

Notice of Meeting:

I hereby give notice that an ordinary meeting of Hamilton City Council will be held on:

Date: Thursday 28 May 2015
Time: 1.30pm
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Council OPEN AGENDA

Membership

Chairperson	Her Worship the Mayor J Hardaker
Deputy Chairperson	Cr G Chesterman
Members	Cr M Forsyth Cr M Gallagher Cr K Green Cr A King Cr D Macpherson Cr G Mallett Cr A O'Leary Cr R Pascoe Cr L Tooman Cr E Wilson Cr P Yeung

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly

Jude Pani
Democracy Manager

22 May 2015
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www.hamilton.govt.nz

Terms of Reference:

- To carry out leadership functions including advocacy and facilitation on behalf of the community.
- To exercise all non-delegatable and non-delegated functions and powers of the Council.
- To make those decisions which are required by legislation to be made by resolution of the local authority.
- To consider any matters referred to it from any of the Standing or Special Committees.
- To authorise all expenditure not delegated to staff or other Committees.
- To receive the Council Risk Register and legal issues reports.
- To receive reports from the Audit & Risk Committee.
- To develop and approve the draft Long Term Plan (LTP) (including any amendments or variations) and Annual Plans (including the Budget and Funding and Financial policies); ensure their effective communication to the community; hear submissions and approve the final plan.
- To approve the Hamilton Plan and to retain overview of it through setting direction on key strategic projects and receiving regular reports on its overall achievement
- Make decisions in respect of District Plan matters.
- The authority to agree to settle and submit draft consent orders to the Environment Court relating to an appeal on a Proposed District Plan, Plan Change, Plan Variation or Notice of Requirement to designate land or for a heritage order, or a resource consent application.
- The authority to reject a private plan change request.

Financial:

- To determine all financial matters not delegated.
- To receive reports of the exercise of financial delegated authority pursuant to the Public Bodies Contracts Act 1959.
- To approve Council's borrowing programme and treasury management strategy.
- To undertake the statutory audit processes and to consider and approve the external audit arrangements, to receive the Auditor's reports and to approve the audited annual report.

Procedural Matters:

- Delegation of all Committee powers.
- Adoption of Standing Orders.
- Confirmation of all Standing and Special Committee minutes.
- Approval of Special Orders.
- Employment of Chief Executive, setting of the Chief Executive's performance targets and review of the Chief Executive's Performance and Remuneration (in accordance with the Employment Agreement).
- Other Delegations.

Opening Prayer led by Reverend Doctor Susan Thompson from the Methodist community

Presentation of the Women's Empowerment Principles Signatory Certificate

Minute's silence to recognise the death of Dorothy Jelichich

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1 Apologies

2 Confirmation of Agenda

The Council to confirm the agenda.

3 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for three minutes or longer at the discretion of Her Worship the Mayor.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Council Democracy Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Democracy by telephoning 07 838 6825.

Committee: Council

Date: 28 May 2015

Report Name: Council Minutes - Open - 30 April 2015

Author: Jude Pani

Status	<i>Open</i>
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1. Recommendation

That Council confirms and adopts as a true and correct record the Open Minutes of the Council Meetings held on 30 April 2015.

2. Attachments

- Attachment 1 - Council Minutes - Open - 30 April 2015

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 30 April 2015 at 1.30pm.

PRESENT

Chairperson	Her Worship the Mayor J Hardaker
Deputy Chairperson	Cr G Chesterman
Members	Cr M Forsyth
	Cr M Gallagher
	Cr D Macpherson
	Cr G Mallett
	Cr R Pascoe
	Cr L Tooman
	Cr E Wilson
	Cr P Yeung

In Attendance	Chief Executive, Chief Financial Officer, General Manager City Environments, General Manager Community, General Manager Customer Relationships, General Manager Events and Economic Development, General Manager Organisational Development, General Manager Performance.
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Director of Operations H3, City Planning Unit Manager and Communications Advisor

Committee Advisors	Mrs J Pani and Mrs M Birch
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Opening Prayers

The Opening Prayers were led by Paul Singh, a member of the Sikh Community, from the new Guru Nanak Dev Ji Gurdwara on Greenhill Road.

1. Apologies

Resolved: (Her Worship the Mayor Hardaker/Cr Wilson)

That apologies from Councillors Green, King and O'Leary, and for lateness from Councillor Macpherson, be accepted.

2. Confirmation of Agenda

Resolved: (Her Worship the Mayor Hardaker/Cr Chesterman)

The Council confirmed the agenda

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes was set aside for a public forum. There were no speakers in the public forum.

5. Council Minutes - Open - 26 March 2015 and 9 April 2015

Resolved: (Her Worship the Mayor Hardaker/Cr Chesterman)

That Council confirms and adopts as a true and correct record the Open Minutes of the Council Meetings held on 26 March 2015 and 9 April 2015.

