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## Minutes of the Ordinary Meeting of Bayside City Council

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held in the Council Chambers, Civic Centre,  
Boxshall Street Brighton  
on Tuesday 29 November 2016

The Meeting commenced at 7:00pm

**PRESENT:**

Cr Alex del Porto (Chairman)  
Cr Laurence Evans  
Cr James Long BM JP  
Cr Michael Heffernan  
Cr Clarke Martin  
Cr Rob Grinter  
Cr Sonia Castelli

**OFFICERS IN ATTENDANCE:**

Adrian Robb	Chief Executive Officer
Mick Cummins	Director Corporate Services
Shiran Wickramasinghe	Director City Planning and Community Services
Steven White	Director Environment, Recreation and Infrastructure
Terry Callant	Governance Manager

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Nil

The Mayor declared the meeting open at 7pm and advised members of the public gallery that the Council meeting is being recorded and streamed live on the internet to enhance the accessibility of Council meetings to the broader Bayside Community.

The Mayor invited Cr Evans to read the prayer.

## **1. Prayer**

Cr Evans 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**

The Mayor invited Cr Martin to 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**

There were no conflicts of interest submitted to the meeting.

## **5. Adoption and Confirmation of the minutes of previous meeting**

- 5.1 Confirmation of the Minutes of the Ordinary meeting of Bayside City Council held on 18 October 2016.

**Moved: Cr Heffernan**

**Seconded: Cr Long**

That the minutes of the Ordinary meeting of Bayside City Council held on 18 October 2016, as previously circulated, be confirmed as an accurate record of proceedings.

**CARRIED**

- 5.2 Confirmation of the Minutes of the Annual Meeting of Bayside City Council held on 10 November 2016.

**Moved Cr Evans**

**Seconded Cr Martin**

That the Minutes of the Annual Meeting of Bayside City Council held on 10 November 2016, as previously circulated, be confirmed as an accurate record of proceedings.

**CARRIED**

## 6. Public Question Time

In accordance with Section 64 of Council's Governance Local Law No 1, 7 public questions were submitted to the Meeting. In accordance with Section 64 part 15 where a questioner is not present in the Chamber at the time of Public Question Time, the question and response will not be read out at the meeting or recorded in the minutes.

### 1. Mr George Reynolds

- (a) When will Council properly manage its Planning Scheme and prevent the removal, without a permit, of street trees within the area covered by the VPO3?
- (b) When will Council seek to prosecute infringements by those who remove trees from public areas, without a permit, in the same manner that property owners are prosecuted, who remove trees from their own land, without applying for a permit?

### Response by the Mayor

- (a) *This question relates to your previous questions on 26 April 2016, 24 May 2016, 23 August 2016 and 13 September 2016 regarding tree removal in Beaumaris.*

*For vegetation removal in the Vegetation Protection Overlay, Council is required to obtain a Planning Permit unless one of the exemption criteria applies.*

*The planning scheme is managed in a responsible manner.*

- (b) *In the response provided on 23 August 2016 it was identified that the tree removal was not illegal so no action is necessary.*

*If trees are removed from public areas without the required approvals, Council will investigate and take appropriate action.*

### 2. Mr Chris Sutton

With regard to the Beaumaris High School site, has Council made a determination on whether the MCC's various rights to allocate use of their funded facilities for a fee (except to the school), represents commercial activities which are not a use and development on behalf of the Minister and not exempt from enforcement of the Vegetation Protection Overlay.

### Response by the Mayor

*Council has obtained legal advice in relation to this matter. Use and development of a school which provides for community, education or recreation purpose is properly regarded as ancillary to the operation of the school. The Minister for Education and school councils are expressly authorised under the relevant legislation to enter into arrangements with other parties for the provision of education, recreation and community purposes on schools and therefore are not bound by the Bayside Planning Scheme.*

*With respect to the decision of VCAT Deputy President Gibson referred to in the question it is considered that there is a clear distinction between purely commercial activity and those that are for a relevant community, education or recreation function. Where the use of school facilities is for sport or recreation activities by the community, or for programmes ... providing resources or facilities to young people, this type of use falls within the ambit of the Education and Training Reform Act 2008 and therefore does not require a permit.*

### **3. Mr Chris Sutton**

Why has Bayside Council not fully and publicly explained to concerned residents why the VPO vegetation assessment process has not been applied to facilities being built by a non-education organisation for which fees will be charged and the use will not be controlled by the school council.

