



**ORDINARY
MEETING OF
COUNCIL**

MINUTES

22 JULY 2002

MINUTES OF THE ORDINARY MEETING OF THE PORT PHILLIP CITY COUNCIL HELD ON 22 JULY 2002, IN THE COUNCIL CHAMBER, ST KILDA TOWN HALL

The meeting opened at 6.10pm.

PRESENT

Cr Ray (Chairperson), Cr Brand, Cr Gross, Cr Hill, Cr Hutchens, Cr Johnstone, Cr Logan, David Spokes Chief Executive Officer, Geoff Oulton Director City Development, Sally Calder Director Social and Cultural Development, David Graham Director Governance and Council Services, Stephen O'Kane Director Corporate Development, Bruce Phillips Manager Planning & Building Services, Mandy Press Manager Neighbourhood Development, Stephen Cooper Manager Health and Enforcement, Jim Holdsworth Manager Urban Sustainable Design, Allan Gatiss Manager Communications and Facilities, David Filmalter, Manager Finance and Investments, Jill Hennessey Manager Governance and Risk Management, Ian Hicks Manager Culture and Recreation, Sue Wilkinson Team Leader Statutory Planning, Yvonne Rust Coordinator Strategic Planning, Paul Smith Senior Traffic Engineer, Carmel Shute Media Adviser.

The Chairperson (Cr Ray) acknowledged the traditional owners of the land on which the Council meets, the Boonerwung language people and the Wurundjeri people as custodians.

1. APOLOGIES

Nil.

2. DECLARATIONS OF PECUNIARY INTEREST

Cr Hutchens declared a Pecuniary Interest in Business Item A9-Submissions Received To Proposed Intention To Declare A South Melbourne Business Precinct Special Rate, Of The Provision Of Marketing, Management And Development.

3. CONFIRMATION OF MINUTES

MOVED Crs Gross/Brand

That the Minutes of the Ordinary Council Meeting held on 24 June 2002 be confirmed.
That the Minutes of the Statutory Planning Committee held on 8 July 2002 be confirmed.
That the Minutes of the Special Council Meeting held on 15 July 2002 be confirmed.
A vote was taken and the MOTION was CARRIED.

4. PETITIONS AND JOINT LETTERS

Nil.

5. SEALING SCHEDULE

The following documents are submitted for signature and sealing:

1. SECTION 173 AGREEMENT between PORT PHILLIP CITY COUNCIL and BANDOW, and J.L & M.J. PITT PTY LTD, to covenant the land at 13 Meaden Street, Southbank, that the land only be developed in accordance with the plans endorsed under Planning Permit No. 1513/2001 dated the 21 March 2002 and that it shall pay the Responsible Authority's solicitors/client costs in respect to the preparation and registration of the Agreement.
Item previously not considered by Council. Condition on TP591/2001 which requires the applicant to enter into a S173 Agreement for practical completion of works.
Responsible Manager: Sue Wilkinson, Acting Manager Planning and Building Services.

2. SECTION 173 AGREEMENT between PORT PHILLIP CITY COUNCIL and GRASSWOOD PTY LTD, the agreement must contain covenants to be registered on the title of the property at 102-104 Tope Street, Port Melbourne, so as to run with the land and must provide for that the dwelling on the land shall only be used for a Caretaker's House for occupation by a supervisor of the associated office use of the building, or other subsequent use of the building as approved by the Responsible Authority. This requirement shall cease if the zoning of the land is changed to allow the use of a dwelling. The applicant is responsible for the preparation, registration of the agreement, including the Council's reasonable costs and expense (including legal expense) incidental to the preparation, registration and enforcement of the agreement.
Item previously considered at the Statutory Planning Committee Meeting on 13 November 2000.
Responsible Manager: Sue Wilkinson, Acting Manager Planning and Building Services.

3. CUSTOMER COMMUNICATION AND INFORMATION SERVICES AGREEMENT between PORT PHILLIP CITY COUNCIL and SOUTH EAST WATER LTD, to provide for an agreement in relation to the quality, timing and roles and responsibilities relating to the provision of after hours and overflow telephone service to the City of Port Phillip. This was recommended following the Requests and Complaints Service Review held in 2001.
Item previously considered by Council in July 2001.
Responsible Manager: Pauline Magee, Manager Service Access and Performance.

4. CONTRACT NO. 0583 between PORT PHILLIP CITY COUNCIL and ROOTMASTERS PTY LTD, for root guidance work principally consisting of tree root pruning and installation of root barriers. This task was previously performed by sub-contractors, as part of the Contract for Civil Infrastructure Construction and Maintenance #0136 without any technical specifications. Council recognised that this task was important as it involved one of Council's most important assets, its trees. Therefore it warrants a stand-alone contract, particularly given that funding for those works regularly exceeds \$100K annually.
Item previously not considered by Council.
Responsible Manager: Rosa Marguccio, Manager Assets and Environment.

5. LEASE between PORT PHILLIP CITY COUNCIL and KERFERD ROAD CATERING ENTERPRISES PTY LTD, KASTEEL INVESTMENTS PTY LTD and GH NOMINEES PTY LTD for the transfer of sub-lease of Kerferd Road Kiosk at 129A Beaconsfield Parade, Middle Park. This agreement is for the sub-lease to be transferred from one tenant to another tenant.

Item previously considered by Council in November 1997.

Responsible Manager: Jill Hennessey, Manager Governance and Risk Management.

MOVED Crs Johnstone/Hutchens

That the Common Seal of the Port Phillip City Council be affixed to Document No's 1-4 and the late Document Item No. 5.

A vote was taken and the MOTION was CARRIED.

