



CITY OF
MONASH

**MINUTES OF THE ORDINARY MEETING OF
COUNCIL**

HELD ON 22 APRIL 2008

at 7.30 pm

**Council Chambers
293 Springvale Road,
Glen Waverley**

**MINUTES OF THE ORDINARY MEETING OF THE MONASH CITY COUNCIL
HELD IN THE COUNCIL CHAMBERS, SPRINGVALE ROAD GLEN WAVERLEY
ON TUESDAY 22 APRIL 2008 AT 7.30 PM.**

PRESENT: , Councillors D Manzie (Deputy Mayor & Acting Chairperson), C Baines, J Banerji, R Brown, S Dimopoulos, G Kottek, G Lake, D McGill, T Morrissey JP, C Shiell

APOLOGIES:

Cr P Klisaris (Mayor)

DISCLOSURES OF INTEREST

Cr Kottek – Items 5.3 and 5.9.

**CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL
MEETING HELD ON 1 APRIL 2008**

Moved Cr Morrissey,

Seconded Cr Dimopoulos

That the minutes of the Ordinary Meeting of the Council held on 1 April 2008, be taken as read and confirmed.

CARRIED

**RECEPTION AND READING OF PETITIONS, JOINT LETTERS &
MEMORIALS**

Nil

PUBLIC QUESTION TIME

The Mayor advised that 1 question had been received.

OFFICERS' REPORTS

1. CUSTOMER SERVICES

1.1 **Response To ALH/Taverner Hotel Group Pty Ltd Application To Victorian Commission For Gambling Regulation**

Moved Cr Banerji,

Seconded Cr Baines

That Council:

1. *Makes a submission to the Victorian Commission for Gambling Regulation (VCGR) objecting to the ALH/Taverner Hotel Group Pty Ltd application to vary their electronic gaming machines (EGMs) from 59 to 80 at the Matthew Flinders Taverner.*
2. *Objects to the application from the ALH/Taverner Hotel Group Pty Ltd to vary the number of EGMs from 59 to 80 on the following grounds:*
 - *The Matthew Flinders Taverner is situated within a State Government Regional Caps area.*
 - *An increase in EGMs in an area of low socio-economic disadvantage is inappropriate and will have a net negative social and economic impact on the community.*
 - *A relocation of 20 EGMs from Oakleigh RSL to Matthew Flinders Taverner are more likely to generate a higher expenditure as they are to be placed in a larger and busier venue.*
 - *An independent Social Impact Assessment does not recommend that the Matthew Flinders Taverner increase its EGMs, this view is supported by Council.*

Several Crs made statements regarding the submission. These are summarised below

Cr Banerji:

- Monash doesn't support the application for an increase in EGM's at the Matthew Flinders Hotel.
- There are areas of significant disadvantage within a 1 kilometre radius of the hotel.
- The social and economic impact of electronic gambling continues to increase in Monash.

Cr Baines referred to a recent Supreme Court decision to uphold an appeal against a VCAT decision to allow an increase in EGM's at a hotel. The court's decision cited the social impact on the community of electronic gambling.

Cr Dimopoulos supported the Council's position and asked if the application would have an effect on the Oakleigh RSL.

The Director Customer Services advised that an arrangement had been made by the applicant with the Oakleigh RSL that included a financial component to compensate for the proposed transfer of EGM's to the Matthew Flinders Hotel.

Cr Shiell:

- Noted that the Community Benefit Fund had not been able to provide a genuine benefit to the community.
- Commented on the increase in gambling expenditure in the Monash community.

Cr McGill

- Supported the comments of her fellow Crs.
- Highlighted the valuable charitable work performed by the Clayton RSL, using funds from the proceeds of its EGM's.

Cr Brown noted the significant community consultation the Council had undertaken in preparing its submission on the application.

