



**ORDINARY
MEETING OF
COUNCIL**

MINUTES

23 MARCH 2009

MINUTES OF THE ORDINARY MEETING OF THE PORT PHILLIP CITY COUNCIL HELD ON 23 MARCH 2009 IN THE COUNCIL CHAMBER, ST KILDA TOWN HALL

The meeting opened at 6.05pm.

PRESENT

Cr. O'Connor (Chairperson), Cr. Bolitho, Cr. Klepner, Cr. Middleton, Cr. Powning, Cr. Thomann, Cr. Touzeau.

IN ATTENDANCE

Darrell Treloar CEO (Interim), Geoff Oulton Executive Director Community Development & Planning, David Yeouart Executive Director Community Assets & Services, David Filmlalter Chief Financial Officer, Sam Hewett Manager Asset Services, Ian Hicks Manager Culture & Recreation, Cathy Henderson Manager Governance and Risk Management, Liddy Clark Acting Manager Communications and Stakeholder Relations, Norm McClelland Governance Advisor, Deidre Pellizzer Coordinator Arts & Festivals, David Graffen Property Coordinator.

Council pays its respects to the people and elders, past and present, of Yalukit Wilam and the Kulin Nation. We acknowledge and uphold their relationship to this land.

1. APOLOGIES

Nil.

2. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

MOVED Crs Thomann/Powning

That the Minutes of the Ordinary Meeting of the Port Phillip City Council held on 23 February 2009 be confirmed.

A vote was taken and the MOTION was CARRIED.

MOVED Crs Thomann/Touzeau

That the Minutes of the Special Meeting of the Port Phillip City Council held on 16 March 2009 be confirmed.

A vote was taken and the MOTION was CARRIED.

3. PETITIONS AND JOINT LETTERS

Item 1

A Petition was received from 30 persons in regards to the St Kilda Market. The Petition states the following:

What is the best way forward for St Kilda market?

St Kilda Market's day to day operations are currently run by the committee for the St Kilda Art & Craft Market Association. The committee's tasks include advertising, roll taking, making policy, adjudicating disputes, vetting new potential artists, educating fellow stall-holders, policing of bad behaviour and breaches in rules among other things. The simple fact is stall-holders police stall-holders, this situation can leave the committee in a direct conflict of interest and thus can be grossly inappropriate."

'We the undersigned, urge the City of Port Phillip to temporarily take over the running of the St Kilda Arts & Crafts Market and to do so immediately, to ensure that the potential for conflict of interest does not continue. During this temporary period we ask the City of Port Phillip to conduct an independent assessment of the best way to run the market in order to secure its long lasting future'.

The following speakers made a verbal submission in relation to this item

- Vincent Muratore – Outlined concerns regarding the governing of the Committee of Management in regards to the market.
- Matt Irwin – Outlined the importance of the market and its relevance in the arts and crafts community of Melbourne and had concerns regarding the decline in stallholder numbers.

MOVED Crs Klepner/Powning

That the Petition be received and referred to Executive Director Community Development and Planning for investigation of the concerns raised and for options for the future management of the market and that this item be reported back to Council.

A vote was taken and the MOTION was CARRIED.

Item 2

A Petition was received from 26 persons regarding the Albert Park VRI Bowling Club.

'We the undersigned residents of St Vincent Place, Albert Park, petition the City of Port Phillip to take immediate action to cause the Albert Park VRI Bowling Club ('the Club') located in St Vincent Gardens, to cease hosting commercial functions and to immediately comply with all aspects of its restricted club liquor licence and local planning regulations. We further petition the Council to subsequently seek cancellation of the Club's liquor licence and oppose any future application for a liquor licence'.

The following speaker made a verbal submission in relation to this item

- Norman Armstrong – Manager of the Albert Park VRI Bowling Club advised that the Club tries to keep the noise level to an acceptable standard and respect the amenity of its neighbours.

MOVED Crs Klepner/Thomann

1. That the Petition be received, the action taken noted and that the petitioners be advised of Council's response.
2. That Council note the meetings and correspondence to date.
3. That Council note the commitment of the Albert Park Bowling Club (in its letter dated 19 March 2009) to establish a clearer and more stringent Conditions of use for the facility.
4. That officers monitor the situation.