6. CORRESPONDENCE

Item 1

A copy of the Confidential List of Registered Correspondence for the Mayor and Councillors between the months of 19 June and 16 July 2002 is attached for information.

**No formal discussion ensued on this matter.*

Item 2

A letter was received from Refugee Council of Australia, thanking Council for supporting the 'Refugee Welcome Zone Declaration'.

**No formal discussion ensued on this matter.*

**** Copy of the letter and Certificate have been forwarded to the Director City Development and the Manager Neighbourhood Development for their information.***

7. PUBLIC QUESTION TIME

Item 1

A resident asked a question in regards to the proposal meeting in relation to the Rooming House in Woodstock Street, there was a vote put to that meeting from the floor and was it carried unanimously that the Councillors go back to Council and that the proposal would be resubmitted.

**The Mayor, Cr Ray responded by stating that the recommendation in fact was voted 45 to 2 and it was not unanimous. One would consider that, a very comfortable margin. Subsequently all Councillors except one was at the East St Kilda Neighbourhood Forum which was the second meeting after the first residents consultation meeting and Councillors heard very clearly that there was a level of concern in the community. The status of the planning application is that motion whilst noted by Council, and that opposition whilst noted by Council, is outside the normal planning process. The planning application stands unless the applicant wishes to withdraw it.*

**The Director City Development also responded by stating that at this stage Council is going through a process to appoint an architect to prepare the planning application drawings and they will lodge the planning application drawings on behalf of Council. In terms where the Council Officers are at, there has been no rescission motion for the previous Council decision to proceed to the next stage of the process and therefore Council is continuing along that path.*

**The Mayor, Cr Ray further responded by stating that if Council wishes to follow the spirit of that motion rather than just note it, it would require a rescission motion for Council's original decision to proceed not to stand.*

***Director City Development to circulate copies of the minutes to the relevant residents.**

8. PRESENTATION OF REPORTS AND RECOMMENDATIONS

8(A) REPORTS OF THE STRATEGY AND POLICY REVIEW COMMITTEE HELD AT THE ST KILDA TOWN HALL ON 1 JULY 2002

MOVED Crs Johnstone/Brand

That Standing Orders be suspended in order to consider verbal submission from residents for Supplementary Reports and Orders of the Day.

A vote was taken and the MOTION was CARRIED.

The following items were MOVED in block by Crs Hutchens/Brand:

- A1 NAMING THE SECTION OF BEACH AND RESERVE ADJACENT TO THE BOULEVARD, BETWEEN TODD ROAD AND BARAK ROAD, PORT MELBOURNE
- A3 NAMING OF GRASSED COURTYARD AREA AT THE FRONT OF THE ST KILDA TOWN HALL
- A1 AMENDMENT C35 - ST KILDA STATION ADVERTISING CONTROLS
- A12 2002 CULTURAL DEVELOPMENT FUND EVALUATION OUTCOMES
- OTHER 1 COUNCILLOR DELELEGATE REPORT – ‘SHED YOUR CAR DAY FOR MELBOURNE’ – SHORT REPORT ON AND RECOMMENDATIONS ARISING FROM REGIONAL PRACTICUM FOR MAYORS ON CAR FREE DAYS

Discussion took place in relation to the following items:

- A7 ATTORNEY GENERAL'S STREET PROSTITUTION ADVISORY GROUP FINAL REPORT
- A2 AUDIT COMMITTEE ACTIVITIES UPDATE
- A4 MONTHLY MANAGEMENT REPORT FROM THE CHIEF EXECUTIVE OFFICER
- A5 SUSTAINABLE DESIGN POLICY
- A6 URBAN ART STRATEGY
- A9 SUBMISSIONS RECEIVED TO PROPOSED INTENTION TO DECLARE A SOUTH MELBOURNE BUSINESS PRECINCT SPECIAL RATE, FOR THE PROVISION OF MARKETING, MANAGEMENT AND DEVELOPMENT
- A10 FIXED SCREEN TRIAL FOR KERBSIDE TRADING
- A11 COMMUNITY AMENITY (AMENDMENT) LOCAL LAW NO. 2

A1 NAMING THE SECTION OF BEACH AND RESERVE ADJACENT TO THE BOULEVARD, BETWEEN TODD ROAD AND BARAK ROAD, PORT MELBOURNE

Purpose

To consider submissions received in the Naming of Beach off the Boulevard, opposite the bend and Barack Road, Port Melbourne.

MOVED Crs Hutchens/Brand

1. It is therefore proposed to erect a small plaque to be affixed to the bluestone wall at the end of Kerferd Rd acknowledging Peter's contribution. The wording of the plaque to read:

'In recognition of Peter Fussell's dedication and service to the citizens of South Melbourne and Port Phillip and for his outstanding contribution, as City Engineer, in the winning of the 1997 Engineering Award for Excellence – Environment Prize – FORESHORE DEVELOPMENT'

2. That Council resolve to select the name and register "Sandridge Beach" for the section of Beach adjacent to 142 Beach Street and to the City's boundary (opposite Perc White Reserve) with the Geographic Places Names Registrar.
3. That Council resolve to take no further action on naming other reserves or foreshore locations.

A vote was taken and the MOTION was CARRIED.

A2 AUDIT COMMITTEE ACTIVITIES UPDATE

Purpose

To bring to the attention of Council the matters discussed at the May 2002 meeting of the City of Port Phillip Audit Committee.

MOVED Crs Hill/Brand

1. Council receive and note the report outlining the matters considered by the Audit Committee at its May 2002 meeting.
2. That the CEO consider security of Council's IT infrastructure and the role of the Audit Committee in ensuring that security is sufficient.

A vote was taken and the MOTION was CARRIED.

