



MEETING OF THE PORT PHILLIP CITY COUNCIL

MINUTES

1 MARCH 2023



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**MINUTES OF THE MEETING OF THE PORT PHILLIP CITY COUNCIL HELD
1 MARCH 2023 IN ST KILDA TOWN HALL AND VIRTUAL VIA WEBEX**

The meeting opened at 6:34pm.

IN ATTENDANCE

Cr Cunsolo (Chairperson), Cr Baxter, Cr Bond, Cr Clark, Cr Crawford, Cr Martin, Cr Nyaguy, Cr Pearl, Cr Sirakoff.

Chris Carroll, Chief Executive Officer, Brian Tee, General Manager City Growth and Development, Allison Kenwood, General Manager Community Wellbeing and Inclusion, Lachlan Johnson, General Manager Customer Operations and Infrastructure, Joanne McNeill, General Manager Governance and Organisational Capability, Xavier Smerdon, Head of Governance, Emily Williams Council Business Advisor, Liam O Cathasaigh, Event Manager, Katrina Terjung, Manager Community Building and Inclusion, Anthony Savenkov, Acting Executive Manager Property and Assets.

The City of Port Phillip respectfully acknowledges the Traditional Owners of this land, the people of the Kulin Nations. We pay our respect to their Elders, past and present. We acknowledge and uphold their continuing relationship to this land.

REQUESTS TO ATTEND BY ELECTRONIC MEANS

MOVED CRS Baxter/Bond

That Council approves the request to attend the meeting electronically received from Cr Nyaguy and Cr Pearl.

A vote was taken and the MOTION was CARRIED.

1. APOLOGIES

Nil.

2. CONFIRMATION OF MINUTES

MOVED Crs Bond/Martin

That the minutes of the Meeting of the Port Phillip City Council held on 15 February 2023 be confirmed.

A vote was taken and the MOTION was CARRIED unanimously.



3. DECLARATIONS OF CONFLICTS OF INTEREST

Cr Clark declared a general and material conflict of interest in relation to confidential item 17.2 M9 Waste and Recycling Business Case due to their professional work in the field being considered.

4. PUBLIC QUESTION TIME AND SUBMISSIONS

Public questions are summarised below. The submissions were made verbally and can be listened to in full on our website: <http://webcast.portphillip.vic.gov.au/archivephp>

Public Question Time:

- **Ryan Smith:** In relation to two complaints I raised last year, one regarding digital accessibility, specifically the new resident portal and the other regarding physical accessibility, specifically parking, none of which I have received a response to. Is Council aware that the number of residents and visitors with access needs is rising every year? It doesn't seem to be a priority of Council. Is Council taking accessibility seriously? Are we due to receive the Accessible Action Plan as planned by mid this year?

Katrina Terjung, Manager Community Building and Inclusion advised that Council officers have been working on the new Accessibility Action Plan which will replace the current Access and Inclusion Plan, while we are continuing to implement that one. This plan is being drafted and Council will be considering it at a briefing this month and we expect to have that in the Chamber, subject to Council's advice, in April this year. The recommendation would be to put that out for community comments so that our community is able to provide comment on that plan. I can say that the work both of the current plan and the proposed future plan, do include accessible content on our website by ensuring that our communications are accessible and certainly does look to a city that has accessible transport options including parking and some particular actions arising to those items.

Chris Carroll, Chief Executive Officer thanked Ryan for raising these issues to Council. Council is committed to doing better in the accessibility space and there is a recognition that we do need to do better. I will personally follow up on the complaints raised around both digital and physical accessibility and ensure that a response is provided. We'll also make sure there is opportunity for Ryan to Participate in the consultation on the Accessibility Action Plan

- **Elisa Webb:** Can council provide an update on proposed public toilet facility on Parks Victoria land. Specifically an update on the lack of water and sewage connection to the proposed public toilet specifically the requirement to dig 8 m under Fitzroy Street to access utilities otherwise unavailable in the Park. Can council advise if the necessary permits have been received from VicRoads, Yarra Trams, Melbourne Water? How much this part of the project is going to cost? And is there a start date and timeline of how long the disruptions to Fitzroy Street is going to last?

