



MEETING OF THE PORT PHILLIP CITY COUNCIL

MINUTES

3 JULY 2024



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**MINUTES OF THE MEETING OF THE PORT PHILLIP CITY COUNCIL HELD
3 JULY 2024 IN ST KILDA TOWN HALL AND VIRTUAL VIA TEAMS**

The meeting opened at 6:33pm.

IN ATTENDANCE

Cr Crawford (Chairperson), Cr Bond, Cr Clark, Cr Martin, Cr Nyaguy, Cr Pearl (virtually), Cr Sirakoff.

Chris Carroll, Chief Executive Officer, Lauren Bialkower, Acting General Manager City Growth and Development, Tarnya McKenzie, Interim General Manager Community Wellbeing and Inclusion, Lachlan Johnson, General Manager, Operations and Infrastructure, Claire Stevens, General Manager Organisational Capability and Experience, Joanne McNeill, Executive Manager Governance and Organisational Performance, Xavier Smerdon, Head of Governance, Rebecca Purvis, Senior Council Business Advisor, Eden Aspinall, Council Business Advisor, Dana Pritchard, Manager Open Space, Recreation and Community Resilience, Nellie Montague, Manager Safety & Amenity

The City of Port Phillip respectfully acknowledges the Traditional Owners of this land, the people of the Kulin Nations. We pay our respect to their Elders, past and present. We acknowledge and uphold their continuing relationship to this land.

1. APOLOGIES

No apologies were received. It was noted that Mayor Heather Cunsolo and Councillor Tim Baxter were on approved leaves of absence.

2. CONFIRMATION OF MINUTES

MOVED Crs Martin/Nyaguy

That the minutes of the Meeting of the Port Phillip City Council held on 19 June 2024 be confirmed.

That the minutes of the Special Meeting of the Port Phillip City Council held on 26 June 2024 be confirmed.

A vote was taken and the MOTION was CARRIED unanimously.

3. DECLARATIONS OF CONFLICTS OF INTEREST

Nil



CONDOLENCE MOTION – JEANNENE SIMMONS

MOVED Cr Martin/Bond

That Council

1. Expresses its deep regret on the passing of Jeanene Simmons
2. Offers its sincere condolences to their family and places on record its appreciation for their service to the City of Port Phillip.

A vote was taken and the MOTION was CARRIED unanimously.

REMOVAL OF AGENDA ITEM

The Chair advised the meeting that in accordance with Rule 19 of Council's Governance Rules, item 13.1 – *Civic and Community Flag Protocol*, was removed from the agenda and would be tabled at a future Council Meeting.

4. PUBLIC QUESTION TIME AND SUBMISSIONS

Public Questions are summarised below. The submissions were made verbally and can be listened to in full on our website: <http://webcast.portphillip.vic.gov.au/archivephp>.

Public Question Time:

- **Chris Sargood** - Several gates to the Elwood Primary School Park were zip tied at around 5:30 pm last Saturday afternoon. This severely limits the use of this public space and is potentially dangerous, especially after dark. Two people wearing orange high-vis jackets were seen fastening these ties. Given that they were almost certainly council employees, is this action permitted under the Guidelines for Open Space Management, and if not, what will be done about it?

Nellie Montague, Manager Safety & Amenity, confirmed that it was Council Animal Management officers that zip tied some of the gates at Elwood Primary School Park on Saturday the 29th of June. The cable ties were put in place to attempt to prevent dog owners from re-entering the park and unleashing their dogs, as officers were concerned about the children playing on the astroturf within the reserve. However, officers were not directed to do this and it was not done in consultation with their supervisor. Once alerted to this action, the supervisors have instructed officers to remove the cable ties and not to undertake this kind of action again. We apologise to the community for any inconvenience caused and can confirm cable ties will not be put back on the gates.

- **Beti Jay** - There is intrusive lighting and artwork that is affecting the sleep and sanity of many residents in Port Phillip. 11 Eastern Rd in South Melbourne is ablaze with neon lighting all night. The Oasis residence on Kings Way, South Melbourne, has uber-bright lighting on the top of the building, yet no one lives there yet. Beach House in St Kilda has got the glaring light on top also. We are all entitled to peace and enjoyment of our homes, so we the residents also want to know how and why these buildings were approved to have, what we consider to be light pollution, and what is the Council doing to ensure the peace of its current residents while approving so much new development for future residents. What can you do to help and support the local community and the future builds in this area?

