



Minutes of the Ordinary Meeting of Bayside City Council

The Meeting was held in the Council Chambers
Civic Centre, Brighton
on Tuesday 25 May 2010

The Meeting commenced at 7.00pm

PRESENT:

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

OFFICERS IN ATTENDANCE:

Adrian Robb	Chief Executive Officer
Michael Top	Director City Strategy
Sharon Pearsons	Director Corporate Services
Guy Wilson-Browne	Director Infrastructure Services
Heather Johnson	Director Community Services
Terry Callant	Governance Manager
Janice Pouw	Governance Officer

The Chairman declared the meeting open at 7pm and invited Cr Frederico to read the prayer.

1. Prayer

Cr Frederico 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 Long 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 Norris declared a Direct Conflict of Interest in Item 10.9 given he is a part owner of a property that may be affected by the development of the Hampton Community Hub.
- Cr Hayes declared a Direct Conflict of Interest in Item 7.1 - Petition – Clearway on Route 33 and associated parking fee changes, given that he resides in a property on St Kilda Street which is within Route 33.

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 4 May 2010

Moved: Cr del Porto

Seconded: Cr Norris

That the minutes of the Ordinary Meeting of Bayside City Council held on Tuesday 4 May 2010 as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

6. Public Question Time

There was 1 public question submitted to the Meeting.

In accordance with Section 66 of Council's Governance Local Law No 1, the following individual submitted a public question to the Meeting:

1. Mr Michael Nugent

A draft report from the Victorian Competition and Efficiency Commission recommends, with respect to efforts to improve the environmental performance of buildings: "That the Victorian Government ...clarify that Councils' role under the planning system does not extend beyond voluntary schemes and the provision of information to applicants."

The report notes the view of many Councils, e.g. Stonington: "that state and Commonwealth government policy failures created a need for councils to take actions to address sustainability issues at a local level."

Given that Australia is already well behind places like the UK where “all newly-built houses will have to be operating as carbon neutral by 2016” (<http://tinyurl.com/37eb2ob>):”

- a) Do Councillors (i) support the draft recommendation, or (ii) think there is a need for councils' role to extend beyond voluntary schemes and the provision of information?
- b) Will Council make a submission on the Draft report (due the same date as Council's next meeting), and if so, will a draft be publicly available for comment prior to lodgment?

Response

Council has yet to consider the VCEC report, however in response to the questions:

- a) It is unlikely Council would support the view that Council's role does not extend beyond voluntary schemes and provision of information. Council has previously through planning scheme amendments, championed in the absence of Stage Government action, its introduction of energy efficiency ratings for dwellings (Amendment C2 and subsequently superceded by Rescode controls) and stormwater management (Amendment C44 gazetted June 2009).
- b) Council will be considering its making of a submission which will be reported to the Council Meeting on 22 June 2010. The agenda for that meeting will include a copy of any submission Council will consider making.

7. Petitions to Council

It is recorded that Cr Hayes declared a Direct Conflict of Interest in this item given that he resides in a property on St Kilda Street which is within Route 33.

Moved: Cr Long

Seconded: Cr Russell

That the Deputy Mayor Cr del Porto take the Chair for consideration of this item.

CARRIED

Cr Hayes vacated the Chamber at 7.07pm prior to the consideration of this matter.

7.1 Petition – Clearway on Route 33 and associated parking fee changes

Corporate Services - Governance
File No: COR1234

Consideration of a petition from individuals requesting Bayside City Council to implement a “No Stopping Zone” on Beach Road from 6am to 10am Saturday and Sunday as a matter of urgency (2,278 signatories)

“We the undersigned hereby petition Bayside City Council to implement a “No Stopping Zone” on Beach Road from 6am to 10am Saturday and Sunday as a matter of urgency. To facilitate this, the off street parking provided by the Council at select locations on Beach Road should be free during the “No Stopping Zone” period.

A “No stopping Zone” during this time will improve traffic flow for motorists, safety for pedestrians through increased visibility, safety for cyclists and improved visibility for residents entering Beach Road from driveways. Free off-street parking will ensure businesses are not impacted by the restrictions.”

Moved: Cr Frederico

Seconded: Cr Norris

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

CARRIED

Moved: Cr Russell

Seconded: Cr Long

That Cr Hayes take the Chair for the remainder of the meeting.

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.

Cr Hayes returned to the Chamber at 7.10pm.

8. Reports by Advisory Committees

There were no reports from Advisory Committees submitted to Council for consideration.

9. Reports by Special Committees

There were no reports by Special Committees submitted to Council for consideration.

