
Council OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 21 September 2017 at 9.35am.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O'Leary
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman

Richard Briggs – Chief Executive
Lance Vervoort – General Manager Community
Chris Allen – General Manager City Infrastructure
Kelvyn Eglinton – General Manager City Growth
Sean Murray – General Manager Major Events, Venues and Tourism
Sean Hickey – General Manager Strategy and Communications
Blair Bowcott – Executive Director Special Projects
Luke O'Dwyer - Economic Growth and Planning Unit Manager
Nicola Walsh – Communications Advisor
Jeff Neems – Communications Advisor
Debbie Lascelles – Community Services Manager
Rebecca Whitehead – Libraries Director
Claire Douglas – Intermediate Planner
Alice Morris – City Planning Policy Team Leader
Nicolas Wells – Strategic Property Manager
Nigel Ward – Communications Team Leader
Andrew Parsons – City Development Team Leader

Lachlan Muldowney - City Barrister
Alan Ricketts – PWC Representative
Engineering Consultants – Opus International

Lee-Ann Jordan – Governance Manager
Becca Brooke – Governance Team Leader
Amy Viggers and Rebecca Watson – Committee Advisors

1. Apologies

There were no apologies.

2. Leave of Absence

Cr Yeung (24 August 2017 to 23 November 2017 inclusive) and Cr Pascoe 19 September to 24 October 2017 inclusive).

3. Confirmation of Agenda

The length of the agenda and the late report were noted by some Elected Members.

Resolved: (Crs Casson/Bunting)

That the agenda is confirmed noting the following:

- a) the order of the agenda will be flexible to accommodate external presenters and staff availability;
- b) item 21 (*Road Stopping - Part of Hillsborough Tce*) – (*referred from the 12 September 2017 Growth and Infrastructure Committee Meeting*) to be deferred to the 18 October 2017 Council Meeting for decision;
- c) late Items 24 (Waikato Innovation Park Limited – Update on Sale and Restructure) and Public Excluded C1 (Waikato Innovation Park Limited – Update on Sale and Restructure) have been circulated under separate cover and will be taken as the last Items on the Agenda. The reasons for the late reports are due to limitations on staff resources. The reasons for part of the report being Public Excluded is to enable Council to carry out commercial activities without disadvantage and to carry out negotiations.
- d) item 23 (Waters Study Report) has been circulated under separate cover.
- e) item 10 (*2017/18 Heritage Fund Allocations*) pages 44-51 of Attachment 2 have been included in error. A replacement attachment has been circulated to Elected Members.
- f) item 15 (Central Library Seismic Rehabilitation) – additional information has been circulated to Elected Members under separate cover.
- g) the Notice of Motion from Mayor King regarding HPL, circulated to Elected Members under separate cover, will be tabled and taken with Item 19 (Hamilton Properties Limited).

Crs O’Leary and Henry Dissenting.

4. Declarations of Interest

No members of the Council declared a Conflict of Interest.

5. Public Forum

- **Louise LaHatte (President of LIANZA)** - Spoke to Item 15 (*Central Library Seismic Rehabilitation*). Ms LaHatte spoke in support of the upgrade to the Central Library so that it could be reopened to the public.

- **Kathryn Parsons (President of Friends of the Library)** - Spoke to Item 15 (*Central Library Seismic Rehabilitation*). Ms Parsons spoke in support of the Central Library upgrade.
- **Holly Snape (CEO of Community Waikato)**- Speaking to Item 18 (*Founders Theatre - Update on Options*). Ms Snape advised that the private sector had indicated willingness to help fund the creation of a community hub by converting the Founders Theatre space.

6. Confirmation of Council Minutes - Open - 24 August 2017

Resolved: (Crs Casson/Southgate)

That the Council confirm the Open Minutes of the Council Meeting held on 24 August 2017 as a true and correct record.

7. Confirmation of Elected Member Briefing Notes - Open - 7 September 2017

Resolved: (Crs O'Leary/Tooman)

That Council confirm the notes of the Elected Member Briefing held on 7 September 2017 as a true and correct record, noting that the discussion on Hinemoa Park bowling site will include 'the option of a co-use space with multiple leases' to be added to bullet point 5 of the briefing notes.

