



Council Meeting - Minutes

Held on Monday 28 November 2022

**Council Chamber, Malvern Town Hall
Corner Glenferrie Road & High Street Malvern**



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The meeting commenced at 7:00pm

Councillors Present:

Cr Jami Klisaris, Mayor
Cr Melina Sehr, Deputy Mayor
Cr Nicki Batagol
Cr Kate Hely
Cr Matthew Koce
Cr Alexander Lew
Cr Polly Morgan

Apologies:

Cr Mike Scott (Leave of Absence)
Cr Marcia Griffin (Leave of Absence)

Council Officers Present:

Rick Kwasek	Acting Chief Executive Officer
Annaliese Battista	Director Planning & Place
Cath Harrod	Director Community & Wellbeing
Simon Holloway	Acting Director Environment & Infrastructure
David Thompson	Executive Manager Legal & Governance
Julia Gallace	Acting Director Organisation Capability
Mat Burke	Manager Corporate Strategy & Performance
Judy Hogan	Civic Support Officer
Loren Lawford	EA Mayor & Councillors

1 Reading of the Statement of Reconciliation

The Mayor, Cr Jami Klisaris read the following Statement of Reconciliation:

We acknowledge we are meeting on the Traditional Lands of the Wurundjeri Woi Wurrung and Bunurong peoples of the East Kulin Nations and pay our respect to their Elders past, present and emerging.

We extend that respect to all Aboriginal and Torres Strait Islander peoples. We acknowledge their living connection to Country, relationship with the land and all living things extending back tens of thousands of years.

2 Reading of the Statement of Commitment

The Mayor, Cr Jami Klisaris read the following Statement of Commitment:

We are reminded that as Councillors we are bound by our Oath of Office to undertake the duties of Councillor in the best interests of the people of the City of Stonnington and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act and any other relevant Act.

3 Introduction of Councillors & Executive Staff

The Mayor, Cr Jami Klisaris then introduced the Councillors and the Acting Chief Executive Officer introduced the Council officers present.

4 Apologies

The Mayor, Cr Jami Klisaris informed the meeting that Cr Mike Scott was an apology for the meeting and had previously been granted a leave of absence.

The Mayor, Cr Jami Klisaris then informed the meeting that Cr Marcia Griffin was an apology for the meeting.

PROCEDURAL MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Polly Morgan

That the apology received from Cr Marcia Griffin for non-attendance at the Council Meeting of 28 November 2022 be accepted and leave of absence granted.

Carried

5 Confirmation of the Minutes of the previous meeting

5.1 Minutes of the Council Meeting held on 14 November 2022

MOTION:

MOVED: Cr Kate Hely

SECONDED: Cr Nicki Batagol

That the Minutes of the scheduled meeting of the Council held on 14 November 2022 be confirmed as an accurate record of the proceedings.

Carried

6 Disclosure of Conflicts of Interest

The Acting Chief Executive Officer foreshadowed he would declare a conflict of interest and the nature of the conflict of interest during Confidential Business.

7 Questions From the Community

Mr Hurlston - Response to Questions asked at the Council meeting on 14 November 2022.

Question 1

“Given council staff and councillors raised serious concerns over “appropriate” spending of the traders associations (using “public money”) will council commit to a full investigation of all council staff, executive and councillor expenses and a public report of same”?

Response

Council has a strong audit program incorporating internal and external audits with oversight by the Audit and Risk Committee which has 4 independent members on it.

Council also recently completed our annual VAGO audit in addition to an internal audit of accounts payable and procurement with no material findings and have continued to present healthy financial audits over many years.

Councils Auditors HLB Mann Judd, undertook a review of Councillor Expenses in April 2022 with no material findings, the results of which were reported to the Audit and Risk Committee.

Hoping this gives you comfort as to the extensive and ongoing monitoring of financial risks already undertaken by Council.

Question 2

“Given the collapse of an ADCO project in Boroondara, what has council done to ensure the safety and integrity of the ADCO building site at Percy Treyvaud Park”?

Response

Council have met with ADCO in relation to the matter and given the alternate contract model, construction methodology and proposed structure Council is satisfied that ADCO are managing the Percy Treyvaud site safely and in line with Construction Management Plans and Project Requirements. Council will continue to liaise with ADCO in relation to the incident as findings come to hand.

Question 3

“Given councillors approved the meeting minutes and supporting documents in relation to the service review, no longer confidential, on what grounds does council continue to refuse to release the recording of the debate”?