6. Recommendations to Council - Strategy and Policy Committee Meeting - 8 April 2015

The recommendations of the Strategy and Policy Committee meeting held on 8 April 2015 were presented. The 8 April 2015 Committee agenda is available via the following link:

<http://www.hamilton.govt.nz/AgendasAndMinutes/Strategy%20and%20Policy%20Committee%20-%20Open%20Agenda%20-%208%20April%202015.pdf>

Resolved: (Her Worship the Mayor Hardaker/Cr Wilson)

i. Waikato Expressway

That:

- a) Council supports the updated connection principles for the Waikato Expressway-Hamilton section as set out in Attachment 2 of the Committee's report noting that:
 - i. Council will accept the responsibility for upgrading the Link Road between Wairere Drive and the Greenhill Drive Interchange from two lanes to four lanes at some time in the future when required; and
 - ii. NZTA propose to exclude the Osborne Road over bridge and to mitigate its exclusion by providing, in consultation with the affected community, good quality walking and cycling facilities on Reynolds Road and Resolution Drive and to work with Council to incorporate a Roundabout at the intersection of Resolution Drive and Kay Road.
- b) Council agrees the macro scope of its Resolution Drive extension project to include:
 - i. A four lane corridor;
 - ii. Initial two lane construction;
 - iii. A roundabout connection at the intersection with Kay Road consistent with other adjacent roundabouts;
 - iv. A significant east-west walking and cycling link under Resolution Drive located between Borman Road and Kay Road; and
 - v. A north-south walking and Cycling link under the Waikato Expressway to service the north-east Rototuna area.
- c) staff present to the 21 May 2015 Finance Committee meeting a Memorandum of Understanding (MOU) between NZTA, Hamilton City Council, Waikato District Council and Tainui Group Holdings (Tainui) that sets out the respective responsibilities for delivering the Waikato Expressway-Hamilton section along with a Multi-Party Funding Agreement (MPFA) that defines cost responsibility to deliver the Resolution Drive interchange.

ii. Review of the Public Places Liquor Control Bylaw 2010 - Determination Report

That:

- a) pursuant to s155(1) of the Local Government Act 2002, Council resolve that a bylaw is the most appropriate way of addressing the issues relating to the possession and consumption of alcohol in public places; and
- b) Council resolve that a draft bylaw and stakeholder feedback be reported to the Business and Investment Subcommittee on 13 May 2015.

iii. Hamilton Lake Domain- Reserve Management Plan Review

That:

- a) Council gives public notice of its intention to review the Operative Hamilton Lake Domain Management Plan 2010 under section 41(5) of the Reserves Act 1977;
- b) The public are invited to make written suggestions to Council on the Proposed Hamilton Lake Domain Management Plan; and
- c) Staff report back to the Strategy and Policy Committee with a draft Proposed Hamilton Lake Domain Management Plan for endorsement for consultation under section 41(6) of the Reserves Act 1977.

iv. Community Assistance Policy

That the proposed 'Community Assistance Policy' and supporting schedules (with changes to the version presented to the Committee shown in Attachment 1 to this report) be adopted.

7. Recommendations to Council - Finance Committee Meeting 23 April 2015

Councillor Pascoe, the Chair of the Finance Committee, presented the recommendations of the Committee Meeting held on 23 April 2015.

The 23 April 2015 Finance Committee Agenda is available via the following link:

<http://www.hamilton.govt.nz/AgendasAndMinutes/Finance%20Committee%20-%20Open%20Agenda%20-%202023%20April%202015.pdf>

Councillor Macpherson joined the Meeting at 1.37pm prior to voting on Item 7.

Resolved: (Crs Pascoe/Mallett)

i. New Lease Request at Melville Park

That:

- a) under s54(2) of the Reserves Act 1977, Council gives public notice of its intention to grant a new community group lease to the Hamilton City Roller Skating Club Incorporated to develop a speed skate track on Melville Park; and
- b) Notes that the Finance Committee has appointed members to a Hearings Panel to hear and deliberate on submissions and report back to the Finance Committee for their decision making.

ii. Te Awa River Ride Easement – Horotiu Landfill

That the Council:

- a) grants an easement in favour of Waikato District Council, for the purpose of Te Awa River Ride over the Horotiu Landfill, subject to Council obtaining partial surrenders of existing leases and licences;
- b) authorises the Chief Executive to negotiate the terms of the easement and any other instrument required to give effect to this resolution; and
- c) retains the ownership of public artwork Passing Red.

8. ICC Cricket World Cup 2015 - Post Event Report

The General Manager Events and Economic Development and the Director of Operations H3, presented this item providing Council with a post event information on hosting the ICC Cricket World Cup (CWC) and the associated activities undertaken in Hamilton at that time. A video clip was shown. It was noted that this video will be placed on the Council's website.

