

COUNCIL MEETING

MINUTES

(Open to the public)



Monday 26 July 2021

Online - Delivered via Webex Events.

Commencement 6.38pm

Attendance

Councillor Garry Thompson (Mayor)
Councillor Jim Parke
Councillor Felicity Sinfield
Councillor Victor Franco
Councillor Wes Gault
Councillor Di Gillies
Councillor Lisa Hollingsworth (6.41pm)
Councillor Jane Addis
Councillor Cynthia Watson
Councillor Susan Biggar
Councillor Nick Stavrou

Apologies

Nil

Officers

Phillip Storer	Chief Executive Officer
Daniel Freer	Director Places and Spaces
Carolyn McClean	Director Community Support
Bruce Dobson	Director Customer and Transformation
Nick Lund	Acting Director Urban Living
David Thompson	Manager Governance and Legal
Callista Clarke	Acting Chief Financial Officer
Nicole White	Manager Community Planning and Development
George Batsakis	Manager Facilities, Waste and Infrastructure
David Shepard	Manager Environmental Sustainability and Open Spaces
Christine White	Manager Capital Projects
Katherine Stakula	Head of Strategic Communications
Chris Hurley	Integrity Coordinator
Katherine Wright	Senior Coordinator Social Planning and Research
Prudence Ho	Project Architect
Jarrold Filosa	Co-ordinator Building Projects
Helen Pavlidis	Senior Governance Officer
Elizabeth Manou	Senior Governance Officer

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1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Parke****Seconded Councillor Gault****That the minutes of the Council meeting held on 28 June 2021 be adopted and confirmed.****CARRIED***Councillor Hollingsworth entered the Council meeting at 6.41pm***2. Declaration of conflict of interest of any councillor or council officer**

Nil

3. Deputations, presentations, petitions and public submissions**3.1 Petitions**

Council has received four (4) petitions. Details of the petitions are set out below.

No.	Ref. no.	Title / Description	No. of signatures	Referred to
1	CAS-984647	Chang.org online petition requesting Council to review <i>“the traffic and pedestrian use at the intersection of Glenferrie Road and Burwood Road, up to and including Oxley Road and Manningtree Road, and to consider providing strategies to improve the safety of pedestrians crossing areas during peak times”</i> .	117	DPS
2	CAS-986415	Chang.org online petition requesting a <i>“safe shared dog space at Victoria Park North Oval, Kew”</i>	772	DUL
3	CAS-988332	Petition requesting the <i>“removal of 2 parking bays from the front of Hester Canterbury, 9 Chatham Road, Canterbury”</i> by Council.	103	DPS
4	CAS-994495	Chang.org online petition requesting Council to <i>“remove the reference to the Council Prayer from the Governance Rules, and cease its use at Council meetings”</i>	1000+	GOV

Legend:

DCS Director Community Support
DCT Director Customer and Transformation

DUL Director Urban Living
DPS Director Places and Spaces
GOV Governance and Legal

Councillor Hollingsworth left the Council meeting at 6.44pm

MOTION

Moved Councillor Parke

Seconded Councillor Biggar

That Council resolve:

- 1. To receive and note the petitions.**
- 2. To note that the petitions have been referred to the relevant director for consideration.**
- 3. That the first named signatory to the petition will receive a written response in due course advising of Council's action in response to the request.**

CARRIED

4. Informal Meetings of Councillors

Chapter 6 of Council's Governance Rules requires that a summary of matters discussed at Informal Meetings of Councillors be reported to a Council meeting as soon as practicable.

The attached summary of Informal Meetings of Councillors (**Attachment 1**) is reported to Council in accordance with the requirements of the Governance Rules.

MOTION

Moved Councillor Addis

Seconded Councillor Gillies

That Council resolve to receive and note the summary of Informal Meetings of Councillors, as annexed to the minutes.

