specified in the agenda, where a decision of the Council is to be made.

The Local Government Act provides a process for declaration of conflict of interest and the various types of interest applicable and I enclose a copy of the relevant sections of the Local Government Act relating to conflict of interest for your information.

7. Petitions to Council

7.1 Petition – Royal Avenue Tennis Facility Lights Proposal

Corporate Services - Governance
File No: COR/1234

Petition - Royal Avenue Tennis Facility Lights Proposal – December 2010 **(56 signatures)**

“We the undersigned hereby petition Bayside City Council to not install lights at the Royal Avenue Tennis facility.

As we are in a quiet residential area we are opposed to a commercial operation opened during the evenings. Our main concerns are increased: noise, traffic and light until late in the evening. This will interrupt the quiet nature of our neighbourhood, the very reason many of us live here.”

Moved: Cr Norris

Seconded: Cr Russell

That the petition be received and a report submitted to Council in conjunction with the Royal Avenue Masterplan report on this matter.

CARRIED

7.2 Petition – Extension to Bambini Childcare facilities

Corporate Services - Governance
File No: COR/1234

Petition - Extension to Bambini childcare facilities (64 signatures)

“We the undersigned hereby petition Bayside City Council to reject the application for an extension to Bambini Childcare.”

Moved: Cr Norris

Seconded: Cr Hayes

That:

1. the petition be received and the matters raised be dealt with in conjunction with the Planning Application associated with the subject site; and
2. the petitioners be advised accordingly.

CARRIED

8. Reports by Advisory Committees

8.1 *Assembly of Councillors Records*

Corporate Services - Governance
File No: COR/1234

Moved: Cr Hayes

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 South Road / Barr Street – Road Closure and Discontinuance
- 10.2 Tree Removal Application – 20 Jack Road Cheltenham
- 10.3 Sandringham Baseball Club Liquor Licence Request
- 10.4 Animal Registration Fee Review – State Government Levy Increase
- 10.5 Family Day Care
- 10.6 Proposed Community Engagement Program for Strategic Planning in Bayside
- 10.7 Street and Park Tree Management Policy
- 10.8 Bayside 2020 Community Plan
- 10.9 Bayside Planning Scheme Review
- 10.10 Amendment C98: Bayside Gaming Policy
- 10.11 Vegetation Controls in Residential Areas
- 10.12 VEAC Metropolitan Melbourne Investigation
- 10.13 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 10.3 Sandringham Baseball Club Liquor Licence Request

1. Mr John Mellor
2. Mr Bill Forwood
3. Mr John Mellor on behalf of Mr John Humphrey, Ms Marie Hill and Ms Dawn Smith
4. Mr Matthew Taylor

Item 10.11 Vegetation Controls in Residential Areas

1. Mr Chris Sutton

10.2 Tree Removal Application – 20 Jack Road, CheltenhamInfrastructure Services – Amenity Protection
File No: COR/4266

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

That Council endorses the decision by the delegated officer to not allow the *Liquidambar styraciflua* (Sweet Gum) to be removed from 20 Jack Road Cheltenham.

CARRIED

10.3 Sandringham Baseball Club Liquor Licence RequestCorporate Services – Commercial Services
File No: COR/1396

Cr Russell declared an Indirect Conflict of Interest that is an indirect financial interest on Item 10.3 – Sandringham Baseball Club Liquor Licence Request, as Cr Russell's wife has a business which has a liquor licence within close proximity of the club.

It is recorded that Mr Jon Mellor, Mr Bill Forwood, Mr John Mellor (on behalf of Mr John Humphrey, Ms Marie Hill and Ms Dawn Smith) and Mr Matthew Taylor spoke on this matter.

Cr Russell vacated the Chamber at 7.21pm prior to consideration of Item 10.3.

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

That Council:

1. having considered the submissions received in relation to the request by the Sandringham Baseball Club to apply for a variation to the Club's current Restricted Club Licence, provides landlord consent to the Club to apply to the Department of Justice for a variation to its Restricted Club Licence;
2. advises the Sandringham Baseball Club that it must continue to comply with the conditions of the Club's existing Restricted Club Licence;
3. convenes a meeting/s between residents, representatives of the Sandringham Baseball Club and officers to discuss residents concerns; and
4. notifies all submitters of the above.