8. Hamilton City Partly Operative District Plan - Making the Plan Fully Operative

The report was taken as read.

Resolved: (Crs O'Leary/Southgate)

That the Council approves the Hamilton City Partly Operative District Plan to be made fully operative on 18 October 2017, in accordance with clauses 17 and 20 of the First Schedule of the Resource Management Act 1991.

9. Te Awa Lakes Private Plan Change Application

The Economic Growth and Planning Unit Manager introduced the staff report. He and the City Barrister responded to questions from Elected Members concerning the process for a private plan change and the difference in meaning between acceptance and adoption of a private plan change.

Resolved: (Cr O'Leary/Mayor King)

That Council:

- a) accepts the private plan change for the Te Awa Lakes development in Te Rapa North as outlined in Attachment 3 of this report and delegates responsibility to the Chief Executive for processing and notification of the plan change pursuant to clause 25(2)(b) of the First Schedule of the RMA;
- b) convene a hearings panel to hear, determine and make decisions on all submissions and matters relating to the Te Awa Lakes plan change once notified. It is further recommended that the hearing panel comprise three independent commissioners with qualifications and skills in strategic land use planning and/or infrastructure engineering and one with expertise in tikanga Maaori (with one appointed as a chair); and
- c) delegates authority to the Chief Executive to select and appoint three suitably qualified independent commissioners as per recommendation (b).

Item 15 – Central Library Seismic Rehabilitation was taken next to accommodate members of the public in attendance for the item.

105. Central Library Seismic Rehabilitation

The General Manager Community, introduced the staff report, noting that the additional information circulated to Elected Members prior to the meeting was related to recent engineering results for the building received after the agenda was circulated.

Staff responded to questions from Elected Members concerning the proposed cardax security system and the possible effects that a closure of the Central Library would have on Garden Place.

It was noted that further discussions concerning the future of the Central Library and options relating to commercial funding models would occur as part of the 10 year plan process.

Resolved: (Crs O'Leary/Southgate)

That the Council:

- a) receives the report;
- b) approves the recommendation from the 4 April 2017 Community and Services Committee meeting to approve \$618,000 capital and \$17,200 operating budget to upgrade the Central Library to 34 percent NBS and approve \$87,000 to install a cardex system (option C1); and
- c) notes the information on future Central Library options, contained in paragraphs 19 – 58 of the staff report.

Cr Mallett Dissenting.

11. 2017/18 Heritage Fund Allocations

The City Planning Policy Team Leader noted that application number 19 in attachment 4 of the staff report was missing. An updated document was circulated to Elected Members during the meeting and would be attached as appendix 1 to the minutes of the meeting. She responded to questions from Elected Members concerning the process staff undertook in making their recommendations and the peer review carried out by Heritage New Zealand.

Staff were asked to make changes to the format of the Heritage Fund Allocations report to make them easier to read.

Resolved: (Crs Bunting/Casson)

That the Council approves the allocation of the 2017/18 Heritage Fund as set out in Attachment 4 of this report.

12. Recommendation to Council from the Growth and Infrastructure Committee Meeting - 12 September 2017 - Valley Tce Stormwater Pipe Remedial Works

The General Manager City Infrastructure introduced the report and responded to questions from Elected Members concerning the inclusion of easement arrangements on property titles.

Cr Henry was recognised for the part she played in helping to resolve this matter.

Resolved: (Crs Casson/Bunting)

That Council:

- a) approves a total project budget of up to \$591,000 to enable staff to progress with planning, consenting and implementation of physical works to remove and replace the failed Valley Terrace stormwater pipe subject to confirmation that appropriate easements and access rights as per d) below have been secured;
- b) delegates authority to the General Manager City Infrastructure to finalise negotiations with the property owner from 12 Valley Terrace on the extent of any contribution to project works;
- c) approves that ownership of the new proposed piped structure transfers to the Council and that the Council accepts all future maintenance and renewal obligations; and
- d) approves staff to progress with the establishment of appropriate easements in gross and access rights on property titles of 10, 12 and 14 Valley Terrace to allow for future access to piped structure for inspection, maintenance and renewal purposes.

13. Recommendation to Council from the Growth and Infrastructure Committee Meeting - 12 September 2017 - Whyte Street Land Exchange

The report was taken as read.