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Lauren Bialkower, Acting General Manager City Growth and Development, advised that external lighting on buildings is a common design element to accentuate the architecture. Lighting design on buildings is required to have regard to Australian Standards for the 'Control of the obtrusive effects of outdoor lighting'. Council has a limited role in the approval of external lighting on buildings, however can investigate whether lighting adversely impacts the amenity of a neighbourhood. In relation to the question about Council approval – 11 Eastern Rd does have a lighting strategy that forms part of their permit, however, this strategy shows where the lights are, but doesn't specify the levels of lighting. The permit for Oasis has no reference to lighting so Council is happy to work with community members further to investigate the amenity of the issue raised.

- **Katrina Brereton** - I'd really like to hear or discuss the Council's reasoning on why they haven't provided us dog owners (and as you know, the dog ownership in Elwood has been exponentially increased over the last few years) why there isn't an off-leash area where we can safely exercise our dogs, because part of responsible dog ownership is allowing dogs off the lead to exercise. Why is the Elwood Primary School green space and the Mitford Street space no longer allowed as an off-leash area at 5am, at 10pm at night? It's just not feasible or safe for us to go to Moran Reserve, Elsternwick Park; which are the suggestions animal management has given; I mean Elsternwick Park isn't even a part of Port Phillip Council, but we're continually told to go there.

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that Elwood School Reserve is on land managed by the Department of Education (DET), and Council has a Joint Use Agreement with the School for community use of the facilities outside of school hours. It has been a dog on-leash space for an extended period; they were unsure of the exact history but advised that officers will look into it through the dog off-leash guidelines and through the live petition council has at the moment. Any changes to this status of this reserve could only be made by Elwood Primary School or the Department of Education. As Council is not the owner or committee of management for the reserve, Council cannot make any decisions about the use of the land and can only advocate to Elwood Primary School and DET for any changes in use. Through the development of the Dog Off-Leash Guidelines we are looking for other opportunities in Elwood, including how we can make improvements to our existing dog off-leash areas to make them safer and more accessible. We will use the feedback provided tonight regarding safe spaces to help inform that work. The Guidelines will be brought to a Council meeting on 21 August.

- **Michael Barrett** - An article in the Herald Sun newspaper on 2 September 2023 referred to the imminent sale of Citywide. In the council meeting following the publication of this article (6th September 2023), I asked the CEO of the City of Port Phillip whether he was aware of the sale of Citywide, he responded in the negative. In the time between this response of 2 September 2023 and the motion to council of 19 June 2024, could the CEO advise when he was first advised by Citywide as to the proposed sale of the business by the City of Melbourne and their declared reasons for the sale?

I understand from a question that I asked at the last Council Meeting on June 19th 2024 that the City of Port Phillip Risk & Audit Committee will be presenting its annual report to council in one of the scheduled council meetings in August. Could I please have the date on which the committee will be presenting its report and given some of the risk and audit issues occurring in the City of Port Phillip during the course of 2023/24, I request that the members of the Audit & Risk committee be physically present at the

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council meeting and be available to take questions from the public gallery after their presentation of their report to council.

Chris Carroll, Chief Executive Officer, stated that the timing of the council report was not related to the announcement by the City of Melbourne and Citywide. Council was not aware of the sale at the time of its report and we did not coordinate with them on the release of our report. The first time officers were advised by Citywide of the proposed sale was the morning of the sale announcement on 24 June, via an email from the CEO which included a copy of the press release. I received a phone call from the City of Melbourne CEO on the same morning advising the same. In response to the ongoing media speculation, I had previously asked the CEO of Citywide in a phone call in late February 2024, whether their waste business was being sold. He said there was nothing he was able to discuss with me and would communicate with me on this if, and when, appropriate. The sale of Citywide's waste business did not form part of our settlement negotiations. Officers were aware that may have been an eventuality and we planned appropriately in terms of those negotiations for potential outcomes.

Joanne McNeill, Executive Manager Governance and Organisational Performance, advised that they were happy to provide the date of the meeting when confirmed. Regarding attendance at the meeting by Audit and Risk Committee (ARCo) Committee members, they advised that there are Councillors in that committee and they will be in attendance, however, it's not in the remit of the independent members to attend.