CARRIED

5. Public question time

PQT1 Ian Hundley of Balwyn North

The **Mayor, Councillor Thompson** informed the meeting a question had been submitted with notice from Mr Ian Hundley of Balwyn North.

The Mayor, Councillor Thompson advised the meeting the question had been disallowed in accordance with Clause 54.2.2 of the Governance Rules which provides no person may submit more than eleven (11) questions in any one calendar year. Further, Mr Hundley had already submitted 11 questions which had been responded to at Council meetings this calendar year.

The **Mayor, Councillor Thompson** then informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Hundley in due course.

6. Notices of motion

Nil

7. Presentation of officer reports

Procedural motion

MOTION

Moved Councillor Parke

Seconded Councillor Stavrou

That the following officer reports:

7.1 May 2021 Monthly Financial Report

7.2 Review of Instrument of Delegations to Delegated Committee's

7.3 Contract No. 2020/195 - Parks and Roads Fencing, Synthetic Surfacing and Related Infrastructure

7.4 Contract no 2021/3 - Freeway Golf Course - Turf Reconstruction Works

be moved en bloc as per the officers' recommendations outlined in the agenda.

CARRIED

7.1 May 2021 Monthly Financial Report

The Monthly Financial Report for May 2021 is designed to identify and explain any major variances to budget at an organisational level for the period ending 31 May 2021.

Council's favourable operating result against year to date budget of \$22.07 million is \$14.53 million above the September Amended Budget of \$7.54 million primarily due to a number of factors which are outlined in **Section 2 of Attachment 1 - Financial Overview**.

Capital works actual expenditure is \$61.14 million which is \$18.79 million below year to date budget phasing of \$79.93 million, primarily due to timing of expenditure on multi-year projects. Priority projects expenditure of \$23.42 million is \$8.59 million below year to date budget phasing of \$32.01 million

Council's Balance Sheet and cash position are sound and depict a satisfactory result. At the end of May, Council's cash position stood at \$109.21 million or \$40.68 million above year to date budget.

MOTION**Moved Councillor Parke****Seconded Councillor Stavrou****That Council resolve to receive and note the Monthly Financial Report for May 2021 (Attachment 1).****CARRIED****7.2 Review of Instrument of Delegations to Delegated Committee's**

Section 11(7) of the Local Government Act 2020 (the Act) requires Council to review all delegations which have been made under section 11 of the Act within 12 months of a general election.

Council reviewed the Instrument of Delegation from Council to Council Staff and the Instrument of Delegation from Council to the Chief Executive Officer on 28 June 2021. Council must now also review the:

- Instrument of Delegation from Council to the Urban Planning Delegated Committee; and
- Instrument of Delegation from Council to the Services Delegated Committee

Council subscribes to the Maddocks Lawyers Authorisations and Delegations Service, which provides advice regarding legislative amendments and the provision of template instruments which are then tailored to organisational requirements.

Council officers are of the view the Council has been well served by both the Urban Planning Delegated Committee and the Services Delegated Committee. Therefore, no changes to the structure or level of delegation are proposed. Nonetheless, a new Council resolution is required to reflect the current members and Chairperson of both delegated committees.

MOTION**Moved Councillor Parke****Seconded Councillor Stavrou**

- 1. In the exercise of the power conferred by section 63 of the Local Government Act and section 188 of the Planning and Environment Act 1987, Council resolves that:**
 - a. There be delegated to the members of the Urban Planning Delegated Committee the powers, duties and functions set out in the Instrument of Delegation at Attachment 1 (as annexed to the minutes);**
 - b. The members of the Urban Planning Delegated Committee are all eleven elected Councillors of Boroondara City Council;**
 - c. The Chairperson of the Urban Planning Delegated Committee is as appointed, by Council resolution, annually at the Special Council Meeting held in November as per the Governance Rules.**