#### **Response by the CEO**

*In accordance with the answer to the previous question, the legal advice we have received is that the exemption properly applies in this case. The works are being done under the authority of the Minister for Education and are for the provision of recreation facilities, and on that basis fall squarely within the scope of his or her powers under the relevant Act.*

### **4. Mr Kevin Spencer**

- (A) What is the current situation with the restoration of this large oil painting of Tommy Bent ?
- (B) When will the community be able to see displayed this valued public owned work of art ?

#### **Response by the Mayor**

- (a) The Sir Thomas Bent artwork does not need restoring as it is not damaged. Bayside City Council is currently storing the art work off site in a climate controlled storage which meets an International Museum Standard facility.*
- (b) Council has allocated \$60,000 for the painting to be installed and protected for display at the Town Hall mid-2017.*

### **5. Mr Kevin Spencer**

- (A) With the chronic state of disrepair of our roads (and footpaths) some going back years. What is the reason for this apparent lack of professional maintenance ?
- (B) Explain why Bayside Council is not adhering to its Road Management Plan that states that its Defects Intervention Level for potholes rectification action states "Patch pothole to restore "smooth" riding surface within seven (7) working days.

## Response by the Mayor

- (A) *According to the Victorian Government's 2015-2016 Know your Council website data, Bayside City Council continues to score above average in quality of roads. This suggests that the road and footpaths Bayside are maintained in good condition. Bayside City Council is spending approximately \$6.5M per year for maintenance and improvement of roads and footpaths.*
- (B) *Potholes are repaired and areas made safe for vehicular and pedestrian traffic as soon as possible, but within seven days in line with Council's Road Management Plan. If a temporary repair is required to make an area safe, further works are scheduled and completed at a later date.*

## 6. Mr Barry Brooker

In the public interest, is Council able to clarify what "stormwater discharge must be retained above the discharge calculation using a Coefficient of runoff of 0.35"... in respect of a single site and a multi-unit development from overland flows: in readily understandable words?

### Response by the CEO

*To allow the stormwater network to operate effectively in an increasingly developed locality, on-site detention systems are used to store and slowly release runoff into the Council stormwater network. On-site detention systems typically consist of an above ground or below ground stormwater storage tank or pit.*

*A coefficient of runoff of 0.35 is used when designing on-site detention systems for residential properties.*

## 7. Mr Barry Brooker

Is Council able to inform the Bayside community, how many thousands of notices it issued informing residents' of their sites as being susceptible to flooding from overflow of the drainage system during a severe storm?

### Response by the CEO

*All properties that are currently, and proposed to be, affected by the Special Building Overlay were notified of Bayside Planning Scheme C153. In total, 10,253 property owners and occupiers were notified.*



## 7. Petitions to Council

There were no petitions submitted to the meeting.

## 8. Minutes of Advisory Committees

### 8.1 ASSEMBLY OF COUNCILLOR RECORD

Corporate Services - Governance  
File No: PSF/15/8758 – Doc No: DOC/16/215663

**Moved: Cr Evans**

**Seconded: Cr Grinter**

That Council notes the Assembly of Councillor records submitted as required by the Local Government Act 1989:

Date	Name
15 November 2016	CEO and Councillor Only Briefing
15 November 2016	Councillor Briefing
17 November 2016	Councillor Induction Session

**CARRIED**

## 9. Reports by Special Committees

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

## 10. Reports by the Organisation

### **REQUESTS TO BE HEARD:**

In accordance with Council's Governance Local Law No.1 Clause 69, the following individuals were granted three minutes each to speak to an item indicated below.

**Item 10.1            Planning Scheme Amendment C143 and Planning Permit Applications  
2015/0117**

1. Dr Clive Morley

**Item 10.2.            Cenotaph at Green Point Brighton**

1. Mr Kevin Spencer

**Item 10.4.            Beaumaris Secondary College – Indoor Multi-Purpose Court**

1. Mr Parveen Batish
2. Mr Stephen Hoey

**Item 10.7.            Quarter One Performance Report**

1. Mr George Reynolds

**10.1 COMBINED PLANNING SCHEME AMENDMENT (C143) AND PLANNING PERMIT APPLICATION (2015/0117) - 459 BAY STREET, BRIGHTON - CONSIDERATION OF SUBMISSIONS**

City Planning & Community Services - Urban Strategy  
File No: PSF/15/8752 – Doc No: DOC/16/211723

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*It is recorded that Dr Clive Morley did not pursue his right to speak in relation to this item.*

**Moved: Cr Heffernan**

**Seconded: Cr Grinter**

That Council:

1. abandons Amendment C143 in response to the request from the applicant to withdraw the combined planning scheme amendment and planning permit; and
2. writes to all submitters to advise of its decision.

