



**ORDINARY
MEETING OF
COUNCIL**

MINUTES

24 AUGUST 2009

**MINUTES OF THE ORDINARY MEETING OF THE PORT PHILLIP CITY
COUNCIL HELD ON 24 AUGUST, 2009 IN THE COUNCIL CHAMBER, ST
KILDA TOWN HALL**

The meeting opened at 6.05 pm.

PRESENT

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

IN ATTENDANCE

Kay Rundle Chief Executive Officer, Greg Wood Acting Executive Director Community Development & Planning, Cathy Henderson Acting Executive Director Organisation Systems and Support, Sam Hewett Acting Executive Director Community Assets and Services, David Filmalter Chief Financial Officer, Fiona Blair Manager Parks and Open Spaces, Ian Hicks Manager Culture and Recreation, Jo Smale Acting Manager Community Services.

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

MOVED Crs Thomann/Klepner

To suspend Standing Orders to bring forward Item 8 and Item 5 in that respective order.

A vote was taken and the MOTION was CARRIED.

8. PROPOSED TENDER PROCESS – LEASE OF 71A ACLAND STREET, ST KILDA

Purpose

To inform Council of the upcoming expiry of the lease agreement for 71A Acland Street, St Kilda and to seek endorsement for the proposed tender timeline.

MOVED Crs Klepner/Thomann

That Council:

- 2.1 Defers this item until the Council meeting on 29 September 2009 subject to the following:
 - 2.1.1 Advice from the Minister for Consumer Affairs in relation to his announcement on 23 August 2009 that no new licences will be granted for bars and nightclubs to operate after 1am in the City of Port Phillip and other entertainment precincts for a further two years, and;
 - 2.1.2 Legal advice regarding equity issues in any Tender process in relation to this ban and existing 3am licence.

A vote was taken and the MOTION was CARRIED.

5. EILDON ROAD CHILDREN'S CENTRE REQUEST FOR ASSISTANCE

Purpose

To consider an urgent request from Eildon Road Children's Centre Committee of Management for immediate financial and operational assistance to enable the centre to continue operating in the short term

Speaker 1

Mr. Rob Bruce (Chair of Parent Committee Eildon Road Children's Centre) made the following submission in relation to this item:-

Eildon Road Children's Centre is a 40 place community run centre, comprising a long day care program and a kindergarten program which focuses on providing a stimulating and safe environment for children. This year the centre has suffered financially, with enrolments being down and overheads being higher than usual.

Utilization at the centre at the beginning of January this year was around 65% which is unprecedented in the history of the centre. Reasons for this include demographic changes and issues surrounding moving to Council's centralized waiting list. This resulted in an unexpected staff turnover, eventually forcing the Centre to employ agency staff (at high cost) to stay operational until a permanent Coordinator was found. The committee has since employed a permanent Coordinator (to begin in a matter of days) and has been working with Council officers to ensure the same situation does not occur again next year with regards to enrolments – fees have been raised and there will be a deposit system put in place for next year's enrolments.

With regards to the Climbing Frame, for which funds were donated by the community through fund raising activities by the Centre, Council determined that it was not best practice for the site to install the frame as proposed. The Centre and Council have since come to an agreement that the frame will be utilized elsewhere in the City of Port Phillip and the fundraising dollars will be used to put something more appropriate into the allocated space at Eildon Road.

In summing up, Eildon Road Children's Centre is appreciative of the ongoing support and guidance of Council to continue to keep the Centre at 100% utilization.

MOVED Crs Thomann/Klepner

That Council:

- 2.1 Provide assistance to the Eildon Road Children's Centre in the following way:
 - 2.1.1 Defer payment of outstanding levies in the amount of approximately \$44,000.
 - 2.1.2 Defer payment of levies for a further six months to the amount of a further \$44,000.
 - 2.1.3 Provide administrative support for enrolments for the next six months.

- 2.1.4 Provide additional governance and leadership support to the Centre's Committee of Management and Coordinator.
- 2.1.5 Purchase the fixed playground equipment for use by council at a cost of \$10,000.
- 2.1.6 Review the outcomes of the above actions in six months to determine the centre's financial and operational position.
- 2.1.7 Receive an update on the viability of Eildon Road Children's Centre in six months time.
- 2.2 Request the Eildon Road Committee of Management work closely with Council to ensure all factors culminating in the current financial and operational position are identified and addressed in order to support the long term viability of the Centre.

A vote was taken and the MOTION was CARRIED.

1. APOLOGIES

MOVED Crs Klepner/Thomann

An apology was received from Cr Middleton and a leave of absence was granted.

A vote was taken and the MOTION was CARRIED.

2. CONFIRMATION OF MINUTES

MOVED Crs Thomann/Touzeau

That the Minutes of the Ordinary Meeting of the Port Phillip City Council held on 10 August 2009 be confirmed.

A vote was taken and the MOTION was CARRIED.

3. DECLARATIONS OF CONFLICTS OF INTEREST

Nil.