Anthony Savenkov, Acting Manager Property and Assets advised that Council has engaged a design consultant to work on the connections for sewer and water. Its estimated that the connection will cost approximately \$230,000, that's in line with guidance that Officers gave at the previous Council meeting in which that matter was considered. The timing, we are estimating at this stage the works are not likely to commence for a few months, due to the design, planning and permit process that needs to be undertaken. As we get closer to the scheduled timing of the works, Council officers plan to give some further guidance on how long the works are predicted to go for, at this stage, the timeline is not known.

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- **Christina Manonian:** In relation to the proposed toilet block on Fitzroy Street. Is there consideration to move the location of the proposed toilet to be further away from the entrance to the School? Can officers confirm if this is possible? *Noting that when the Assessment work and information was undertaken pre covid, Fitzroy Street now has more challenges.*

Lachlan Johnson, General Manager Operations and Infrastructure advised that when Council considered the petition in June last year, there was a number of different sewer discharge locations considered (four at that time), some of them were further away on Parks Victoria land and it was deemed that the sewer whilst on the opposite side of Fitzroy Street, meant that works needed to be undertaken to get under Fitzroy Street and under the tram lines, that this was the optimal place for sewerage discharge for the public toilet. With regards to the location, Council's CEO has been working closely with Parks Victoria, to see if the location can be moved closer to Lakeside Drive. Parks Victoria have been able to accommodate that change, so the proposed location is now further towards Lakeside Drive. With regards to the changes in activity on Fitzroy Street since the project was originally undertaken, late last year a Crime Prevention Through Environmental Design (CPTED) report looking at the environmental design elements of the project was made available to the public. This was updated at the end of last year, so that reflects the period of time post the pandemic as well.

Chris Carroll, Chief Executive Officer further advised that the new proposed location was roughly 20 metres further up, but took the question on notice to confirm the exact distance.

- **Neil Scott:** *In relation to child safe standards and the proposed toilet block on Fitzroy Street, I'm pleased to see that the City of Port Phillip. As the City of Port Phillip Council is a committed Child Safe organisation, but we would like to draw your attention to the 2022 changes to the Child Safe Standards. Standard 9 requires that 'physical and online environments promote safety and wellbeing while minimising the opportunity for young people to be harmed'. Based on the ongoing unsafe condition of other public toilets in the municipality, I would like to ask how your commitment to this standard is demonstrated by the Council's decision to proceed with the construction of public toilets near the entrance to a Primary School? How would Council respond should an incident occur involving the proposed public toilets and a school student knowing that they had the ability to 'minimise the opportunity for young people to be harmed' but chose instead to proceed with this project in such a high-risk location against the wishes of 1300 residents?*

Lachlan Johnson, General Manager Operations and Infrastructure advised that Council does take its Child Safe responsibilities very seriously. In response to the 11 new Child Safe Standards replacing the seven existing standards, Council has conducted a review of its Child Safe Framework comprising policies practices and procedures to identify and gaps and areas for improvement that have been planned and are currently prioritising what we need to do, working in partnership with our internal auditors and with support from the commission for children and young people, who are prioritizing providing guidance and support for organisations to ensure full compliance with the new standards. With regards to the specific project as I outlined in the previous answer, Council has undertaken extensive due diligence that has also included the engaging of a specialist consultant to provide a CPTED report with recommendations about how the toilet can be implemented safely. Those recommendations from that expert report have been incorporated into the design. As per Council's decision at the Council Meeting in June 2022, Council has committed to working with local stakeholders including the school on ensuring that the operation of the public toilet is effective, that includes increasing cleaning of the toilet to a higher frequency and including the location

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where the public toilet is proposed to be included as part of Councils local laws and amenity patrols. Any issues that arose in relation to a public toilet would be dealt with the due care and seriousness that they would require but Council is confident with the approach taken at the moment, that risks have been mitigated to the greatest extent they can be.

