

Minutes

Ordinary Council Meeting

Monday, 26th February 2024

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**City of Kingston
Ordinary Council Meeting**

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26 February 2024

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

Present: Cr Jenna Davey-Burns (Mayor)
Cr Tracey Davies (Deputy Mayor)
Cr Tamsin Bearsley
Cr Tim Cochrane
Cr David Eden
Cr Chris Hill
Cr George Hua
Cr Georgina Oxley
Cr Hadi Saab

In Attendance: Peter Bean, Chief Executive Officer
Jonathan Guttmann, General Manager Planning and Place
Dan Hogan, General Manager Customer and Corporate Support
Emily Boucher, Acting General Manager Infrastructure and Open Space
Kate Waters, Acting General Manager Community Strengthening
Bernard Rohan, Chief Financial Officer
Alfred Carnovale, Manager City Development
Kelly Shacklock, Manager Governance, Risk and Integrity
Patrick O’Gorman, Acting Team Leader, Council Governance
Sharon Banks, Governance Officer
Gabrielle Pattenden, Governance Officer

1. Apologies

Apologies from Cr Howe and Cr Staikos were submitted to the meeting.

Moved: Cr Davies

Seconded: Cr Saab

That the apologies from Cr Howe and Cr Staikos be received.

CARRIED

FOR: Crs Davey-Burns, Cochrane, Eden, Oxley, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Hill

Seconded: Cr Saab

That the Minutes of the Ordinary Council Meeting held on 29 January 2024 and the Special Council Meeting held on 7 February 2024 be confirmed.

CARRIED

FOR: Crs Davey-Burns, Cochrane, Eden, Oxley, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

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

There were no Conflicts of Interest submitted to the meeting.

4. Petitions

4.1 LGBTIQA+ Sub-Committee

Moved: Cr Davies

Seconded: Cr Hill

That the petition be referred to the CEO for response.

CARRIED

FOR: Crs Davey-Burns, Cochrane, Eden, Oxley, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

5. Delegates' Reports

Nil

Councillor Statements

Cr Oxley reported on attending the Community Connections Forum.

Cr Saab

Presentation of Awards

Nil

6. Question Time

Question time was held at 7.14pm.

Note: following application of the Governance Rules, six questions were not accepted due to being ruled as objectionable, causing embarrassment to a Councillor or not providing name, address or an email address.

Simon asked,

“What is the current estimate for the new pool, including the construction and the site purchase of \$14.6 million, with the remediation of Don Tatnell Leisure Centre that was estimated at \$40-50 million?”

The Acting General Manager Infrastructure and Open Space provided the following response,

“The approved budget for the project was endorsed at the April OCM at \$79.2m and the paper is available on Council’s website should you be interested in further detail. The cost to purchase the site was \$14.6m. The demolition and remediation of the Don Tatnell site will cost \$1.6m.”

Simon asked,

“Is the Council preparing to use dual names for parks and buildings, including any recommended by activist or representative groups?”

The Acting General Manager Infrastructure and Open Space provided the following response,

“In the Wayfinding Strategy adopted by Council at the July 2023 Council Meeting provision is made on signs for dual naming. The Strategy is available on Council’s website under Council Documents.”

Wandzia asked,

“Why was my question on the 29th January regarding the equivalent Victorian Local Government model code of conduct to that of the NSW model code not answered completely in that the site sent to me only gave details of the Kingston Council staff and not the pecuniary interests of the Councillors themselves? Can I please be given the site where Kingston Councillor details are kept of these pecuniary interest, including his/her name, address, signature, plus information about their properties, shareholdings, gifts received, debts owed, donations & other sources of income & position held in a trade union, a political party or a professional organisation?”

The General Manager Customer and Corporate Support provided the following response,

“Council’s public website provides the summaries of personal interest returns for both Councillors and nominated officers of Council staff. Summaries of Councillors’ personal interest returns are found under the policies, plans and reports section of the website. A link to your requested information, a Summary of Personal Interests of Councillors was sent to you by the General Manager Customer & Corporate Support Dan Hogan on the 6 February.”

