

**City of Kingston
Special Council Meeting**

Minutes

6 October 2008

A Special Meeting of the Kingston City Council was held at 7.00pm at 1230 Nepean Highway Cheltenham on Monday 6 October 2008.

Business will be as follows:

- 1. Apologies**
- 2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.**
- 3. Reports by Officers**
 - K 156 Chicquita Reserve Agreement Variation** **Page 4**
 - K 157 MAV State Council**
- 4. Urgent Business**
- 5. Confidential Items in Camera**

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Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway Cheltenham, on Monday 7 July 2008 at 7.20pm.

Present: Cr Bill Nixon OAM (Mayor)
Cr Greg Alabaster
Cr Justin McKeegan
Cr Rosemary West OAM

In Attendance: John Nevins – Chief Executive Officer
Trevor McCullough – General Manager Community Sustainability
Paul Franklin – General Manager Corporate Services
Tony Rijs – General Manager Environmental Sustainability
Elaine Sowerby – General Manager Organisational Development and Governance
Mike Petit – Manager Communications and Promotions
Michael Fry – Team Leader Council Business

1. Apologies

Apologies were received from Cr Arthur Athanasopoulos, Cr John Ronke and Cr Topsy Petchey.

Crs McKeegan/Alabaster

That the apologies from Crs Athanasopoulos, Ronke and Petchey be received and leave of absence from this meeting be granted.

Carried

2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.

Cr West declared an interest in relation to agenda item K156, Chicquita Park, as she is a member of the Friends of Chicquita Park.

Adjournment:

Crs West/Alabaster

That the meeting be adjourned until 8.00pm.

Carried

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The meeting was adjourned at 7.23pm.

Resumption:

Crs Alabaster/McKeegan

That the meeting be resumed.

Carried

The meeting resumed at 8.02pm with the Mayor (Cr Nixon) and Councillors Alabaster, McKeegan and West in attendance.

3. Reports by Officers

K156 Chicquita Reserve

Approved By: John Nevins, Chief Executive Officer

Author: Tony Rijs, General Manager Environmental Sustainability

1. Purpose

This report provides a summary of issues associated with the developer's occupation of more than 55.1% of the Chicquita reserve during construction works and seeks a direction for moving forward.

2. Background

Council has issued a permit for the construction of dwellings at 20 Levanto Street.

Once the land is subdivided council will pay the developer \$700,000 and sections of the reserve identified for open space (44.9%) will be transferred to Council.

Under the terms of a section 173 agreement the developer is required to have a construction management plan that details 44.9% of the site to be available for public use at all times. The developer is able to occupy part of the land designated for future Parkland providing vegetation is protected and an equivalent area is set aside to achieve a total of 44.9% open space.

3. Issues

The construction on site is not being staged in manner that enables 44.9% to be available for open space. The works are not being conducted in accordance with an approved Management Plan.

Long Term Implications

The project will be completed within 12 months if the developer continues with the current works strategy and Council will achieve the amount of open space as required.

Short Term Implications

The majority of the site is a construction zone and the community can only achieve limited if any recreational enjoyment from the park, even if the developer provided 44.9% of the site as open space the value of recreational enjoyment would be questionable.

The need to protect significant vegetation.

4. Options for Council

Option A - Seek compliance with the section 173 Agreement by taking enforcement action to force the developer to limit construction activities and proceed in a staged manner.

Benefits - Compliance

Potential disbenefit- Longer construction timelines, legal costs associated with ongoing enforcement action.

Option B - Adopt an approach that minimises the duration of construction and disruption for local residents and negotiate with the developer to enable the development to be fast tracked.

Benefits- Facilitates quicker construction time and less works disruption on local residents. Developer to pay for the right to occupy additional area.

Disbenefit- a perception that council is not prepared to enforce previous provisions.

Preliminary discussions with the developer indicate support for an agreement that will enable a greater area of the site to be occupied and deferral of portion of the \$700,000 purchase cost.

The developer is also preparing to pay penalties if the timelines stipulated in any agreement are not met.

5. Recommendation

That Council enter into an agreement with the developer at 20 Levanto Street, Mentone to facilitate an enhanced construction timetable.

Crs West/Alabaster

That Council enter into an agreement with the developer at 20 Levanto Street, Mentone, to facilitate an enhanced construction timetable, and that the developer be advised that Council is prepared to enter into an agreement that will allow occupation of greater than 44.9% of the site for construction purposes providing the agreement is based on the following provisions:

- That consideration for the land to be transferred at settlement be \$1,000 with the balance of \$699,000 being payable on the satisfactory completion of approved landscape works and the handover of all land in council ownership.
- The land coloured red on PS 606328M (attached) is to be handed over to council at settlement.
- That portion of the land coloured yellow on PS 606328M in the vicinity of the entrance road, and currently fenced to protect significant vegetation, be handed over to Council at settlement.

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- That the portion of land coloured ochre on PS 606328M, and currently fenced to protect significant vegetation, be handed over to Council at settlement.
- That if the Council land is not landscaped in accordance with approved landscape plans and handed over to council by the 30 June 2009, the balance owing will be reduced from \$699,000 to \$574000.
- That within 14 days of the execution of this agreement the developer at his own cost will:
 - (1) Replace the Eucalypt tree removed without approval in the Eastern boundary, south of Barwon Street.
 - (2) Replace soil around the roots of tree No. 34.
 - (3) This, and other trees whose root systems have been damaged due to trenching, should be watered in accordance with the arborist's recommendations.
 - (4) Replace the fence around the Manna gum located in E11 and remove the rubbish skip.
- That the developer undertakes a regular watering program to ensure the survival of all vegetation to be retained on the site.
- That the landscape bond be increased to \$135,000 and that, in the event the developer causes further damage to sections of the site to be transferred to council and does not rectify the damage to Council's satisfaction, Council will utilise the bond to carry out the necessary rectification works.
- If Council initiates enforcement proceedings associated with a breach of this agreement or planning permit provisions and the proceedings are successful, Council to deduct its cost from the developers bond.
- Complete all works to the Scout Hall within 60 days of the approval of the plan of subdivision.
- That within 14 days of settlement the developer to provide a revised construction management plan incorporating recommendation of a new arborist's report.

Carried

K157

MAV State Council

The Chief Executive Officer advised that there was no report to be considered in relation to this item.

4. Urgent Business

The Chief Executive Officer advised that in accordance with section 84(4) of the Local Government Act 1989, as not all Councillors are present, the meeting is not able to deal with another matter.

5. Confidential Items in Camera

There were no items in camera.

The meeting closed at 8.11pm.

Confirmed.....His Worship The Mayor 27 October 2008.