A vote was taken and the MOTION was CARRIED.

4. SEALING SCHEDULE

The following documents are submitted for signature and sealing:

SECTION 173 AGREEMENT between PORT PHILLIP CITY COUNCIL and SALVATION ARMY (VIC) PROPERTY TRUST, to ensure that a portion of the land owned by the Salvation Army at 4B Upton Road, St Kilda is retained for landscape amenity purposes with on-going public access.

Item dealt with by Council in June 2006.

Responsible Manager: George Borg, Manager City Development.

MOVED Crs Klepner/Powning

That the Common Seal of the Port Phillip City Council be affixed to the above document.

A vote was taken and the MOTION was CARRIED.

5. CORRESPONDENCE

Nil.

6. PUBLIC QUESTION TIME

Item 1

Mr Paul Morgan asked further questions in relation to questions he had previously asked at the Ordinary Meeting of Council held on 18 December 2008.

The following reply was posted on the Council website as an attachment to the minutes of the Ordinary Meeting of Council held on 18 December 2008:

The Developer has kept the Council informed of its financial capacity. Council is satisfied that the contracted parties are able to fulfil their financial obligations when required. The financial position of the contracted parties is routinely monitored throughout the project control process. Additional information has been provided clarifying the financial position of all parties when requested by Council.

Mr Morgan asked further questions arising from this response:

By 'Council' in the above response, does this reply refer to Councillors or Council officers?

The Mayor advised that the reply did not refer to Councillors, as they have not received any direct advice from the Developers.

Have Councillors received documentation attesting the Developer's financial capacity?

The Mayor advised that these matters are still under investigation via Council's own legal advisors.

Had they received such documentation when the above response was prepared?

The Mayor advised that Councillors had not received such documentation.

Does the fact that Council has in this way formally expressed satisfaction that the contracted parties, in particular Citta Property Group, are able to fulfil their financial obligations prejudice the Council's ability to terminate its Agreement with the Developer in the potential event of the Developer's financial insolvency? This assumes that such a right exists.

The Mayor advised that the question will be taken on notice.

If so, on what basis was this reply prepared? For example was legal advice sought to clarify whether the Council, by expressing satisfaction as above, was acting with due prudence in relation to the interests of Port Phillip's ratepayers?

The Mayor advised Councillors had no prior knowledge around this particular issue.

Was this advice seen by Council or any Councillor in advance of its publication on the website? If not, who bears responsibility for the Council's ultimate responsibilities in this regard? If it is council under what delegated power?

The Mayor advised Councillors had no prior knowledge around this particular issue.

If this reply was published without any of the safeguards which may be inferred from the foregoing two questions, what specific action does Council propose to ensure its detailed command of information and advice to those seeking to make enquiries about the Triangle Project?

The Mayor advised that all Councillors are taking every effort possible to be on top of this particular project.

In relation to the Triangle Development Agreement, when will complete details of the Agreement be released?

The Mayor advised that this question is not answerable, unless the other parties agree Council is not able to release it.

What specific impediments are slowing the disclosure process?

The Mayor advised that it needs the agreement of all 3 parties prior to the release of those parts that are not available yet.

What measures are being applied to expedite the release of complete details?

The Mayor advised that this matter is still in ongoing discussions with all 3 parties concerned.

Have Councillors now received minutes of the 15 meetings of the Triangle Project Control Group? If the answer to this question is in the negative, what steps is Council specifically taking to ensure it knows what happened in those meetings?

Has the Triangle Project Control Group met since the meeting of Council on the 23rd February? If so, have Councillors received minutes of the meeting or meetings?

Are further meetings of the Triangle Project Control Group scheduled? Will Councillors be invited to be present with the Triangle Project Control Group when it next meets?

If present, will Councillors legally be able to participate in the deliberations of the Triangle Project Control Group?

The Mayor advised that the Triangle Project Control Group is in abeyance, it has not met for some time. Whether Councillors will be invited is not the issue. Whether Councillors wish to be involved in that Committee is a matter of broader study of the governance arrangements around the Triangle Project. Until Council resolves the broader arrangements I am not sure that the Project Control Group is necessarily the appropriate forum for Councillors to be involved in.