CARRIED

2. HUMAN RESOURCES & ADMINISTRATION

Nil

3. CORPORATE PLANNING & FINANCE

Nil

4. INFRASTRUCTURE SERVICES

Nil

5. **CITY DEVELOPMENT**

5.1 **Trees – Former Brandon Park Secondary Site**

Moved Cr Shiell,

Seconded Cr Kottek

That the Department of Education and Early Childhood Development be advised that:-

- *the windrow of sugar gums adjacent to Strada Crescent should be retained and that a Tree Management Plan should be prepared that includes a maintenance program that will remove dead and dangerous trees and replace those trees with suitable mature species that in time will replace the sugar gums.*
- *Council is prepared to participate in the preparation of a Tree Management Plan for the windrow by providing specialist arborist expertise.*
- *Council is preparing an amendment to the Monash Planning Scheme to include the existing trees in the windrow in a Heritage Overlay.*

That the Minister for Planning be requested to authorise Council to prepare Amendment C79 to the Monash Planning Scheme to introduce a Heritage Overlay over the remaining trees in the windrow adjacent to Strada Crescent pursuant to section 9(2) of the Planning and Environment Act.

That the Monash Special Development School be requested to submit a copy of their proposed landscape plan for the site and that they be advised that the landscape plan should show planting of mature trees adjacent to Strada Crescent that will in time replace the windrow of sugar gums already removed from the site.

Cr Shiell commented that the Department of Education and Early Childhood Development needed to communicate with the local community about its plans for the future of the trees and the site. He added that it was accepted that some trees may have to be removed and supported the need for a management plan of the trees.

CARRIED

5.2 Amendment C66 to the Monash Planning Scheme – 24 Samada Street, Notting Hill

Moved Cr Dimopoulos,

Seconded Cr McGill

- a) *That the Minister for Planning be requested to appoint a Panel to consider amendment C66 to the Monash Planning Scheme, the rezoning of the former Monash Primary School site at 24 Samada Street Notting Hill from a PUZ2 - Public Use Zone 2 (Education) to a R1Z - Residential 1 Zone with a VPO-Vegetation Protection Overlay, and submissions received pursuant to Sec.23(1)(b) of the Planning and Environment Act.*
- b) *That all submissions received be referred to the Panel appointed by the Minister for Planning.*
- c) *That the extent of the VPO-Vegetation Protection Overlay be modified as detailed on the attachment to this report. [Attachment 4]*
- d) *That S.173 Agreements be prepared for execution with the Department of Education and Early Childhood Development in accordance with the following principles:-*

24 Samada Street

- *Within 12 months of publishing the Notice of Approval of the Amendment in the Government Gazette,*
 - *a plan a subdivision must be lodged with Council creating a lot or public open space with an area equivalent to 5% of 24 Samada Street (former Monash Primary School) plus 5% of 17 Duerdin Street (former Monash Secondary School) based on the Valuer General's valuation.*
 - *all pavement and buildings, located within the area to be set aside as Public Open Space, are to be demolished and removed and the site is to be left in a clean state.*
- *The plan of subdivision is to be progressed at the Titles Office for registration.*
- *Ownership of the land to be set aside as Public Open Space is to be transferred to Council.*
- *The agreement is to include plan, similar to the concept plan attached to this report, that details the location of the proposed public open space. [Attachment 3]*

Duerdin Street

- *The public open space contribution requirement for the whole of the site has been satisfied.*

- *No further public open space contribution is to be made for all or any part of the site.*

Both Sites

- *The S.173 Agreements are to be prepared, signed and registered on the relevant Certificates of Title, prior to Council adopting the amendment, following the Panel hearing and its report.*

Cr Dimopoulos made a number of comments. These are summarised below:

- The Council has done the best it can given the regulatory framework it must work within.
- The Council has sought to maximise and consolidate the allocation of open space
- The Department of Education has decided to seek a rezoning of the land with the intention of selling it on the open market.
- The rezoning should not prevent the potential for the land to be purchased and used by a private education institution.

Cr McGill made the following comments:

- Council has worked hard to seek the consolidation of open space
- Considers that the primary school site should be retained.

Cr Baines and Cr Kottek made statements supporting the retention of the former primary school site and said that the proposal, although not ideal, presented a reasonable outcome.

Cr Shiell stated that the Department of Education and Early Childhood Development needs to advise the local community of its intentions for the land.

CARRIED

5.3 Amendment C75 to the Monash Planning Scheme – 762 to 772 Blackburn Road, Clayton

NOTE: Cr Kottek declared a pecuniary interest in this item and left the Council Chamber at 8.05 pm, returning at 8.08 pm after discussion and voting on the item had been completed.