The following was noted:

- CWC had not yet released an economic impact report.
- Council was completing a major event evaluation analysis which was approximately 6-8 weeks away. This would incorporate the CWC economic impact findings.
- Council had yet to receive the international media monitor from Tourism New Zealand which would provide an indication of the international media exposure that Hamilton had received.
- Hamilton was busy during this period with other city events being held in conjunction with the CWC.
- The Council team focused on the concept of being a great host city rather as well as exceptional venue delivery.
- There was huge input from volunteers and organisations.
- The input from Hamilton-Waikato Tourism was invaluable, including the large amount of time and effort spent in managing host city media activity.
- The project was completed under budget.
- The work to upgrade Seddon Park was work that needed to be undertaken and was programmed in the budgets prior to receiving CWC events.
- Broadcast towers, largely funded by other parties, was the only change in terms of timing to accommodate the CWC.
- Of the \$1.4M spent at Seddon Park, Council contributed \$400,000, with \$1m being provided from other funding sources.
- Only a few local retailers got involved in the window-dressing competition.

Resolved: (Her Worship the Mayor Hardaker/Cr Wilson)

That the report be received.

9. FIFA U-20 World Cup New Zealand 2015 - Update

The General Manager Events and Economic Development and the Director of Operations H3, presented this report updating the Council on Hamilton's preparations for hosting matches as part of the FIFA U-20 World Cup in May and June 2015.

It was noted that:

- The model for this FIFA event was very different from the model of the recent CWC event.
- Everything was going according to plan and staff were comfortable with both the budget and planning for the event.
- Lead-up games being played in Hamilton 10 and 13 May, with five teams participating.
- Additional training facilities were required and staff were working with Waikato District Council to use Centennial Park and St Peter's School, Cambridge, that will also host the warm-up match between Ghana and New Zealand on 10 May.
- Team management from Senegal had visited Hamilton recently completing site visits by the four teams in Group C to be based in Hamilton.

Resolved: (Her Worship the Mayor Hardaker/Cr Tooman)
That the report be received

10. Resolution to Exclude the Public

Resolved: (Her Worship the Mayor Hardaker/Cr Chesterman)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Council Minutes - Public Excluded - 26 March and 9 April 2015) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Recommendations to Council - Finance Committee Meeting 23 April 2015 (withdrawn)) Official Information and Meetings Act 1987	
C3. Update on Appeals to the Proposed District Plan)	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C3.	on the grounds that a right of appeal lies to any Court or Tribunal against the final decision of the Local Authority in this matter	Section 7 (2) (a) (i)

The Meeting moved into Public Excluded Session from 2.10 until 2.25pm.

The Meeting was declared closed at 2.25pm.

Committee: Council **Date:** 28 May 2015
Report Name: Recommendations to Council - Finance Committee Meeting **Author:** Jude Pani
 21 May 2015

Status	<i>Open</i>
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Councillor Pascoe, the Chair of the Finance Committee, will present the recommendations of the Committee Meeting held on 21 May 2015.

The 21 May 2015 Finance Committee Agenda is available via the following link, including the documents outlining the proposed amendments to the New Zealand Local Government Funding Agency documents:

<http://www.hamilton.govt.nz/AgendasAndMinutes/Finance%20Committee%20Open%20Agenda%2021%20May%202015.pdf>

1. Proposed Amendments to New Zealand Local Government Funding Agency (NZLGFA) Documents

That Council approves the changes to the NZLGFA documents as presented to the Committee.

2. Community Occupancy Applications – Graham Park and Beetham Park

That Council:

- a. Consents to the Hamilton Childcare Services Trust assignment of lease at Beetham Park to the Waikato Kindergarten Association; and
- b. Approves a variation to Clause 30(a) of the River Glade Archers Incorporated Licence to Occupy at Graham Park.

Committee: Council

Date: 28 May 2015

Report Name: Recommendations to Council -
Strategy and Policy Committee
Meeting - 26 May 2015

Author: Jude Pani

Status	<i>Open</i>
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The recommendations of the Strategy and Policy Committee meeting to be held on 26 May 2015 will be circulated as a late report prior to the Council meeting.

Committee: Council

Date: 28 May 2015

Report Name: FIFA U-20 World Cup New Zealand 2015 - Update

Author: Chad Hooker

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>N/A</i>
Financial status	<i>There is budget allocated \$409,000 council contribution towards FIFA event from Event Sponsorship fund.</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To update Council on the City's preparations for hosting eight matches in the FIFA U-20 World Cup in May and June 2015.

3. Recommendation/s from Management

- That the report be received

5. Attachments

- There are no attachments for this report.