Resolved: (Mayor King/Cr Tooman)

That Council:

- a) approves the exchange of approximately 175m² of Council fee simple land, legal description Lot 4 DP 486892, for approximately 175m² of land in the ownership of Anthony Endres, at no land cost to either party, subject to:
 - i. each party being responsible for their own legal costs;
 - ii. associated land exchange costs, such as survey and valuation, being shared equally;
 - iii. a survey plan being approved for the areas to be exchanged;
 - iv. the area being received by Mr Endres being amalgamated with the title for his property at 10B Masons Ave;
 - v. the area being received by Council being amalgamated with the title for the A J Seeley Gully Reserve; and
- b) delegates the Chief Executive authority to sign all documentation related to the land exchange.

14. Recommendation to Council from the Growth and Infrastructure Committee Meeting - 12 September 2017 - LED Street Lighting Upgrade

The report was taken as read.

Resolved: (Crs Bunting/Macpherson)

That Council approves an additional local share funding of \$194,000 in 2017/18 to complete the supply of the stage 2 luminaires to be managed through risks and opportunities and to prioritise the 2018/19 installation costs of \$279,000 in the 2018-28 10-Year Plan.

15. Waikato Means Business contribution to Economic Development

The report was taken as read. Staff responded to questions from Elected Members concerning the benefits that would come from having an entity focused on subregional economic growth, the challenges for funding and implementing such an entity, and the intended independent governance structure.

Resolved: (Crs O’Leary/Henry)

That the council

- a) receives the report;
- b) approves in principle the Waikato Means Business model to establish an Economic Development Agency;
- c) notes that the final proposal and recommendations of the model be reported back to Council by the end of 2017, including feedback from the Mayoral Forum, finalised funding, operating and governance model; and
- d) notes that staff will prepare a draft agreement including Council’s funding contribution as indicated in the report.

Crs Mallett and Macpherson Dissenting.

The Meeting adjourned 11.35am – 11.50am.

16. Waterworld Renewals Project

The Community Services Manager introduced the staff report. Staff and external engineering consultants responded to questions from Elected Members concerning funding requirements. It was confirmed that the project renewal budget was \$5,108,000, part of which was budget deferred to 2017/18, and \$5,672,000 which was budget brought forward from 2022/23.

Resolved: (Crs Bunting/Southgate)

That the Council:

- a) receives the report.
- b) approves bringing forward \$5,672,000 from 2022/23 in the 2015-25 10 Year Plan to 2017/18 to complete the required renewals work at Waterworld (option 5 of this report).

17. Waikato Regional Theatre

General Manager Major Events, Venues and Tourism introduced the staff report. He responded to questions from Elected Members regarding clarification of the expectations around Council’s financial and funding contribution obligations and the public engagement process.

Resolved: (Crs O'Leary/Southgate)

That the Council:

- a) receives the report;
- b) accepts in principal Momentum Waikato's new Waikato Regional Theatre concept design and location masterplan and their proposed ongoing ownership and operating model but reserves the right to offer further feedback and conditional advice on the function and capability of the theatre as more detailed public feedback is received and as the detailed design process evolves;
- c) agrees in principal that Council will seek to raise funds to the \$30,000,000 (plus GST) level proposed by Momentum Waikato's proposal subject to the outcome of the following:
 - i) the completion of public engagement activity in October – November 2017 post the presentation of the first draft budget on 19 October 2017 which will include the new Waikato Theatre proposal funding option and will be reported back to Council at its meeting on 14 December 2017; and
 - ii) the completion of public consultation in early 2018 specifically regarding the draft 2018-2028 10-Year Plan including full financial disclosure and the impact of the new Waikato Theatre proposal within Council's broader financial strategy and funding priorities.
- d) approves unbudgeted funding of \$250,000 in the 2017/18 financial year to contribute towards work on the next stage of the design development for the Waikato Regional Theatre; and
- e) declines the offer from Foster Construction to purchase property adjacent to the proposed new Waikato Theatre development site on Victoria Street.

Cr Mallett Dissenting.