- **Alex Makin** - The Engagement Summary Report of May 2024 commissioned to look at the Draft Dog Off-Leash Guidelines notes that written submissions were received as part of the review process. I just wondered if Council could further clarify the context in which those written submissions were received and what level of feedback will be provided around those written submissions. The current summary report doesn't go into the same level of detail around the written submissions as it does to the survey responses and how, after all that fact, residents or respondents will be notified of what Council has considered as part of those submissions?

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that the dog off leash guidelines went out to engagement in May and April, earlier this year. We have heard back from the community and the information is included in the report published on the website. All feedback received has been read, this includes the submissions we received both via email and through our 'Have Your Say' page. It is being used to inform the guidelines and included in the engagement summary report. The feedback has clearly shown that major changes were required to the draft guidelines and this work is now underway. The updated Guidelines will be brought to Council on 21 August.

- **Terence Glenane** – Why has council not addressed the eight different time zones that their dogs can go on various beaches? We cannot understand why this hasn't been standardized. We can't understand why one beach has one time and a hundred metres down the road has totally different times. I would like council to address this and make it a lot easier for all user groups to have a standard time. Year after year, we ask for signage for the beaches. The one classic example of a 24/7 dog off-leash beach which is in a heavily polluted area, but the signage is literally one A4 page designating that it's a dog beach. So consequently, we have two problems – people not seeing the sign, it's impossible to see. I direct people to the sign and they still can't find it. People showing up on beaches that are heavily polluted and shouldn't be there in the first place. And two is, they're interacting with dogs and they can't understand why dogs are there. They come to the beach with picnics and all sorts of things, and of course, the dogs go

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for it and occasionally there's chaos. Please put a decent sign up. It hasn't happened, why hasn't it happened?

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that Council is looking at dog off leash areas including beaches across the municipality. In that work we will look at the times of use and whether standardisation is an option. There are some site-specific reasons for the different times and they will be taken into consideration through this process. The dog signage is part of the implementation plan for the dog off-leash guidelines. There will be a project to install them that will begin post adoption of the guidelines.

- **Louisa Larkin** - Given the negative feedback from the whole community on the DOLG, would Council consider dropping them and instead, set up a park usage education program encouraging respect between all park users as well as an education program encouraging respect between all park users for dog owners in open spaces? Many dog off-leash parks lack adequate lighting, and dog owners, especially women, feel unsafe walking their dog at night. What plans does the Open Spaces team have to ensure safety of dog owners in parks at night?

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that the dog off leash guidelines are an action in the public space strategy and the Domestic Animal Management Plan. They were included as actions as there were ongoing requests from the community to change conditions of off leash areas – both for and against. The main purpose of the dog off leash guidelines is to provide a consistent framework for decision making. The updated draft guidelines will focus on this purpose. When brought to Council on 21 August the report will also consider opportunities for education programs and whether to adopt. Alongside the guidelines we are also developing design framework for dog off leash areas. This will include considerations on how improve and design for safety in these spaces

- **Justin Halliday** - Last night's article in The Age, which follows reporting by TWiSK, raises significant probity issues for Council. The article details how 'Residents of Port Phillip (ROPP)' is seeking donations from supporters, in return for access to the organisation's executive meetings. My question is - what processes does Council have in place to ensure this cash-for-access scheme does not interfere with Council's decision-making process?

Joanne McNeill, Executive Manager Governance and Organisational Performance, advised that Council requires all Councillors and officers to declare and manage conflicts of interest, or potential conflicts of interest, in accordance with its Governance Rules and council provides training to Councillors and staff as well, to ensure they understand their conflict of interest obligations and this is guided by policies and procedures to ensure adherence to the Local Government Act 2020, which overarches everything. The Local Government (Governance and Integrity) Regulations 2020 and the Governance Rules when identifying and disclosing conflicts of interest. It's important to note when talking about this issue that the obligation to identify and disclose a conflict of interest is a personal responsibility of each Councillor and each officer. They must monitor their own circumstances and identify and disclose their own conflicts of interest. Our conflicts of interest register is publicly available on Council's website. Concerns about how conflicts of interest have been managed can be raised with the Local Government Inspectorate or IBAC. This is because Council organisations do not have a role in reviewing such matters. In view of this, it is not appropriate for us to comment further.