4. PETITIONS AND JOINT LETTERS

A Petition was received from 194 people regarding the extension of footpath trading hours for Lamaro's Café/Bar/Dining Room during daylight saving hours.

The Petition states the following:

Pam Lamaro asks that you support her attempt to extend the footpath trading hours with Port Phillip Council to 11pm. This will ensure that on balmy summer evenings you will be able to drink and dine outside at your leisure instead of being forced to move back inside at 9pm. Thank you for committing your name and details to this petition.

Officer's Comment:

An application to extend Lamaro's footpath trading hours is being considered by the Footpath Trading Panel. The actual application is to extend the existing arrangement by one hour (to 8pm in non-daylight savings and to 10pm in daylight savings).

The support demonstrated in the petition will be factored into the Panel's development of a recommendation to Council.

The panel will reach a decision by the end of August. In the event that the panel supports the application to extend the hours of footpath trading, Council will consider this recommendation at its meeting on 14 September 2009.

MOVED Crs Klepner/Thomann

That Council notes the Petition.

A vote was taken and the MOTION was CARRIED.

5. SEALING SCHEDULE

The following document is submitted for signature and sealing:

FORM OF AGREEMENT between the Port Phillip City Council, of Cnr Carlisle Street and Brighton Road, St Kilda Vic 3182 and IA Design and Construction Management Pty Ltd of 188 Pickles Street, South Melbourne Vic 3205 regarding Contract number 1250 – Construction of a Café at the South Melbourne Market (Stalls 101-103).

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.

6. PUBLIC QUESTION TIME

Item 1

Mr Peter Holland asked the following questions regarding the St Kilda Triangle Development

1. The Development Agreement is signed by BBC Triangle Investments Pty Ltd in its personal capacity and in its capacity as trustee for the Trust. Could Council please disclose the names of the beneficiaries of this trust?
2. The Development Agreement provides for a Project Coordination Group (Clause 18) and detailed reporting obligations to Council in Clause 19.
 - a) Is Council satisfied that these reporting obligations are being fulfilled?
 - b) Does the obligation to report to Council mean that these reports are provided to the Councillors? If not, why not?
 - c) Could Council please consider a mechanism for the regular summary, as appropriate, of these reporting obligations to be made public similar to the update presented to the 27 July meeting of Council?
3. Re sunset clauses:

Under Clause 4.3 of the Development Agreement the Developer must ensure that various events occur before the Secondary Satisfaction Time (SST) such as obtaining all Planning Approvals. Clause 4.7 provides for extensions under various circumstances. The dates are redacted in the publicly available Development Agreement. The CEO's report to Council to 27 July indicated that the SST is 'the date which is 24 months after the date on which Dispute Proceeding in connections with the Developer's Project is finally determined'. The Developer's response indicates that it envisages up to five years being required to obtain the Planning Approvals.

 - a) Is it Council's position that this date is 15 June 2011, which is 24 months after the VCAT decision was settled on 18 May 2009 and time for appeals (28 days)?
 - b) Has the Developer agreed that this is the SST?
 - c) Has the Developer put forward a contrary date such as 24 months after the final determination of its costs application against Unchain St Kilda Inc?
 - d) Clause 4.7 only applies if the Developer has been 'unable to obtain' the required Approvals within the SST. Does the Council believe that this does not cover an extension merely because the Global Financial Crisis and Babcock and Brown's financial difficulties?

Under Clause 4.3A there are additional milestones with the dates redacted in the Development Agreement. This requires the Developer to, inter alia, submit its applications for Planning Approvals.

- a) Is it council's position that the latest date for this is 19 May 2010?
- b) Does this require that the Developer have applied for planning permits, liquor licenses and heritage approval by this date?

- c) Has the Developer agreed that 19 May 2010 is the milestone?
 - d) Is there any provision for extension of these dates since Clause 4.7 does not seem to apply to the Additional Milestones?
4. There is a senior officer liaison committee with representatives of the State Government as a replacement for the SKE Committee.
- a) Is this committee over sighting the full suite of projects under the foreshore UDF including matters such as the St Kilda Harbour redevelopment?
 - b) What provision is there for public participation in this process and public disclosure of the deliberations of the committee?

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

7. COUNCILLOR QUESTION TIME

Nil.

8. PRESENTATION OF REPORTS

The balance of the order of business was as follows:-

1. Tree Policy – Terms of Reference for Community Reference Committee
2. St Kilda Botanical Gardens Future Direction Plan
3. Quarterly Management/Financial Report
4. 2008/09 Capital Program End Of Year Position
6. St Kilda Festival Review – Community Reference Group Membership
7. South Melbourne Market Cleaning Contract Extension
9. Ombudsman's Report

1. TREE POLICY - TERMS OF REFERENCE COMMUNITY REFERENCE COMMITTEE

Purpose

This report is being presented for Council to adopt the Terms of Reference for the Tree Policy Community Reference Committee.