7. Host City Planning

- This update follows previous updates to Council on 28 Aug 2014, 30 Oct 2014 and 30 Apr 2015.
- Regional Coordination Group (RCG) meetings are continuing monthly and involve a wide range of stakeholders from throughout the city. The RCG includes members from:

Council	FIFA U-20 World Cup Local Organising Committee (LOC)
Hamilton Central Business Association	NZ Trade & Enterprise (NZTE)
WaiBOP Football	Emergency services
Hamilton & Waikato Tourism (HWT)	Transport agencies
Waikato Chamber of Commerce	Utility providers
Key venue contractors	

10. FIFA U-20 World Cup 2015

- Hamilton will host eight FIFA U-20 World Cup fixtures over five match days:

Date	Fixture(s)	Kick off Times
Sunday 31 May 2015	Qatar v Colombia Portugal v Senegal	1.00pm 4.00pm
Wednesday 3 June 2015	Qatar v Portugal Colombia v Senegal	4.00pm 7.00pm
Saturday 6 June 2015	Qatar v Senegal Uruguay v Mali	1.00pm 4.00pm
Thursday 11 June 2015	Round of 16 knockout match	7.30pm
Sunday 14 June 2015	Quarter Final	1pm

12. With New Zealand Football (NZF) as the client (who met all direct costs) we hosted five matches as part of the Five Nations Series, which served as warm up matches for the tournament. The series involved New Zealand, Australia, Qatar, Panama and Ghana with four matches held at Waikato Stadium on Sunday 10 and Wednesday 13 May and one match held at St Peters School in Cambridge on Sunday 10 May. This event had not been originally anticipated.
13. There were some significant challenges around holding warm up matches with FIFA not allowing them to be promoted or ticketed and access to the venue being carefully controlled. And FIFA designated tournament training grounds were unable to be used and alternative training venues had to be secured. We were fortunate to be able to use St Peters School in Cambridge and Centennial Park in Ngaruawahia with great support from St Peters, Ngaruawahia United and the Waikato District Council.
14. Our engagement with NZF gave us the opportunity to facilitate a visit by the New Zealand U-20 team to Turangawaewae for a cultural experience on Sunday 17 May. This included a powhiri attended by representatives of the LOC, Hamilton City Council, Waikato District Council and WaiBOP Football Federation.
15. By using facilities in Cambridge and Ngauruawahia it demonstrates the partnership approach being taken around the tournament.
16. Uruguay had a warm up game against Panama at Gower Park on their number two ground on Wednesday 20 May. This was arranged between the teams and the club.
- 17. Communications**
18. The consumer facing visitor website developed by HWT as a key digital portal for visitors to the region for FIFA U-20 World Cup continues to be a key communication tool - www.hamiltonwaikato.com/fifau20worldcup - along with the stakeholder website developed by Council for businesses and stakeholders - www.hamilton.govt.nz/worldcup
19. A FIFA U-20 World Cup city map will be developed for use online with printed copies to be distributed to local accommodation, transport and hospitality providers. This will also include information on city activities.
20. The tournament featured heavily in the May edition of City News with further content to be included in the June edition. Regular 'On the Ball' email newsletters continue to be sent to key stakeholders to keep them informed around the event.
21. Information on the Major Events Management Act (MEMA) and road closures was sent to all businesses and residents surrounding the Stadium. An informal MEMA workshop was held on Friday 15 May that only one party attended. This indicated a level of comfort with the MEMA regulations on the part of the business community.
- 22. City Marketing and Promotions**
23. City Dressing has been installed and includes city entrance signs, banner sites, pole banners, poster sites and bus back advertising throughout the city along with airport dressing. This has

- been balanced with city dressing required to support the National Agricultural Fieldays being held at the same time.
24. The LOC owned futsal court was installed in Garden Place in early May for a six week period through until the end of the tournament. This will be supported by a Fever Pitch promotional hub from 25 May that is being provided by the LOC and will form a key presence for the tournament in the central city. The futsal court programme is being managed by WaiBOP Football and includes competitions and tournaments for a range of groups including business house, clubs, schools, ethnic communities and age group teams.
 25. An Adopt a Team promotion is being run in conjunction with The Hits radio station whereby school classes are invited to dress up and send in a photo with the best decorated class to win tickets to a match day.
 26. Waikato Museum football exhibition, 'The Beautiful Game', will run from 23 May until 26 July. An official opening will take place on Friday 22 May.
 27. Team welcomes for Senegal, Portugal and Colombia will take place at Waikato Museum around 27 and 28 May and these are currently being confirmed with the teams.
 28. Qatar arrive back in New Zealand earlier than the other teams on 22 May and have accepted an invitation to have their team welcome at the Waitomo Caves and this has been booked for Tuesday 26 May. Detailed planning for this is well advanced.
 29. The walking route from the CBD to Waikato Stadium will use footpath decals to mark the route and will be supported by 24 large artwork panels being designed by school children that will be placed along the route. Each panel will represent one of the teams in the tournament.
 30. Planning is continuing for a Football Carnival feel on Tristram St outside Waikato Stadium immediately prior to each match. The aim is to create colour and vibrancy where people will be congregating before each game and add to the overall event experience.
 - 31. Business Engagement**
 32. NZTE are using Fieldays as the key event nationally within their FIFA U-20 World Cup leverage programme. A Hamilton familiarisation tour for visiting media and business guests will include a visit to the Mystery Creek Fieldays event.
 - 33. City Operations**
 34. The FIFA U-20 World Cup volunteer programme induction and training programmes now being delivered, along with accreditation and uniform distribution. The volunteer thank you function has been scheduled on Tuesday 16 June.
 35. Approved traffic management plans are based on expected crowd numbers. With two weekday match days there is no full closure of Mill Street outside the Stadium, except after each event when patrons are exiting the venue. Temporary fencing will be installed along Mill Street, which along with volunteers and security will encourage event goers to use controlled crossing points across Mill Street.
 36. While there is a crossover between the FIFA U-20 World Cup match at Waikato Stadium and the annual Fieldays at Mystery Creek on Thursday 11 June 2015, given that the timing of the two events is staggered extraordinary traffic disruption is not anticipated.
 37. The Home Hosting Programme is working well with local residents being given an opportunity to host visiting fans in their homes. The recruitment of home hosts is underway and we have had a good response to this to date. This programme is being coordinated with the support of i-SITE.
 38. A City Operations Centre will operate on match days and will be located in the Council building.