- d. **The powers, duties and functions conferred on the members of the Urban Planning Delegated Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.**
2. **In the exercise of the power conferred by section 63 of the Local Government Act (the Act), Council resolves that:**
 - a. **There be delegated to the members of the Services Delegated Committee the powers, duties and functions set out in the Instrument of Delegation at Attachment 2 (as annexed to the minutes);**
 - b. **The members of the Services Delegated Committee are all eleven elected Councillors of Boroondara City Council;**
 - c. **The Chairperson of the Services Delegated Committee is as appointed, by Council resolution, annually at the Special Council Meeting held in November as per the Governance Rules.**
 - d. **The powers, duties and functions conferred on the members of the Services Delegated Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.**
 3. **The Instruments:**
 - a. **come into force immediately the common seal of Council is affixed to the Instrument; and**
 - b. **remain in force until Council determines to vary or revoke it.**
 4. **On the coming into force the instruments of previous delegation to the Urban Planning Delegated Committee and the Services Delegated Committee are revoked.**
 5. **The Instruments be sealed.**

CARRIED

7.3 Contract No. 2020/195 - Parks and Roads Fencing, Synthetic Surfacing and Related Infrastructure

This report seeks Council endorsement for the award of Contract No. 2020/195, Parks and Roads Fencing, Synthetic Surfacing and Related Infrastructure. This contract will provide Council with a panel of contractors for the comprehensive supply and installation of parks and roads fencing, synthetic surfacing and related infrastructure for an initial term of three (3) years with one possible extension of two (2) years for a maximum contract term of five (5) years.

This is a replacement for an existing contract which has reached the end of its maximum term.

The estimated cost of this Contract for the maximum contract term is \$4,358,315 (including GST) and excluding any price adjustment due to rise and fall. The estimated cost to Council after the return of GST Input Credits is \$3,962,105. Because of the value of the contract it was publicly advertised in accordance with the requirements of section 186 of the *Local Government Act. 1989*

MOTION

Moved Councillor Parke

Seconded Councillor Stavrou

That Council:

1. **Award Contract No. 2020/195, Parks and Roads Fencing, Synthetic Surfacing and Related Infrastructure, to:**
 - **Aste Tennis Courts Pty Ltd (ACN 105 615 263) trading as ASTE- Australian Synthetic Turf Enterprises;**
 - **Grassports Australia Pty Ltd (ACN 110 205 840);**
 - **Fencetech Australia Pty Ltd (ACN 611 843 157) trading as Otter Fencing Australia; and**
 - **The Fencing Man Pty Ltd (ACN 106 216 933) the Trustee for the Fencing Man Business Trust (ABN 54 455 957 092),**

at their tendered schedule of rates for an initial contract term of three (3) years with possible extensions to a maximum contract term of two (2) years. The estimated contract cost for the maximum term is \$4,358,315 (including GST). The cost to Council after the return of the GST Tax Input Credits is \$3,962,105.
2. **Authorise the Director Places and Spaces to execute the contract agreements with the above contractors.**
3. **Authorise the Director Places and Spaces to negotiate extensions to the contract with the above contractors to the maximum five (5) year contract term.**
4. **Note that expenditure under this contract in 2021-22 is in accordance with Council's adopted budget and Long Term Financial Strategy and expenditure in future years will be in accordance with the approved budget allocations.**

CARRIED

7.4 Contract No. 2021/3 - Freeway Golf Course - Turf Reconstruction Works

This report seeks Council endorsement for the award of Contract No. 2021/3, Freeway Golf Course - Turf Reconstruction Works. This Contract includes undertaking Turf Reconstruction Works at Freeway Golf Course, Balwyn North, in accordance with the Course Masterplan.

The total cost of this Contract is \$2,220,403 (including GST). The estimated cost to Council after return of GST Input Credits is \$2,018,548.

The contract works are expected to commence in September 2021 and be completed by November 2022.

Due of the value of the contract, it was publicly advertised in accordance with the requirements of section 186 of the *Local Government Act 1989*.