Response

I have interpreted your question to relate to the Council resolution of 10 October 2022. Should this interpretation not be correct, please let me know. To assist, a copy of the Council resolution follows:

1. That the Council resolve to determine that the following information is no longer confidential information and should immediately be publicly available:
 - a) the individualised Grant Thornton Financial and Governance Audit Reports and individualised Deloitte Survey Findings;
 - b) the officer report titled ‘Service Review’ (Item 16.1) presented to Council on 26 September 2022;
 - c) the minutes relating to Item 16.1 from the Council meeting on 26 September 2022.

As is self-evident, there is no reference in the Council resolution to release the recording of the debate.

To further assist, at the Council meeting on 26 September 2022, the Council resolved to close the meeting to the public in accordance with the *Local Government Act 2020* (Vic) to discuss confidential agenda item titled 16.1 Service Review. As such, I take this opportunity to bring to your attention section 38 of the *Freedom of Information Act 1982* (Vic) which is to be read in conjunction with section 125 of the *Local Government Act 2020* (Vic).

Mr Hawkins - Response to Questions asked at the Council meeting on 14 November 2022.

Question 1

“As part of Korowa's planning permit for their pool development, a condition was imposed as part of the Council permit that the new pool could not be used on a Sunday or public holidays. I refer to the minutes of the Council of 15 September 2019 for the documentation of these conditions. Korowa Aquatics are now advertising swimming lessons at the pool between 8.00am and 1.00 on a Sunday, which is in direct conflict with the condition imposed on the planning permit (1121/18). Has this condition has been removed by the council”?

Question 2

"If not, please advise how the school is able to ignore a condition imposed by the council as part of the planning permit and offer the use of the pool outside of the prescribed times. Operating hours can be found at KorwaraAcquatics.com and is also referenced in the programs which are offered on a Sunday"?

Question 3

"Should the school request permission from the Council to operate on a Sunday, will residents be consulted prior to the Council consider granting any such permission as you would find general discontent with any such proposal"?

Question 4

"Has the school also complied with each of the other conditions imposed on them as part of the Planning Permit, or have they disregarded these as well"?

Response

Thank you for bringing this matter to our attention. Please be advised that officers have investigated the concerns that Korowa Girls School at 10-16 Ranfurle Crescent, Glen Iris, was advertising the use of the pool for swimming lessons on Sunday, as the School's Planning Permit requires there be "no use on Sundays and public holidays" of the swimming pool without the written consent of the Council.

Enforcement action was taken, which included a Letter to Comply being issued to the Korowa Girls School requiring that the use of the swimming pool complies with their Planning Permit.

In response to the enforcement action, the school has now confirmed in writing that no swim classes are occurring on Sundays. I confirm their website has been updated to remove reference to swim classes on Sundays.

One (1) set of questions from a member of the community were submitted to the Council. In accordance with the Governance Rules, a summary of the questions submitted by Mr Hurlston follow.

Question 1 - what actions have been taken by the Council regarding the use of a Council premise by the City on a Hill Church?

Question 2 - recognising the Labor Party election promise, if re-elected, to end a freeze on late-night liquor licences in the City of Stonnington, what is the Council position?

Question 3 - with the Sex Work Decriminalisation Act 2022 being passed by the Victorian Parliament, what is the Council position on how it will manage enforcement and compliance with the legislation?

The Mayor, Cr Jami Klisaris, stated a written response to the questions will be sent to Mr Hurlston within ten (10) business days in accordance with the Customer Charter. Further, in accordance with the Governance Rules, the responses will then be tabled and inserted into the Minutes of the following Council meeting.

8 Business

8.1 Quarterly CEO Update - Q1 FY23

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Nicki Batagol

That the Council:

- 1. APPROVE the Q1 FY23 CEO Update (Attachment 1) for public release.***

Carried

8.2 Planning Scheme Review

MOTION:

MOVED: Cr Kate Hely

SECONDED: Cr Matthew Koce

That the Council:

- 1. ENDORSE the Stonnington Planning Scheme Review.***
- 2. NOTE the Stonnington Planning Scheme Review Community Engagement Report.***
- 3. AUTHORISE Council Officers to submit the Stonnington Planning Scheme Review and Community Engagement Report to the Minister for Planning in accordance with Section 12B of the Planning and Environment Act 1987.***
- 4. AUTHORISE the Director Planning and Place to make minor changes to the Stonnington Planning Scheme Review where they do not impact the intent of the Review.***

Carried

8.3 Proposed Discontinuance of Right of Way abutting 2-3 Gahan Court, Toorak - Public Submissions hearing

MOTION:

MOVED: Cr Kate Hely

SECONDED: Cr Matthew Koce

That the Council:

- 1. NOTE that 16 formal submissions were received and considered under the two section 223 processes, in respect to Council's proposal to discontinue and sell the road known as part of the laneway abutting 2-3 Gahan Court, Toorak.***
- 2. NOTE that Council received no requests from submitters wishing to be heard in person at the Hearing of Submissions.***

3. **DECLINE** the request to discontinue the laneway abutting 2-3 Gahan Court, Toorak, which is shown in the plan contained in Schedule 1 to this Report, being the whole of the land contained in certificate of title volume 9680 folio 653 (Road), having followed the required statutory procedures pursuant to sections 207A and 223 of the Act, and pursuant to its power under clause 3 of Schedule 10 of the Act.
4. **ADVISE** the applicants of this Council decision.