Jagoda Williams asked,

“Have any Councillors at Kingston Council been suspended or threatened with suspension?”

The Chief Executive Officer provided the following response:

“No”

Robert asked,

“Can you please tell me the full total cost plus the ongoing cost of contracting the communication portal company called the “Bang the Table”?”

The General Manager Customer and Corporate Support provided the following response,

“We will need to check account information within our Finance system, so while I am unable to provide you with a response tonight, we will provide you with a written response. Bang the Table is now owned by Granicus.”

Rose asked,

“Question 1 – Is it true that Council’s Equity and Advisory Committee which currently has 2 LGBTQ+ representatives will be increasing these numbers by 5 new applications which are currently being interviewed now with now appointments to commence February 2024?

Question 2 – Are these existing two and the new five now LGBTQ+ appointments paid positions at Council or unpaid – not only by Council but by any other community group or anyone?”

The Acting General Manager Community Strengthening provided the following response,

“Council’s Access and Equity Advisory Committee currently has two committee members that identify as being a part of the LGBTIQ+ community, and three that identify as allies.

All community members on a Council strategic advisory committee are granted attendance payments for their participation which is a maximum of \$200 per annum.”

Elena asked,

“Is it true you have hired three psychologists to provide individual counselling services to children who are continuously referred to as “young people” in their report, as stated in the Youth Services report in 8.3 on 29 January? Isn’t this situation at odds with traditional Medicare based health care system that keeps a track on professional consultations?”

The Acting General Manager Community Strengthening provided the following response,

“Kingston Youth Services employs three qualified psychologists who provide counselling to young people aged between 12 and 25. Kingston Youth Services psychologists are required to hold memberships with the Australian Psychological Society. They are accountable through line management supervision and professional clinical supervision sessions. Notes of all sessions are taken in line with professional practice standards.”

Lynne asked,

“Did Councillors have a chance to vote for, or did the CEO and Council executive decide itself, without the impact of Councillors, to create and give contracts for the creation of the internal group “Kingston Represents” to the company Sortition Foundation and the digital company which selects and manages resident communications called “Bang the Table””

The General Manager Customer and Corporate Support provided the following response,

“Council Officers engaged the services of Sortition in accordance with all applicable delegations and procurement policy.”

Rosemary asked,

“Why is it that the Councillors are not allowed, or never see, the questions being put to Council at the Council question time because the CEO Mr Peter Bean seems to have the last say, as to what they are allowed to see? Is it actually undemocratic and questionable for the unelected CEO to decide whose letters are selected as acceptable, to be read, in what seems to be non transparent method of selection and which seems to go against the governance principles of the Council and Local Government Act.”

The General Manager Customer and Corporate Support provided the following response,

“Public Questions are managed in accordance with the Governance Rules which are available on Council’s website. The Mayor and CEO both have responsibilities in relation to Public Questions and work together to address them in the most appropriate fashion.”

Colin asked,

“Why has Kingston Council, in its social media promotions recently, when extolling news, its new tampon dispensaries or its oldest library, or the use of its new Net Zero cars or the celebrating Chinese New Year or the turning of a sod or even keeping cool in summer, always putting Cr Steve Staikos, Mayor Jenna Davey-Burns, Cr Tracey Davies, Cr Tim Cochrane, Cr Chris Hill and Cr Hadi Saab front and centre in that media, which is from the governance perspective a questionable thing to do during a Council election year? Why are councillors David Eden, Georgina Oxley, Cameron Howe or George Hua rarely being promoted in such advertising by the Kingston Council media managers?”

The General Manager Customer and Corporate Support provided the following response,

“Under the Local Government Act, the Mayor is the primary spokesperson for Council, and consequently will be featured most often. In many other cases, Councillors are also, or in addition, offered media or promotional opportunities of Council services and facilities. It is not always possible for a range of reasons including timing and operational reasons, for these to be taken up.”

Roslyn asked,

“Is it true that the unexpected, non-agenda item motion put by Cr Tracey Davies on 29 January 2024 to cut the public question time to 15 minutes only, and which was carried by those Councillors present, cannot be allowed to stand permanently for future Kingston Council public meetings as this goes against Council Governance principles themselves, as the sudden and unannounced insertion of this rule, coupled with the blaming of the people who ask questions for time overruns at meetings, reveals a lack of procedural fairness and even ethics?”