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

That Council:

1. having considered the submissions received in relation to the request by the Sandringham Baseball Club to apply for a variation to the Club's current Restricted Club Licence, provides landlord consent to the Club to apply to the Department of Justice for a variation to its Restricted Club Licence;
2. advises the Sandringham Baseball Club that it must continue to comply with the conditions of the Club's existing Restricted Club Licence;
3. consent is conditional upon reaching Level 2 accreditation of the Good Sports Program;
4. convenes a meeting/s between residents, representatives of the Sandringham Baseball Club and officers to discuss residents concerns; and
5. notifies all submitters of the above.

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

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

CARRIED

The Amendment Moved by Cr Cooper-Shaw and Seconded by Cr Hayes became the Motion before the Chair

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

That the meeting be adjourned for a five minute period at 7.56pm.

CARRIED**Moved: Cr Norris****Seconded: Cr Frederico**

That the meeting be resumed at 8.01pm.

CARRIEDThe Motion Moved by Cr Cooper-Shaw and Seconded by Cr Hayes was **PUT** and **CARRIED**

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

It is recorded that Cr Russell entered the Chamber at 8.02pm.

10.4 Animal Registration Fee Review – State Government Levy IncreaseInfrastructure Services – Amenity Protection
File No: COR/2210

Moved: Cr Frederico**Seconded: Cr Long**

That Council:

1. reflects the \$1 increase in the Government levy for cats and dogs and that the levy be identified separately from the animal registration fee; and
2. adopts the new fee structure as proposed in Table 3.1.

CARRIED

10.5 Family Day CareCommunity Services – Family Services
File No: COR/1560

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

That Council undertake an Expression of Interest (EOI) process for the delivery of the Family Day Care scheme and effectively withdraw from direct operation under Council auspice from 31 December 2011, subject to the satisfactory resolution of the following outstanding matters:

- a) undertaking an EOI process to identify a suitably experienced new provider for the delivery of Family Day Care in the local community, ensuring minimal disruption to current service users and support the preferred provider to recruit the FDC care providers contracted with Council and to obtain a licence and Funding Service Agreement;
- b) consultation is undertaken with relevant stakeholders including State and Federal Government, families using Council's FDC scheme and FDC care providers

CARRIED

10.6 Proposed Community Engagement Program for Strategic Planning in Bayside

City Strategy – Urban Strategy
File No: COR/6946

Moved: Cr Hayes

Seconded: Cr Frederico

That Council resolves to proceed with the *Future Planning of Bayside* engagement program as outlined in the report and set out in summary form in Appendix 1 adopting the Option 1 timetable commencing end of February 2011.

CARRIED

10.7 Street and Park Tree Management Policy

City Strategy – Environmental Sustainability & Open Space
File No: COR/45-08

Moved: Cr Norris

Seconded: Cr Long

That Council further defers consideration of the proposed new Street and Park Tree Management Policy until the second meeting cycle in 2011.

CARRIED

10.8 Bayside 2020 Community Plan

CEO – Communications & Engagement
File No: COR/2195

Moved: Cr Cooper-Shaw

Seconded: Cr Long

That Council approves the draft Bayside 2020 Community Plan for the purposes of public exhibition for a period of two months with a view to receiving a finalised document incorporating an Implementation Framework, to be presented to Council in the New Year.

CARRIED

10.9 Bayside Planning Scheme ReviewCity Strategy – Urban Strategy
File No: COR/6946

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

That Council:

1. endorses the Preliminary Bayside Planning Scheme Review as contained in Attachment 1 of the report for the purposes of community engagement subject to the following addition:
 - Within Chapter 5 'Further Strategic Work & Gaps' under the sub-heading 'Strategic Gaps' add an additional paragraph titled 'Strategic Work identified by Councillors' which states 'Councillors have identified that the Municipal Strategic Statement requires strengthening, particularly around the strategic objectives relating to Bayside's desired built form and landscape qualities. Council has identified that further work should be undertaken to support the inclusion of the following objectives within the Municipal Strategic Statement:
 - i. Requirement of adequate building setbacks that allow the retention of mature trees and planting of vegetation around buildings, screening them from the street and adjoining properties
 - ii. Low profile building heights, generally not exceeding two storeys'; and
2. receives a further report once the feedback from the community engagement has been completed.