Will Council provide an analysis detailing the basis of the increase of the St Kilda's Edge Committee's legal expenses from \$34,652 to \$180,000 between 2003/2004 to 2008/2009?

Who, on whose authority, and for what purpose commissioned these expenditures of St Kilda's Edge Implementation operating costs and legal fees?

Which legal firms benefited from this legal expenditure? Is the work of the committee subject to any cost/benefit analysis? What is the value to ratepayers of the expenditure discharged under its remit?

The Mayor advised that these questions will be taken on notice.

Item 2

Jon Webster asked the following question:

Does the Council have any plans to establish CCTV security cameras in major streets of Port Phillip?

The Mayor advised that the issue of safety in our streets and around key parts in our municipality will be covered in our Draft Council Plan, whether CCTV is a component of that is yet to be considered.

7. COUNCILLOR QUESTION TIME

Item 1

Cr Touzeau asked a question in regards to the unregistered backpacker accommodation set up in various parts of the City.

Please explain how this relates to the Planning and Environment Act, how it relates to our Health bylaws, building bylaws, Environment Protection Act and how Council is working with the Police and other Agencies to deal with this matter? How can these establishments be set up without the City of Port Phillip's knowledge?

Executive Director Community Development & Planning responded by stating that the use of a residential property for accommodation is a permitted use, it is when there are a certain number of rooms that you start to offend various elements of legislation such as the Health Act or Planning and Environment Act or when there are strangers sharing a room. It is quite a complex area and there is a range of differing legislation that is relevant. A more detailed written response will be provided to Councillors and information will be placed on Council's website in relation to this issue.

Item 2

Cr Klepner requested permission from the Chair to move the following Motion in relation to the development on Middle Park Beach:

MOVED Crs Klepner/Thomann

That a report be prepared for Council in relation to Middle Park Beach on:

1. The status of the proposed toilet block to be constructed.
2. The possibility of undertaking works in conjunction with the construction of the toilet block relating to the landscaping, shade structure and other works that were part of the concept design for public amenities and landscaping works at Middle Park Beach submitted by Aspect Studios/Gregory Burgess Architects.

A vote was taken and the MOTION was CARRIED.

Item 3

Cr Middleton requested permission from the Chair to move the following Motion in relation to the Grand Prix:

MOVED Crs Middleton/Klepner

That Council:

1. Notes that the public will be excluded from the free access to Albert Park Reserve for the fourteenth consecutive year for an entire week, for the purpose of holding the Formula One Australian Grand Prix, commencing at midnight tonight.
2. Notes that, in a time of the climate crisis, water crisis, peak oil and the global financial crisis the holding of the Formula One Australian Grand Prix in Albert Park is an anachronism and an outrage.
3. Notes that, in unilaterally announcing changes to the programme for the race period, including a late start for the race on Sunday March 29 2009, the Australian Grand Prix Corporation has failed to honour the Memorandum of Understanding between the City of Port Phillip, the Australian Grand Prix Corporation and Parks Victoria.
4. Notes that, in continually failing to ensure the 'Reinstatement of Albert Park areas to an equivalent or better condition than when they were handed to Australian Grand Prix Corporation', the Australian Grand Prix Corporation has failed to honour the Memorandum of Understanding between the City of Port Phillip, the Australian Grand Prix and Parks Victoria.
5. Notes that, in failing to 'continue to pursue the development of a permanent pedestrian overpass from St Kilda Road Neighbourhood to Albert Park Reserve', the Australian Grand Prix Corporation has failed to honour the Memorandum of Understanding between the City of Port Phillip, the Australian Grand Prix Corporation and Parks Victoria.
6. Calls upon the Victorian State Government to re-negotiate the Formula One Grand Prix Agreement so that after the 2009 event there will never again be a car race in Albert Park Reserve.

A vote was taken and the MOTION was CARRIED (unanimously).