The General Manager Customer and Corporate Support provided the following response,

“The procedural motion referred applied only for that meeting. Public Question time is usually governed by the Governance Rules that are available on Council’s website. There is no prohibition on Councillors moving a similarly binding procedural motion in future Council meetings however.”

Rosemary West asked,

“Question 1 - What - if any – difference(s) have any of Council’s proposals to mitigate the adverse impacts of the proposed Suburban Rail Loop (eg Item 7.4 tonight) and/or the proposed Heatherton Train Yard made to the Suburban Rail Loop Authority plans for the project?”

Question 2 - Has Council advocated for a 3:1 tree replacement policy for the Suburban Rail Loop and Level Crossing Removal projects as required by Council’s Urban Forest Strategy, in regard to major State Government transport projects, in which case has this made any difference to any of these plans?*

**Outcome 5, page 63, Urban Forest Strategy adopted by Council in September 2023.”*

The General Manager Planning and Place provided the following response:

“In response to the first question from Ms. West the Suburban Rail Loop Authority is required to comply with several Environmental Performance Requirements associated with the project's approval. These requirements will result in detailed plans being prepared by the SRL for the Heatherton Stabling Yard site and Council will be seeking to ensure they address a range of matters Council raised through the Independent Advisory Committee Process for the project.

In response to Question 2, the Council has strongly reinforced the importance of a substantial landscape response be provided for both the stabling facility and at the station locations. Again, once project plans are released Council will be able to comment on the landscape responses proposed for the project.”

7. Planning and Place Reports

7.1 Town Planning Application Decisions January 2024

Moved: Cr Hill

Seconded: Cr Hua

That the report be noted.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

7.2 KP-2022/424, 15 Derwent Street, Mentone

It is recorded that Monica van Wissen spoke on behalf of objectors.

It is recorded that Chris Pippo spoke on behalf of the applicant.

Moved: Cr Davies

Seconded: Cr Hill

That Council determine to issue a notice of refusal to grant a planning permit for the construction of two (2) double storey dwellings at 15 Derwent Street, Mentone, on the following grounds:

1. The proposal does not align with the strategic directions outlined within clause 02.03 (Strategic Directions) of the Kingston Planning Scheme regarding built environment and landscape values.
2. The proposal results in an inappropriate built form outcome that is inconsistent with clause 15.01 (Built Environment) of the Kingston Planning Scheme.
3. The proposal does not align with the preferred neighbourhood character objectives, strategies and guidelines outlined in clause 15.01-5L-01 (Neighbourhood character – Kingston) and clause 55.02-1 (Standard B1 of ResCode) of the Kingston Planning Scheme.
4. The proposal is not consistent with the purpose of the General Residential Zone (Schedule 3) at Clause 32.08 of the Kingston Planning Scheme as the proposal does not provide a design outcome that is respectful of the existing and preferred neighbourhood character.
5. The proposal fails to respond appropriately to the Neighbourhood Residential Zone – Schedule 7 (NRZ7) which will be the relevant control for the property under Planning Scheme Amendment C203 (Kingston Housing Strategy and Neighbourhood Character Study). The amendment is now defined as a seriously entertained planning proposal.

Cr Cochrane left the meeting at 7:42pm.

Cr Cochrane returned to the meeting at 7:42pm.

CARRIED

FOR: Crs Eden, Oxley, Davies, Hill, Hua and Bearsley (6)

AGAINST: Cr Saab (1)

ABSTAINED: Crs Davey-Burns and Cochrane (2)

7.3 Planning Scheme Review

Moved: Cr Hill

Seconded: Cr Davies

That Council:

1. Note the submissions received to the draft Planning Scheme Review 2023 resulting from public consultation as provided at Appendix 1.
2. Endorse the Final Planning Scheme Review Report 2024 and submit it to the Minister for Planning as provided at Appendix 2.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

7.4 Submission to SRL Draft Precinct Visions

Cr Davies left the meeting at 7:53pm.