MOTION**Moved Councillor Parke****Seconded Councillor Stavrou****That Council:**

- 1. Award Contract No. 2021/3, Freeway Golf Course - Turf Reconstruction Works, to SJM Turf and Civil Pty Ltd (ACN 624 750 018) for a total cost of \$2,220,403 (including GST). The estimated cost to Council after return of GST Input Credits is \$2,018,548.**
- 2. Authorise the Director Places and Spaces to execute the Contract Document with the above Contractor.**
- 3. Note that expenditure under this contract is in accordance with Council's 2020-21 Forecast, Budget 2021-22 and 2022-23 Foreshadowed budget and Long Term Financial Strategy.**

CARRIED**Procedural Motion - Adjournment****MOTION****Moved Councillor Parke****Seconded Councillor Sinfield****That the Council meeting be adjourned due to technical issues.****CARRIED***The Council meeting was adjourned at 6.49pm.***Procedural Motion - Resumption****MOTION****Moved Councillor Sinfield****Seconded Councillor Stavrou****That the Council meeting be resumed.****CARRIED***The Council meeting was resumed at 6.54pm with all councillors present.*

7.5 Progress Report - Development of Boroondara Reconciliation Strategy

At the Council meeting on Monday 26 April 2021, Council resolved a draft Boroondara Reconciliation Strategy be presented to Council in late 2021 for consideration. The Boroondara Reconciliation Strategy will provide Council with a vision for reconciliation in the municipality and set out a clear roadmap and framework for implementing reconciliation initiatives in the community. The strategy will include a four-year vision and action plan outlining our existing commitments and identifying a program of additional actions which will continue to contribute to the reconciliation process locally and in partnership with our community.

Council also resolved at the meeting an interim report be presented to Council in July 2021 providing:

1. a progress update on the development of a consultation methodology and engagement plan for the Boroondara Reconciliation Strategy
2. a proposed governance structure to oversee the Boroondara Reconciliation Strategy development and implementation
3. a recommendation for an outcome to the petition (CAS-903996) presented at the Council meeting on 22 February 2021 requesting Council to “raise and permanently fly the Aboriginal Flag at significant locations in Boroondara including the Council Offices, the Hawthorn Arts Centre precinct, the Kew Court-house, and Balwyn Library”.

This report provides an update on each of the points above noting a consultation methodology and engagement plan has been developed to inform the draft strategy. As part of this, Council has engaged a consultant who is respected in the Aboriginal and Torres Strait Islander communities to assist with facilitating the community consultation. The consultant has provided feedback and advice on the community consultation and engagement methodology and is facilitating individual and focus group sessions with key Aboriginal and Torres Strait Islander stakeholders.

In addition to the consultation with the Aboriginal and Torres Strait Islander communities, Council has also developed an online survey seeking to understand the community’s vision for reconciliation in Boroondara. Consultation with local health and wellbeing services, schools, community organisations and groups, including the Boroondara Reconciliation Network, is also being undertaken in July and August 2021. A communications and engagement plan has been developed to ensure a broad representation of our community and stakeholders are engaged. Promotion of the consultation has been distributed through Council’s communication channels, including utilising our networks and newsletters. In addition, targeted social media posts to reach a diverse cross section of our community have been deployed.

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation is also being consulted closely and at regular intervals to inform the strategy development as they are now listed as the Registered Aboriginal Party for all of Boroondara.

The findings of the community consultation will be analysed to inform the development of the draft Boroondara Reconciliation Strategy, which will be presented to Council for public exhibition in late 2021.

The report recommends an internal Boroondara Reconciliation Advisory Committee be established to oversee the development and implementation of the Boroondara Reconciliation Strategy.

The Committee would consist of councillors and senior Council officers from departments across the organisation responsible for implementing actions in the strategy. The Committee will seek expert advice from external Aboriginal and Torres Strait Islander organisations or individuals when necessary for meeting the objectives of the group. Officers will develop and present Terms of Reference for this Advisory Committee at a later Council meeting.

