



Ordinary Meeting of Council
Minutes

Monday 22 October 2012

The meeting commenced at 7.00pm

in the

Council Chamber

1230 Nepean Highway, Cheltenham

1.	Apologies	3
2.	Confirmation of Minutes of Previous Meetings Minutes of Ordinary Council Meeting 24 September 2012	3
3.	Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest	3
4.	Petitions Pedestrian Crossing – Thames Promenade, Chelsea Heights..... The Corner Store Exterior (Planning Application KP75/2012)	4 4
5.	Presentation of Awards Stormwater Industry Association 2012 National Awards – Excellence in Strategic and Master Planning	4
6.	Reports from Village Committees Nil	4
7.	Reports from Delegates Appointed by Council to Various Organisations Nil	
8.	Question Time	1
9.	Environmental Sustainability Reports O 188 Town Planning Application Decisions – September 2012..... O 189 KP709/11 – 419 Centre Dandenong Road, Heatherton..... O 190 KP290/2012 – 2 Greens Court, Mentone..... O 191 KP75/2012 – 1 Swanston Street, Mentone.....	1 1 1 1
10.	Community Sustainability Reports Nil	
11.	Organisational Development & Governance Reports O 192 Consideration of the 2011/12 Annual Report..... O 193 Assembly of Council Record	11 11
12.	Corporate Services Reports O 194 Investment Policy Report – September 2012 Quarter.....	11
13.	Notices of Motion O 195 Notice of Motion (Rescission) No. 31/2012 – Cr Peulich	11 11 11
14.	Urgent Business Legal Advice Regarding Disclosure of Confidential Information	11 11 11
15.	Items in Camera – Confidential Items O 198 Amendment C128 – Mentone Junction	11

Present: Cr John Ronke (Mayor)
Cr Arthur Athanasopoulos
Cr Ron Brownlees OAM
Cr Lewis Dundas
Cr Dan Moloney
Cr Paul Peulich
Cr Trevor Shewan
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins - Chief Executive Officer
Mauro Bolin –General Manager Community
Sustainability
Rachel Hornsby - General Manager Environmental
Sustainability
Paul Franklin – General Manager Corporate
Services
Kirsten Leiminger – Media Officer Communications
and Public Affairs
Phil DeLosa – Program Leader Governance
Stephanie O’Gorman – Governance Officer

1. Apologies:

There were no apologies submitted to the meeting.

Mayoral Term Speech

The Mayor, Cr Ronke, gave a short speech on his term as Mayor, noting the achievements of Council and thanking those that have supported him during his term.

Each Councillor responded recognising the Mayor’s term of office.

2. Confirmation of the Minutes of Previous Meeting

Moved: Cr Athanasopoulos

Seconded: Cr Peulich

That the Minutes of the Ordinary Meeting of Council held on 24 September 2012 be confirmed.

CARRIED

3. Foreshadowed Disclosure/s by Councillors, Officers or Contractors of any Conflict of Interest:

There were no foreshadowed disclosures submitted to the meeting.

4. Petitions

Pedestrian Crossing – Thames Promenade, Chelsea Heights

Moved: Cr Moloney

Seconded: Cr Shewan

That the petition be referred to the CEO for response.

CARRIED

The Corner Store Exterior (Planning Application KP75/2012)

Moved: Cr Brownlees

Seconded: Cr Peulich

That the petition be referred to the CEO for response and considered in relation to Item O 191.

CARRIED

5. Presentation of Awards

Stormwater Industry Association 2012 National Awards – Excellence in Strategic and Master Planning

The Mayor congratulated the City of Kingston for being awarded this National award.

The Mayor advised that this award reflects the commitment of Council to this important issue, and the excellent work from staff in preparing the strategy with support from Melbourne Water and technical input from consultants Aecom (now called E2 Design).

6. Reports from Village Committees

There were no reports from Village Committees submitted due to Village Committees being in recess.

7. Reports from Delegates Appointed by Council to Various Organisations

There were no reports from delegates submitted to the meeting.

8. Question Time

Refer to page of the Minutes.

9. Environmental Sustainability Reports

O 188 Town Planning Application Decisions – September 2012

Moved: Cr Peulich

Seconded: Cr Brownlees

That the report be noted.

CARRIED

O 189 KP709/11 – 419 Centre Dandenong Road, Heatherton

SPEAKER: It is recorded that Brian Pullen spoke on behalf of the objectors in relation to this item.