10. Reports by the organisation

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- 10.15 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 – Proposed Bayside Planning Scheme Amendment C92 – Jack Road Development Precinct Cheltenham

1. Mr Andrew Duggan

Item 10.4 – Elsternwick Park Tennis – Request for Liquor Licence

1. Ms Ruth Avery
2. Mr Richard Foley
3. Mr Peter Owen

Item 10.5 – Victorian State Government Landfill Levy

1. Mr Michael Nugent
2. Mr Ken Blackman

Item 10.7 – Council Plan Activities Quarterly Performance Report

1. Mr Michael Nugent
2. Mr Ken Blackman

Item 10.8 – Australia Day Environmental Award

1. Mr Michael Nugent
2. Mr Ken Blackman

Item 10.11 – Bayside Community Plan

1. Mr Michael Nugent

Item 10.12 – Annual Procurement Policy Review

1. Mr Michael Nugent

Item 14.2 – Corporate Centre Extension and Re configuration Project

1. Mr Michael Nugent

10.1 New Street rail level crossing closure – assessment of the Panel's determinationInfrastructure Services
File No: COR/1711**Moved: Cr del Porto****Seconded: Cr Russell**

That Council:

1. advise all relevant Ministers, the State Member for Brighton, VicRoads, Victrack and Metro Trains Melbourne that:
 - 1.1 consistent with the position it has previously adopted;
 - 1.2 mindful of the risks it would incur if it proceeded to implement the Panel's recommendation; and
 - 1.3 mindful that the Minister administering the *Road Management Act 2004* has the power to direct a road authority to exercise a road management function or power,
it does not propose to exercise any power under the *Road Management Act 2004* or *Local Government Act 1989* to discontinue or permanently close any part of New Street;
2. requests the Minister for Public Transport to provide Council with detailed designs and timelines for the implementation of:
 - 2.1 the heritage treatment of the gates, the restoration of the hut and signal box and associated landscaping;
 - 2.2 automatic gates for pedestrians at the rail line;
 - 2.3 provision of pedestrian operated signals across Beach Road, near New Street; and
 - 2.4 a right turn provision at the Beach Road / South Road intersection,
3. urges the Minister for Public Transport to implement his announced improvements at the earliest opportunity.
4. informs the Minister for Public Transport that Council is of the view that its responsibilities under the Road Management Act require that it give primary consideration to the safety of the local road users and that the safety of the local road users would be improved by the reopening of the gates;
5. notes the Panel's view that for "busy crossings the use of automatic lights and booms are considered by the rail and road professions to provide the highest level of safety, short of grade separation"; and
6. request the Minister for Public Transport to reopen New Street Gates by whatever means he considers safest.

The Motion was Put and a **DIVISION** was called.**DIVISION**: **FOR:** Crs del Porto, Frederico, Russell, Cooper-Shaw (4)**AGAINST:** Crs Norris, Long, Hayes (3)**CARRIED**

10.2 Appointments to the Open Space Strategy Reference Group

City Strategy – Urban Strategy
File No: COR/5149**Moved: Cr del Porto****Seconded: Cr Frederico**

That Council appoint Morgan Koegel and Ashleigh Lynch as members of the Open Space Strategy Reference Group for the purposes of the development of the Open Space Strategy.

CARRIED

**10.3 Proposed Bayside Planning Scheme Amendment C92 – Jack Road
Development Precinct, Cheltenham – Jack Road and Charlton Avenue
Development Precinct, Cheltenham**

City Strategy – Urban Strategy
File No: COR/6176

It is recorded that Mr Andrew Duggan spoke in relation to this item.

Moved: Cr del Porto**Seconded: Cr Long**

That Council not proceed with Amendment C92 of the Bayside Planning Scheme to rezone part of the site known as the Jack Road Development Precinct in Cheltenham and advise the applicant accordingly.

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

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

AGAINST: Crs Frederico, Norris and Russell (3)

CARRIED

10.4 Elsternwick Park Tennis – Request for Liquor Licence

Corporate Services – Commercial Services

File No: COR/2130

It is recorded that Cr del Porto vacated the Chamber at 7.53pm and re-entered at 7.58pm.

It is recorded that Ms Ruth Avery, Mr Richard Foley and Mr Peter Owen spoke in relation to this item.

Moved: Cr del Porto

Seconded: Cr Frederico

That Council:

1. having considered submissions received in relation to the request to apply for a liquor licence by Tie Break Enterprises Council's tenant of Elsternwick Park Tennis Centre provide consent to the tenant to apply for a planning permit for liquor licence and a liquor licence from the Department of Justice subject to ensuring that all functions will be tennis related; and
2. notify submitters of the decision.