Twice a year, the Wurundjeri Woi-wurrung Elders and staff will be invited to a meeting for the purposes of Council officers to present on progress and seek feedback on Council's implementation of the Boroondara Reconciliation Strategy. Council's Reconciliation Advisory Committee will attend these meetings.

In addition to this, Council officers will continue to meet and seek advice and guidance from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation at scheduled regular meetings.

Other key stakeholders will also be kept informed of the development and implementation of the strategy through the development of a local Reconciliation Stakeholder Group, which would include representatives from the sector. Officers will also continue to attend key external stakeholder network meetings.

The report notes a recommendation for an outcome to the petition to permanently fly the Aboriginal Flag at locations in Boroondara. In-line with the Federal Government's advice, officers recommend the Aboriginal Flag should be permanently flown at the Camberwell Civic Centre.

As the Council Chamber is at the Camberwell Civic Centre, permanently flying the Aboriginal Flag at this location would demonstrate Council's commitment to reconciliation. It would also be in-line with the benchmarking against the Eastern Metropolitan Region councils who permanently fly the Aboriginal Flag at their Civic Centres.

Finally, the report notes on Monday 7 June 2021, the Victorian Aboriginal Heritage Council released proposals to vary the boundaries of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation and the boundaries of the Bunurong Land Council Aboriginal Corporation for a 3,721km² area which lies between their existing registration boundaries. On Tuesday 22 June, a statement was released noting the Wurundjeri Woi-wurrung Heritage Aboriginal Corporation had consented to the proposed variation to its boundary area and they will be formally recognised from 1 July 2021 as the Traditional Owners for all of Boroondara. It is therefore recommended the wording of the Acknowledgement of Country be updated to the statement below, which acknowledges the Wurundjeri Woi-wurrung and their accepted status as the Traditional Owners for all of Boroondara:

"I acknowledge the Wurundjeri Woi-wurrung people as the Traditional Owners and original custodians of this land and pay my respects to their Elders, past and present, and the Elders from other communities who may be here today."

MOTION

Moved Councillor Biggar

Seconded Councillor Gillies

That Council resolve to note the progress update on the development of a consultation methodology and engagement plan for the Boroondara Reconciliation Strategy and to approve:

- 1. The formation of a new advisory committee being the Boroondara Reconciliation Advisory Committee, to oversee the development, ongoing consultation with the Wurundjeri Woi-wurrung Elders and implementation of the Boroondara Reconciliation Strategy. Officers will develop and present Terms of Reference for this Advisory Committee at a later Council meeting. The members of the internal Advisory Committee will include up to a maximum of five (5) councillors being Cr Lisa Hollingsworth, Cr Susan Biggar, Cr Victor Franco and the Mayor, Cr Garry Thompson. The Terms of Reference of the Advisory Committee will be reviewed in 12 months after the inception of the committee to ensure it is operating effectively. The internal Advisory Committee will invite the Elders to an inaugural meeting at the Elders' earliest convenience to commence consultation with them regarding the development of the Boroondara Reconciliation Strategy.**
- 2. Council permanently flying the Aboriginal Flag at the Camberwell Civic Centre in response to the petition (CAS-903996) presented at the Council meeting on 22 February; and**
- 3. The proposed wording of Council's Acknowledgement of Country following the boundary variations which came into effect from 1 July 2021, being "I acknowledge the Wurundjeri Woi-wurrung people as the Traditional Owners and original custodians of this land and pay my respects to their Elders, past and present, and the Elders from other communities who may be here today."**

CARRIED

Councillor Hollingsworth left the Council meeting at 7.11pm

Councillor Hollingsworth entered the Council meeting at 7.12pm

7.6 Adoption of the Governance Rules

The purpose of this report is to present the proposed Governance Rules to Council for adoption.