SPEAKER: It is recorded that Jim Coomes spoke on behalf of the applicant in relation to this item.

Moved: Cr West

Seconded: Cr Shewan

That Council refuse the application on the following grounds:

- 1 The proposal is not consistent with the objectives of Clause 35.04 – Green Wedge Zone of the Kingston Planning Scheme.
- 2 The proposal is not consistent with Clause 21.10.2 of the Kingston Planning Scheme.

3. The proposal is not consistent with the adopted Kingston Green Wedge Plan specifically including pages 95 and 101.

Moved: Cr Peulich

Seconded: Cr Dundas

That the matter be deferred to the next Ordinary Meeting of Council.

CARRIED

O 190 KP290/2012 – 2 Greens Court, Mentone

SPEAKER: It is recorded that Jason Barnfather spoke on behalf of the applicant in relation to this item.

Cr Athanasopoulos left the Council Chamber at 8.03pm.

Cr Peulich left the Council Chamber at 8.03pm.

Cr Athanasopoulos returned to the Council Chamber at 8.05pm.

Cr Peulich returned to the Council Chamber at 8.05pm.

Moved: Cr Dundas

Seconded: Cr Peulich

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to Subdivide the land into Two (2) Lots at No. 2 Greens Court, MENTONE VIC 3194, subject to the following conditions:

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. Prior to certification of the subdivision, the Owner of the land must enter into an Agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 to allow a maximum of one (1) dwelling on each lot. All costs associated with the Agreement will be borne by the owner.
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.
4. Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly

into Melbourne Water's drainage systems and waterways and other matters in accordance with the powers of Melbourne Water Corporation under the Water Act 1989.

5. Prior to the removal of the tree from the site's Greens Court nature strip the Developer/Owner must pay to Council a compensation, removal and replacement fee (\$1500.00)(including GST) for the removal of this existing tree. The removal of this tree must be undertaken by Council, and the Developer/Owner must advise Council when this tree is required to be removed
6. A 200mm offset be installed between the footpath and property boundary unless with prior written consent of the Responsible Authority.
7. Property boundary and footpath levels must not be altered unless with prior written consent of the Responsible Authority.
8. Redundant vehicle crossings are to be removed including redundant portions of vehicle crossings unless with prior written consent of the Responsible Authority.
9. Vehicle crossings are to be constructed at a 90 degree alignment with the kerb unless with prior written consent of the Responsible Authority.
10. All reinstatements and vehicle crossings are to be constructed to the satisfaction of the Relevant Authority.
11. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for Certification in favour of the relevant authority for which the easement or site is to be created.
12. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.
13. Reticulated water, sewerage and electricity must be available to each lot shown on the endorsed plans before any lot can be used or occupied.
14. Once the subdivision has started it must be continued and completed to the satisfaction of the Responsible Authority.
15. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - The subdivision is not started within two (2) years from the date of this permit.
 - The subdivision is not completed within five (5) years of the date of certification.In accordance with section 69 of the *Planning and Environment Act 1987*, 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.

CARRIED

Cr Staikos left the Council Chamber at 8.06pm.

O 191 KP75/2012 – 1 Swanston Street, Mentone

SPEAKER: It is recorded that Martha Baptist spoke on behalf of the objectors in relation to this item.

SPEAKER: It is recorded that Austin Simms spoke on behalf of the applicant in relation to this item.

Cr Staikos returned to the Council Chamber at 8.07pm.

Moved: Cr Brownlees Seconded: Cr Athanasopoulos

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to Develop the Land for the Construction of Buildings and Works (Café Blinds & Planter Boxes) to the existing Restaurant on this site and 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 drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 18th of September 2012, but modified to show:
 - a. a planting schedule showing the proposed location, species type, mature height and width, and number of species to be planted in the planter boxes. The schedule must be shown on the plan, and must only include plants with a maximum mature height of no more than 150mm above the one (1) metre planter box.
 - b. The provision of a full set of elevation plans showing café blinds and planter boxes;
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. All works on or facing the boundaries must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.

4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - § The development is not started within two (2) years from the date of permit issue.
 - § The development is not completed within four (4) years from the date of permit issue.

In accordance with section 69 of the *Planning and Environment Act 1987*, 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.

Amendment

Moved: Cr West

Seconded: Cr Shewan

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to Develop the Land for the Construction of Buildings and Works (Café Blinds & Planter Boxes) to the existing Restaurant on this site **provided that the planter boxes be relocated to be adjacent to the walls of the cafe** and 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 drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 18th of September 2012, but modified to show:
 - a. a planting schedule showing the proposed location, species type, mature height and width, and number of species to be planted in the planter boxes. The schedule must be shown on the plan, and must only include plants with a maximum mature height of no more than 150mm above the one (1) metre planter box.
 - b. The provision of a full set of elevation plans showing café blinds and planter boxes;
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. All works on or facing the boundaries must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.

4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - § The development is not started within two (2) years from the date of permit issue.
 - § The development is not completed within four (4) years from the date of permit issue.

In accordance with section 69 of the *Planning and Environment Act 1987*, 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.

LOST

Amendment

Moved: Cr West

Seconded: Cr Shewan

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to Develop the Land for the Construction of Buildings and Works (Café Blinds & Planter Boxes) to the existing Restaurant on this site **provided the blinds be no closer than 1.5 metres to the property boundary** and 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 drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 18th of September 2012, but modified to show:
 - a. a planting schedule showing the proposed location, species type, mature height and width, and number of species to be planted in the planter boxes. The schedule must be shown on the plan, and must only include plants with a maximum mature height of no more than 150mm above the one (1) metre planter box.
 - b. The provision of a full set of elevation plans showing café blinds and planter boxes;
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. All works on or facing the boundaries must be finished and surface cleaned to a standard that is well presented to neighbouring

properties in a manner to the satisfaction of the Responsible Authority.

4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

§ The development is not started within two (2) years from the date of permit issue.

§ The development is not completed within four (4) years from the date of permit issue.

In accordance with section 69 of the *Planning and Environment Act 1987*, 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.

The Amendment was put and **CARRIED**
 The Amendment became the Motion
 The Motion was put and **CARRIED**

8. Question Time

Antony Falkingham of Mentone asked,

“Did the ‘dirt sheet’ distributed in the South Ward during this campaign originate from your mother’s office? I would like to know if the untruths in the flyer came from Inga Peulich’s office as a lie was told about myself in the flyer.

The CEO provided the following response,

“Council does not have any control over flyers that are distributed during the election period. Formal complaints regarding election material should be directed to the Victorian Electoral Commission.”

Maureen Lim of Bonbeach asked,

“Do you believe the issues you address at this Council concerns your neighbours and your friends? And if so, how can you deny the women of your electorate who may be your neighbours and your friends a greatly needed option of occasional childcare so they can support their families by being able to return to study, do casual work, conduct a home business, attend medical appointments?”

The CEO provided the following response,

“This question relates to a matter that is the subject of the Rescission Motion in Item O 170 of the agenda, which will be discussed and determined later in the meeting by Council.”

Maureen Lim of Bonbeach asked,

“A pedestrian crossing at the Thames Promenade Chelsea Heights Shops. The shopkeepers and residents of Chelsea Heights have been requesting a crossing over Thames Promenade at the Shopping Centre for over 15 years. Such a crossing would make physically crossing the road safer for everyone. At present, people with disabilities, people with young children, older residents, school children having made their purchases on the way home from school, all cross the road their peril. It is a miracle that no one yet has been fatally injured. With the opening of the new medical centre, the traffic is increasing and the difficulty to cross safely increases. I ask each of the Councillors here present: will you make this a matter of urgency?”

The CEO provided the following response,

“This matter is the subject of a petition that was presented to Council tonight, which has been referred to me for actioning.”

Nola Baker of Parkdale asked,

“How can Cr Peulich justify rescinding the occasional childcare grant that was carried at the last Council meeting? Why the repetition of decision making?”

The CEO provided the following response,

““This question relates to a matter that is the subject of the Rescission Motion in Item O 170 of the agenda and this matter will be discussed and determined later in the meeting by Council.”

10. Community Sustainability Reports

There were no Community Sustainability Reports.

11. Organisational Development & Governance Reports

O 192 Consideration of the 2011/12 Annual Report

Moved: Cr Peulich

Seconded: Cr Brownlees

That Council:

1. Receive the 2011/12 Annual Report.

CARRIED

O 193 Assembly of Council Record

Moved: Cr Peulich

Seconded: Cr Athanasopoulos

That Council note the contents of this report for the public record.