CARRIED

10.5 Victorian State Government Landfill Levy

City Strategy – Environmental Sustainability and Open Space
File No: COR/29

It is recorded that Mr Michael Nugent was not present in the Chamber.

It is recorded that Mr Ken Blackman spoke in relation to this item.

Moved: Cr Cooper-Shaw

Seconded: Cr Long

That Council:

1. endorse the action by the Mayor in conveying to the Premier, local Members of Parliament and the Shadow Minister for Local Government, Council's strong concerns regarding the landfill levy, in particular the lack of consultation and notification regarding its introduction, and the shifting of responsibility for collection of this state levy from State Government to Local Government; and
2. separately and clearly identify the landfill levy charge on each rate notice, and that all explanatory material provided with rates notices draw attention to the landfill levy impost.
3. request the MAV:
 - a) to seek details regarding the administrative or financial vehicle which will express this dedication of the levy;
 - b) seek a report from the State Government on the levy funds' expenditure and achievement of purpose, 2010-2011
4. seek the other major political parties position on this issue of shifting of responsibility of the cost of the landfill levy from the State Government to Local Government.
5. in addition to the actions under part 2 that Council pursue opportunities in drawing the communities attention to the desirability of reducing waste as a means of reducing the levy required to be collected by Council on behalf of State Government for disposal of that waste to landfill.

CARRIED

10.6 Draft Moorabbin Activity Centre Structure Plan

City Strategy – Urban Strategy
File No: COR/1273

Moved: Cr Cooper-Shaw

Seconded: Cr Long

That Council:

1. having considered the draft Moorabbin Activity Centre Structure Plan adopt the 'Proposed Council Response' outlined in Attachment 1, with the replacement of the words 'outdoor shops on the Nepean Highway' with 'the cluster of outdoor equipment stores and other shops, medical and community facilities on and near the Nepean Highway'; and
2. forward its response to Kingston City Council by the close of consultation on the 18 June 2010.

CARRIED

10.7 Council Plan Activities Quarterly Performance Report January – March 2010

CEO – People & Performance
File No: COR

It is recorded that Cr Norris vacated the Chamber at 8.22pm.

It is recorded that Mr Michael Nugent was not present in the Chamber.

It is recorded that Mr Ken Blackman spoke in relation to this item.

Moved: Cr Frederico

Seconded: Cr Cooper-Shaw

That Council notes the Council Plan Activities Quarterly Performance Report for January to March 2010.

CARRIED

10.8 *Australia Day Environment Award*

City Strategy – Environmental Sustainability & Open Space
File No: COR/726

Cr Norris entered the Chamber at 8.28pm.

It is recorded that Mr Michael Nugent was not present in the Chamber.

It is recorded that Mr Ken Blackman spoke in relation to this item.

Moved: Cr del Porto

Seconded: Cr Norris

That Council:

1. adopts the proposal for an Australia Day Environmental Award to recognise outstanding environmental contribution by a citizen and community group
2. endorse the following:
 - eligibility for consideration is open to any person residing in Bayside or community (not for profit) group based in Bayside
 - that the Award recognise
 - outstanding environmental contribution in any of the following
 - maintaining and restoring the City of Bayside's natural assets
 - using natural resources wisely
 - reducing our everyday environmental impacts
 - responding to climate change
 - that the judging panel for the Award comprise the Councillors involved in judging the Australia Day 'Citizen' awards plus the Manager Environmental Sustainability and Open Space
 - that the award be an appropriate certificate or plaque
 - that the Environmental Award be announced at the Australia Day ceremony.

CARRIED

10.9 Hampton Community Hub Feasibility Study Update

Community Services – Service Development
File No: COR/1764

It is recorded that Cr Norris declared a Direct Conflict of Interest in Item 10.9 given he is a part owner of a property that may be affected by the development of the Hampton Community Hub.

Cr Norris vacated the Chamber at 8.29pm whilst this matter was being considered.

Moved: Cr del Porto

Seconded: Cr Long

That Council:

1. note that previous investigation indicated development of a community hub at Hampton was not considered viable as a stand-alone Council project, and that a further report be provided to Council if other financially viable opportunities are identified.
2. receive at its next meeting a preliminary scope document which addresses the service delivery aspects of Council activities within a potential community hub in Willis Street precinct inclusive of potential opportunities to realize a community hub.

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

DIVISION: **FOR:** Crs del Porto, Frederico, Russell,
Cooper-Shaw, Long and Hayes (6)
 AGAINST: Nil

CARRIED

It is recorded that Cr Norris 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.