39. A 'Clean Zone' for the FIFA U-20 World Cup has been identified around Waikato Stadium in line with the Major Events Management Act (MEMA). Council staff will work with Ministry of Business, Innovation and Employment staff on match days for enforcement where required.

40. Venue Planning – Waikato Stadium and Training Grounds

41. FIFA U-20 World Cup venue planning is continuing with no issues to report. The exclusive use period for the venue commenced on 18 May and work has started at Waikato Stadium and designated training grounds. Light renovation work has been completed on the training grounds (Beetham Park, Gower Park, Porritt #2 and Jansen Park).

42. Budget Summary

43. The total approved budget is \$809,000 (as per Council resolution 9 February 2012) with the Council's commitment being \$409,000. This has been funded from the existing event sponsorship fund over 2012-2015.

44. H15 have raise \$357,351 just short of their \$400,000 target. Additional in kind support of \$20,000 has also been received.

45. On the basis that Council funding was to match H15's contribution that would see Council reduce its contribution to \$366,351.

46. To offset the forecast lower funding savings will be targeted in the Stadium and Host City Costs to ensure that the project remains within the revised budget.

47. Financial Summary:

Description	Original Bid	Current Forecast	Expenditure to 30/4/15
Hosting Fee	\$80,000	\$160,000	\$160,000
Stadium & Training Site Costs	\$393,000	\$370,500	\$111,265
Host City Costs	\$336,000	\$193,200	\$24,586
Total Expenditure	\$809,000	\$723,700	\$295,851

48. The hosting fee was increased from the original bid budget to secure a Quarter Final match and the Stadium and Training Site costs were increased slightly following negotiations with the FIFA U-20 World Cup Local Organising Committee. This was then offset by reducing the Host City component of the budget.

49. Host City costs summary:

Description	Original Bid	Current Forecast	Expenditure to 30/4/15
Marketing, Promotion & Events	\$157,000	\$146,600	\$17,611
Project Management Costs	\$149,000	\$18,100	\$6,975
Traffic Management	\$18,000	\$20,000	\$0
Economic Impact Study	\$7,000	\$7,000	\$0
Regulatory Resource	\$5,000	\$1,500	\$0
Total Expenditure	\$336,000	\$193,200	\$24,586

50. Project management costs have been forecast down as this will be largely managed in-house using existing resources. Funds have been instead redirected to Marketing, Promotions and Events to drive the best possible return on investment for the city.

Signatory

Authoriser	Sean Murray, General Manager Events and Economic Development Group
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Committee: Council

Date: 28 May 2015

Report Name: Frankton Railyards - Tyres

Author: Nicolas Wells

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Procurement Policy</i>
Financial status	<i>There is not budget allocated. Contract sum of \$248,900 plus GST has been listed on the Risks and Opportunities report.</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

2. To provide an update on the removal of abandoned tyres at the Frankton Railyards.
3. This report is for information only.

4. Executive Summary

5. Council leases the Frankton Railyards from Kiwirail. The lease expired on 31 March 2015.
6. A sub-tenant (Pacific Foods) failed to perform and abandoned the site leaving approximately 150,000 used tyres.
7. The used tyres constituted a significant liability in terms of cost of disposal and risk (fire, environment and reputation).
8. Council is legally obliged to remove the tyres and staff negotiated a short term extension to the lease until 31 May 2015 to allow sufficient time to clear the site.
9. The Chief Executive approved a \$248K contract with Kawerau Tyre Storage Limited (KTS) to remove the tyres. KTS trade under the EcoVersion name.
10. All the tyres have now been removed from the site.