8. PRESENTATION OF REPORTS AND RECOMMENDATIONS FROM S86 SPECIAL COMMITTEE MEETINGS

8(A) REPORTS OF THE STRATEGY AND POLICY REVIEW COMMITTEE HELD AT THE ST KILDA TOWN HALL ON 2 MARCH 2009

The following items were MOVED en bloc by Crs Powning/Thomann

- A1 CITY OF PORT PHILLIP NETWORK OPERATION PLAN
- A3 EMERGENCY MANAGEMENT/PANDEMIC PLANNING UPDATE
- A4 PROPOSED DISCONTINUANCE AND SALE OF RIGHT OF WAY NO. R2421 AT
THE REAR OF 132 & 134 HEATH ST, PORT MELBOURNE
- A5 CONSTRUCTION OF A CAFÉ AT SOUTH MELBOURNE MARKET

Discussion took place in relation to the following item:

- A2 LUNA PARK INTERCHANGE RENEWAL

A1 CITY OF PORT PHILLIP NETWORK OPERATION PLAN

Purpose

To update Council on the progress to date on the development of the City of Port Phillip Network Operating Plan. To seek consideration of the draft City of Port Phillip Road Use Hierarchy Map.

MOVED Crs Powning/Thomann

That Council:

1. Reaffirm its support for the Sustainable Transport Framework, as shown in Attachment 4, and has applied this framework in considering the proposed "Road Use Hierarchy" and will continue to apply that framework to its decision making on all roads within the municipality
2. Subject to point 1, endorse the Road Use Hierarchy Map for the City of Port Phillip shown as Attachment 3 in this report.
3. Note the development of the Network Operation Plan for the City of Port Phillip.
4. Seek greater on-road space allocation for cyclists on the Beach Road in the Network Operating Plan.

A vote was taken and the MOTION was CARRIED.

A3 EMERGENCY MANAGEMENT/PANDEMIC PLANNING UPDATE

Purpose

This report seeks to update Council on the progress of Emergency Management and Pandemic Planning as well as outlining Emergency Management activities undertaken in 2008.

MOVED Crs Powning/Thomann

That Council:

1. Receive the report and note the Emergency Management activities undertaken in 2008.
2. Note that the Influenza Pandemic Plan will be reported to Council when fully developed and fully operational.

A vote was taken and the MOTION was CARRIED.

A4 PROPOSED DISCONTINUANCE AND SALE OF RIGHT OF WAY NO. R2421 AT THE REAR OF 132 & 134 HEATH ST, PORT MELBOURNE

Purpose

This report is to finalise the discontinuance and sale of a section of Right of Way No. R2421 at the rear of 132 & 134 Heath St, Port Melbourne in accordance with statutory procedures set out in the Local Government Act 1989. As a result of a public notice, one submission has been received. Council can now consider the submission and hear any supporting material before making a decision complete the procedures and finalise the matter.

MOVED Crs Powning/Thomann

That Council:

1. Being of the opinion that the road at the rear of 132 & 134 Heath St, Port Melbourne as shown on the plan attached to the report is not reasonably required as a road for public use -
 - Discontinues the road;
 - Directs that a notice be published in the Government Gazette;
 - Directs that the land from the road be sold to the abutting owner of 134 Heath St, Port Melbourne;
 - Directs that the discontinuance and sale will not affect any right, power or interest held by service authorities in connection with assets under the control of the authority in or near the road;
 - Authorises the use of the Common Seal of the Port Phillip City Council to be affixed to the Transfer of Land.

A vote was taken and the MOTION was CARRIED.

A5 CONSTRUCTION OF A CAFÉ AT SOUTH MELBOURNE MARKET

Purpose

The Cecil Street precinct of South Melbourne Market (SMM) requires funding for the construction of a café that will effectively become the strip's flagship and the Market's major frontage on its busiest corner.

MOVED Crs Powning/Thomann

That Council:

1. Proceed with the evaluation of tenders for the construction of a café in stalls 101-103 of South Melbourne Market (located on the corner of York and Cecil Streets, South Melbourne) and that Council refers the project for consideration to the 2009-2010 Capital Program.

A vote was taken and the MOTION was CARRIED.