Note:

*Audit Committee to include in its audit program the consideration of the election processes and the recent changes to the legislation as proposed by the Minister for Local Government.

A3 NAMING OF GRASSED COURTYARD AREA AT THE FRONT OF THE ST KILDA TOWN HALL

Purpose

To consider a proposal to name the grassed courtyard area at the front of the St Kilda Town Hall 'Raoul Wallenberg Garden' and to erect a new plaque.

MOVED Crs Hutchens/Brand

That Council, after considering all submissions received and in accordance with the Geographic Names Act 1998, agree to the naming of the grassed area at the front of the St Kilda Town Hall 'Raoul Wallenberg Reflective Garden' and to erect a plaque relating to the naming.

A vote was taken and the MOTION was CARRIED.

A4 MONTHLY MANAGEMENT REPORT FROM THE CHIEF EXECUTIVE OFFICER

Purpose

This report aims to provide Councillors with a summary of the major areas of activity and operational performance as at 24 May 2002 and compares actual performance against forecast.

MOVED Crs Hill/Hutchens

1. That the Monthly Management Report from the CEO detailing Council's year to date financial and operating performance to be received and noted.
2. That Council note the Director City Development amendments to the parking income reported this month.

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

Note:

*Second dot point on Page 2 to be amended to reflect the amended parking income.

**A5 SUSTAINABLE DESIGN POLICY
(SEE SUPPLEMENTARY REPORT)**

Purpose

To provide an update to Council on the Sustainable Design Policy.

MOVED Crs Hill/Johnstone

It is recommended that Council:

1. Confirm Recommendations a) – d) of the Report to the Strategy and Policy Review Committee on 1 July, as follows:
 - a) Endorse the Sustainable Design Policy as a basis to implement the Sustainability Scorecard for residential building applications during a 3-month trial period.
 - b) Endorse a program of advice, publicity and information to prospective applicants and frequent applicants and their representatives, to ensure that the Policy and the trial period is well known prior to commencement of the trial.
 - c) Call for a report at the December cycle on the outcomes of the 3-month trial and any proposed modifications to the context and operation of the Policy.
 - d) Endorse a parallel process to further consider how to incorporate the Sustainable Design Policy and the Sustainability Scorecard into the relevant parts of the Port Phillip Planning Scheme, considering preferably incorporation at State level.
2. Note the examples of the use of the Sustainability Scorecard which are presented as part of this Supplementary Report.
3. Note the methodology to be used to assess the outcomes of the three month trial of the Sustainable Design Policy.
4. Note the process and timetable that would be used to incorporate the Policy into the Planning Scheme.

A vote was taken and the MOTION was CARRIED.

A6 URBAN ART STRATEGY

Purpose

To update Council on the Urban Arts Strategy.

MOVED Crs Brand/Hutchens

1. It is recommended

- a) That Council receive the Urban Art Strategy, as described in the document prepared by Torque Consultants (June 2002) and use its contents as the basis for a staged program of implementation.
- b) That the initial stage of implementation of the Strategy be limited to:
 - Implementing the Private and Community Streams of the Strategy,
 - Establishing and servicing an Urban Art Advisory Committee and an Ideas Trust and
 - Maintaining a database of existing works, for promotional and educative purposes. (This task can extend to other structures in the public domain such as statues, memorials, markers, plaques, etc).
- c) That the existing Urban Art Reference Group, in conjunction with the Director City Development and the Director Social & Cultural Development, undertake the process of determining the appropriate staff resources necessary to achieve the initial stage of implementation.
- d) That a further report be prepared no later than November 2002 regarding the implications of the adoption by Council of any budget allocation and other financial instruments to fund the Civic Stream of the Strategy.

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

**A7 ATTORNEY GENERAL'S STREET PROSTITUTION ADVISORY GROUP
FINAL REPORT
(SUPPLEMENTARY REPORT)**

Purpose

To advise on the implications for Council of the recommendations arising from the Attorney General's Street Prostitution Advisory Group report released on 19th June 2002.

MOVED Crs Hill/Johnstone

1. That Council endorse all recommendations of the Attorney General's Street Prostitution Advisory Committee Final Report – June 2002 and commits to facilitating the implementation of the entire Report.
2. That the Strategy and Policy Review Committee authorise a Public Notice to be prepared inviting submissions from the community on preferred sites for a tolerance zone.

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

MOVED Crs Gross/Hill

That Council:

1. Having considered public submissions nominating potential locations for Tolerance Areas, refer the following suggested locations to an Independent Panel as the proposed shortlist, subject to part 2 and part 7 of this recommendation:

All sites are 24 hours unless otherwise stated.

Location A	St Kilda Road, west side, from Inkerman Street to Barkly St.	Female Street Sex Workers
Location B	As for Location A as well as Inkerman Street, north side from Barkly to St Kilda Road.	Female Street Sex Workers
Location C	Fitzroy Street, north side, from Lakeside Drive to St. Kilda Junction- 24 hour. Lakeside Drive- from southern edge of Junction oval car park to Fitzroy St- night time only.	Female Street Sex Workers
Location D	Car Park bounded by Belford St and Irwell Street- night time only	Transsexual Street Sex Workers
Location E	Carlisle Street, south side, in front of Town Hall extending to portico entrance-night time only	Transsexual Street Sex Workers
Location F	Chaucer Street, north-east side from Shakespeare Grove for 100metres-night time only	Male Street Sex Workers
Location G	Shakespeare Grove, south-east side between Chaucer Street and Spenser Street-night time only	Male Street Sex Workers

2. Calls for further advice from officers prior to finalising the proposed shortlist at a Special Council Meeting on 29 July 2002, that outlines other locations submitted following the close of submissions.
3. Prepare an Explanatory Report as part of the exhibition process.