**CARRIED**

**10.2 CENOTAPH AT GREEN POINT, BRIGHTON**

Environment, Recreation & Infrastructure - City Assets & Projects  
File No: PSF/15/8763 – Doc No: DOC/16/172070

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*It is recorded that Mr Kevin Spencer spoke for three minutes in relation to this item.*

**Moved: Cr Castelli**

**Seconded: Cr Long**

That Council notes this report.

**CARRIED**

### 10.3 BEAUMARIS RESERVE PROPOSED TELECOMMUNICATION TOWER LEASE TO AXICOM

Corporate Services - Commercial Services  
File No: PSF/15/8762 – Doc No: DOC/16/187231

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**Moved: Cr Evans**

**Seconded: Cr Martin**

That Council

1. commences the statutory procedures to lease to Axicom Pty Ltd part of the land at Beaumaris Reserve, 84 Reserve Road Beaumaris for the installation, operation and maintenance of a telecommunications facility for a term of 15 years at a commencing rental of \$35,000 per annum plus GST with annual increases of 5%;
2. Establishes a Special Committee of Council in accordance with section 223 of the Local Government Act 1989 consisting of all Councillors with a quorum of four Councillors to consider any submissions received, at a meeting to be held 1 February 2017 at 6:30pm in the Council Chambers, Boxshall Street Brighton in relation to the proposed lease to Axicom Pty Ltd; and
3. In the event no section 223 submissions are received that Council authorises the Director Corporate Services to execute the lease for part of the land at Beaumaris Reserve with Axicom Pty Ltd.

**CARRIED**



## 10.5 COUNCIL SUPPORT FOR BLACK ROCK PRIMARY SCHOOL'S FUNDING APPLICATION TO THE STATE GOVERNMENT'S SHARED SCHOOLS FACILITIES PROGRAM

Environment, Recreation & Infrastructure - Open Space, Recreation & Wellbeing  
File No: PSF/15/8761 – Doc No: DOC/16/214567

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**Moved: Cr Evans**

**Seconded: Cr Martin**

That Council:

1. supports the application made to the State Government's Shared School Facilities Program by Black Rock Primary School and approves the letter of Mayoral support (as set out in Attachment A in the report) provided to the School to form part of the application;
2. notes that the Department of Education has advised that that applications to the State Government's Shared School Facilities program cannot be submitted by a school and must be submitted by a Local Government, University or Not for Profit organisation;
3. submits an application to the State Government's Shared School Facilities program for the development of a multi-purpose synthetic sports field and improvements to surrounding landscaped areas at Black Rock Primary School, on behalf of the Black Rock Primary School, with the understanding that the project will be managed by the Department of Education and Training; and
4. negotiates an agreement with the Black Rock Primary School and/or the Department of Education and Training to ensure that Council is not exposed to any cost or resource implications associated with the development of a multi-purpose synthetic sports field and improvements to surrounding landscaped areas at Black Rock Primary School if the grant application is successful.

**CARRIED**

## 10.6 BETTER APARTMENTS DRAFT DESIGN STANDARDS

City Planning & Community Services - Urban Strategy  
File No: PSF/15/8752 – Doc No: DOC/16/214499

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**Moved: Cr Heffernan**

**Seconded: Cr Castelli**

That Council:

1. adopts the draft submission at Attachment 1 as its position in response to the Better Apartments Draft Design Standards;
2. authorises the Director City Planning and Community Services to make any necessary editorial changes to the submission; and
3. lodges the submission with the Department of Environment, Land, Water and Planning (DELWP).

**CARRIED**

## 10.7 QUARTER ONE PERFORMANCE REPORT - JULY TO SEPTEMBER 2016

CEO - Strategy and Performance  
File No: PSF/15/8766 – Doc No: DOC/16/215076

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*It is recorded that Mr George Reynolds spoke for three minutes in relation to this item.*

**Moved: Cr Heffernan**

**Seconded: Cr Long**

That Council:

1. notes the Quarter One Performance Report against the Council Plan activities for the period July to September 2016; and
2. adopts the financial report to 30 September 2016.

**CARRIED**

## 10.8 COUNCIL APPOINTMENTS TO EXTERNAL ORGANISATIONS AND COUNCIL COMMITTEES AND NETWORKS

Corporate Services - Governance  
File No: PSF/15/8758 – Doc No: DOC/16/212058

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**Moved: Cr Evans**

**Seconded: Cr Martin**

That Council appoints the following representatives to the various External organisations and Council Committees/Networks:

### External Organisations

**1. Association of Bayside Municipalities**

Cr **Laurence Evans** be appointed as Council's representative and the Open Space Co-ordinator be appointed as substitute representative to the Association of Bayside Municipalities.