11. Recommendation from Management

12. That the report be received.

13. Attachments

14. Attachment 1 - Letter - EcoVersion - Kawerau District Council
15. Attachment 2 - EcoVersion Media Release
16. Attachment 3 - Timeline

17. Key Issues

18. Background

19. Elected members were first briefed informally on the Frankton Railyards tyre situation on 17 March 2015 and Council's legal obligation to remove the tyres.
20. The background to this matter was detailed in a public excluded report to the Finance Committee on 23 April 2015. At the same meeting the Finance Committee received the March 2015 Risks and Opportunities Report listing the cost of removal of the tyres.
21. Further updates were provided on 17 March, 28 April, 30 April, 12 May and 18 May 2015 as detailed on the timeline attached.
22. The Council resolved on 23 April 2015 that:
 - a) *The report be received*
 - b) *The Committee note the Chief Executive's appointment of Kawerau Tyre Storage Limited (trading as EcoVersion) to remove the tyres; and*
 - c) *The Committee note the Chief Executive's decision not to publicly tender the contract for the removal of the tyres.*
23. The Chief Executive entered into a contract with Kawerau Tyre Storage Limited (KTS) on 7 April 2015. The Chief Executive executed the contract under delegated authority in accordance with Council's Procurement Policy. The contract requires:
 - KTS to remove all the abandoned tyres and tyre scrap from the Frankton Railyards by 31 May 2015.
 - KTS to comply with all relevant statutory requirements and warrant that relocation of the tyres to their storage site at Kawerau would comply with the terms of the resource consent for that site.
 - Ownership of the tyres and tyre scrap transferred to KTS once they were removed from the site.
24. KTS completed removal of all tyres and tyre scrap from the Frankton Railyards on Monday 18 May 2015. The site is now clear of all tyres.
25. Legal issues
26. Council has a specific obligation under its Head Lease from KiwiRail to leave the site clear of rubbish on expiry of the lease. Failure to do so would have put Council in a position where it would have full liability to Kiwirail to immediately reimburse Kiwirail for the cost of clearing the site – we understand that Kiwirail had priced this work at \$500K. Council would not have been in a position to control outcomes or manage costs.
27. Council (as Frankton Railyard lessee) has no legal obligation to look into where or what the contractor does with the tyres. However, acting as a good corporate citizen, Council obtained a warranty in the cartage contract that KTS had the appropriate consents for the disposal of the tyres at the site at which Council was advised they were to be stored.
28. Pacific Foods had an obligation to the Council to leave the property clear by 31 March 2015. Given their inability to do so, because of the collapse of their business and ill health of key staff, Council took practical and reasonable steps to mitigate its potential exposure to loss, and disposed of the tyres as quickly as possible. Council has incurred costs as a direct result of Pacific Foods' failure to comply with their obligations in respect of the property. Council's full costs will be charged on to Pacific Foods when they are properly quantified and Council's solicitors have been instructed accordingly.

29. Kawerau Tyre Storage Limited
30. KTS lease land from the Kawerau District Council on which to collect and store up to 20,000 tonnes of used tyres (the entire Frankton stockpile is approximately equivalent to 1,300 metric tonnes). A letter from Kawerau District Council confirming the status of the storage site is appended. The arrangements referred to in the letter remain in place and were confirmed verbally by Kawerau District Council prior to Council entering into the contract with KTS.
31. Associated company EcoVersion is finalizing the purchase of land on which to site its proposed used tyre recycling plant. The plant will convert used tyres into de-vulcanised rubber sheet and bitumen modifiers.
32. We were advised by EcoVersion that the proposed plant will be fully operational before the end of this year. When established the plant will initially be capable of processing up to 10,000 tonnes annually increasing to 40,000 tonnes annually subject to the availability of used tyres. An EcoVersion press release detailing the company's intentions is attached.
33. Council staff carried out the following due diligence in order to establish confidence in KTS's ability to complete the removal of the tyres in accordance with the cartage contract:
- Companies Office Search on KTS and associated entities
 - Site visit and meeting with KTS operations staff at Kawerau
 - Site visit and meeting with KTS operations staff in Frankton
 - Correspondence from E-Freight Logging Limited confirming their (1) relationship with KTS (2) sub-contracting to KTS for the removal of the tyres (3) capacity to undertake and complete the removal of the tyres within the contracted term and (4) satisfactory terms of trade
 - Correspondence from Kajavala Forestry Limited confirming their (1) relationship with KTS (2) sub-contracting to KTS to manage the Kawerau tyre storage site and (3) satisfactory terms of trade
 - Correspondence from KTS's bankers confirming their accounts have been operated in a satisfactory manner
 - Correspondence from Kawerau District Council confirming their (1) relationship with KTS and (2) the legality of the KTS site in Kawerau
 - Direct discussions with Kawerau District Council (Manager, Operations and Services)
34. Removal of the tyres
35. KTS originally contracted to take the tyres to their consented storage site in Kawerau. As a result of adverse publicity in the media the Kawerau District Council became uneasy about the prospect of an additional 150,000 tyres being added to the existing tyre stockpile already on the KTS site. KTS and Kawerau District Council agreed that KTS would not bring further tyres onto the site at this stage.
36. In order to comply with their contractual obligations to Hamilton City Council KTS has consequently stored the tyres not already taken to the Kawerau site at a quarry at Waihi Beach and on farmland at Mangakino.
37. In both cases KTS has indicated that these storage arrangements are short-term and in both cases KTS has been in direct contact with the respective local and regional territorial authorities (Whakatane District Council, Taupo District Council, Bay of Plenty Regional Council and Waikato Regional Council). This has been confirmed by staff.