- **John Brooksmith:** In relation to the SANDBAR Café, will the Council explain how Council allegedly makes so many errors at law in regard to this address, particularly bearing in mind it is a council tenanted building. Will this meeting instruct the Council Chief Executive Officer to ensure that:
 - 1 That the Council tenant at this address be instructed that the granting of a permit to occupy the sands at this address was illegally issued and has no validity. The furniture and structures outside the leased area is to be removed within seven days
 - 2 That the Council tenant at this address be instructed that it is alleged the Planning permit is not being complied with and they are to comply with all aspects of the Planning permit within 7 days
 - 3 This Venue is to be inspected periodically to ensure compliance with its Planning Permit

Brian Tee, General Manager City Growth and Development advised that Mr Brooksmith did attend the last Council Meeting and I did indicate that we had received correspondence from Mr Brooksmith and I did indicate that we would respond to him. I had hoped that we would have responded by now, we have not and I do apologise for that. I will ensure that response is done as quickly as possible. At the previous meeting I did indicate that the SANDBAR Café does have coastal consent from the relevant State Government department. Tonight Mr Brooksmith has asked about the relationship between that approval and the Planning Scheme and Mr Brooksmith referred to the webpage which correctly asserts of course that the Planning Scheme effectively overrides any coastal consent. I do also understand that the SANDBAR does have effective approval from the Planning Scheme, or in effect it is consistent with the Planning Scheme. The use of the beach is exempt from planning permits pursuant to clause 52(18) which is the Coronavirus COVID-19 Pandemic and Recovery Exemptions of the Port Phillip Planning Scheme, which was gazetted on 28 October 2022. The use of the benefit of that exemption would override any current planning permit and the exemption provided by this clause will expire on 12 October 2022, being 12 months from the period when the pandemic declaration under the Public Health and Wellbeing Act 2008 in relation to COVID-19 came into effect. We are still investigating the other matters that Mr Brooksmith has raised but as I stated we will respond to him and we will do so soon.

- **Alex Makin:** Has Council undertaken usage counts to quantify the number of dogs and dog owners that are using existing off-leash parks within City of Port Phillip? If so, when did these counts occur and will the information be publicly available to ascertain overall usage of off-leash areas?

Allison Kenwood, General Manager, Community Wellbeing and Inclusion advised that Council doesn't currently have counts available, however we have just started the count process. We are doing random counts across the municipality at the moment, we're looking at our fenced areas, our recreational open space and our beach areas. That data will be included in the dog off leash guidelines and we will make it available to the community for those interested in looking at the areas that we have data on.

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Council Report Submissions

Item 7.1 Petition – Communal Food Organics Hub, Bay Street, Port Melbourne

- Helen Watts

Item 10.1 Proposed Local Law 2023

- Charlotte Frajman
- Geoffrey Conaghan
- Jo McDonald
- Daryl Craig
- Rocco Sorace
- Jenni Roper
- Nic Gysen
- David Blakeley
- Janet Rosenberg
- James Radalj
- Elizabeth Josipa Martinov
- Claire Mear
- Tim Norman

Item 10.2 Sportsground Conditions – Response to Notice of Motion

- Terance Glenane
- Helen Taylor
- Alex Makin

Item 10.2 South Melbourne Town Hall – Proposed Lease to ANAM – Submissions

- Nick Bailey

The Mayor adjourned the meeting for a break at 8:00pm.

The meeting resumed at 8:21pm.

5. COUNCILLOR QUESTION TIME

Nil.

6. SEALING SCHEDULE

Nil.

7. PETITIONS AND JOINT LETTERS

7.1 Petition – Communal Food Organics Hub, Bay Street, Port Melbourne

A Petition containing 22 signatures, was received from local residents.

MOVED Crs Martin/Crawford

That Council:

1. Receives and notes the Petition.
2. Thanks the petitioners for their Petition.



3. Notes that the proposed area has been inspected by Council officers and is a suitable location for a communal food organics hub.
4. Notes that support of the introduction of the communal food organics hub and that the inclusion of such a hub in this location is unlikely to have any detrimental impact on the use of this space
5. Proceeds with the installation of the new communal food organics bins for surrounding properties, including 3x120L FOGO bins at the earliest opportunity ahead of the wider roll-out from the middle of 2023.

A vote was taken and the MOTION was CARRIED unanimously.

8. PRESENTATION OF CEO REPORT

Nil.

9. INCLUSIVE PORT PHILLIP

Nil.

10. LIVEABLE PORT PHILLIP

10.1 Proposed Local Law 2023

Purpose

- 1.1 To seek approval for the release of the proposed Community Amenity Local Law 2023 for community consultation, in accordance with the Local Government Act 2020.

The Mayor advised that all items of the Motion would be voted on separately.