**2. Inner South Metropolitan Mayor's Forum**

That the Mayor of the Day be appointed to the Inner South Metropolitan Mayor's Forum.

**3. Metropolitan Transport Forum**

Cr **Clarke Martin** be appointed as Council's representative and the Director Environment, Recreation and Infrastructure be appointed as Council's substitute representative to the Metropolitan Transport Forum.

**4. Metropolitan Local Government Waste Forum**

Cr **Michael Heffernan** be appointed as Council's representative and the Director Environment, Recreation and Infrastructure be appointed as Council's substitute representative to the Metropolitan Local Government Waste Forum.

**5. Municipal Association of Victoria (MAV) Environment Committee**

The Director Environment, Recreation and Infrastructure or his delegate be appointed as Council's representative to the MAV Environment Committee.

**6. Regional Kitchen Pty Ltd (Meals on Wheels supplier)**

The Director Corporate Services be appointed as Council's Shareholder representative to Regional Kitchens Pty Ltd for the purpose of participating in Shareholder meetings.

### Council Committees/Networks

**7. Arts and Culture Advisory Committee**

**Cr Sonia Castelli** be appointed to the Bayside Arts and Culture Advisory Committee.

**8. Bayside Tourism Network**

**Cr Michael Heffernan and Cr Rob Grinter** be appointed to the Bayside Tourism Network.



9. Built Environment Awards Committee

**Cr Laurence Evans and Cr James Long** be appointed to the Built Environment Awards Committee.

10. Chief Executive Officer's Employment Matters Committee

**The Mayor of the Day and Cr Rob Grinter, Cr Michael Heffernan and Cr Clarke Martin** be appointed to the Chief Executive's Employment Matters Committee.

11. The Board @BACC (Section 86 Committee)

**Cr Sonia Castelli and The Mayor Cr Alex del Porto** be appointed to The Board @BACC (Section 86 Committee).

**CARRIED**

## 10.9 VCAT DECISIONS

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/16/207719

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**Moved: Cr Castelli**

**Seconded: Cr Long**

That the report on the VCAT decisions on the planning applications handed down during the months of October 2016 be received and noted.

**CARRIED**

## 10.10 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance  
File No: PSF/15/8758 – Doc No: DOC/16/215731

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**Moved: Cr Evans**

**Seconded: Cr Long**

That Council notes the Council Action Awaiting Report.

**CARRIED**

## 10.11 DEVELOPMENT SERVICES SUSTAINABLE STAFF AND RESOURCING PLAN

City Planning & Community Services - Development Services  
File No: FOL/15/5840 – Doc No: DOC/16/216476

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**Moved: Cr Grinter**

**Seconded: Cr Long**

That Council:

1. Notes the new State **Planning** and Environment and Subdivisions Regulations (**Fees**) **2016 have increased significantly;**
2. Commits the additional revenue received from the increases in both the number of applications and the revenue from the revised Fee Regulations 2016 to support the achievement of the improved service levels proposed in this report, specifically that:
  - a) The 2018 LGPRF Result for Measure SP1 'Timeliness' will improve to 75 days or less; and
  - b) The 2018 LGPRF Result for Measure SP2 'Service Standard' will improve to 60% of all types of planning application being determined within 60 statutory days; and
3. Receives a report to the Ordinary Meeting of Council in April 2017 on progress towards these timeliness and service standard levels.

**CARRIED**

## 11. Reports by Delegates

1. **Association of Bayside Municipalities** – To be determined
2. **MAV Environment Committee** – Director Environment & Infrastructure
3. **Metropolitan Transport Forum** – To be determined
4. **Municipal Association of Victoria** – The Mayor Cr del Porto
5. **Inner South Metropolitan Mayors' Forum** – The Mayor Cr del Porto
6. **Metro Waste & Resource Recovery Group** – To be determined

It is recorded no reports by Delegates were presented to the meeting given the external organisations have not met since the 2016 Elections and Council has just appointed its representatives earlier in the meeting.

## 12. Urgent Business

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

## 13. Notices of Motion

There were no Notices of Motions submitted to the meeting.

*The Chairperson declared the meeting closed at 8.20pm.*

**CONFIRMED THIS INSERT 20 DAY OF DECEMBER 2016**

**CHAIRPERSON: .....**