LOST**Moved: Cr Norris****Seconded: Cr Cooper-Shaw**

That Council:

1. endorses the Preliminary Bayside Planning Scheme Review as contained in Attachment 1 of the report for the purposes of community engagement; and
2. receives a further report once the feedback from the community engagement has been completed.

CARRIED

10.10 Amendment C98: Bayside Gaming PolicyCity Strategy – Urban Strategy
File No: COR/1846-02

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

That Council:

1. adopts the Bayside Gaming Policy 2010 including the requirements of the Department of Planning and Community Development as expressed in Authorisation No A01770 and in the form of Attachment 2 as outlined in the report.
2. exhibits Amendment C98 to the Bayside Planning Scheme, including the changes to the Gaming Policy in the form of Attachment 2 as outlined in the report, in accordance with the Planning and Environment Act 1987.
3. authorises the Director City Strategy to make any required minor editorial changes to the amendment prior to exhibition.

CARRIED**10.11 Vegetation Controls in Residential Areas**City Strategy – Urban Strategy
File No: COR/7084

*It is recorded that Mr Chris Sutton spoke on this matter.***Moved: Cr Hayes****Seconded: Cr Long**

That Council:

1. endorses the project brief for the 'Review of Vegetation Related Provisions in the Bayside Planning Scheme for Residential Development' as referred to as attachment 1 of the report;
2. receives a further report presenting the recommendations from the review once completed with a view to releasing that report for community consultation for a period of one month prior to making a formal determination on the matter; and
3. receives a further report outlining the proposed project brief scope for developing 'Bayside-wide Vegetation Retention Controls' at the March 2011 Ordinary Meeting.

CARRIED

10.12 ***VEAC Metropolitan Melbourne Investigation***

City Strategy – Urban Strategy
File No: COR/2574

Moved: Cr Norris

Seconded: Cr Hayes

That Council:

1. endorses the submission in the form of Attachment 2 of the report in response to the Victorian Environmental Assessment Council's Metropolitan Melbourne Investigation Discussion Paper; and
2. authorises the Director City Strategy to make minor editorial changes where appropriate to the submission.
3. forwards the submission to the Victorian Environmental Assessment Council.

CARRIED

10.13 ***Council Action Awaiting Report***

Corporate Services - Governance
File No: COR/1234

Moved: Cr Frederico

Seconded: Cr Cooper-Shaw

That Council notes the Council Action Awaiting Report for the period to December 2010.

CARRIED

11. Reports by Delegates

Association of Bayside Municipalities – Cr Norris

Cr Norris reported that he attended a forum on 9 December 2010 on the Future of Port Phillip Bay. The Forum was well attended with 80 stakeholders present.

MAV Strategic Environment Advisory Group – Cr Hayes

No report was submitted to the meeting.

Metropolitan Transport Forum – Cr Russell

Cr Russell requested Councillors to report any transport issues to him for inclusion in the Metropolitan Transport Forum Agenda in 2011.

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.

Moved: Cr Cooper-Shaw

Seconded: Cr Long

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

13.1 *Notice of Motion 193 - New Street railway gates*

Moved: Cr Frederico

Seconded: Cr Russell

That Council write to the State Government seeking confirmation of the Coalition's pre-election promise to re-open the New Street railway gates and request details of the process, timelines, safety, costings and traffic management.

CARRIED

14. Confidential Business

Moved: Cr Cooper-Shaw

Seconded: Cr Frederico

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 Library and Information Access – Procurement Australia Tender
- 14.2 Contract No 091020X – Simpson Reserve Pavilion Upgrade

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 9.25pm.

CONFIRMED THIS 8 DAY OF FEBRUARY 2011

CHAIRMAN:

