

Minutes

Ordinary Meeting of Council

Monday, 6th February 2017

**City of Kingston
Ordinary Meeting of Council**

Minutes

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The meeting commenced at 7.00pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

Present: Cr David Eden (Mayor)
Cr Tamsin Bearsley
Cr Ron Brownlees OAM
Cr Geoff Gledhill
Cr George Hua
Cr Georgina Oxley
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins, Chief Executive Officer
Mauro Bolin, General Manager Community Sustainability
Paul Franklin, General Manager Corporate Services
Daniel Freer, General Manager City Assets and Environment
Jonathan Guttman, General Manager Planning and Development
Paul Marsden, Manager City Strategy
Ian Nice, Manager City Development
Megan O'Halloran, Manager Communications & Community Relations
Phil De Losa, Manager Governance
Stephanie O'Gorman, Governance Officer
Gabrielle Pattenden, Governance Administration Officer

1. Apologies

An apology from Cr Barth was submitted to the meeting.

Moved: Cr Staikos

Seconded: Cr West

That the apology from Cr Barth be received.

CARRIED

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Staikos

Seconded: Cr Bearsley

That the Minutes of the Ordinary Meeting of Council held on 12 December 2016 be confirmed.

CARRIED

3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

There were no Conflicts of Interest submitted to the meeting.

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4. Petitions

Maury Road and Nepean Highway Chelsea Intersection

Moved: Cr Bearsley

Seconded: Cr Oxley

That the petition be referred to the Chief Executive Officer to write to Vic Roads to request a review of the signal change.

CARRIED

5. Presentation of Awards

There were no awards presented.

6. Reports from Delegates Appointed by Council to Various Organisations

There were no delegates' reports.

7. Question Time

Question Time was held at 8.07pm. Refer to page 12 of the Minutes.

Block Resolution

Moved: Cr Bearsley

Seconded: Cr Hua

That the following items be block resolved and that the recommendations in each item be adopted:

- 8.1 Town Planning Application Decisions - December 2016
- 8.5 Employment Portal
- 8.6 Dingley Village Urban Design Framework
- 9.1 Aspendale Gardens Community Centre Request for a Memorial Plaque for Deanne Day Davis
- 11.1 Citizenship Policy Review
- 11.2 Quick Response Grants
- 11.3 Investment Policy Report - December 2016
- 11.4 Mayoral and Councillor Allowances Review
- 11.5 Assembly of Councillors Record Report

CARRIED

8. Planning and Development Reports

8.1 Town Planning Application Decisions - December 2016

RECOMMENDATION

That the report be noted.

Note: Refer to page 4 of the Minutes where this item was block resolved

8.2 KP16/424 - 1155 - 1157 Nepean Highway Highett

It is recorded that Duncan Moncrieff spoke on behalf of the objectors in relation to this item.

It is recorded that Andrew Clarke spoke on behalf of the applicant in relation to this item.

Moved: Cr Staikos

Seconded: Cr Hua

That Council refuse the application to develop the land for the construction of 26 dwellings with a reduction in the visitor car parking requirement in the Design and Development Overlay Schedule 12 at 1155 – 1157 Nepean Highway Highett

1. The proposal does not respect the existing character and scale of the surrounding area.
2. The proposal is inconsistent with Clause 22.17 and Schedule 12 to the Design and Development Overlay of the Kingston Planning Scheme.
3. The reduction in the visitor car parking requirement will result in unreasonable impacts to the amenity of the surrounding area.
4. The proposed extent of massing throughout the length of the site is visually intrusive and would result in unreasonable amenity impacts on adjoining properties.
5. The proposed height is excessive and fails to comply with Schedule 12 to the Design and Development Overlay and Clause 55.03-2 of the Kingston Planning Scheme.
6. The proposal fails to provide adequate landscaping opportunities as sought under Schedule 12 to the Design and Development Overlay.
7. The proposal fails to address opportunities for overlooking and does not satisfy the requirements of Clause 55.04-6 of the Kingston Planning Scheme.
8. The application fails to demonstrate sound Environmental Sustainable Design, and fails to satisfy Clause 55.03-5 of the Kingston Planning Scheme.

CARRIED

8.3 KP458/2016 - 14 Aurea Court Clarinda

It is recorded that Thambimudhu Wijeymanoharan spoke on behalf of the objectors in relation to this item.

It is recorded that Louie Asiaee spoke on behalf of the applicant in relation to this item.

Moved: Cr Staikos

Seconded: Cr West

That Council refuse the application to develop the land for the construction of three (3) dwellings at No. 14 Aurea Court, Clarinda on the following grounds:

1. The proposal would detrimentally affect the amenity of the Neighbourhood.
2. The proposal would detract from the visual amenity of the locality and the streetscape.
3. The proposal constitutes an over-development of the site.
4. The proposal would cause traffic congestion in a residential street.
5. Fails to comply with clause 22.11 of the Kingston Planning Scheme.

CARRIED

8.4 KP16/55 - 2A Blantyre Avenue, Chelsea and 332 Station Street, Chelsea

It is recorded that Susan Heggie and Llifon Pierce spoke on behalf of the objectors in relation to this item.

Moved: Cr Oxley

Seconded: Cr Bearsley

That Council refuse the application to develop the land for the construction of a three (3) storey building comprising two (2) retail premises and six (6) dwellings, a reduction of the car parking requirement and waiver of the loading bay requirement at No. 2A Blantyre Avenue, Chelsea and 332 Station Street, Chelsea on the following grounds:

1. The proposal would detrimentally affect the amenity of the Neighbourhood.
2. The proposal would detract from the visual amenity of the locality and the streetscape.
3. The proposal constitutes an over-development of the site.
4. The proposal would cause traffic congestion in a residential street.

CARRIED

8.5 Employment Portal

RECOMMENDATION

That Council:

1. Note the costs associated with developing a stand-alone employment portal for Kingston
2. Agree to a subscription to uWorkin
3. Develop a communications strategy to educate both residents and businesses about the portal and to encourage active participation.

Note: Refer to page 4 of the Minutes where this item was block resolved

8.6 Dingley Village Urban Design Framework

RECOMMENDATION

That Council:

1. Receive the report as Officer's response to Council's resolution of 25 July 2016.
2. Note the significant range of infrastructure improvements, private investment, streetscape improvements and strategic work being undertaken by Council Officers, the State Government and private sector within and around Dingley Village.
3. Prioritise the completion of the municipal wide Housing Strategy and Neighbourhood Character Study to assist in informing the preparation of an Urban Design Framework for Dingley Village.

Note: Refer to page 4 of the Minutes where this item was block resolved

8.7 Public Open Space Contributions

Moved: Cr West

Seconded: Cr Staikos

That Council resolve to:

1. Request authorisation from the Minister for Planning to prepare an Amendment to the Kingston Planning Scheme to:
 - a) Introduce a Schedule to Clause 52.01 'Public Open Space Contribution and Subdivision' of the Kingston Planning Scheme to specify public open space contribution rates across the municipality and to include the Highett and Mordialloc Activity Centres as defined in local planning policy in an area where the amount of contribution for public open space is proposed to be 8%.
 - b) Modify Clause 21.11 'Open Space' of the Municipal Strategic Statement to implement the objectives and directions of Kingston's Open Space Strategy 2012.
 - c) Introduce a local policy at Clause 22.19 to provide guidance as to where

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- land contributions should be sought and the criteria they should meet.
2. Subject to authorisation being granted, Council as Planning Authority, prepare and place the Amendment on public exhibition pursuant to Section 19 of the *Planning and Environment Act 1987*.

CARRIED

9. Community Sustainability Reports

9.1 Aspendale Gardens Community Centre Request for a Memorial Plaque for Deanne Day Davis

RECOMMENDATION

That Council:

1. Approve the proposal from the Aspendale Gardens Community Centre Committee to:
 - a) Install a memorial plaque at the newly redeveloped Preschool outdoor learning space to provide public recognition of the late Deanne Day Davis with the following wording proposed by the committee:

*Dea's Garden
In celebration of Deanne Day Davis, Preschool Director 2004-2008*
 - b) Hold an opening ceremony of the garden in order to acknowledge the support of Kingston City Council for the project and to dedicate the garden to Deanne and her family.

Note: Refer to page 4 of the Minutes where this item was block resolved

10. City Assets and Environment Reports

There were no City Assets and Environment Reports.

11. Corporate Services Reports

11.1 Citizenship Policy Review

RECOMMENDATION

That Council adopt the revised Citizenship Policy as shown in Appendix 1.

Note: Refer to page 4 of the Minutes where this item was block resolved

11.2 Quick Response Grants

RECOMMENDATION

That Council approve the following grant applications:

- Cheltenham Secondary College (Netball Academy) - \$250.00
- Cheltenham Secondary College (Literacy) - \$250.00

That Council not approve the following grant application as it does not meet all the selection criteria:

- Dramazing Productions

Note: Refer to page 4 of the Minutes where this item was block resolved

11.3 Investment Policy Report - December 2016

RECOMMENDATION

That Council note that its funds as at 31st December 2016 are invested in line with the risk management profile prescribed in Council's Investment policy.

Note: Refer to page 4 of the Minutes where this item was block resolved

11.4 Mayoral and Councillor Allowances Review

RECOMMENDATION

That Council:

1. Review and determine pursuant to section 74 of the Local Government Act 1989, the Mayoral allowance of \$88,845 and Councillor Allowance of \$29,615 within the Category 3 Council range, plus an amount equivalent to the superannuation guarantee contribution (9.5%);
2. Proceed with the process for submissions to be made, pursuant to section 223 of the Local Government Act 1989;
3. Establish a committee, pursuant to section 223 of the Local Government Act 1989, comprising of Councillor Eden, Councillor Gledhill and Councillor Staikos to hear any submissions received in relation to the proposed Mayoral and Councillor Allowances, at a meeting on 3 April 2017, or another suitable date and time, and report back to Council for the determination of the level of Mayoral and Councillor Allowances; and
4. In the event of no submissions, that a report be prepared for Council for the determination of the level of Mayoral and Councillor Allowances.

Note: Refer to page 4 of the Minutes where this item was block resolved

11.5 Assembly of Councillors Record Report

RECOMMENDATION

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

Note: Refer to page 4 of the Minutes where this item was block resolved

12. Notices of Motion

12.1 Notice of Motion No. 1/2017 - Cr Hua - Victoria Police 'No Pursuit Policy'

Moved: Cr Hua

Seconded: Cr Gledhill

- a) That the City of Kingston urgently calls on the Minister for Police and the Chief Police Commissioner, to review its “no pursuit policy” in order to prevent future tragedy on our roads and in our public pedestrian spaces and to make sure that police are given the tools and necessary powers to deal with serious offenders as referred to above.
- b) Kingston write to, within one week of this meeting, the Minister for Police and Chief Police Commissioner to request a full response in writing regarding the proposed review and any outcomes of such a review.
- c) If an urgent response is not received within one week, Kingston Council follows the matter up both in writing and via telephone with regular updates to be provided to the mayor and councillors via email.
- d) That it be noted that the City of Kingston are appreciative of and respect the tireless work undertaken by the Victoria Police Force – this motion is directed at the policy position rather than operational matters.

Amendment

Moved: Cr West

Seconded: Cr Staikos

- a) That the City of Kingston urgently calls on the Minister for Police and the Chief Police Commissioner, to review its “no pursuit policy” in order to prevent future tragedy on our roads and in our public pedestrian spaces and to make sure that police are given the tools and necessary powers to deal with serious offenders as referred to above.
- b) That the City of Kingston also call on the Minister and the Chief Commissioner to explain why police took so long to act to properly investigate and curb the activities of an alleged violent offender who was vandalising trees in Henry Street, Heatherton and who also allegedly threatened a resident with an axe.
- c) Kingston write to, within one week of this meeting, the Minister for Police and Chief Police Commissioner to request a full response in writing regarding the proposed review and any outcomes of such a review.
- d) If an urgent response is not received within one week, Kingston Council follows the matter up both in writing and via telephone with regular updates to be

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provided to the mayor and councillors via email.

- e) That it be noted that the City of Kingston are appreciative of and respect the tireless work undertaken by the Victoria Police Force – this motion is directed at the policy position rather than operational matters.

CARRIED on the Casting Vote of the Chairperson

The Amendment became the Motion

Amendment

Moved: Cr Oxley

Seconded: Cr Bearsley

- a) That the City of Kingston urgently calls on the Minister for Police and the Chief Police Commissioner, to review its “no pursuit policy” in order to prevent future tragedy on our roads and in our public pedestrian spaces and to make sure that police are given the tools and necessary powers to deal with serious offenders as referred to above.
- b) That the City of Kingston also call on the Minister and the Chief Commissioner to explain why police took so long to act to properly investigate and curb the activities of an alleged violent offender who was vandalising trees in Henry Street, Heatherton and who also allegedly threatened a resident with an axe.
- c) Kingston write to, within one week of this meeting, the Minister for Police and Chief Police Commissioner to request a full response in writing regarding the proposed review and any outcomes of such a review.
- d) If an urgent response is not received within one week, Kingston Council follows the matter up both in writing and via telephone with regular updates to be provided to the mayor and councillors via email.
- e) That it be noted that the City of Kingston are appreciative of and respect the tireless work undertaken by the Victoria Police Force – this motion is directed at the policy position rather than operational matters.
- f) As part of this letter that Kingston Council:
- i. urgently request more police resources to be directed to Kingston stations - mainly an increase in Police Numbers and;
 - ii. that Kingston Council advocate for an urgent review of bail laws for those who are:
 - Violent offenders; or
 - Repeat Offenders.

The Amendment was CARRIED

The Amendment became the Motion

Procedural Motion

Moved: Cr Staikos

Seconded: Cr Brownlees

I move to defer this matter until Council is briefed by Inspector Bruce Kitchen , the Kingston Local Area Commander for Police at his earliest convenience.

CARRIED

Question Time

Question Time was held at 8.07pm.

Clare McPhee of Chelsea asked,

Question 1

“If Council are serious in honouring their open space strategy and are willing to work on the overall health and wellbeing of our city for the long term, why then are they not committing to the following:

1. *Preserving what little flora and fauna in Chelsea there is, considering a study that indicates that there is already a critical lack of.*
2. *Not allowing developers to take over land that hosts native vegetation and habitats.*
3. *Assigning public acquisition overlays where land does fall in the above criteria so that the city and its residents have the option to acquire worthwhile park land.*
4. *Acquiring land where appropriate, such as the land at 17 Kangaroo Road and 19 Tarella Road, Chelsea.*

The CEO provided the following response,

“Council considered a report regarding this matter at a Special Meeting of Council on 11 April 2016. The Minutes indicated that Council considered a motion to consider purchasing the land and this motion was lost. Subsequently, the land was sold. Council has subsequently now received a Planning Application for 14 dwellings and this matter is currently before the Council for its consideration. As part of the assessment of the application, officers have requested an independent report looking into vegetation which is contained on this site. No direction of the Council exists on whether to apply or seek to apply Public Acquisition Overlay.

Question 2.

“Does the proposed high-density development currently under Council consideration at 17 Kangaroo Road – 19 Tarella Road in Chelsea indicate that the Council is wavering in its support for the Kingston Council Open Space Place Plan? We note that this block represents one of Council’s few remaining opportunities to protect open space and tree canopy coverage, before it enters into a similar situation as Stonnington Council in having to reclaim land for such purposes. How does Council propose to increase the public open space within areas Edithvale 8D and Chelsea 9A if it does not purchase the above site?

The CEO provided the following response,

“Council considered advice on this site as part of a report that went to a Special Meeting of Council on 11 April 2016. Council after considering that report decided not to proceed with an action to purchase that site. That report goes into those issues of public open space in that area. Council’s current 5 year Capital Works Program has identified the following expenditure in Planning Areas 8 and 9:

- *16/17 Bonbeach Reserve Masterplan \$500,000*

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- 16/17 Bicentennial Park \$920,000
- 17/18, 18/19, 19/20 – Bonbeach Reserve Masterplan \$983,000

Council will be investing over \$2 million in public open space in those areas.

Debbie Coassin of Chelsea asked,

“Can Council comment on when you give your approval for a development, do you take into account the impact this development has on the overall area and people’s daily lives? I would like to know do you analyse extra car parking, traffic congestion, more amenities in the area, not to mention more queues in the supermarkets which most people cannot deal with? That is why human rage is out of control as statistics will tell you, we need to be in touch with nature for our own harmony and wellbeing, that is why leaving Dents Reserve untouched will benefit everyone in the existing area.”

The CEO provided the following response,

“The matter as identified in the question is subject to a current planning permit application for this site. A number of the matters raised in this question will be given consideration as part of the assessment of the application. The comments made will be referred to the City Development Department for its further consideration as part of the preparation of the report for that Planning Application.”

Roland Coassin of Chelsea asked,

“Regarding the 14 Double Story unit development at 17 Kangaroo Road and 19 Tarella Road, Chelsea. Both Kangaroo Road and Tarella Road are quite narrow. With additional on street parking that is bound to result from residents of the development, we are concerned that emergency vehicles may have difficulty negotiating the roads when vehicles are parked on both sides.”

The CEO provided the following response,

“The matters identified in the question are subject to a current planning permit application and traffic will be part of the assessment that officers turn their mind to when preparing this report for Council’s consideration. Your question will be provided to the City Development Department.”

Helen Shillabeer of Chelsea asked,

“Can Councillors comment on what analysis has or will be undertaken of increasing flood risk resulting from the clearing of open space for the high density development of 14 double storey units currently proposed for 17 Kangaroo Road – 19 Tarella Road, Chelsea and any exposure that may result from such flooding. We note the potential for temporary flooding in this area given the proposed development will place significant strain on the down flow drainage that collects from Station Street, Tarella Road and Kangaroo Road.”

The CEO provided the following response,

“Flooding will be given consideration as part of the consideration of this planning application. Your question will be referred to the City Development Department. Council is very aware of the flooding issues south of the creek in the City of Kingston and is investing many million dollars to address those issues.”

Kaye Dean of Chelsea asked,

“Can the Councillors comment on what steps have been taken in respect to the welfare of fauna located on the proposed development site, which is currently under consideration at 17 Kangaroo Road – 19 Tarella Road in Chelsea, where 14 double storey houses are proposed to be constructed with all vegetation except for one exotic tree to be removed? Where are these animals going to live when their natural habitat is gone forever?”

The CEO provided the following response,

“Councillors are unable to comment at this point. However, officers are obtaining advice on the items raised in the question. An independent report will be part of the officer advice provided to Council on this planning application and Council will then turn its mind to what it considers an appropriate decision.”

Serge Kraskov of Edithvale (on behalf of the No Skyrail Frankston Line Group) asked,

Question 1.

“We understand the newly elected Council’s position on the Frankston line elevated rail solution vs. rail under solutions has been deferred. When will Councillors and the Council reaffirm their position officially?”

The CEO provided the following response,

“Council will consider a report in response to a Notice of Motion passed by Council in late 2016 at the next Council meeting on 27 February 2017.”

Question 2.

“As there are newly elected Councillors in the Council that may like additional information about the issue of elevated rail for the crossing removals. Would the Council accept an invitation from the No Sky Rail Frankston Line to present to Council at a Monday night meeting in the coming weeks in February 2017?”

The CEO provided the following response,

“This question will be taken on notice and a response will be provided in due course.”

Question 3.

“During the October 2016 LXRA consultation period, the LXRA met with the No Sky Rail Frankston Line group one on one to discuss their concerns and answer any questions. The majority of the questions were not satisfactorily answered with many taken on notice and a commitment made to come back to the group with responses. The LXRA requested that the group consolidate their questions and those from community members via one channel. The LXRA assured the group and committed to respond to and answer all questions. A 150 page document with 351 questions/concerns on 92 topics compiled based on feedback from a large segment of the community was submitted to the LXRA as requested (before the consultation period closing date). A short standard template letter response was received from the LXRA thanking the group for its input, however, no response or answers were

provided. After a complaint letter was submitted to the LXRA by the NSRFL group, a 2nd letter from the LXRA was received stating the document would be considered, however, no further responses or answers will be provided. As the Council is representing the community, can Council assist with obtaining satisfactory responses and answers from the LXRA to the document created from feedback by the Kingston community?

The CEO provided the following response,

“Council can advocate on behalf of the community and its residents, however, Council cannot force a response from the LXRA but we will draw to the LXRA’s attention that this matter has been raised with Council and ask that they respond.”

Question 4.

- a. *“When making residents and property owners aware of the level crossing removal project via mail, did the LXRA request the addresses of property owners from Kingston Council to ensure that owners of properties were made aware and not just the occupiers of the dwelling?”*
- b. *“Did the Council provide this information and in what form?”*
- c. *“Has the LXRA continued to provide information via mail to these same property owners through the process?”*

The CEO provided the following response,

“This question will be taken on notice and a written response provided.”

Question 5.

“The LXRA has stated a rail under solution has not been presented and has not been considered at Carrum. One of the reasons is due to the stated LXRA distance of 350m from the bridge abutment to McLeod Road not being long enough to allow a rail under solution to drop to the required depth. However, the NSRFL Group has engaged the services of a professional surveyor using industry standard commercial equipment to conduct a feature survey of the same area. The survey measurements show this distance to be 377m, which is enough length to drop to the required depth. Can Council confirm the correct measurement on behalf of the community so that decisions on a design solution are not made based on wrong information?”

The CEO provided the following response,

“Council has not been provided with detailed plans and the only information it has is what is publicly available. We have raised this with the LXRA and they have advised Council that it needs to go over in that location.”

Question 6.

“The LXRA has stated that a rail under solution has not been presented and is not being considered at Carrum, as some standards are not able to be achieved such as the grade of the track and minimum height to road on a rail under design. Yet, the LXRA have told the No Skyrail Frankston Line group that the standard grade at Ormond was changed to suit site conditions. Can the Council investigate and engage with the LXRA whether the standard for track grade and minimum height to road can be challenged in Carrum to suit the area conditions, whilst still providing a fit for purpose and safe rail under road infrastructure project before it is rejected outright?”

The CEO provided the following response,

“Council does not have the details or the in house expertise to be able to challenge on that. The only information Council has is what has been publicly provided. The LXRA have briefed Council and Council challenged and asked a number of questions regarding rail over and rail under at that location and the LXRA were quite firm and clear in their advice that it needed to go over at that location.”

Phil Reid of Mordialloc asked,

Question 1.

“What is the Mentone Renaissance Project’s budget and what is the scheduled completion date?”

The CEO provided the following response,

“Council considered a report on this matter at its Ordinary Meeting of Council on 12 December 2016. This report outlined the following expenditure:

\$1,690,000 17/18

\$1,300,000 18/19

\$410,000 19/20

These are proposed commitments that will need to be approved by Council in those budget years.

This provides a total expenditure of \$3,400,000. Council is currently completing the intersection works at the corner of Davies Street, which has an approximate value \$900,000. Council may in the future consider other projects to enhance the Mentone Activity Centre identified in the Renaissance Project and/or Mentone Structure Plan.”

Question 2.

“In light of the recent death following a salmonella outbreak linked to a northern suburb’s meals on wheels, is the Council taking any action to make sure it does not occur in Kingston?”

The CEO provided the following response,

“Council is continuing its food safety certification and auditing process which helps protect residents and has served Kingston well for many years now. A key part of the certification and auditing process is to protect and ensure the safety of all food served to Council’s Meals on Wheels clients. Those requirements are subject to the supply contracts Council has in place with all of its Meals on Wheels providers.”

Question 3.

“Does Council have a long term financial plan and is it possible to get a copy”

The CEO provided the following response,

“Yes, Council does have a long term financial plan. Our annual budget is set in the context of what we call the LTFS (Long Term Financial Strategy). It is available from our website. It is in the Council Plan on our website in the section called the Strategic Resource Plan. It is also part of Council’s public budget documentation for the 2016/17 financial year and Council will again be reviewing its long term financial plan as part of

developing the 2017 Council Plan and this Council's first budget and those outcomes will be publicly available documents. There is a public consultation process under the Local Government Act where any member of the community can comment on the Strategic Resource Plan and Long Term Financial Strategy built into those documents."

Question 4.

"What is the status of the sky rail on the Frankston Line? Is Council still needing more information?"

Question 5.

"As Council understands it, for the grade separations between Mordialloc Creek and the Patterson River there is to be an Environmental Effects Study undertaken by the LXRA. We know that is their intention, however we do not know the timelines on that project at this stage. According to weekend media reports we're expecting an announcement on the Mentone and Cheltenham grade separations sometime very soon."

Question 6.

"Regarding VCAT meeting held on 27 January 2017 for 590 Main Street, Mordialloc. Why was Council not properly represented by a Planning Officer? Especially when the Council's solicitor requested the mediation session be cancelled. The Judge at the hearing was perplexed by the request and rejected Council's request."

The CEO provided the following response,

"Council was represented by Mr Sherman a partner at Russell Kennedy Lawyers. Mr Sherman is a well-respected planning lawyer and he was acting on Council's behalf. Council advised the tribunal that it was not prepared to mediate on this matter. It wasn't about being cancelled, Council had a resolved position on that planning application and it wasn't prepared to budge from that position."

12.2 Notice of Motion No. 2/2017 - Cr Bearsley - Termite Protection Policy

Moved: Cr Bearsley

Seconded: Cr Oxley

That Council officers prepare a report on termite protection. The report is to:

- Provide background on termite occurrences within Kingston;
- Advice from leading experts and industry bodies;
- Research on the termite policies of other councils;
- Advice on the benefits and costs of implementing a termite mitigation policy;
- Consider the potential impacts of designating certain areas termite prone on insurance premiums and property values.

The report is to be presented at an Ordinary Council Meeting by the end of April 2017.

CARRIED

12.3 Notice of Motion No. 3/2017 - Cr Eden - Replacement of Cooler at Aspendale Seniors Club

Moved: Cr Oxley

Seconded: Cr Bearsley

That Council replace the Aspendale Seniors Club evaporative cooler system with a refrigerated system at an estimated cost of \$30k and these works to be funded from Council's 2016/17 budget. The Seniors Club to be requested to contribute to the replacement cost.

CARRIED

13. Urgent Business

There were no items of urgent business.

14. Confidential Items

Moved: Cr Gledhill

Seconded: Cr Brownlees

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 following confidential items:

14.1 KP124/2016 - 1233-1237 Nepean Highway and 60-64 Matthieson Street, Highett - VCAT Appeal lodged and position for Compulsory Conference sought

This agenda item is confidential in accordance with the Local Government Act s89(2) as it relates to proposed developments (s89 2e) and legal advice (s89 2f)

CARRIED

The meeting was closed to members of the public at 8.36pm.

Moved: Cr Gledhill

Seconded: Cr Staikos

That the meeting be opened to members of the public

CARRIED/LOST

The meeting was opened to members of the public at 8.47pm.

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The meeting closed at 8.47pm.

Confirmed.....

The Mayor 27 February 2017