4. Proceed to exhibit the final short list that Council will refer to the Independent Panel from 5 August 2002.
5. Advise all abutting owner/occupiers of the short listed Tolerance Areas and call more broadly for submissions in response to the exhibition of the shortlisted locations.
6. Conduct a Community Information Forum on 14 August at the St Kilda Town Hall from 7pm - 9pm.
7. That the Terms of Reference for the Panel include provision for evaluation of:
 - a) suitability of proposed sites for the conduct of a trial;
 - b) the performance of the proposed sites against existing locations currently used by street sex workers;
 - c) all information considered by Council including information on alternative sites proposed by submitters not on the recommended short list;
 - d) to advise of the impact and performance of any other sites proposed by submitters to the panel;
 - e) measures to reduce leakage into surrounding areas not covered by the zones;
 - f) measures to maintain or improve the amenity within and affected by Tolerance Areas; and
 - g) strategies to effectively manage areas within and affected by Tolerance Areas.
8. Receive a further report in the August cycle regarding the Independent Panel process.

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

MOVED Crs Brand/Gross

That Cr Johnstone be the Chairperson for 30 minutes.

A vote was taken and the MOTION was CARRIED.

Cr Ray stood down from the Chair.

Cr Johnstone took the Chair.

Cr Ray left the meeting at 8.00pm.

A8 AMENDMENT C35 - ST KILDA STATION ADVERTISING CONTROLS

Purpose

This report advises Council of the strategic work in preparing an amendment to introduce height controls to protect the Shrine Vista.

MOVED Crs Hutchens/Brand

1. That Council:

- a) Note and receive this report.
- b) Having considered the amendment request, not support the exhibition of the amendment as proposed.
- c) Notify the applicant that Council does not support the exhibition of the amendment as requested.
- d) Notify the applicant that Council would support the exhibition of an amendment request that proposed to change Point 5.0 of Schedule 2 to the Comprehensive Development Zone to read as follows:

‘5.0 Advertising signs

Advertising controls for land shown within Part A – Retail on Map 1 to the Schedule to Clause 37.02 are in Category 3 of the table to Clause 52.05.

Advertising controls for land shown within Part B – Residential on Map 1 to the Schedule to Clause 37.02 are in Category 4 of the table to Clause 52.05.’

A vote was taken and the MOTION was CARRIED.

A9 SUBMISSIONS RECEIVED TO PROPOSED INTENTION TO DECLARE A SOUTH MELBOURNE BUSINESS PRECINCT SPECIAL RATE, FOR THE PROVISION OF MARKETING, MANAGEMENT AND DEVELOPMENT (SEE SUPPLEMENTARY REPORT)

*Cr Hutchens declared a pecuniary interest in this item.

*Cr Hutchens left the meeting at 9.40pm prior to any discussion on this item.

Purpose

To enable Council to consider submissions received regarding the Proposed Intention to Declare a South Melbourne Business Precinct Special Rate, for the provision of marketing, management and development.

MOVED Crs Logan/Johnstone

1. Council notes that 17 submissions objecting to the special rate proposal and that these have been considered in accordance with the requirements under section 223 of the Local Government Act 1989.
2. Under section 163(1A) of the Local Government Act 1989 that Council resolves to declare the special rate in the following terms:
 - a) The special rate is declared for the purpose of defraying marketing, management, business development, security and other incidental expenses associated with the encouragement and development of commerce, trade and associated employment in the South Melbourne Business Precinct.
 - b) The special rate will raise an amount of \$90,000 per annum, being a total of not less than \$450,000.00 for the period of the scheme. The special rate will remain in force for a period of 5 years until 30 June 2007.
 - c) The special rate will be assessed on the basis of geographic and commercial use criteria and will apply to the (currently) 245 properties listed in attachment 2 and which, in the opinion of the Council, form and are included in the precinct and are otherwise shown on the attached plan on attachment 1. The plan shows the area and the land for which the special rate is being declared.
 - d) On the basis of these assessments, the special rate will be levied by sending notices to the owners of properties included in the scheme that will require that the special rate must be paid in full by the date on the notice. For the first year (period) of the special rate, the date for payment in full will be 15 February 2003. In subsequent years to the first year of the special rate, the dates for payment will be as per the prescribed payments dates as fixed by the Minister under the Local Government Act 1989. The assessments included in the special rates scheme are detailed in attachment 2 and will be assessed and levied as follows:

- Properties listed in Attachment 2 identified as a primary benefit property, (e.g. retail businesses that front Coventry Street and Clarendon Street, South Melbourne and that in the opinion of the Council receive a Primary Special Rate Benefit) will be subject to a rate of 0.006 cents (referred to as 6.0 cents in the dollar) which is multiplied by the assessments current Net Annual Value. Those properties contributing a primary benefit level will be subject to a minimum of contribution of \$430.00 (based on the valuations that are current as at the date of this report).
 - Properties listed in Attachment 2 identified as a secondary benefit property, (e.g. non-retail businesses that front Coventry Street and Clarendon Street South Melbourne and any commercial properties within the geographic region and which in the opinion of the Council receive a Secondary Special Rate Benefit) will be subject to a rate 0.0042 cents in the dollar (referred to as 4.2 cents in the dollar) which is multiplied by the assessments current Net Annual Value. Those properties contributing a secondary benefit level will be subject to a minimum of contribution of \$295.00 (based on the valuations that are current as at the date of this report).
- e) Council considers that there will be a special benefit to persons required to pay the special rate (being the owners of the properties included in the scheme) in that there will be a benefit to them over and above that available to persons not the subject of the special rate, and directly and indirectly the viability of the South Melbourne Business Precinct will be enhanced through increased economic activity and tourism by the marketing management and development of that area. The value of the properties included in the scheme, their desirability as letting propositions and their general image and stature, both separately and severally in the context of the area generally, will be maintained or enhanced.
- f) No incentives will be given for the payment of the special rate before the due date.
- g) In subsequent years to the 2002/2003 year, that is from 1 July 2003 to 30 June 2007 the due dates will be prescribed payment dates as fixed by the Minister under the Local Government Act 1989. Ratepayers will have the option to pay the special rate by lump sum or by installments.
- h) Interest will apply to unpaid special rates in accordance with the provisions of the Local Government Act 1989, the due date for the special rate will be determined should the special rate proceed to the declaration report. The interest rate and the due dates applicable to the special rates will accord with the City of Port Phillip general rates and charges declaration each year.
- i) The prescribed interest rate in accordance with the provisions of the Local Government Act 1989 will be the interest rate applied for special rates not paid by the prescribed payment dates.
- j) The properties included in the special rate scheme will be subject to general re-valuations and supplementary valuations on the same cycle as the City of Port Phillip general rates and charges
3. Authorise Council officers to levy the special rate by sending a notice to each person affected by special rate informing them of the necessary information as outlined under section 163 (5) of the Local Government Act 1989.

4. Council resolves that prior to the special rate or any part being paid to the South Melbourne Business Association, and as a condition precedent to such payment, the Association must enter into a formal agreement with Council which, amongst other matters, acknowledges and confirms that
 - a) The role of the Association in expending the monies raised by the special rate on behalf of Council is of an administrative nature only and at all times under the direction of and for Council; and
5. Council reserves to itself all discretions relevant to the application of the proceeds of the special rate.

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

*Cr Hutchens returned to the meeting at 9.43pm after a vote was taken on this item.

A10 FIXED SCREEN TRIAL FOR KERBSIDE TRADING

Purpose

To investigate and report on the merits of a fixed screen trial for kerbside trading within Fitzroy Street, St Kilda.

MOVED Crs Hill/Ray

PART A

1. That Council do not proceed with the trial for fixed screens at this time.
2. That Council continue to explore the options for fixed screens for kerbside trading areas in the context of the current review of kerbside trading guidelines, noting the advice of the Director City Development that this is scheduled to be completed by the end of this calendar year.
3. That the Port Phillip Business Association, Traders and the wider community be involved in the development of the new guidelines.

PART B

That a further report be prepared describing a proposed methodology for assessing the leasehold value of kerbside trading areas, the discount for inclemency of the leasehold values of kerbside trading areas and indicative leasehold value of the kerbside trading areas in this City with a view to using this information as the basis for determining the charges associated with kerbside trading.

A vote was taken and the MOTION was CARRIED.

Cr Ray returned to the meeting at 8.30pm.

Cr Johnstone stood down from the Chair.

Cr Ray took the Chair for the remainder of the meeting.

**A11 COMMUNITY AMENITY (AMENDMENT) LOCAL LAW NO. 2
(SEE SUPPLEMENTARY REPORT)**

Purpose

To consider the report of submissions received following the statutory advertising of proposal to make Community Amenity (Amendment) Local Law No 2 of 2002.

MOVED Crs Ray/Hutchens

1. Council adopts Community Amenity (Amendment) No. 2 of 2002 and the amendment of Part 10, Clause 5A and 5B of the Procedures and Protocols Manual.
2. That Council advertise the adoption of the Community Amenity (Amendment) Local Law No. 2 and the amendment to the Procedures and Protocols Manual.
3. Council has considered the provisions of National Competition Policy under Schedule 8 of the Local Government Act 1989 in the development of the amendments and concludes that the new provisions do not contravene these principles.
4. Council authorize the signing and sealing of Community Amenity (Amendment) local Law No2 of 2002 to Community Amenity Local Law No 1 and its associated Procedure and Protocols Manual with the Common Seal of the Port Phillip City Council.
5. Council adopts an implementation date for the amendment of Community Amenity Local Law No 1 of 15 August 2002.

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

Note:

* Director City Development to provide statistics on permits issued as part of the monthly KPI's reported to Council.

A12 2002 CULTURAL DEVELOPMENT FUND EVALUATION OUTCOMES

Purpose

This report provides Council with an overview of the outcomes of the Cultural Programs Board's evaluation of the 2002 Cultural Development Fund and a comparative analysis of the funding applications received.

MOVED Crs Hutchens/Brand

1. Council receive this report and note the Cultural Programs Board's recommendations for the 2002 Cultural Development Fund.
2. Council formally acknowledge the work of the members of the Evaluation Panel.

A vote was taken and the MOTION was CARRIED.

A13 EVALUATION OF TENDERS - 0606 – AIR CONDITIONING SERVICES/0609 – ELECTRICAL SERVICES/0610 – PLUMBING, GASFITTING AND FOUNTAIN MAINTENANCE SERVICES/0613 – BRICKLAYING SERVICES/0614 – PAINTING SERVICES

PLEASE REFER TO THE END OF THE MINUTES FOR THE COMMITTEE'S RESOLUTION TO THIS ITEM.

OTHER 1 COUNCILLOR DELEGATE REPORT – ‘SHED YOUR CAR DAY FOR MELBOURNE’ – SHORT REPORT ON AND RECOMMENDATIONS ARISING FROM REGIONAL PRACTICUM FOR MAYORS ON CAR FREE DAYS

**THIS ISSUE WILL BE DEALT WITH THROUGH WEEKLY COUNCILLORS NOTES VIA THE DIRECTOR CITY DEVELOPMENT.*

**8(B) REPORTS OF THE STATUTORY PLANNING COMMITTEE HELD AT THE ST
KILDA TOWN HALL ON 8 JULY 2002**

Note: Business Items B1, B2, B3 and B4 were resolved by the Statutory Planning Committee held on Monday, 8 July 2002, in accordance with Section 86 of the Local Government Act 1989.