Carried

8.4 Electric Vehicle Charging Infrastructure Policy

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Kate Hely

That the Council defer the consideration of the Electric Vehicle Charging Infrastructure Policy for one Council meeting cycle.

Carried

8.5 Communications and Engagement Plan - Parking Action Plan

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Jami Klisaris

That the Council:

1. **ENDORSE** officers to undertake broad community and stakeholder engagement to inform the development of a Stonnington Parking Action Plan.
2. **APPROVE** the community engagement to be undertaken in line with the Communications and Engagement Plan attached to this report.
3. **NOTE** that a report will be brought back to Council with the outcome of the consultation.

Carried

8.6 Quick Response Grant

MOTION:

MOVED: Cr Polly Morgan

SECONDED: Cr Melina Sehr

That the Council:

1. **ENDORSE** the Quick Response Grants funding recommendation as per Attachment 1; and

- 2. NOTE that Quick Response Grants will remain open until the funds are fully expended.**

Carried

8.7 Financial Report Q1 2022

MOTION:

MOVED: Cr Melina Sehr

SECONDED: Cr Polly Morgan

That the Council:

- 1. NOTE the Council Financial Report for the period ending 30 September 2022, which is projecting a full year surplus of \$36.93 million (including Open Space Contributions and Capital Grants) which is \$1.23 million favourable compared to the budget of \$35.71 million (refer Attachment 1 – Income Statement);***
- 2. NOTE the Council Financial Report for the period ending 30 September 2022, which is projecting an adjusted surplus of \$11.74 million (excluding Open Space Contributions and Capital Grants) which is \$0.14 million favourable compared to the budget of \$11.60 million (refer Attachment 1 – Overview - Year to Date and Full Year comparison);***
- 3. NOTE that on 30 September 2022 the Council has spent \$19.97 million of the capital program, \$3.68 million ahead of the Year to Date adopted budget (refer Attachment 1 – Capital Works Expenditure).***

Carried

9 Correspondence

There was no correspondence tabled at the meeting.

10 Tabling of Petitions and Joint Letters

Cr Matthew Koce tabled a petition regarding law and order issues at a premises in Oxford Street, South Yarra.

PROCEDURAL MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Kate Hely

That the Council resolve:

- 1. The petition be received and noted.***
- 2. The petition be referred to the Director Planning & Place for consideration.***
- 3. The first named signatory to the petition be advised of the Council decision.***

Carried

11 Notices of Motion

11.1 Notice of Motion 08/2022: Crs Lew, Batagol, Griffin and Hely

MOTION:

MOVED: Cr Alexander Lew

SECONDED: Cr Nicki Batagol

Notice of Motion 08/2022:

Council resolve:

1. *That Council request that the Chief Executive Officer consider what controls and processes should be implemented when purchasing properties for the provision of open space.*
2. *That a report be brought back to the Council on this issue within 6 months.*

Carried

12 Reports by Councillors

The Mayor, Cr Jami Klisaris sought the leave of the meeting for Item 12.2 Minutes of the Audit & Risk Advisory Committee and Item 12.3 Record of Councillor Briefing Session held on 21 November 2022 to be moved as an en bloc motion.

Leave of the meeting was granted.

12.2 [Minutes of the Audit & Risk Advisory Committee Meeting held on 5 October 2022](#)

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Melina Sehr

That the Council:

1. *NOTE the minutes of the meeting of the Audit & Risk Advisory Committee held on 5 October, 2022.*

Carried

12.3 Record of Councillor Briefing Session held on 21 November 2022

MOTION:

MOVED: Cr Nicki Batagol

SECONDED: Cr Melina Sehr

That the Council RECEIVE the Record of the Councillor Briefing Session held on 21 November 2022.

Carried

Cr Kate Hely informed her colleagues about her attendance and the matters discussed at the Climate Emergency Advisory Committee meeting held on 5 November 2022.

Cr Polly Morgan as the Chair of the Disability and Inclusion Committee took the opportunity to thank all committee members for their work during the year and praised the individuals who worked in the disability field.