The Governance Rules were adopted by Council on 24 August and came into operation on 1 September 2020.

Section 60(3) of the Local Government Act 2020 (the Act) permits Council to amend its Governance Rules at any time. Council must, however, ensure that a process of community engagement is followed in amending its Governance Rules.

On 24 May 2021, Council resolved to endorse the proposed Governance Rules for the purposes of public consultation for the period 27 May 2021 to 25 June 2021. A total of one hundred and ninety-five written submissions (including fifteen late submissions) were received. Of those, eight submitters spoke in support of their written submission at the Services Delegated Committee meeting held on 12 July 2021.

Officers have considered the feedback provided during the public consultation process and have finalised the proposed Governance Rules. The proposed Governance Rules are presented to Council for consideration and adoption.

Councillor Hollingsworth left the Council meeting at 7.19pm

Councillor Hollingsworth entered the Council meeting at 7.20pm

MOTION

Moved Councillor Gault

Seconded Councillor Sinfield

That Council resolve:

- 1. To adopt the Governance Rules (as annexed to the minutes) subject to sub-rule 54.2 reading as follows “no person may submit more than two (2) questions at any one (1) Council meeting”.**
- 2. The Governance Rules commence on 27 July 2021.**

CARRIED

Division

Councillor Franco called for a division

Affirmative

Councillor Thompson (Mayor)
Councillor Parke
Councillor Sinfield
Councillor Gault
Councillor Gillies
Councillor Hollingsworth
Councillor Addis
Councillor Watson
Councillor Stavrou

Negative

Councillor Franco
Councillor Biggar

The Mayor, Councillor Thompson declared the Motion **CARRIED**

7.7 Adoption of Terms of Reference for Advisory Groups

Council has a number of established Advisory Committees with Councillor appointments made at its Special Meeting on 30 November 2020. This report presents the revised Terms of Reference for three committees, the Early Years Advisory Group, the Waste Management Reference Group, and the Canterbury Community Precinct (CCP) for adoption by Council.

In addition, the title of CCP had been expanded to Canterbury Community Precinct and Maling Road Place Plan for consideration and adoption by Council.

MOTION

Moved Councillor Watson

Seconded Councillor Hollingsworth

That Council resolve to:

- 1. Adopt the Terms of Reference for the Waste Management Advisory Group as provided in Attachment 1.**
- 2. Adopt the Terms of Reference for the Boroondara Early Years Advisory Group as provided in Attachment 2.**
- 3. Rename and adopt the Terms of Reference for Canterbury Projects Steering Committee as provided in Attachment 3 noting the amendments required in renaming of the Steering Committee.**

CARRIED

7.8 Kew Recreation Centre Contamination and Consultancy Variation

This report identifies two items impacting the delivery of the Kew Recreation Centre redevelopment:

Item 1: Soil contamination

During site excavation works at Kew Recreation Centre, volatile soil was encountered as a result of a diesel tank that was uncovered and had leached diesel into a substantial volume of surrounding soil over many decades. This diesel tank is a remnant of the previous site's history as a vehicle depot, under the former City of Kew. Located underneath the spa of the former recreation centre and situated over a few metres below the existing ground level, the diesel was not identified within the contamination management plan despite detailed testing and mapping occurring prior to construction.

This report identifies that an additional \$3.55 million in funding is required to manage the removal of site contaminants as well as other contaminated soil that is geotechnically unsuitable for re use, conducted in accordance with EPA regulations. Whilst the contract variation to manage contaminants totals \$4.55 million, project offsets of \$1m can be realised through value management and commercial negotiations.

Item 2: Consultant variation fee

A variation fee request from the appointed architects, Williams Ross Architects, is to be formalised following an increase in project budget and scope in 2019.

In November 2018, as part of the tender for architectural and consultancy services, a construction budget of \$53 million was advised to tenderers to determine the project scope and basis for their fee submission. However, in October 2019, the project scope had increased, resulting in an increased project budget of \$67.5 million.