18. **Hamilton Properties Limited**

The Chief Executive introduced the staff report, noting that that the PwC report included in the agenda was originally prepared prior to Council's new balancing the books measure. He responded to questions from Elected Members concerning the original principles behind the concept of Hamilton Properties Limited and the risks and options outlined in the PwC report.

The notice of motion from Mayor King in relation to Hamilton Properties Limited was considered with this report. In response to questions from Elected Members, the Governance Manager confirmed the notice of motion was valid.

Notice of Motion from Mayor King in relation Hamilton Properties Limited

Motion: (Mayor King/Cr Taylor)

That Council:

- a) revokes in full the resolution of Council, dated 29 September 2016 in respect of Hamilton Properties Limited; and
- b) dissolves Hamilton Properties Limited as a Council entity.

Amendment: (Crs O'Leary/Southgate)

That Council:

- a) receives the report;
- b) notes the increased risk of investing in property, via HPL, over the current debt offset

approach;

- c) approves the suspension of the process, as agreed at the meeting held on 9 March 2017, until such time as a property strategy is completed, properties are identified in collaboration with the private sector and detailed business cases are developed; and
- d) requests the Chief Executive provides an updated timetable to the October 2017 Council meeting.

The Amendment was put.

Those for the Amendment: Councillors O'Leary, Bunting, Henry and Southgate.

Those against the Amendment: Mayor King, Councillors Gallagher, Mallett, Tooman, Macpherson, Casson and Taylor.

The Amendment was declared lost.

The Motion was then put.

Those for the Motion: Mayor King, Councillors Gallagher, Mallett, Tooman, Macpherson, Bunting, Casson and Taylor.

Those against the Motion: Councillors O'Leary, Henry and Southgate.

The Motion was declared carried.

Resolved: (Mayor King/Cr Taylor)

That Council:

- a) revokes in full the resolution of Council, dated 29 September 2016 in respect of Hamilton Properties Limited; and
- b) dissolves Hamilton Properties Limited as a Council entity.

19. Endowment Funds – Dissolution

The Strategic Property Manager took the report as read. He noted that attachment 4 of the staff report was out of date and an updated attachment had been circulated to Elected Members. The Chief Executive responded to questions from Elected Members concerning a request for the report to be discussed at a future Elected Members Briefing prior to coming to Council for a decision.

Resolved: (Crs O'Leary/Southgate)

That the report be deferred to a future Elected Member Briefing for discussion.

Cr Mallett Dissenting.

20. Founders Theatre - Update on Options

The General Manager Major Events, Venues and Tourism took the staff report as read and responded to questions from Elected Members concerning the proposed public engagement process, and existing options for the use of Founders Theatre and site.

Resolved: (Crs Casson/O'Leary)

That the Council:

- a) receives the report;
- b) approves the three options outlined as the basis for public consultation on the future of Founders Theatre;
- c) approves the consultation plan and budget of \$27,000 as described in this report; and
- d) notes Management will report back on 14 December 2017 with the consultation findings and a recommended approach for the future of Founders Theatre.

The meeting adjourned 2.18pm – 3.00pm.

21. Confirmation of LGNZ Zone Two Representatives

The report was taken as read.

Resolved: (Crs Macpherson/Bunting)

That the Council approves Deputy Mayor Martin Gallagher and Councillors Dave Macpherson and Paula Southgate (or alternate) as Hamilton City Council's representatives to LGNZ Zone Two.

23. Waters Study (Water, Wastewater and Stormwater - Sub-regional Collaboration)

The report was taken as read. The Executive Director Special Projects responded to questions from Elected Members relating to the benefits of asset and non-asset owning CCO's and public engagement. He confirmed that Hamilton City Council and Waipa District Council would be working collaboratively through the consultation process, and that Waikato District Council was still considering a non-asset owning CCO option.

Resolved: (Mayor King/Cr Macpherson)

That the Council:

- a) receives the report; and
- b) approves:
 - i. public consultation on the proposal to form a Shared Waters Management Company is undertaken; and
 - ii. public consultation is undertaken in collaboration with Waipa District Council;
 - iii. that the Hamilton City Council Waters Governance Group is delegated authority to liaise with Waipa District Council and approve consultation materials and a process for public engagement, with public engagement to occur prior to the end of 2017; and
 - iv. the Chief Executive to engage in additional resources in 2017/18 to progress the Waters Study collaboration project at a cost of up to \$200,000, noting that this cost is

unbudgeted.