CARRIED

12. Corporate Services Reports

O 194 Investment Policy Report – September 2012 Quarter

Moved: Cr Peulich

Seconded: Cr Brownlees

That Council:

1. Note that funds at 30 September 2012 are being invested in line with the risk management profile prescribed in Council's Investment policy.

CARRIED

13. Notices of Motion

O 195 Notice of Motion (Rescission) No. 31/2012 – Cr Peulich

Moved:

Seconded:

I move to rescind Item O170 of the 24 September Ordinary Council Meeting.

LAPSED

A Division was called

DIVISION

FOR: Crs Staikos, Athanasopoulos, Dundas, West, Shewan, West, Brownlees and Ronke (7)

AGAINST: Crs Peulich and Moloney (2)

CARRIED

14.1 Legal Advice Regarding Disclosure of Confidential Information

Substantive Motion

Moved: Cr Brownlees

Seconded: Cr Athanasopoulos

That Council request the CEO to seek independent legal advice with regard to the process, possible course of action and consequences of the matters requested and referred to in Notice of Motion Item O 197 in tonight's agenda.

Procedural Motion

Moved: Cr Peulich

Seconded: Cr Moloney

That the matter be adjourned to the closed part of the meeting.

LOST

A Division was called

DIVISION

FOR: Crs Peulich, Dundas, Moloney and Brownlees (4)

AGAINST: Crs Staikos, Athanasopoulos, West, Shewan and Ronke (5)

LOST

Amendment

Moved: Cr Peulich

Seconded: Cr Moloney

That the M & K Report arising from the February 27 Council resolution be released to the public.

LOST

A Division was called

DIVISION

FOR: Crs Peulich, Dundas and Moloney (3)

AGAINST: Crs Staikos, Athanasopoulos, West, Shewan, Brownlees and Ronke (6)

The Substantive Motion was put and **LOST CARRIED**

A Division was called

DIVISION

FOR: Crs Staikos, Peulich, Athanasopoulos, Dundas, West, Shewan, Moloney, Brownlees and Ronke (9)

AGAINST: Nil.

CARRIED

14.2 Letter of Congratulations to S.U.H.C

Moved: Cr Brownlees

Seconded: Cr Dundas

That an item of urgent business be considered regarding a letter of congratulations to S.U.H.C.

CARRIED

Moved: Cr Brownlees

Seconded: Cr Dundas

That Council write a letter of congratulations to members of S.U.H.C. commending them on the success of the club in that 10 teams played in 10 grand finals, with 5 teams being winners of premierships. The Men's No. 1 Team winning State League 2.

CARRIED

14.2 Maintenance of Melbourne Water Assets

Moved: Cr Shewan

Seconded: Cr West

That an item of urgent business be considered regarding waterways management.

CARRIED

Moved: Cr Shewan

Seconded: Cr Moloney

That Council support the maintenance of Melbourne Water assets being funded by Melbourne Water through its Waterways charge.

Cr West left the Council Chamber at 9.29pm.

Procedural Motion

Moved: Cr Peulich

Seconded: Cr Moloney

That the matter be deferred pending further discussion with the Member for Carrum.

Cr West returned to the Council Chamber at 9.31pm.

LOST
The Substantive Motion was put and **CARRIED**

Procedural Motion

Moved: Cr Brownlees

Seconded: Cr West

That the meeting be extended for 15 minutes to 10.15pm.

CARRIED

Service of Councillor Arthur Athanasopoulos

Councillors each paid tribute to Cr Athanasopoulos for his service as a Councillor and Mayor (on four occasions). The Councillors recognised his achievements and honoured his commitment to the community of Kingston.

Councillor Athanasopoulos responded by thanking all Councillors and the people who have supported him.

15. Items in Camera – Confidential Items

Moved: Cr Athanasopoulos Seconded: Cr Staikos

That in accordance with the provisions of section 89(2) of the Local Government Act 1989, the meeting be closed to members of the public for the consideration of the confidential item:

- O 198 Amendment C128 – Mentone Junction as it is a matter that may prejudice Council.

CARRIED

The meeting was closed to the public at 10.05pm.

Moved: Cr Brownlees Seconded: Cr Athanasopoulos

That the meeting be opened to members of the public.

CARRIED

The meeting was opened to members of the public at 10.27pm.

The meeting closed at 10.28pm.

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Confirmed, His Worship the Mayor