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- **Adrian King** – What is the Council's policy with regards to the bullying of women by Council representative (any council personnel)? What legal obligation does the Council have to prevent the bullying of women by a Council representative? If a Council representative in the future were to commit an act of bullying against a woman what are the Council review processes involved? What possible sanctions are available to the Council?

Claire Stevens, General Manager Organisational Capability and Experience, advised that all council employees, irrespective of gender, are subject to Council's policies and procedures, which includes Council's Code of Conduct, Equal Opportunity, and Harassment and Bullying Policy and Prevention of Sexual Harassment Policy. In addition, Council and its staff are required to apply with relevant legislation, including the OH&S Act, Equal Opportunity Act, Sex Discrimination Act and the Fair Work Act. Council takes all concerns regarding employee conduct seriously, including allegations of bullying and harassment, irrespective of gender, and take active measures to address this when appropriate within the applicable legislative and organisational policy framework. Allegations of behaviour are investigated on their merits, and the City of Port Phillip may impose sanctions having regard to the relevant circumstances. This may include, but is not restricted to, termination of employment, disciplinary actions such as warnings, the formal requirement to undertake training or counselling, written undertakings that the behaviour has ceased and/or other measures. In regards to Councillors, they are required to comply to the relevant legislation as well, including the OH&S Act, Equal Opportunity Act and so on. Councils are also required to adopt a Councillor Code of Conduct, detailing the need to adhere to the required standards of conduct, as detailed in Section 1 of the Local Government (Governance and Integrity) Regulations 2020. This includes requirements around the positive treatment of others. Council has adopted the Councillor Code of Conduct, and all Councillors have signed it in accordance with the Local Government Act. The Councillor Conduct Framework set out in the Local Government Act 2020 provides for the management of councillor conduct and behaviour. Under the Councillor Conduct Framework, complaints against councillor behaviour are heard and determined under the Council's internal arbitration process by an independent arbiter. Complaints of serious misconduct by a Councillor are heard and determined by Councillor Conduct Panels and allegations of gross misconduct are dealt with by VCAT. Concerns over Councillor behaviour can be raised with the Local Government Inspectorate or IBAC and this is because council organisations do not have a role in reviewing such matters.

- **Brenda Forebath** – My question goes to the article in The Age today. Like many people I know, I am very concerned about the content in the article in The Age today, headed "Councillors ask watchdog to investigate funds scheme." I can see from that article that six of our nine councillors have been so concerned about the cash for access fundraising scheme launched by the Residents of Port Phillip in May this year, that they've referred the scheme for investigation by IBAC, the Minister for Local Government, and the Local Government Inspectorate. Has the CEO conducted any sort of investigation of the issues at the heart of this article prior the this letter being sent or even subsequently. Given that there's a council election in October, could these issues that the Councillors raise have an impact on the election process?

Joanne McNeill, Executive Manager Governance and Organisational Performance advised that Council requires all Councillors and officers to declare and manage conflicts of interest in accordance with the Governance Rules and provides training and support in order for everyone to individually fulfill their responsibility. Concerns over how conflicts of interest is managed for Councillors is not the role of the organization. It is the role of the Local



Government Inspectorate, or IBAC, and therefore the organisation has not undertaken its own investigation into this matter, but supports any investigation that is undertaken.

- **Annabell Jones** – Given the large number of pet registrations that we have in the City of Port Phillip, over \$500,000 a year has been raised. Where has this money been spent and in particular, towards the pet community. We do need another off-leash area, surely these funds could be spent there.

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that they could not comment as to where the money for registrations has been spent, but there is funding for another dog off leash park within the 10 year plan, as it is an action in the public space strategy. There is also funding allocated for the delivery of the dog off leash guidelines.

Chris Carroll, Chief Executive Officer, advised that resourcing is allocated to the animal management team who help with education and occasionally enforcement, and took the question regarding registrations on notice for further response.

5. COUNCILLOR QUESTION TIME

Councillor Crawford - Can we get clarity around Peanut Farm and Lagoon Reserve and whether they are changing in their dog off leash status?

Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that alongside these guidelines we are also looking at dog off leash areas across the municipality, to see how restrictions could be modified and for opportunities of new off leash areas (fenced and unfenced). We can confirm that there is no intention to change the restrictions at Peanut Farm or Lagoon Reserve and both will be remaining Dog off Leash Areas. The guidelines, petition responses and potential new dog parks will be brought to Council to consider on 21 August 2024.