The following items were MOVED in block by Crs Johnstone/Hutchens:

- B2 115 ORMOND ESPLANADE, ELWOOD
- B5 ST KILDA SEABATHS: JAZZ LOUNGE AND EXPANDED GYMNASIUM –
SUPPLEMENTARY REPORT
- B6 TO REPORT ON SIGNIFICANT PLANNING DECISIONS FROM VCAT
- B7 DELEGATE REPORT

B2 115 ORMOND ESPLAN ADE, ELWOOD

Purpose

To construct a three storey building with basement car park to contain four dwellings including a new crossover from Ormond Esplanade.

MOVED Crs Johnstone/Hutchens

That Officers consider the issue of roof gardens or terraces on foreshore properties and any potential conflict with absolute height limits, and provide advice to Council.

A vote was taken and the MOTION was CARRIED.

NOTE: PART A OF THE RECOMMENDATION IN RELATION TO THE PLANNING APPLICATION WAS RESOLVED BY THE STATUTORY PLANNING COMMITTEE ON MONDAY, 8 JULY 2002.

B5 ST KILDA SEABATHS: JAZZ LOUNGE AND EXPANDED GYMNASIUM – SUPPLEMENTARY REPORT

Purpose

To update Council on the St Kilda Seabaths Jazz Lounge and expended Gymnasium.

MOVED Crs Johnstone/Hutchens

1. That Council note the previous reports of the Managers regarding the Seabaths complex in relation to tenancy 12 and in particular the discussions regarding the Jazz Lounge proposal with the Seabaths centre management.

2. That the Council support the use of tenancy 12 as a “multi-purpose / cafe / jazz lounge-café” being an area with the following modes of operation:

Café	12:00 noon – 1:00am	Everyday
Jazz Lounge	6:00pm – 3:00am	Everyday
Jazz Lounge	1:00pm – 6:00pm	Fridays, Saturdays & Sundays

and that light meals and drinks are available at all times.

3. That Council advise the proponent that, subject to internal layout plans and a management / business plan being submitted affirming that the proposed layout and nature of the Jazz Lounge operations is consistent with the above, Council resolves:

a) To write to the lessee outlining this consent and the conditions of the consent.

b) To endorse the plans for the tenancy area 12 as “Multi-Purpose / Cafe / Jazz Lounge-café” and write to the centre management indicating that the proposal is deemed to be acceptable under the permitted uses of clause 3 of the Consent Notice contained in the Planning Scheme provisions and that the use may commence and continue only subject to the following conditions:

- That the tenant of area 12:
 - Is first made aware of the Consent Notice and these consent conditions regarding the Jazz Lounge proposal,
 - Agrees in writing that the use will always be in accordance with these consent conditions and the Consent Notice.

- That the hours and mode of operation be:

Café	12:00 noon – 1:00am	Everyday
Jazz Lounge	6:00pm – 3:00am	Everyday
Jazz Lounge	1:00pm – 6:00pm	Fridays, Saturdays & Sundays

and that meals and drinks are available at all times, and that the extended hour consent to 3:00am closing is only provided to tenancy 12 as long as it operates within the conditions specified.

- The internal design and layout of the tenancy as a “Jazz Lounge” must be such that people will be able to be seated when eating and or drinking. In this regard it will not contain a free-standing bar and will comprise waiter service to the seating areas for patrons to eat, drink or listen to music.
- The type of music shall be limited to Jazz, piano, soft Latin, flamenco guitar and blues style, or similar, and shall not comprise loudly amplified music or other styles of music not centrally themed around the “Jazz Lounge” concept.
- The venue may also in its “multi-purpose” capacity provide for promotional activities of organizations with entertainment of similar type to that described in d) above, provided no disturbance occurs to other tenants.
- That noise levels will be such that they do not disturb the reasonable enjoyment of patrons of the complex, nearby residents or users of adjacent public spaces including the beach.
- At all times that the Jazz Lounge is operating the following will be complied with:
 - Food must always be available consistent with clause 3.10 of the Consent Notice for the drinking and / or eating areas.
 - Patrons must have the opportunity to remain seated whilst eating and / or drinking consistent with clause 3.11 of the Consent Notice.
- The Council consent for the “Jazz Lounge” operation in no way removes the opportunity for the premises to be used for multi-purpose activities / a café or functions that comprise the serving of food and or drinks consistent with clause 3.11 of the Consent Notice.
- That should any fixed amplification equipment be proposed within the tenancy, that Council consent (by the Manager, Planning and Building Services) must first be obtained. This amplification type shall be such that it enables light music to be suitably amplified for patron enjoyment as a light music and light refreshment venue but not of such type as necessary for any louder amplification.
- That should any noise or other disturbance occur, the head lessee shall intervene and use every endeavour to resolve the nuisance or cause the nuisance to be resolved.
- The noise level emanating from the tenancy shall be restricted to the levels specified in the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 and (Control of Music Noise from Public Premises), No. N-2 or any other guideline or policy prepared by the Environment Protection Authority relating to this site that may from time to time apply to the uses allowed.