MOVED Crs Bolitho/Touzeau

That Council:

- 2.1 Adopts the Tree Policy Community Reference Committee Terms of Reference.
- 2.2 Seeks expressions of interest from the community to nominate for the Tree Policy Community Reference Committee.
- 2.3 Notes that advertising for the Reference Committee will be undertaken via local newspapers, council web site and on site flyers at venues across the municipality.
- 2.4 Appoints members to the Tree Policy Community Reference Committee in September 2009.
- 2.5 Convenes the first meeting of the Tree Policy Community Reference Committee in late September 2009.

A vote was taken and the MOTION was CARRIED.

2. ST KILDA BOTANICAL GARDENS FUTURE DIRECTION PLAN

Purpose

The purpose of this report is to seek Council endorsement to adopt the St Kilda Botanical Gardens Future Directions Plan and Arboriculture Report.

MOVED Crs Klepner/Thomann

That Council:

- 2.1 Endorses the St Kilda Botanical Gardens Future Direction Plan.
- 2.2 Notes the recommendations in the St Kilda Botanical Gardens Future Direction Plan and consider the implementation of these recommendations as part of the Council's annual budget and Capital Works Assessment process.

A vote was taken and the MOTION was CARRIED.

3. QUARTERLY MANAGEMENT REPORT

Purpose

To provide Council with information on the financial, capital works, service and internal performance on the organisation

MOVED Crs Powning/Thomann

That Council:

- 2.1 Receives and notes the 4th Quarter 2008/09 Quarterly Management Report
- 2.2 Notes that as provided for in the Council Plan 2009 - 2013, key performance indicators and service promises will be reviewed in consultation with the community.

A vote was taken and the MOTION was CARRIED.

4. CAPITAL WORKS 2008/2009 – YEAR END POSITION

Purpose

To advise Council on the year end capital works position for 2008/2009 including recommendations on projects to be carried over for completion into 2009/2010.

MOVED Crs Bolitho/Klepner

That Council:

- 2.1 Carryover \$3,385,367 of capital works program funding from 2008/2009 into 2009/2010.
- 2.2 Carryover \$2,423,309 of unspent Gasworks Park Remediation funding from 2008/2009 into 2009/2010.
- 2.3 Carryover \$1,231,273 of government grant income (and savings) received during the year for projects with a 2008/2009 delivery date into 2009/2010 to complete those projects.
- 2.4 Acknowledge the progress of the delivery of the 2008/2009 capital works program noting that the carry over project funding percentage (against forecast) of 11.1% is the lowest percentage figure since 1995/1996.
- 2.5 Note that this result shows the Council's sustained commitment to reducing capital works carryovers since the risk associated with significant capital works carryovers was identified by the Audit Committee

A vote was taken and the MOTION was CARRIED.

6. ST KILDA FESTIVAL REVIEW – COMMUNITY REFERENCE GROUP MEMBERSHIP

Purpose

For council to appoint membership of the St Kilda Festival Review Community Reference Group.

MOVED Crs Klepner/Thomann

That Council:

- 2.1 Appoints Councillors O'Connor and Thomann to the St Kilda Festival community reference group.
- 2.2 Appoints the following applicants to the St Kilda Festival community reference group:
 - Krystyna Kynst and David Brand representing local residents with an interest in amenity / residential considerations;
 - Andrew Browning and Stephanie Crolla representing local residents with an interest as a festival audience member;
 - Roger Wyndham and Martin Perry representing local traders; and
 - Corrine Wilkie and Bob Starkie representing local artists/musicians.

A vote was taken and the MOTION was CARRIED.

7. CLEANING CONTRACT EXTENSION AT THE SOUTH MELBOURNE MARKET

Purpose

To seek Council approval to extend the cleaning services contract #847 awarded to CleanEvent Pty Ltd for a final 12-month period.

MOVED Crs Klepner/Powning

That Council:

- 2.1 Approve the final 12-month contract extension for contract #847 for cleaning services at South Melbourne Market to CleanEvent Pty Ltd.

A vote was taken and the MOTION was CARRIED.

9. OMBUDSMAN VICTORIA REPORT

Purpose

Council is requested to formally receive the report from Ombudsman Victoria and endorse the implementation of the report's recommendations.

MOVED Crs Bolitho/Klepner

That Council:

- 2.1 Receives the Ombudsman Victoria report 'A report of investigations into the City of Port Phillip'.
- 2.2 Endorses the implementation of all recommendations set out in the Ombudsman Victoria report.
- 2.3 Requests that regular progress reports on implementation be provided to the Audit Committee and to the Council.

A vote was taken and the MOTION was CARRIED.

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

Nil.

10. URGENT BUSINESS

The Mayor confirmed that the next Ordinary Meeting of Council will be held on 14 September 2009 at the Port Melbourne Town Hall.

As there was no further business the meeting closed at 7.05pm.

Confirmed: 14 September 2009

Chairperson: _____