6. SEALING SCHEDULE

Nil.

7. PETITIONS AND JOINT LETTERS

Nil.

8. PRESENTATION OF CEO REPORT

Nil.

9. INCLUSIVE PORT PHILLIP

Nil.



10. LIVEABLE PORT PHILLIP

10.1 Public Space Strategy 2024 Update

1. PURPOSE

- 1.1 To provide an update on the Places for People Public Space Strategy 2022-32 (PSS).
- 1.2 To recommend updates to the PSS based on feasibility, delivery timeline updates and new projects now progressing.
- 2.5 All recommended changes are listed in **Attachment 1**.

MOVED Crs Sirakoff/Bond

That Council:

- 3.1 Adopts the identified updates to the action plan *Places for People Public Space Strategy 2022-32*.
 - 3.1.1 Requests officers to include RF Julier Pump Track and Elder Smith Netball Courts as new projects within the action plan
- 3.2 Authorises the Chief Executive Officer to make minor editorial updates to the adopted Strategy, if required.

A vote was taken and the MOTION was CARRIED unanimously

11. SUSTAINABLE PORT PHILLIP

Nil.

12. VIBRANT PORT PHILLIP

Nil.

13. WELL GOVERNED PORT PHILLIP

13.2 Records of Informal Meetings of Council

1. PURPOSE

- 1.1 To report to Council the written records of Informal Meetings of Councillors at the City of Port Phillip as required by the Governance Rules.

MOVED Crs Martin/Clark

That Council

- 2.1 Receives and notes the written records of Informal Meetings of Council (attached) as required by the Governance Rules.

A vote was taken and the MOTION was CARRIED unanimously.



14. NOTICES OF MOTION

Nil.

15. REPORTS BY COUNCILLOR DELEGATES

Councillor Crawford reported that she and Councillor Bond are currently participating heavily in multiple grant programs and was very impressed by the vast amount of great community groups doing great things within our municipality. The grant awards will be coming to Council for consideration in the next few months.

Councillor Martin reported that they recently attended meetings of the LGBTIQA+ committee and the Older Persons Advisory Committee. Councillor Martin raised that both committees have raised the issue of the upcoming election period in which the committees will be on hold until the incoming Council are appointed to advisory committees. Councillor Martin asked that future appointments to these committees be done with urgency in the new term.

Councillor Pearl reported that the South Melbourne Market Committee has recently reported record attendance at the market. Councillor Pearl also noted significant changes in how the trader engagement meetings are being conducted which has had a significant positive impact. As we are now in a new financial year, the Market will be providing its annual report to Council shortly for consideration. A key component and objective of the market is financial sustainability, and I am very pleased to see the progress that the market staff have made in that regard.

16. URGENT BUSINESS

Nil.

17. CONFIDENTIAL MATTERS

MOVED Crs Nyaguy/Bond

That Council resolves to move into confidential to deal with the following matters pursuant to section 66(2) of the *Local Government Act 2020*:

17.1 South Melbourne Market Committee Membership

- 3(1)(f). personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs
- 3(1)(g(ii)). private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Reason - This report relates to appointment and remuneration of Committee members. This information would result in the unreasonable disclosure of personal information, and commercial information that if released, could



unreasonably expose the business, commercial or financial undertaking to disadvantage.

17.2 St Kilda Town Hall Chillers Replacement

3(1)(g(ii)). private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Reason - The tender evaluation has been completed however we have not awarded the contract to the nominated company and options, and it will be revealed after the council's approval.

17.3 Property Matter

3(1)(a). Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

3(1)(g(ii)). private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Reason - If the information was publicly released this would likely compromise Council's position in commercial negotiations or compromise the tenant's business undertakings and reveal commercially sensitive information.

17.4 South Melbourne Market Cleaning and Waste Management Services Award.

3(1)(a). Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

3(1)(g(ii)). private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

Reason - The report relates to a current procurement process for Waste and Cleaning Management services. If the information was publicly released this would likely compromise Council's negotiation position (commercial/financial terms) to award a contract.

A vote was taken and the MOTION was CARRIED unanimously

The meeting closed to the public at 7.22pm.

The meeting reopened to the public at 8.45pm.

As there was no further business the meeting closed to the public at 8.45pm.

Confirmed: 17 July 2024

Chairperson _____