MOVED Crs Clark/Sirakoff

That Council:

- 3.1 Approves the following change to clause 17 of the proposed Community Amenity Local Law 2023 in relation to Behaviour on Council Land or Roads:

From:

17. Behaviour on Council Land

- 1) A person must not behave on Council land:
 - a) In a manner which causes interference with the quiet enjoyment by any person using the Council land or living in close proximity to the Council land;
 - b) Contrary to any conditions or signs that contain conditions applying to the use of Council land; or
 - c) Contrary to any direction by an authorised officer

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- d) For the avoidance of doubt, a person does not interfere with the quiet enjoyment of other persons simply expressing political or other opinions which may cause offence.

To:

17. Behaviour on Council Land

- 1) A person must not on or in Council land, a road or a footpath:
 - a) Create a nuisance;
 - b) Behave in a manner which unreasonably interferes with another person on or in the Council land, road or footpath
 - c) Behaves in a manner which unreasonably interferes with another person occupying premises in close proximity to the Council land, road or footpath;
 - d) Harass any person using the Council land, a road or footpath
 - e) Defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience;
 - f) Act contrary to any conditions or signs that contain conditions applying to the use of the Council land, road or footpath;
 - g) Fail to comply with a reasonable direction of an Authorised Officer or Council staff member whilst on Council land.

A vote was taken and the MOTION was CARRIED.

Cr Nyaguy called for a DIVISION.

FOR: Crs Cunsolo, Bond, Sirakoff, Pearl and Clark

AGAINST: Crs Baxter, Crawford, Martin and Nyaguy

Item 3.1 of the MOTION was CARRIED.

3.2 Approves the addition of the following move on clause in the proposed Community Amenity Local Law 2023:

- 1) An Authorised Officer may direct a person to leave the Council land, a road or a footpath if:
 - a) That person has contravened this Local Law; and
 - b) The Authorised Officer believes on reasonable grounds that:
 - i. Unless the person leaves the Council land, a road or a footpath, the person will continue to contravene this Local Law; and
 - ii. A continuation of the contravention of this Local Law will significantly interfere with any other person.
- 2) A direction given by an Authorised Officer under this clause (1) must be reasonable in the circumstances.
- 3) A person given a direction by an Authorised Officer must comply with the direction.

A vote was taken and the MOTION was LOST.

Cr Baxter called for a DIVISION.

FOR: Crs Sirakoff and Clark

AGAINST: Crs Baxter, Crawford, Cunsolo, Bond, Martin, Pearl and Nyaguy

Item 3.2 of the MOTION was LOST.



The Mayor adjourned the Meeting at 9.56pm.

The Meeting resumed at 10.23pm.

- 3.3 Approves the release of the proposed Community Amenity Local law 2023, with any adopted changes as resolved in Part A, and the associated Community Impact Statement for community consultation.

A vote was taken and the MOTION was CARRIED.

- 3.4 As part of its community consultation process, provides information to the community and seeks feedback on Council's consideration of a hoon event clause.

A vote was taken and the MOTION was CARRIED.

AMENDMENT

MOVED Crs Cunsolo/Bond

For the inclusion of the following item:

- 3.5 As part of its community consultation process, provides information to the community and seeks feedback on Council's consideration of a move on clause

A vote was taken and the MOTION was LOST.

- 3.6 Delegates authority to the CEO or delegate to reflect any changes made by Council at tonight's meeting, to make minor typographical corrections or changes, and/or formatting to the proposed Local Law and consultation information prior to community consultation.

A vote was taken and the MOTION was CARRIED unanimously.

10.2 Sportsground Conditions - Response to Notice of Motion

Purpose

- 1.1 To respond to Council's Notice of Motion 14.2 Port Phillip Sporting Fields carried on the 7 September 2022 regarding the condition of Council's sportsgrounds and outcomes of the review of maintenance practices

MOVED Crs Martin/Crawford

That Council:

- 3.1 Notes that independent assessments of the quality of Council's sporting grounds have been completed and that whilst they represent condition at a moment in time, a number of sites are not meeting stakeholder expectations.
- 3.2 Notes that a detailed review of the specification and operation of Council's contracted sportsground maintenance service has been undertaken.
- 3.3 Notes that a number of improvement initiatives have been implemented and are continuing to be rolled-out to address deficiencies in maintenance that are contributing to poor outcomes at sportsgrounds.
- 3.4 Notes that an investigation has commenced to provide a comparative assessment of the options of entering into a new maintenance contract(s) or exercising the final two-



year extension of the current maintenance contract. Further noting that this will be presented to Council for decision before October 2023

A vote was taken and the MOTION was CARRIED unanimously.