Moved Cr Dimopoulos,

Seconded Cr McGill

That: -

- 1. Council adopt Amendment C75 pursuant to Section 29 of the Planning and Environment Act 1987.*
- 2. Amendment C75 be referred to the Secretary to the Department for certification pursuant to Section 35A of the Planning and Environment Act 1987.*
- 3. Following certification by the Secretary to the Department, Amendment C75 be approved pursuant to Section 35B of the Planning and Environment Act 1987.*

Cr McGill noted the scale of the project and the positive economic impact it was likely to have for the immediate area, as approximately 4,000 employees would be accommodated on the site. Cr McGill also noted that there did not appear to be any childcare facilities planned for inclusion on the site.

CARRIED

5.4 391 Clayton Road, Clayton – A single storey addition to the existing shop, reduction of the car parking and loading bay requirements

Moved Cr McGill,

Seconded Cr Dimopoulos

*The Council having caused notice of planning application No 35745 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to **grant a planning permit** under the provisions of the Monash Planning Scheme in respect of the land known and described as 391 Clayton Road, Clayton for the purpose of the construction of a single storey addition to the existing shop building including a reduction of the car parking requirement pursuant to Clause 52.06-1 of the Monash Planning Scheme and a waiver of the requirement for a loading bay pursuant to Clause 52.07 of the Monash Planning Scheme generally in accordance with the plans submitted with the application dated 29 November 2007 No 35745 subject to the following conditions, including the specified standard conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council 16 September 2003 :*

1. *G1A Layout not altered.*
2. *CP1A Car park (Development).*
3. *All on site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from the driveway onto the footpath. Such a system may include either:*
 - a) *a trench grate (175mm minimum internal width) located within the property; and/or*
 - b) *shaping the driveway so that water is collected in a grated pit on the property; and/or*
 - c) *another Council approved equivalent.*
4. *Before the development starts, a site layout plan drawn to scale and dimensioned must be approved by the Responsible Authority.*

The plans must show a drainage scheme providing for the conveying of the stormwater to the nominated point of discharge. The nominated point of discharge is the south-west corner of the property where it must be collected and free drained via a pipe to the existing property connection to Council standards.

5. *G19 Exposed storage.*
6. *G20 No waste bin in view.*

7. G21 Adequate waste storage.
8. G29 No structures above roof level.
9. G31 Disabled access.
10. G34 Boundary walls.

NOTES

1. N3 Building Approval
2. N5 No Signs
3. EN3 Note – Location of NPD
4. One copy of the plan for the drainage Works must be submitted to the Engineering Division.

Expiry of permit:

In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

- *The development and use are not started within two years of the date of this permit.*
- *The development is not completed within four years of the date of this permit.*

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permits expires, or within three months afterwards.

CARRIED

5.5 23 Oxford Street Oakleigh – A 4 storey building with 2 shops and 13 dwellings

Moved Cr Dimopoulos,

Seconded Cr McGill

*Council having caused notice of planning application No. 35919 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to **refuse** the application for the planning permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 23 Oxford Street Oakleigh, for the erection of a 4 storey building with a basement to be used for 2 shops and 13 dwellings, to reduce car parking and to waive a loading bay in accordance with the submitted plans on the following grounds:*

- 1. The proposal is not consistent with the State Planning Policy Framework, particularly the Design and Built Form Policy at Clause 19.03 of the Monash Planning Scheme.*
- 2. The proposal is not consistent with the Local Planning Policy Framework, particularly the Retail Policy, Transport and Traffic Policy and Tree Conservation Policy at Clauses 21.06, 21.08 and 22.05.*
- 3. The proposal does not provide sufficient on-site car parking.*
- 4. The proposed waiver of loading facilities will have a detrimental impact on the amenity of the area.*
- 5. The proposal would have a detrimental impact on the character of the area.*
- 6. The proposal would have a detrimental impact on the amenity of the area.*
- 7. The proposal would not provide an acceptable level of internal amenity for future residents.*

and directs that the Applicant and each objector be given a notice of the Council's decision to refuse the permit.

Cr Dimopoulos expressed his strong support for refusal of the application, stating that it represented a gross over-development of the site and the application was seriously flawed, failing to meet the State and local planning policies.

Cr Dimopoulos also stated that he hoped that if the applicant appealed the Council decision at VCAT, the Tribunal would accept the deficiencies in the application and reject the appeal.

Cr McGill expressed her opposition to the application, stating that it was a greedy attempt to maximise the use of the site and it represented an over-development of the land.

Cr Kottek said that he totally rejected the application.

Cr Lake stated that the Council needed to be careful in how it responded to applications, ensuring that its decisions were based solely on planning policy considerations and not the personal motives of an applicant.

The Acting Chairperson said that the Council's role was to assess application based upon planning policies and not make assessments or judgements of individual applicants.

POINT OF ORDER

Cr McGill called a Point of Order, stating the Acting Chairperson's comments were inaccurate, as she had not made any reference to the applicant.

The Chairperson did not uphold the Point of Order. He stated that neither he nor Cr Lake had made a reference to a specific Cr.

CARRIED

5.6 12 The Highway, Mount Waverley – Offices and reduction in car parking requirement

Withdrawn with the consent of the Council

5.7 Town Planning Schedule

Moved Cr Morrissey,

Seconded Cr Baines

That the report containing the Town Planning Schedules be noted.

CARRIED

5.8 Strategic Drainage Works – Park Lane, Mount Waverley

Moved Cr Banerji,

Seconded Cr Morrissey

1. *That Council accepts the tender of Jaydo Construction Pty Ltd to construct the Park Lane – Strategic Drainage Works for the lump sum of \$469,372.00 (GST inclusive).*
2. *That the anticipated project expenditure of \$477,199 (GST exclusive) for the construction, design and supervision be noted.*
3. *That the contract agreement be signed and sealed.*

CARRIED

5.9 Lease of Part of Council Land at Mayfield Drive, Mount Waverley to Optus Mobile Pty Ltd

NOTE: Cr Kottek declared a pecuniary interest in this item and left the Council Chamber at 8.19 pm, returning at 8.20 pm after discussion and voting on the item had been completed.

Moved Cr Morrissey,

Seconded Cr Brown

That:

1. *Council enters into a new lease with the current lessee, Optus Mobile Pty Ltd (“Optus”), for the lease of part of the Council land at Mayfield Drive, Mount Waverley, when the current term expires on 30 January 2009, under the terms and conditions stipulated in this report.*
2. *The Chief Executive Officer or his delegate be authorised on behalf of Council to sign and seal all relevant documents with respect to the new lease.*

CARRIED

5.10 Tender For Plantation Works – Springvale Road High Street Road to Highbury Road

Moved Cr Banerji,

Seconded Cr Brown

That Council accepts the amended lump sum price of \$398,946.22, inclusive of GST, submitted by Fulton Hogan Pty Ltd for the Springvale Road Landscape Enhancement Works, Highbury Road to High Street Road.

Cr Lake said that he was pleased to see this matter come before Council as he had raised the matter following comments made by a resident, some time ago.

Cr Lake noted that this part of Springvale Road was the gateway to Monash from the north and it was in need of upgrading. He also noted that the proposal was part of a 3-stage project that would see improvements to the landscape along most of Springvale Road over the next few years.

Cr Shiell commended Cr Lake for his initiative and said that he hoped that the choice of trees would be made carefully.

CARRIED

6 CHIEF EXECUTIVE OFFICER'S REPORTS

Nil

7. COMMITTEE REPORTS

Nil

CARRIED

8. NOTICES OF MOTION

8.1 "Development Improvements To Council-Owned Facilities And Reserves By Resident Sports Clubs" – Policy Review: Crs Dimopoulos and McGill

Moved Cr McGill,

Seconded Cr Dimopoulos

That Council:

- 1. Adopts an amendment to the current "Development Improvements to Council Owned Facilities and Reserves by Resident Sports Clubs" Policy outlining the guidelines for Council's financial contribution to assist sporting clubs fund sports lighting on Council owned property, as per Attachment 1 to this report, with an amendment made to Priority 1 in Item 2 of Part A and B of the policy, to read, "1. Establishment of training lights at Council reserves and facilities without the ability to train at night due to lack of lighting."*
- 2. Makes provision to financially assist sports clubs with lighting projects through its ongoing capital works budget.*
- 3. Refer the inclusion of a funding allocation as a New Initiative to the budget process for the 2008/2009 Budget.*

Cr McGill noted that in the past she had voted against funding for lighting where the application did not meet the Council policy. She added that it appeared appropriate to amend the policy to help meet the needs of the various sporting clubs. Cr McGill said that

her focus was on the development of young people through sport and that the Council should support the increase in participation of young people in sport.