- c) That both the tenant of and head lessee of the St Kilda Seabaths be further advised that for the jazz lounge component:
- Should any other use be proposed that further Council consent is required to determine if it meets the provisions of the Consent Notice for the site
 - That no lease or sub lease shall be executed without express written consent from Council having been first obtained indicating that the proposal meets the Consent Notice provisions.
- d) That the Conditions set out in clauses 3 (2) and 3 (c) above shall form part of the lease between South Pacific St Kilda Pty Ltd and the tenant of area 12.
- e) That the use may be permitted to commence upon approval by the Manager, Planning and Building Services of such a lease which includes these Conditions signed by both parties.
- f) That once all the above have been satisfied the Manager, Planning and Building Services be authorized to endorse the plans for the St Kilda Seabaths for tenancy 12 area to read "Multi-Purpose Area / Café / Jazz Lounge-Café".
4. That Council approves the designation of Area 6 as "Gymnasium" with a small area designated as "Service Area".

FURTHER

That Officers take any available action to ensure that public areas are accessible to the public.

A vote was taken and the MOTION was CARRIED.

B6 TO REPORT ON SIGNIFICANT PLANNING DECISIONS FROM VCAT

Purpose

To report on significant planning decisions from VCAT.

MOVED Crs Johnstone/Hutchens

That the report be noted.

A vote was taken and the MOTION was CARRIED.

Note:

*Team Leader Statutory Planning to provide an explanation to Cr Brand in regards to the phrase "the cost of reinstatement exceeded the value of retention".

B7 DELEGATE REPORT

Purpose

To present Council with a summary of all Planning Permits issued under Delegation.

MOVED Crs Johnstone/Hutchens

That the Council receive and note the report regarding the summary of all Planning Permits issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Act 1989 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 for the Port Phillip Planning Scheme.

A vote was taken and the MOTION was CARRIED.

9. ORDERS OF THE DAY

Discussion took place in relation to the following items:

- ORDER 1 63 ARGYLE STREET, ST KILDA
- ORDER 2 2/1-9 LITTLE O'GRADY STREET, ALBERT PARK
- ORDER 5 PANEL REPORT – AMENDMENT C25 – ESPLANADE HOTEL SITE
- ORDER 3 ADOPTION OF THE 2002/2003 BUDGET
- ORDER 4 DECLARATION OF RATES AND CHARGES – 1 JULY 2002 TO 30 JUNE 2002
- ORDER 6 MELBOURNE SPORTS AND AQUATIC CENTRE

ORDER 1 63 ARGYLE STREET, ST KILDA

Purpose

Demolition of existing house and construction of two double storey dwellings

MOVED Crs Hill/Logan

That the Council, having caused the application to be advertised and having received and noted four objections, is of the opinion that the proposed demolition of the existing building and construction of two dwellings will not cause material detriment to any person other than the applicant.

That a Notice of Decision to Grant a Planning Permit be issued for the purposes of demolition of the existing building and construction of two dwellings, generally in accordance with the endorsed plans.

That a Notice of Decision be issued subject to the following conditions.

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with submitted plans but modified to show:
 - (a) The inclusion of a hipped roof for unit one and gabled roof for unit two with the upper level setback at least 11m from the street along with a ground level pitched/skillion roof across the front of the building,
 - (b) The ground level depicted with a floor to ceiling height of 3m and an upper level pitching height depicted as 2.2m,
 - (c) The section of rear wall abutting the common side boundary to the east reduced from 4m in height to 3m,
 - (d) The ground level front setback to generally align with neighbouring buildings being approximately 5m, along with depiction of a 1.1m side setback to the open sided garage for unit 2 and an open courtyard at least 3m in width next to the on-boundary window at No. 65 Argyle Street.
 - (e) The provision of one carspace per dwelling, to be located/included totally within the building,
 - (f) Colours and materials for the front façade depicted as weatherboard for both levels between vertical proportioned window panes to the satisfaction of Council's Heritage Advisor.
 - (g) The front fence lowered to no more than 1.2m in height,

- (h) Screening for front windows (both levels) of unit 2 to prevent views into the abutting on-boundary window at No. 65 Argyle Street and appropriate screening to upper level rear windows of both units to prevent downward views into abutting/nearby properties and the rear yards within this proposal but allow outward or distant views.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
 4. All external materials finishes and paint colours are to be to the satisfaction of the responsible authority and are to generally reflect the predominant combinations of colours (including roofs) found in the immediate vicinity.
 5. The ground level parking/vehicle access areas are to remain open and unobstructed for vehicle parking at all times the dwellings are occupied and the driveway areas for both units are to be shown as wheel tracks only.
 6. Any side fencing abutting the rear section of No. 61 Argyle Street is to be at least 1.8m higher than the proposed decking for unit one.
 7. All piping and ducting, other than any downpipes above the ground floor storey of the building shall be concealed and any A/C units installed shall be located so as to minimise noise impact on abutting residents and are to be located behind sound reducing structures if necessary to the satisfaction of the Responsible Authority.
 8. Prior to the commencement of the development hereby permitted the applicant must demonstrate how environmentally-positive features will be incorporated into the development where possible, to the satisfaction of the responsible authority and a report to this effect is to be submitted by the applicants to Council.
 9. An appropriate landscaping plan is to be submitted for assessment and approval by the Responsible Authority showing all planting, paving and other landscaping details for the site, noting the requirements of condition 1. Such plan is to be prepared by a qualified landscape designer.
 10. All landscaping as shown on the approved plans is to be completed within 6 months of the completion of the buildings and all landscaping (including paving) is to accord with the plans endorsed under this permit. The plan is to include a detailed planting schedule showing all new species, all existing trees to be retained and the height (both at planting and at maturity) and location of all new planting to Council's satisfaction.
 11. Parking areas driveway access must be kept available for those purposes at all times and not used for any other purpose.
 12. No equipment, services and architectural features other than those shown on the endorsed plan shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

13. This permit will expire if one of the following circumstances applies:

(a) The development is not started within 2 years of the date of this permit.