11. SUSTAINABLE PORT PHILLIP

Nil.

12. VIBRANT PORT PHILLIP

Nil.

13. WELL GOVERNED PORT PHILLIP

13.1 South Melbourne Town Hall - Proposed Lease to ANAM - Submissions

Purpose

- 1.1 To report the submissions in response to a notice published in accordance with section 115(4) of the *Local Government Act 2020* ("Act") advising of Council's intention to lease of the South Melbourne Town Hall by the Australian National Academy of Music ("ANAM").

MOVED Crs Martin/Bond

That Council:

- 3.1 Notes that it has formally sought and received feedback in relation to its intention to enter into an agreement for lease, and lease, of lease 208-220 Bank Street, South Melbourne (South Melbourne Town Hall) to the Australian National Academy of Music Ltd.
- 3.2 Notes the submissions of response received by the end of the notice period (30 January 2023).
- 3.3 Thanks the submitters for their submissions.
- 3.4 Will formally consider the response to the submissions received at a subsequent meeting of Council, once Officers have had the opportunity to consider the feedback.

A vote was taken and the MOTION was CARRIED unanimously.

EN BLOC VOTING

MOVED Crs Pearl/Sirakoff

That Council moves the following items en bloc:

- 13.2 Audit and Risk Committee Biannual Report as at 31 December 2022
- 13.3 Status of Council Decisions and Questions Taken on Notice recorded by Council: 1 October - 31 December 2022

A vote was taken and MOTION was CARRIED unanimously.



13.2 Audit and Risk Committee Biannual Report as at 31 December 2022

Purpose

- 1.1 To present the Audit and Risk Committee Biannual Report as of 31 December 2022.

MOVED Crs Pearl/Sirakoff

That Council:

- 3.1 Notes the Audit and Risk Committee Biannual Report as of 31 December 2022, which details activities of the Committee covering scheduled meetings held on 8 September 2022 and 22 November 2022.

A vote was taken and the MOTION was CARRIED unanimously.

13.3 Status of Council Decisions and Questions Taken on Notice recorded by Council: 1 October - 31 December 2022

Purpose

- 1.1 To provide Councillors with an update on the status of all Resolutions passed by Council at Council and Planning Committee Meetings between 1 October 2022 and 31 December 2022 and the status of actions that were previously reported as outstanding in the last quarterly status report.
- 1.2 To provide Council with an update on the status of Questions Taken on Notice during Council Meetings from 1 October 2022 and 31 December 2022 and the status of questions taken on notice that were previously reported as outstanding in the last quarterly status report.

MOVED Crs Pearl/Sirakoff

That Council:

- 3.1 Notes the implementation status of Council and Planning Committee Resolutions as contained in Attachments 1 and 2.
- 3.2 Notes the response status of questions taken on notice during Council Meetings as contained in Attachment 3.

A vote was taken and the MOTION was CARRIED unanimously.

14. NOTICES OF MOTION

Nil.

15. REPORTS BY COUNCILLOR DELEGATES

Nil.



16. URGENT BUSINESS

Chris Carroll, Chief Executive Officer advised there would be one item of urgent business.

In accordance with section 3 of the Local Government Act 2020, the item was considered in the confidential matters section of the meeting.

17. CONFIDENTIAL MATTERS

MOVED Crs Clark/Sirakoff

That Council resolves to move into confidential to deal with the following matters pursuant to section 66(2) of the *Local Government Act 2020*:

17.1 Wellington Street Common Ground - Project Funding Options

3(1)(a). Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

17.2 M9 Waste and Recycling Business Case

3(1)(a). Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

17.3 Confidential West Beach Boardwalk Upgrade

3(1)(a). Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

A vote was taken and the MOTION was CARRIED unanimously.

The meeting closed to members of the public at 10:50pm

The meeting was reopened to the public at 10:59pm

As there was no further business the meeting closed at 11:00pm.

Confirmed: 15 March 2023

Chairperson _____