Cr Norris entered the Chamber at 8.44pm.

10.10 Bayside Municipal General Revaluation 2010Corporate Services - Finance
File No: SUB20574**Moved: Cr Frederico****Seconded: Cr Cooper-Shaw**

That Council pursuant to Section 13DH(3) of the Valuation of Land Act 1960 receive and note the General Valuation Return effective 1 July 2010 and that the valuation and rate records be amended to take account of the general revaluation returned as at 1 January 2010.

CARRIED

10.11 Bayside Community Plan: Progress ReportCEO – Communications & Engagement
File No: COR/2195

It is recorded that Mr Michael Nugent was not present in the Chamber.

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

That Council:

1. note the progress to date in developing Bayside's Community Plan; and
2. approve the attached Terms of Reference for the Community Plan Steering Group

CARRIED

10.12 Annual Procurement Policy ReviewCorporate Services – Commercial Services
File No: COR/123

It is recorded that Mr Michael Nugent was not present in the Chamber.

Moved: Cr Norris**Seconded: Cr del Porto**

That Council adopt the amended Procurement Policy (Version 1) dated May 2010 as per attachment one to the report.

CARRIED

10.13 ***VCAT Decisions***

City Strategy – Statutory Planning
File No: COR/1234

Moved: Cr Norris

Seconded: Cr Cooper-Shaw

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

CARRIED

10.14 ***Financial report for ten (10) months to 30 April 2010***

Corporate Services - Finance
File No: COR/20686

Moved: Cr Cooper-Shaw

Seconded: Cr Norris

That Council notes the financial report for the ten month period ended 30 April 2010.

CARRIED

10.15 ***Council Action Awaiting Report***

Corporate Services - Governance
File No: COR/1234

Moved: Cr Frederico

Seconded: Cr Long

That Council notes the Council Action Pending report for the period to May 2010.

CARRIED

11. Reports by Delegates

Cr Hayes reported on his attendance at the MAV Environmental Advisory Group where discussion included disposal of rubbish at landfill sites and the possibility of Councils using funds to educate the community on rubbish disposal.

Moved Cr Frederico

Seconded Cr del Porto

That the Councillors' reports be received and noted.

CARRIED

12. Urgent Business

Moved: Cr del Porto

Seconded: Cr Frederico

That the matter relating to enforcement of 5 Tynfield Court Brighton be dealt with as a matter of urgent business and be considered in confidential business given the matter relates to legal advice.

CARRIED

13. Notices of Motion

13.1 *Notice of Motion 190 – Introduction of a Carbon Price*

Corporate Services - Governance
File No: COR/1234

Moved: Cr Norris

Seconded: Cr Long

That Council grant leave for Cr Norris to amend Notice of Motion 190 – Introduction of a Carbon Price.

CARRIED

Moved: Cr Norris

Seconded: Cr Long

Recognising:

- ◆ that there is a global emergency caused by excessive generation of greenhouse gases;
- ◆ that measures to introduce a wide-ranging market-based emissions trading system have been deferred by the Federal government and are not currently contemplated by the Federal Opposition;
- ◆ Professor Gamaut's recommendation in 2008 that, as an interim measure, the most appropriate course would be to set fixed price for carbon emissions, initially of approximately \$20 per tonne; and
- ◆ substantial support for early action from industry, trade unions, and opinion polls.

That Council:

1. call for the urgent introduction of a carbon price by the Federal Government as an interim measure;
2. forward this motion, appropriately modified, as a motion to be considered by the next meeting of the State Council of the Municipal Association of Victoria; and
3. write to the Prime Minister, The Hon Kevin Rudd, the Minister for Climate Change and Water, Senator The Hon Penny Wong, the Member for Goldstein, The Hon Andrew Robb, and Senators for Victoria, calling for the urgent introduction of a carbon price."

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

DIVISION: **FOR:** Crs Norris, Cooper-Shaw, Long and Hayes (4)

AGAINST: Crs del Porto, Frederico and Russell (3)

CARRIED

14. Confidential Business**Moved: Cr Frederico****Seconded: Cr Cooper-Shaw**

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**Table of Contents**

- 14.1 Extension to Domestic Waste and Green Waste Collection Contracts
Corporate Centre Extension and Re-configuration Project Contract
- 14.2 No 080912 - Variations
- 14.3 5 Tynefield Court, Brighton

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 9.30pm.

CONFIRMED THIS 22 DAY OF JUNE 2010**CHAIRMAN:**