Subsequently, a consultancy fee variation claim has been submitted by the consultant team to reflect the additional scope of works. The report identifies a variation of \$464,201.

MOTION

Moved Councillor Stavrou

Seconded Councillor Parke

That Council resolve to:

- 1. Authorise the Director of Places of Spaces to approve the variation to Contract 2020/89, Redevelopment of Kew Recreation Centre, to remove contaminated soil to the value of \$4.55 million.**
- 2. Authorise the Director of Places and Spaces to approve the variation to Contract 2018/177, Kew Recreation Centre Architectural Consultancy Services, to the value of \$464,201.**

CARRIED

7.9 Advanced Waste Processing

Boroondara is participating in the South Eastern Metropolitan Advanced Waste Processing (SEMAWP) project being led by the Metropolitan Waste and Resource Recovery Group (MWRRG). This project is progressing with 15 other Councils in the region and aims to address the issue of landfill capacity whilst providing improved environmental, social and economic outcomes compared with the current landfill treatment for waste.

Advanced Waste Processing (AWP) is a processing technology that recovers valuable materials or produces energy from waste. This technology is well established internationally and is an emergent technology in Australia.

The MWRRG is currently running a collaborative procurement to build, own and operate an advanced waste processing facility. Through the expression of interest phase a shortlist of three potential providers has been identified. The current phase involves engaging with these providers on their industry experience and possible solutions. These conversations are aimed at learning from the industry in order to develop the specification for a final tender, framework and evaluation methodology.

This report considers Council's participation in the establishment of a Special Purpose Vehicle (SPV) to deliver the facility and the financial contribution required to remain part of the process.

MOTION

Moved Councillor Watson

Seconded Councillor Biggar

That Council resolve to:

- 1. Participate in the establishment of a Special Purpose Vehicle to facilitate access to an Advance Waste Processing facility.**
- 2. Pay Metropolitan Waste and Resource Recovery Group a one-off cost up to a maximum of \$75,000 (excl GST) for the establishment costs of the Special Purpose Vehicle and to support site selection and preliminary approvals.**
- 3. Note that a future report will be presented after completion of the tender process, which will consider the decision to enter a contract with the successful tenderer.**

CARRIED

8. General business

8.1 Yarra Bank Reserve Playground Opening - 8 August 2021

Councillor Gault informed his colleagues about the Yarra Bank Reserve Playground opening on 8 August 2021.

Councillor Gault commended the facilities within the playground, in particular the sculptures and acknowledged the contribution from the Rotary Club of Glenferrie to the playground.

Councillor Gault then encouraged the community to attend the official opening of the playground on Sunday 8 August 2021.

9. Urgent business

MOTION

Moved Councillor Addis

Seconded Councillor Gillies

That Council resolve to admit as an item of urgent business a proposed censure motion concerning Councillor Victor Franco because this item relates to or arises out of a matter which has arisen since the distribution of the agenda and it cannot safely or conveniently be deferred until the next Council meeting.

CARRIED

9.1 Censure Motion - Councillor Franco

MOTION

Moved Councillor Addis

Seconded Councillor Stavrou

That this Council:

1. Censures Councillor Victor Franco for:
 - a. Failing to work together with other Councillors in the best interests of the people within our municipal community;
 - b. Bringing discredit upon Council;
 - c. Misusing his position to cause, or attempt to cause, detriment to Council or another person;
 - d. Failing to acknowledge and support the role of the Mayor;
 - e. Expressing personal opinions in the media in a way that the comments were derogatory, offensive and insulting of Council and Councillors; and
 - f. Failing to act in accordance with the Councillor Code of Conduct to which Councillor Franco signed his name after being sworn in as a Councillor.
2. Notes that, without traversing seriatim the conduct of Councillor Franco upon which the censure is based, it includes, most recently, seeking out an interview with Radio 3AW about 3.49 pm on 14 July 2021 and during the broadcast, stating words to the effect:
 - a. *“Well I think it’s basically called hypocrisy”* in response to the interviewer asking “You are on record as saying you support the declaration of a climate emergency, correct ... then why is the same Council opposed to turning a car park into a green space?” The question related to the decision on 12 July 2021 by the Services Delegated Committee of Council, regarding matter 3.1 Camberwell Green.