38. Consents have been obtained and are in place where required – noting that these matters are the responsibility of KTS and not Hamilton City Council. As explained in 30 above Council made every reasonable endeavor to ensure that the tyres would be stored appropriately.

39. Financial Implications

40. Council agreed to pay KTS \$248,900 plus GST to remove the tyres. Council specifically instructed that no payment be made to KTS until all the tyres were removed to our satisfaction.
41. On 20 May 2015 Council paid \$124,450 plus GST (invoiced 30 April 2015). The balance payment of \$124,450 plus GST is due on 20 June 2015.
42. There is no budget for the work. The cost of the removal of the tyres will be managed within Council's overall budget (and listed on the Risk and Opportunity Report).

43. Risk

44. The tyres constituted a significant liability in terms of (1) cost of disposal, (2) fire risk, (3) environmental risk and (4) reputational risk.
45. It should be noted that Council has never been in the business of processing tyres. The only practical option available to Council to deal with the abandoned tyres is remove them in as controlled a manner as possible. As notified to Council at the Finance meeting of 23 April 2015 it has always been intended to enter into a cartage contract – particular care was given to undertaking reasonable due diligence to ensure that the tyres would be satisfactorily processed.
46. Timely removal of the tyres has eliminated physical risks at a quantifiable financial cost.

Signatory

Authoriser	Sean Murray, General Manager Events and Economic Development Group
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File reference: 401160

27 November 2014

Director
Kawerau Tyre Storage Ltd
PO Box 4136
MOUNT MAUNGANUI 3149

Attention: Alan Merrie

Dear Alan

EcoVersion Project

The Kawerau District Council is happy to confirm the following:

- Pacific Assets a related company to the EcoVersion end of life tyre (ELT) conversion project as received a code of compliance certificate for the establishment of a plant to process 36,000 tons of ELT's annually.
- Kawerau Tyre Storage Ltd (KTS) has entered into a land lease with the Kawerau Council on a site adjacent to the project site for the specific purpose of collecting and storing up to 20,000 tons of ELT's including off road prior to the start-up phase of the plant.
- KTS has posted a Bond with the Council and arranged all liability insurances to meet the conditions of the tyre storage facility and has met all of the conditions to date.
- KTS has engaged the services of Kajavala Logging Ltd, a major logistics operator in Kawerau, to manage the tyre storage facility.

The Council confirms that this tyre storage facility is a legal operation in Kawerau and has all necessary permissions to operate.

Yours sincerely

Tom McDowall, NZCE, BE (Civil)
Manager, Operations & Services
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Media release

13 May 2015. For immediate release

Ecoversion plans new state-of-the-art tyre recycling and processing plant

Recycling company Ecoversion plans to introduce a state-of-the-art plant that will significantly reduce the number of tyres that go to landfill or are exported from New Zealand. Around four million car and light truck tyres require disposal each year, causing environmental and health issues in many parts of the country.

Ecoversion Director, Angela Merrie said that they are in the final stages of purchasing the innovative plant from China, deposits have been paid and the technology secured. They plan to be fully operational by the end of the year.

Ms Merrie acknowledges that many have tried to succeed in this space previously and have failed but she is confident that they have it right. The new plant will have the capacity to process 10,000 tonnes annually in the first stage of the development and will be expanded to 40,000 tons of processing capacity, subject to the availability of end-of-life tyres. Currently, around 60,000 tonnes of tyres are disposed of each year in NZ.

“End-of-life tyres are a huge problem in this country but we are excited to be able to provide a partial solution. Our tyre processing plant will assist with the Ministry for the Environment’s zero waste to landfill strategy,” said Ms Merrie.

Ecoversion’s new plant will process used tyres to create de-vulcanised rubber sheets and bitumen modifiers. Ms Merrie said that current recycling processes focus on producing crumb rubber but the new technology to be introduced takes recycling a step further. “The de-vulcanised rubber from our new waste plant will be used for other rubber products such as tyre retreading, providing a full closed loop tyre recycling opportunity and the bitumen modifiers will provide more stable, safer roading with increased longevity,” Ms Merrie said.