(b) The development is not completed within 3 years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

A vote was taken and the MOTION was CARRIED.

ORDER 2 2/1-19 LITTLE O'GRADY STREET, ALBERT PARK

Purpose

Construction of a new two storey dwelling.

MOVED Crs Hill/Gross

That this matter be deferred.

A vote was taken and the MOTION was CARRIED.

ORDER 3 ADOPTION OF THE 2002/2003 BUDGET

Purpose

Council to resolve to adopt the 2002/2003 Budget

MOVED Crs Hutchens/Johnstone

Council adopt the 2002/2003 Budget which incorporates the inclusion of an extra \$15,000 funding for the Linden Gallery and an increase in the Council pensioner rate rebate from a maximum of \$75 to a maximum of \$80. These amendments were additional to the Draft Budget proposals and were resolved by the Special Council meeting on 15 July 2002.

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

ORDER 4 DECLARATION OF RATES AND CHARGES 1 JULY 2002 TO 30 JUNE 2003

Purpose

To declare the rates and charges of the City of Port Phillip for the 2002/2003 municipal year in accordance with the provisions of section 158 of the Local Government Act 1989.

MOVED Crs Gross/Hill

That Council:

1. Receive the report "Declaration of Rates and Charges;
2. Adopt all the rates and charges as outlined in this report and declare a general rate in the dollar of 0.04442 cents on the Net Annual Value of all rateable properties within the municipality.
3. Adopt a non rateable garbage charge of \$260.00 per tenement on all non rateable properties where the City of Port Phillip are administering the waste management.
4. Adopt all special charges detailed within this report.
5. Authorise the rates manager to collect all rates and charges declared in this report.

A vote was taken and the MOTION was CARRIED.

Note:

*Director Governance and Council Services to provide all Councillors via email, with reasons why the Port Melbourne Soccer Club is the only cultural and recreational rate rebate recipient who have an areas rates balance.

ORDER 5 PANEL REPORT - AMENDMENT C25 - ESPLANADE HOTEL SITE

Purpose

To update Councillors on Panel Report for Amendment C25 – Esplanade Hotel Site.

MOVED Crs Johnstone/Gross

1. That this matter be deferred for consideration of the letter from Becton, dated 19 July 2002, in the context of accommodating their requests where consistent with Council's direction including Council's response to the Panel's recommendation.
2. That a further report be provided to Council on Monday, 29 July 2002.

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

ORDER 6 COUNCIL SUBMISSION TO THE MSAC ADVISORY COMMITTEE

Purpose

To update Councillors on the MSAC Development.

MOVED Crs Hutchens/Johnstone

1. That Council acknowledges the proposal for redevelopment of MSAC, and the Governments need to meet the demands of the Commonwealth Games and supports it's intent to produce a positive net community benefit and legacy from the redevelopment.
2. That Council authorise the CEO to prepare the final submission to the MSAC Advisory Committee consistent with this report and request the MSAC project team use this submission to review the proposal.
3. That Councils submission highlights where the project could be improved and reconsidered to ensure a high quality outcome that serves the needs of the national and local events as well as the needs of the local and metropolitan community who will use the facility on a day to day basis, including:
 - a) Concerns that there is as yet little evidence of net community benefit evidence to support the inclusion of such extensive leisure/'water play' facilities as proposed, and that this approach misses opportunities for the redevelopment to address the unmet and latent demand for the provision of facilities of "Learn to swim" and hydrotherapy;
 - b) That in the context and constraints of the MSAC site, such extensive provision of the proposed leisure water facilities leads to a range of urban design outcomes that do not produce the best solution for the site (eg: the need for substantial multi level car parking);
 - c) Opportunities to maximize use of the facility through pricing that encourages local resident and school use;
 - d) That Councils assessment of the Melbourne Sports and Aquatic Centre expansion project against Council's Local Planning policy framework highlights a number of areas where the project could be improved and reconsidered to ensure a high quality outcome that serves the needs of events, as well as the local and metropolitan community, who will use the facility on a day-to-day basis;
 - e) That the urban design/planning concerns outlined in section 12.2 of this report form the basis of Council's key concerns.

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

10. REPORTS BY DELEGATES (COUNCILLOR) APPOINTED TO OTHER BODIES

Item 1

Cr Johnstone advised the Council that she was no longer on the Board of the MAV.

Item 2

Cr Hill advised that he attended on behalf of Council the Metropolitan Transport Forum Conference on the weekend. Cr Hill conveyed his thanks to Councils Port Phillip, Melbourne and Boroondara for hosting the conference.

Item 3

Cr Hutchens advised Council that Cr Hill's written Delegate Report was a very comprehensive report from West Australia in regards to the Car Free Day Scheme.

MOVED Crs Logan/Brand

That the verbal Report by the Delegates be received.

A vote was taken and the MOTION was CARRIED.

11. URGENT BUSINESS

Nil.

12. COUNCILLORS QUESTION TIME

Item 1

Cr Hill put forward the following question:

The Director Environment and Infrastructure to provide advice to Council on arrangements for roadworks on Sundays on non main roads noting reports of unreasonable activity in Cruikshank Street and Coweroy Street in recent months.

MOVED Crs Johnstone/Brand

That the meeting be closed to members of the public in accordance with Section 89 (d) of the Local Government Act 1989.

A vote was taken and the MOTION was CARRIED.

The meeting closed to members of the public at 9.50pm.

As there was no further business the meeting closed at 9.55pm.

Confirmed: 26 August 2002

Chairperson: _____