Councillor Franco started the campaign to alter the use of the subject car park to green space for use by Camberwell Primary School (where his two children are students). The Councillor refused to declare a conflict of interest, yet absented himself during deliberations by the Committee. The words scandalously used by the Councillor to describe the conduct of the Council and other Councillors, rested upon the false premise that Council had expressed support for the declaration of a climate emergency. That question was determined by Council on 25 May 2020. Only three Councillors voted in the affirmative. Three councillors do not constitute a majority.

- b. **“...you get this special permit, you affix it to the windscreen of your car – isn’t this good and where it says 2P parking, you can park all day and you don’t get fined. So we, you know, as council we create and establish the parking restrictions, we enforce them, but when it comes to applying them to ourselves it’s quite a different story isn’t it?”** in reference to the parking of vehicles by Councillors. That characterisation entirely misrepresents the effect of clause 15.4 of the Councillor & Member of a Delegated Committee Expenses Policy 2020 (available on the Council website), which:
- i. requires that to park beyond the applicable time period, the Councillor must be **“...engaged on Council business or performing the functions of a Councillor.”**
 - ii. makes clear that councillors are subject to the Road Safety Rules and any relevant Council Policy and that the permits do not allow councillors to park in red sign or designated areas.
- c. **“At the moment, we’ve released a draft climate action plan and put that out for public comment. I think it contains some deficiencies and doesn’t really contain any concrete actions; it’s more of a brochure in terms of you know, targets and niceties but without any of the substance behind it in terms of whatever funding will go into concrete actions.”** The comments by Councillor Franco in describing the detailed draft action plan as a ‘brochure’ are demeaning of the work done by Council officers consequent upon some 1,567 public responses and of the work done by other Councillors. It demonstrates further, a failure by Councillor Franco to work together with other Councillors in the best interests of our community and tends to pre-empt and prejudice the Council decision by making public comment prematurely.

CARRIED

Councillor Franco abstained from voting on the Motion

Division

Councillor Parke called for a division

Affirmative

Councillor Thompson (Mayor)
Councillor Parke
Councillor Sinfield
Councillor Gault
Councillor Gillies
Councillor Hollingsworth
Councillor Addis
Councillor Watson
Councillor Stavrou

Negative

Councillor Biggar

Abstained

Councillor Franco

The Mayor, Councillor Thompson declared the Motion **CARRIED**

10. Confidential business**10.1 Audit and Risk Committee - Appointment of Chairperson****Procedural motion - Closure of meeting to the public****MOTION**

Moved Councillor Parke

Seconded Councillor Biggar

- 1. That in accordance with sections 66(1) and 66(2)(a) of the Local Government Act 2020, the meeting be closed to the public for consideration of the agenda item titled 'Audit and Risk Committee - Appointment of Chairperson'.**
- 2. This agenda item is confidential information for the purposes of section 3(1) of the Local Government Act 2020:**
 - (a) because it relates to personal information, being information which if released would result in unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f)); and**
 - (b) this ground applies because the agenda item concerns a personnel and contractual matter and the premature disclosure of personal information would be prejudicial to the interests of the other person and Council.**

CARRIED

The Council meeting was closed to the public at 8.12pm

Procedural motion - Reopen meeting to the public**MOTION**

Moved Councillor Parke

Seconded Councillor Biggar

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

CARRIED

The Council meeting was re-opened to the public at 8.20pm with all councillors present.

The meeting concluded at 8.20pm

Confirmed

Chairperson

Date