“Ecoversion has secured export contracts for all of the products that will be produced. However our Chinese partners want to help develop the NZ market particularly in the area of bitumen modifiers which is an exciting development and a first using reclaimed rubber,” Ms Merrie said.

The company is finalising a land purchase agreement for its operational site and expects to have finalised all arrangements by the beginning of June.

Ends

Contact Angela Merrie 021 907 558 for further information

Frankton Railyards – Tyre Storage and Removal - Timeline

3 October 2013	Initial approach from Pacific Foods and Distribution Limited (Sub-lessee)
1 May 2014	Pacific Foods and Distribution Limited occupy site
17 July 2014	New Zealand Fire Service notification of potential fire risk
7 August 2014	Pacific Foods and Distribution Limited advised to remove tyres
22 August 2014	Pacific Foods and Distribution Limited in discussion with New Zealand Fire Service and HCC Building Unit regarding fire mitigation
2 September 2014	Note to elected members regarding possible fire hazard and mitigation
15 September 2014	Letter from Waikato Regional Council CEO to HCC CEO regarding potential fire risk and mitigation
17 September 2014	Letter from Hamilton City Council CEO to Waikato Regional Council CEO regarding potential fire risk and mitigation
17 September 2014	Hamilton City Council Building Unit issue dangerous building notice to Pacific Foods and Distribution Limited – fire mitigation measures put in place with NZ Fire Service and HCC Building Unit approval
3 February 2015	Notice given to Pacific Foods and Distribution Limited to vacate site by 31 March 2015 – Pacific Foods and Distribution Limited advises HCC that they are negotiating with Kiwirail for continued occupancy of the site
6 February 2015	Pacific Foods and Distribution Limited advises HCC that they will not be able to remove tyres
13 February 2015	Legal advice from Tompkins Wake
16 February 2015	Pacific Foods and Distribution Limited advises HCC that negotiations with Kiwirail for continued occupancy of the site have broken down
18 February 2015	Hamilton City Council and Kiwirail agree to extend exit date to 31 May 2015 to allow time for HCC to remove tyres
19 February 2015	Pacific Foods and Distribution Limited's Operations Manager has heart attack and is hospitalised
20 February 2015	All persons associated with Pacific Foods and Distribution Limited formally advised to remove property by 31 March 2015
2 March 2015	Tompkins Wake advise on recovery of costs from Pacific Foods and Distribution Limited
3 March 2015	Pacific Foods and Distribution Limited advises HCC that they will abandon the tyres on 31 March 2015
17 March 2015	General Manager verbal briefing to councillors at workshop meeting of intention to remove the tyres and appoint a contractor to remove the tyres
18 March 2015	Pacific Foods and Distribution Limited advised that Hamilton City Council will take direct action to remove tyres
26 March 2015	Tompkins Wake letter to Pacific Foods and Distribution Limited advising that HCC is taking control of the site
24-31 March 2015	Fixed price quotations obtained by Hamilton City Council for removal of tyres
30 March 2015	Staff visit Kawerau Tyre Storage Limited (Ecoversion) consented storage site in Kawerau
31 March 2015	Kawerau Tyre Storage Limited selected as contractor for the removal of the tyres - other tenderers notified
1 April 2015	Tompkins Wake advise Pacific Foods and Distribution Limited that their lease has terminated and costs will be recovered

7 April 2015	Kawerau Tyre Storage Limited cartage contract for removal of the tyres executed by CEO
22 April 2015	Kawerau Tyre Storage Limited commence removal of tyres
23 April 2015	Report to Finance Committee advising (1) award of Cartage Contract for the removal of the tyres under CEO delegation and (2) Risks and Opportunities Register provision for costs
24 April 2015	Kawerau District Council advise that they will not allow Frankton Tyres on to Kawerau Tyre Storage Limited consented Kawerau tyre storage site
28 April 2015	General Manager report in Executive Update on progress of cartage contract for the removal of the tyres
30 April 2015	General Manager verbal update to elected members at luncheon meeting on progress of cartage contract for the removal of the tyres
12 May 2015	General Manager report in Executive Update on cartage contract for the removal of the tyres
18 May 2015	Kawerau Tyre Storage Limited complete removal of tyres - all tyres gone from Frankton Railyards
18 May 2015	General Manager email to elected members on completion of cartage contract and removal of all tyres from the Frankton site

10. Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Council Minutes - Public Excluded - 30 April 2015) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Honorary Hamilton Ambassador Award) Official Information and Meetings Act 1987	
C3. Proposed District Plan - Appeals to the Te Rapa North Industrial Zone)	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	for the reasons noted on the 30 April Agenda	Section 7 (2) (a)
Item C2.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C3.	on the grounds that a right of appeal lies to any Court or Tribunal against the final decision of the Local Authority in this matter	Section 7 (2) (a) (i)
	to maintain legal professional privilege	Section 7 (2) (g)