Cr O'Leary Dissenting.

Cr Southgate left the meeting at the conclusion of the above item (3.23pm). She was present when the matter was voted on.

24. Waikato Innovation Park Ltd - Update on Sale and Restructure

The Executive Director of Special Projects introduced the report. He noted that a preferred purchaser had been identified through a rigorous process. The proposed purchaser had signalled their intent to follow through with and complete the Park's Master Plan. He also responded to questions for Elected Members regarding potential conflicts of interest, payment arrangements and Councils intended use of sale proceeds.

Resolved: (Crs Bunting/Casson)

That the Council:

- a) notes the previous delegations provided to the Chief Executive on the 28 July 2016 covering the sale and restructure of Waikato Innovation Park Ltd remain applicable and portions of these delegation have been exercised;
- b) approves the sale of Waikato Innovation Park Ltd as recommended by Deloitte; and
- c) notes the restructure of Waikato Innovation Park Ltd and New Zealand Food Innovation (Waikato) Ltd that is required to enable the sale;
- d) approves the capitalisation of a new Council Controlled Organisation (Waikato Innovation Growth Ltd) required to be incorporated by Council in connection with the restructure with a share capital of \$4 million and a shareholder loan of up to \$200,000;
- e) notes that all net sale proceeds after costs and the funds required to complete the restructure will be applied to debt reduction and charitable purposes in accordance with Councils shareholding ownership obligations;
- f) approves that the investment of \$4.2m into the new Council Controlled Organisation will be partially funded from Council working capital (cashflow) until 80.2% of the sale proceeds have been received from the liquidation of Innovation Waikato Ltd;
- g) delegates to the Chief Executive:
 - i. the authority to appoint the directors of a new Council Controlled Organisation (Waikato Innovation Growth Ltd) as required as part of the restructure;
 - ii. the authority to take all necessary actions to liquidate Innovation Waikato Limited;
 - iii. put the share capital and shareholder loan referred to above in place;
 - iv. recapitalise New Zealand Food Innovation (Waikato) Ltd with \$4 million to enable the transactions to occur.
- h) delegates to the Chief Executive the authority in connection with and in furtherance of the sale, the restructure, the loan and the liquidation (the **Transactions**) to:
 - i. negotiate, approve, make, agree or execute any agreement or document as the Chief Executive deems necessary in order to effect the Transactions (the **Documents**);
 - ii. give any notices and communications under or in connection with the Documents;
 - iii. take any action and make such filings as may be required; and
 - iv. do all other acts and things as the Chief Executive may consider necessary or

advisable in connection with the Transactions and the Documents.

- i) authorises any two councillors to sign any Document that is to be executed as a deed (if deemed necessary following legal advice) in relation to the above Transactions; and
- j) that the specific sale terms and purchaser of Waikato Innovation Park Ltd be made public once the sale and purchase agreement is unconditional.

25. Resolution to Exclude the Public

Resolved: (Crs Bunting/Tooman)

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. Chair's Report – Victoria on the River Precinct - Public Excluded) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Waikato Innovation Park Ltd - Update on Sale and Restructure) Official Information and Meetings Act 1987	

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 enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
Item C2.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)

Cr Southgate re-joined the meeting (3.27pm) at the conclusion of the above item. She was not present when the matter was voted on.

The meeting went into a public excluded session at 3.27pm.

The meeting was declared closed at 4.44pm.

Appendix One

Item 10 – 2017/18 Heritage Fund Allocations – In addition for attachment 4.

019	A Ryan	Grey Street	H116 B Ranked	Funding is sought for the: <ul style="list-style-type: none"> • Preparation of a conservation maintenance plan; • Restoration of wooden joinery; • replace the roof 	\$65,827.99	\$30,857.99	Partial Funding: The recommendation is that support be provided for both the preparation of a conservation/maintenance plan for the building to outline the future works that need to be undertaken and how those works should be executed. This plan will assist the owner with future funding and consenting processes; and the restoration of the identified timber windows to prevent any further deterioration of the heritage fabric of the building associated with these windows.	Agree the allocation of \$6,000 towards the identified work.	\$6,000.00
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