Cr Dimopoulos spoke in support of the motion, saying that it the proposal was a logical extension to existing funding arrangements and would make a functional contribution to facilities that are owned by the Council. He added that he preferred to see the requirement for a business case to be required to accompany any application for funding.

Cr Kottek said that the proposed change to the policy would benefit the whole municipality and allow for better and more efficient use of sporting facilities.

AMENDMENT

Cr Baines spoke in support of the proposal. She requested that an amendment be made to Priority 1 in Item 2 of Part A and B of the policy, to read, "1. Establishment of training lights at Council reserves and facilities without the ability to train at night due to lack of lighting." Cr Baines stated that the proposed amendment sought to clarify the situation described in Priority 1.

The proposed amendment was agreed to by Crs McGill and Dimopoulos, as mover and seconder, respectively, of the motion, and therefore included as part of the motion.

The Acting Chairperson said that he appreciated the intent of the motion, but considered that the current policy was appropriate.

RIGHT OF REPLY

Cr McGill said that she was pleased that the motion had strong support amongst the Councillors.

CARRIED

9 URGENT BUSINESS

Nil.

10 COUNCILLORS' REPORTS

Cr Brown

- Advised the Council that he recently opened an exhibition at The Highway Gallery in Mount Waverley
- Noted the resignation of Jason Smith, Director of the Monash Gallery of Art
- Advised the Council that he would be attending the dawn service on ANZAC Day at the Army Barracks in Mount Waverley.

Cr Dimopoulos

- Noted the resignation of Jason Smith, Director of the Monash Gallery of Art.
- Advised the Council that he had the privilege of attending the wreath laying ceremony at Oakleigh –Carnegie RSL and noted that attendances for ANZAC Day commemoration services continued to increase each year.

Cr Morrissey

Advised the Council of his and Cr Baines' attendance at the commemoration service held on 22 April 2008 at the memorial at Central Reserve, Glen Waverley, which was organised by the Rotary Club and the Glen Waverley RSL. Cr Morrissey noted that the event was organised for school aged children and that over 700 children from schools within the municipality had attended.

Cr McGill

- Advised that she had attended the wreath laying ceremony at Clayton RSL and noted that attendances for ANZAC Day commemoration services continued to increase each year.
- Together with Cr Banerji, had recently attended a Mayoral function for Greek community groups.
- Noted that the Clayton Football Club's centenary was being celebrated this year and would be commemorated with a 'centenary match' on 26 April 2008.

Cr Baines

Advised the Council of her attendance at the commemoration service held on 22 April 2008 at the memorial at Central Reserve, Glen Waverley, organised by the Rotary Club and the Glen Waverley RSL. She noted the number of ethnic groups represented by the school children who attended the service.

Cr Lake

Advised of his and Cr Manzies' attendance at the ANZAC commemoration service at the Glen Waverley RSL. He advised that the ANZAC Day service would be held at the war memorial in 'Memorial Park', Kingsway Glen Waverley.

Cr Manzie also advised of his attendance at the ANZAC commemoration service at the Glen Waverley RSL and noted that he had attended the service for the last three years and would continue to do so in the future.

11 PERSONAL EXPLANATIONS

Nil

12 MATTERS OF COUNCIL IMPORTANCE

Nil

13 CONFIDENTIAL BUSINESS

Moved Cr Banerji

Seconded Cr Brown

That as the Confidential Business item concerns a contractual matter, the meeting be closed to the public for consideration of this item, in accordance with Section 89 (2) of the Local Government Act 1989.

CARRIED

Accordingly, at 9.07 pm, the Council moved into Confidential Business.

RETURN TO OPEN COUNCIL

The Council moved back into Open Council at 9.12 pm.

The Mayor declared the meeting closed at 9.13 pm

MAYOR:

DATED THIS DAY OF 2008