Cr Eden left the meeting at 7:54pm.

Moved: Cr Saab

Seconded: Cr Hill

That Council:

1. Endorse the submission to the SRLA Draft Precinct Visions attached at Appendix 3 with the following suggested changes:
 - a) Request that the Cheltenham Draft Precinct Vision document updated to more explicitly make reference to the locations where dedicated shared user paths should be pursued on Figure 5. 'Cheltenham Draft Precinct Plan' and in 'Preliminary Idea 5' to outline a preferred and continuous alignment more explicitly along the Frankston rail corridor.
 - b) The Clayton Draft Precinct Vision document updated to show desired shared use path connections in Figure 5 'Clayton Draft Precinct Vision' into Kingston's established and planned shared user path network.
2. Write to the Suburban Rail Loop Authority advising of our endorsed submission and highlighting the quick wins Council would like to see delivered by the SRLA.
3. Write to the Minister for Suburban Rail Loop and Minister for Transport Infrastructure; the Hon. Danny Pearson seeking a whole of Government approach to Precinct Planning including the short-term delivery of key open space opportunities and a new Highett kinder.

Cr Eden returned to the meeting at 7:55pm.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Hill, Hua, Bearsley and Saab (8)

AGAINST: Nil (0)

7.5 Climate and Ecological Emergency Response Plan - Update

Moved: Cr Hill

Seconded: Cr Bearsley

That Council:

1. Receive the report; and
2. Note that this update will be provided to Council's Audit and Risk Committee.

Cr Davies returned to the meeting at 8:02pm.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

8. Community Strengthening Reports

Nil

9. Infrastructure and Open Space Reports

9.1 Contract 22/029 - Bushland and Foreshore Weed Control of Defined Sites

Cr Eden left the meeting at 8:08pm.

Moved: Cr Davies

Seconded: Cr Bearsley

That Council:

1. Award Contract 22/029 Bushland and Foreshore Weed Control of Defined Sites to Seeds Bushland Management for the initial three-year contract term, at an estimated annual cost of \$373,920 excluding GST subject to rise and fall, equating to an estimated maximum five year contract cost of \$2,056,560 excluding GST subject to rise and fall (which includes a two year option to extend at Council's discretion); and
2. Delegate authority to the CEO to exercise the two-year contract extension option, subject to the Contractors satisfactory performance during the initial three-year contract term.

CARRIED

FOR: Crs Davey-Burns, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (8)

AGAINST: Nil (0)

9.2 Contract 18/50 - Stormwater Drainage Maintenance

Moved: Cr Davies

Seconded: Cr Hill

That Council:

1. Endorse the continued operation of Contract 18/50 awarded to GMA Environmental Services & Veolia Water Technologies up to a total cost of \$6,050,000 excluding GST, for the remainder of the available contract life; and
2. Approve the additional \$1,500,000 excluding GST funding be included in the budget processes.

CARRIED

FOR: Crs Davey-Burns, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (8)

AGAINST: Nil (0)

9.3 Special Rates and Special Charges Policy

Moved: Cr Davies

Seconded: Cr Cochrane

That Council adopt the Special Rates and Special Charges Policy.

CARRIED

FOR: Crs Davey-Burns, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (8)

AGAINST: Nil (0)

6. Customer and Corporate Support Reports

10.1 Local Government Victoria Reforms Consultation

Moved: Cr Hill

Seconded: Cr Cochrane

That Council submit the feedback provided in Appendix 2 to Local Government Victoria in relation to the proposed Local Government Reforms.

Cr Hua left the meeting at 8:10pm.

Cr Eden returned to the meeting at 8:11pm.

Cr Hua returned to the meeting at 8:20pm.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

10.2 Governance and Compliance Report

Cr Hill left the meeting at 8:22pm.

Moved: Cr Oxley

Seconded: Cr Davies

That Council:

1. In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, resolves that:
 - a) There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument
 - b) The instrument comes into force immediately upon this resolution being made and is to be signed by the Council's Chief Executive Officer and the Mayor
 - c) On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked
 - d) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt;
2. Receive the register of lobbyists as attached at Appendix 3;
3. Receive the Informal Meetings of Councillors Records as attached at Appendix 4; and
4. Receive the minutes from the December Audit and Risk Committee Meeting as attached at Appendix 5.