A2 LUNA PARK INTERCHANGE RENEWAL

Purpose

Update the council on progress on the Luna Park Interchange Renewal, namely the community engagement process. Seek in-principle support for the functional and urban design direction.

MOVED Crs Thomann/Bolitho

That Council:

1. Note the progress of the Luna Park Interchange Renewal project.
2. Provide in-principle support for the functional and urban design direction for the Luna Park Interchange space.
3. Consider the further development and implementation for the Luna Park Interchange space as part of the 2009/10 capital works budget process, generally in accordance with plan LD-04 (Partial Plan), and also including all pedestrian crossing points provided for in the plan LD-02 (Landscape Plan Complete).
4. Ensure the design of the platform stops adjacent to Luna Park meet the same standard and finish as those recently constructed in Fitzroy Street and that the view lines to the "Mr Moon" façade of Luna Park are not impacted.
5. Ensure the design adequately caters for cyclists, investigate the potential for a right hand turn for cyclists from Carlisle Street into Acland Street and that Bicycle Victoria be consulted.
6. Be provided with a detailed design of the interchange for consideration prior to its finalisation for construction.
7. Through the development of the detailed design, explore options to further enhance the operation and safety of the pedestrian environment and incorporate where possible.

A vote was taken and the MOTION was CARRIED.

**8(B) REPORTS OF THE STATUTORY PLANNING COMMITTEE HELD AT THE ST
KILDA TOWN HALL ON 10 MARCH 2009**

MEETING CANCELLED.

9. CHIEF EXECUTIVE OFFICER'S REPORT

Nil.

10. ORDERS OF THE DAY

Discussion took place in relation to the following items:

- ORDER 1 APPOINTMENT OF ACTING MAYOR
- ORDER 2 AUDIT COMMITTEE
- ORDER 3 COUNCIL GOVERNANCE PROGRAM
- ORDER 4 WEST BEACH PAVILION LEASE

ORDER 1 APPOINTMENT OF ACTING MAYOR

Purpose

To grant the Mayor Councillor Frank O'Connor leave of absence for Council, Special Council and special committee meetings occurring during the absence of the Mayor from 24 March to 15 April 2009.

MOVED Crs Powning/Middleton

That Council grant the Mayor leave of absence for Council, Special Council and special committee meetings occurring during the absence of the Mayor from 24 March to 15 April 2009 inclusive, and that Councillor Judith Klepner be appointed to the position of acting Mayor in accordance with section 73(3) of the *Local Government Act 1989* during the Mayor's absence.

A vote was taken and the MOTION was CARRIED.

ORDER 2 AUDIT COMMITTEE

Purpose

This report presents the findings of PJ Governance Pty Ltd relating to Council's Audit Committee and recommends a new Audit Committee Charter for adoption by the Council.

MOVED Crs Klepner/Touzeau

1. That Council notes Attachment 3 of the City of Port Phillip Governance Report, headed "Audit Committee for the City of Port Phillip".
2. That the Audit Committee Charter Attachment 2 be adopted.
3. That the Audit Committee Charter and the performance of the Audit Committee be reviewed annually.

A vote was taken and the MOTION was CARRIED.

ORDER 3 COUNCIL GOVERNANCE PROGRAM

Purpose

This report presents the work of PJ Governance Pty Ltd relating to the implementation of an enhanced governance program for the City of Port Phillip.

MOVED Crs Powning/Middleton

1. That the City of Port Phillip Governance Report be received.
2. That Council notes that the actions set out in the report have been considered and employed as a primary reference when developing the Strategic Actions for inclusion in the section on "*Engaging and Governing the City*" in Council's draft Council Plan 2009-13.
3. That "Our Governance Statement" be adopted and applied to:
 - Drive the continuous improvement of Council's governance standards and practices.
 - Help resolve governance dilemmas.
 - Assess the performance of Council and the organisation.

City of Port Phillip - 'Our Governance Statement'

The Council of the City of Port Phillip is committed to high standards of democratic and corporate governance.

The Governance Statement of the local government of the City of Port Phillip promotes accountable and responsive government on behalf of the Port Phillip community. It aims to strengthen active citizenship and participation in Council's decision-making processes.