Cr Matthew Koce as the Chair of the Community Recovery Committee informed his colleagues about his attendance and the matters discussed at the Community Recovery Committee meeting held on 24 November 2022.

13 Questions to Council Officers

Cr Alexander Lew asked the following question of the Acting Chief Executive Officer:

I refer to an item in a quarterly report from the Local Government Inspectorate. It refers to the issue of councillors being warned about personal interest returns and two Councillors who have breached s134 of the Local Government Act 2020. Did you read that email and are you familiar with article?

The Acting Chief Executive Officer responded.

Cr Alexander Lew then asked the following question of the Acting Chief Executive Officer:

Did that article cause you to review any returns published on Stonnington's website?

The Acting Chief Executive Officer responded.

Cr Alexander Lew then requested the Acting Chief Executive Officer to:

Review previous returns provided to the Chief Executive Officer by councillors and report to the next Council meeting. Cr Alexander Lew stated he had not asked the Acting Chief Executive Officer to disclose any confidential information provided to the Chief Executive Officer and the Local Government Inspectorate.

Cr Alexander Lew then remarked he had asked the Acting Chief Executive Officer to look at the returns and advise the councillors if any Stonnington Councillors have put on their returns words to the effect 'information provided to the Chief Executive Officer'.

The Acting Chief Executive Officer responded he would take the request on notice.

14 Urgent Business

There was no urgent business submitted to the meeting.

15 General Business

Cr Matthew Koce informed the meeting of the passing of Mr Emil Giles founder of the Toorak Village Residents Action Group Inc (TVRAG) on 20 November 2022. Cr Matthew Koce then provided the following vale for Emil Giles:

Emil founded Toorak Village Residents Action Group Inc back in 1995 and was for many years it's president. After years in that role, he passed the batten to others and a few years ago made a decision to act only as any adviser to the Committee. As we all know Emil was passionate about TVRAG and continued to be a member of and the heart of TVRAG.

All Councillors present and passed will have had a phone call from Emil and in many cases many calls. He was a successful business man working for many years in New York banking and then moving back to Australia and to Toorak Village. He supported Council and Councillors where he felt support was deserved and earned but was on the phone when he felt they needed advice.

Emil was central to the members gifting to Council \$85,000 to the cost of installation of CCTV cameras in Toorak Village, he attended many meetings in the lead up to the formation of the various zoning plans and worked behind the scenes to express his view. He died peacefully Sunday morning 20 November 2022. He had been ill for some time and was a force of nature right till the end.

Cr Alexander Lew commented that it had been reported in the quarterly report of the Local Government Inspectorate that two Councillors had been warned they were in contravention of clause 134 (1) of the Local Government Act 2020. Cr Alexander Lew Stated he was unaware if the report refers to Stonnington Councillors and it had caused him to review personal interests returns. Further, it appeared that two councillors have said the words to the effect of 'provided to the Chief Executive Officer'.

The Mayor, Cr Jami Klisaris stated she was pleased to announce that the City of Stonnington has received another award, this time on the international stage for Prahran Square.

The Mayor, Cr Jami Klisaris then remarked the Acting Chief Executive Officer had virtually accepted the Excellence Award for Urban Habitat/District Master Plan Scale at the 2022 Council on Tall Buildings and Urban Habitat (CTBUH) Awards, which was hosted in Chicago. We are very proud of our award winning Prahran Square, and this award joins a number of others for the design, architecture, and planning of cultural landscape and public spaces. Congratulations to everyone involved in the project.

16 Confidential Business

MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Nicki Batagol

- 1. That, in accordance with sections 66(1) and 66(2)(a) of the Local Government Act 2020, the meeting be closed to members of the public for the consideration of the agenda items titled:**

16.1 Personnel Matter

16.2 Prahran Market Board Appointment

- 2. These agenda items are confidential information for the purposes of section 3(1) of the Local Government Act 2020 because:**
 - (a) Item 16.1 is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f));**
 - (b) Item 16.2 is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f)); and**
 - (c) these grounds apply because the agenda items concern personal information and the premature disclosure of the personal information could be prejudicial to the interests of other persons and the Council.**

Carried

The Council meeting was closed to the public at 8:06pm

Re-Opening of Council Meeting to the Public

PROCEDURAL MOTION:

MOVED: Cr Matthew Koce

SECONDED: Cr Nicki Batagol

That the Council resolve that the Council meeting be re-opened to the public.

Carried

The Council meeting was re-opened to the public at 8:10pm with all Councillors present except Cr Marcia Griffin and Cr Mike Scott.

The meeting concluded at 8:10pm

Confirmed on 12 December 2022.

.....
CR JAMI KLISARIS, MAYOR