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5. Defer consideration of the proposed update to the CEO delegation until the March Ordinary Council Meeting.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hua, Bearsley and Saab (8)

AGAINST: Nil (0)

11. Chief Finance Office Reports

11.1 Commercial Use of Council Land Policy

Cr Hill returned to the meeting at 08:26pm

Moved: Cr Bearsley

Seconded: Cr Davies

That Council endorse the draft Commercial Use of Land Policy 2024 for community consultation.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

11.2 Quarterly Finance Report December 2023

Moved: Cr Oxley

Seconded: Cr Saab

That Council note:

1. The December 2023 quarterly financial report; and
2. The Statement by Chief Executive Officer, as required under section 97(3) of the Local Government Act 2020 that a revised budget is not required.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

12. Notices of Motion

12.1 Notice of Motion No. 1/2024 - Cr Oxley - Parking in Chelsea

Moved: Cr Oxley

Seconded: Cr Bearsley

That, noting the significant issues with safety and car parking in the Chelsea vicinity particularly on hot weather days, Officers provide a report to Council outlining the options for the introduction of paid parking for non-residents in the car parks surrounding the Chelsea Shopping Strip and Woolworths in Chelsea.

The report is to consider and provide information on:

1. Paid Parking
2. Certain number of hours/minutes free for shoppers
3. Free parking for those with resident/foreshore parking permits
4. Street paid parking options during Summer
5. Fine data for the Chelsea Area in recent periods

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua, Bearsley and Saab (9)

AGAINST: Nil (0)

12.2 Notice of Motion No. 2/2024 - Cr Oxley - Foreshore Waste Collection

Moved: Cr Oxley

Seconded: Cr Davies

That, considering that:

1. Council has been aware of numerous days between early January to now where Rubbish has been overflowing at bins along the foreshore area between Apsendale and Carrum and blowing along the foreshore and into the bay.
2. Ward Councillors have been seeking solutions to the ongoing matter via numerous channels including emails (copied to all Councillors multiple communications with the Mayor and CEO) and separate phone conversations and emails with staff.
3. Most recently over the weekend of 10th and 11th February the issue of overflowing bins along the foreshore has still yet to be resolved and rubbish still continues to overflow from bins and into the bay most recently reported at 9.15am on 12th February.
4. This issue has been ongoing for an unacceptable period of time with Council unable to manage the peak season of foreshore usage with regard to rubbish. This issue is re-occurring.
5. The issue is not “unprecedented”, and has occurred previously and responses including deployment of extra bins, skip bins and additional collections have occurred in prior years.

Council:

1. Until the end of April, provide extra red-lidded rubbish bins or similar for the purposes of general waste in at least 35 street entrances to the foreshore between Aspendale and Carrum. (If it is not possible to be placed in this location, that the bins be placed as close as possible to this location). That priority be given to locations known to be high traffic, near car parks, life saving clubs or the Chelsea Pier.
2. Provides extra signage on the beach directing beach goers to the nearest rubbish bin location.
3. Receive an urgent report from officers outlining operational changes that can be made/considered by the contractor including consideration of the following:
 - a. Different Bin Locations
 - b. Extra Collections during warm weather
 - c. Earlier collection so that bins are collected prior to 7.30am
4. Receive a report in September about the upcoming plans and considerations for the upcoming Summer period.

Cr Cochrane left the meeting at 8:39pm.

Cr Cochrane returned to the meeting at 8:41pm.

CARRIED

FOR: Crs Davey-Burns, Eden, Oxley, Cochrane, Davies, Hill, Hua and Bearsley (8)

AGAINST: Nil (0)

ABSTAINED: Crs Saab (1)

Note: Cr Saab requested through the Chair and was granted an additional two minutes to speak on the matter.

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13. Urgent Business

Nil

14. Confidential Items

Nil

The meeting closed at 8.56pm.

Confirmed.....

The Mayor 25 March 2024