Sound principles of governance guide the quality of decision making by Council and its organisation. Sound principles determine all systems and structures of authority, accountability, control and reporting practices through which Council ensures proper pursuit of its mission. These governance principles encompass the means of direction and control, and ensure accountability and performance. They ensure good decision-making.

Our Principles of Good Governance

The Port Phillip local government accepts its responsibility for, and is committed to fulfilling its duty of, elected leadership of the community. To that end, Council has adopted the following principles of democratic and corporate governance:

1. *Good democratic and corporate governance requires publicly accountable decision making in the interests of our community.*
2. *Council is committed to continuous improvement and to seeking higher standards and better practices in the processes and culture of corporate governance.*
3. *All Council decisions, whether by Council or by officers under delegation, will be informed by the diversity of community views.*

4. *Council supports the right of the community to have high expectations of its local government.*
5. *The community is entitled to high standards of both citizen responsiveness and customer service from Council and its officers.*
6. *Council undertakes to keep citizens well informed of its decision-making processes, and encourages all contributions from the community.*
7. *Councillors, while representing the interests of their respective wards, will ensure that all Council decisions are made in the best interests of the whole community.*
8. *Council decision-making by Council and officers under delegation will exhibit transparency, honesty and high ethical standards. Delegated decision making must always be exercised within the bounds of the policies and directions of the elected Council.*
9. *Council is ultimately responsible for all decisions and actions of the City of Port Phillip. Council officers are accountable to Council through the Chief Executive Officer for effective and responsive service to the community in accordance with Council directions.*
10. *Council will ensure that its decisions, services, programs and processes are consistent with its vision and values.*
11. *Council is committed to avoiding conflicts between private interests and public duty by Councillors and officers.*
12. *Council will ensure that its services are accessible to all, including people with a disability and people from a non-English speaking background.*
13. *Council will accept full responsibility for its decisions while ensuring that those decisions are informed by effective engagement with the community.*
14. *Decisions will be taken as close as practicable to the people affected to ensure that decisions are fully informed by local knowledge and needs.*
15. *Decision making and service provision by Council will be guided by specific policy commitments to community consultation and service standards. These commitments will be recorded in the Council Plan and supporting policies. Service Charters will provide for complaints and review mechanisms.*
16. *The Council Plan is Council's overall statement of its vision, strategic objectives, priorities and values, aspiring to serve the best interests of the Port Phillip community. The Council Plan will go beyond statutory requirements as the major governance document for the City of Port Phillip and will be maintained as a rolling forward plan to be reviewed annually in consultation with the community.*

Our Governance Culture

Council is committed to high standards of governance as:

- *A pre-requisite to public accountability and high performance.*
- *Dynamic, not static - 'best practice' will vary with circumstances and must address local needs and continuously evolve and adapt.*
- *Critical to responsive performance in governing and servicing communities.*

and Council will provide leadership at the political and administrative levels to these ends.

Good governance requires continuous sensitivity to the tensions between:

- *Openness ~ confidentiality.*
- *Private interests/personal benefit ~ public duty.*
- *Council responsibility ~ contractor accountability.*

Council will apply its principles of good governance to:

- *Drive the continuous improvement of its governance standards and practices.*
- *Help resolve governance dilemmas.*
- *Assess the performance of Council and its organisation.*

A vote was taken and the MOTION was CARRIED.

ORDER 4 WEST BEACH PAVILION LEASE

Purpose

To publicly advertise Council's intention to enter into a lease with West Beach Development Consortium Pty Ltd ('WBDC') for use and management of the property known as West Beach Pavilion at 330A, Beaconsfield Pde, St Kilda West.

MOVED Crs Klepner/Thomann

That Council defer this matter to a Special Meeting of Council to be held on Monday, 6 April 2009 for further consideration.

A vote was taken and the MOTION was CARRIED.

**11. REPORTS BY COUNCILLOR DELEGATES APPOINTED TO
OTHER BODIES**

Nil.

12. URGENT BUSINESS

Nil.

13. CONFIDENTIAL MATTERS

Nil.

As there was no further business the meeting closed at 8.00pm.

Confirmed: 27 April 2009

Chairperson: _____