
Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 26 November 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 A King
	Cr D Macpherson
	Cr G Mallett
	Cr A O’Leary
	Cr R Pascoe
	Cr L Tooman
	Cr E Wilson

In Attendance	Richard Briggs – Chief Executive
	Chris Allen –General Manager City Infrastructure
	Sean Murray – Executive Director H3 and Events
	Debra Stan-Barton – Acting General Manager City Environments
	Lance Vervoort – General Manager Community
	Blair Bowcott – Executive Director Special Projects
	Paul Conder – Acting General Manager Corporate
	Kelvin Powell – City Safe Unit Manager
	Luke O’Dwyer – City Planning Manager
	Sally Sheedy – Parks and Open Spaces Manager
	Deanne McManus-Emery – Community Development & Leisure Manager
	Renee McMillan – Team Leader Planning & Assets

Also In Attendance	James MacGillivray – Tomkins Wake for Item 10.
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Committee Advisors	Mrs Jude Pani and Mrs Mary Birch
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Opening Prayers and Acknowledgements

The Opening Prayers were led by Andrea Haines from St. Peter’s Anglican Cathedral.

Her Worship the Mayor Hardaker acknowledged the recent award received by Hamilton City Council's Playgrounds of the Future Plan. It received the Outstanding Research, Planning and Policy Award from the New Zealand Recreation Association. She congratulated staff on this achievement.

1. Apologies

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

That apologies from Councillors Green and Yeung, and for Councillor Macpherson for lateness, be received and accepted.

2. Confirmation of Agenda

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

That the Council to confirm the agenda.

3. Declarations of Interest

Councillor King declared a conflict of interest for Item C2 – Proposed District Plan Appeals Update – and indicated that he would withdraw from the Meeting when that Item was considered.

4. Public Forum

The following spoke in the public forum:

Jason Howarth spoke to Item 10 – Provisional Local Alcohol Policy – speaking against the recommendations in the staff report.

Graham Derrick, Kaiwhakahaere, Te Whaanau Roopu O Aotearoa-Komiti Maaori spoke to Item 9 – Reclassification of Enderley Park and Lake Rotokauri Park – objecting to the proposal being presented to the Council.

Councillor Wilson left the meeting at 1.43pm.

Councillor Macpherson joined the meeting at 1.45pm.

5. Council Minutes - Open - 29 October 2015

It was noted that

Page 10 – Item 7 – Waikato Sub-Regional Waters Study - the term “*touch points*” related to reports and meetings.

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

That the Council confirms and adopts as a true and correct record the Open Minutes of the Council Meeting held on 29 October 2015, with the change noted.

6. Recommendations to Council - Finance Committee Meeting 22 October 2015

Councillor Pascoe, the Chair of the Finance Committee, presented the recommendations of the Committee Meeting held on 22 October 2015. The 22 October 2015 Finance Committee Agenda is available via the following link: <http://www.hamilton.govt.nz/our-council/meetings-and-minutes/Pages/default.aspx>

Councillor Wilson returned to the meeting at 1.55pm. He was present for voting on Item 6.

Resolved: (Crs Pascoe/Mallett)

Community Occupancy Applications

That:

- a) Council approves the granting of a new community group lease to the **Hamilton Cadet Forces Building Charitable Trust** for premises at 60 Dey Street as shown in Attachment 1 of the Committee Report, being Part Section 36 Hamilton East Town Belt, subject to the following terms and conditions:
 - i. Term – two years;
 - ii. Rent – \$2,428.13 plus GST per annum in accordance with the Community Occupancy Policy;
 - iii. All other terms and conditions in accordance with the Community Occupancy Policy and Community Occupancy Guidelines.
- b) Following s54(1)(b) of the Reserves Act 1977, Council approves the granting of a new community group lease to **Metro Judo Club Incorporated** for premises at Pembroke Park as shown in Attachment 2 of the Committee Report, being Lot 1 DPS1727 and Lot 1 DPS 70567, subject to the following terms and conditions:
 - i. Term – 10 years;
 - ii. Rent – \$4,565.50 plus GST per annum in accordance with the Community Occupancy Policy;
 - iii. All other terms and conditions in accordance with the Community Occupancy Policy and Community Occupancy Guidelines;
- c) Following s54(1)(b) of the Reserves Act 1977, Council approves the granting of a new community group lease to **Arts for Health Community Trust** for premises at Ward Park as shown in Attachment 3 of the Committee Report, being Pt Allot 11 Hamilton West Town Belt, subject to the following terms and conditions:
 - i. Term – 10 years;
 - ii. Rent – \$406.25 plus GST per annum in accordance with the Community Occupancy Policy;
 - iii. All other terms and conditions in accordance with the Community Occupancy Policy and Community Occupancy Guidelines;
- d) Following s54(1)(b) of the Reserves Act 1977, Council approves the granting of a new community group lease to **Artmakers Community Artists Trust** for premises at Ward Park as shown in Attachment 3 of the Committee Report, being Pt Allot 11 Hamilton West Town Belt, subject to the following terms and conditions:
 - i. Term – 10 years;
 - ii. Rent – \$2,431.25 plus GST per annum in accordance with the Community Occupancy Policy;
 - iii. All other terms and conditions in accordance with the Community Occupancy Policy and Community Occupancy Guidelines; and
- e) Following s54(1)(b) of the Reserves Act 1977, Council approves the granting of a new community group lease to the **Hamilton Community Men’s Shed Trust** for premises at Ward Park as shown in Attachment 3 of the Committee Report, being Pt Allot 11 Hamilton West Town Belt, subject to the following terms and conditions:
 - i. Term – 10 years;
 - ii. Rent – \$455.55 plus GST per annum in accordance with the Community Occupancy Policy;
 - iii. All other terms and conditions in accordance with the Community Occupancy Policy and Community Occupancy Guidelines.

- f) Council grants approval for the **Hamilton Community Men's Shed Trust** to locate a 20 foot storage container on the premises within the asphalt carparking area adjacent to the existing storage container for the purpose of storing materials for the use and benefit of its members subject to the storage container:
- i. being painted to match the colours of the main building;
 - ii. being kept and maintained in good clean order and condition free of graffiti and other malicious damage;
 - iii. being removed from the premises at the expiry or earlier determination of the lease

7. Recommendations to Council - Strategy and Policy Committee - 3 November 2015

Councillor O'Leary, Chair of the Strategy and Policy Committee, presented the recommendations of the Strategy and Policy Committee meeting held on 3 November 2015. The 3 November 2015 Committee Agenda is available via the following link: <http://www.hamilton.govt.nz/our-council/meetings-and-minutes/Pages/default.aspx>

The recommendation expressed in parts was voted on in parts.

Resolved: (Crs O'Leary/Mallett)

1. Draft Public Places Policy and Bylaw for Public Engagement

That:

- a) the proposed draft Public Places Policy be approved for public engagement to commence on 2 December 2015 and close on 15 January 2016.
- b) In relation to the proposed draft Public Places Bylaw 2016:
 - i. the proposed draft Hamilton Public Places Bylaw 2016 is the most appropriate form of the bylaw;
 - ii. the proposed draft Hamilton Public Places Bylaw 2016 does not give rise to implications under the New Zealand Bill of Rights Act 1990; and
 - iii. the proposed draft Hamilton Public Places Bylaw 2016 be adopted by Council for public engagement to commence on 2 December 2015 and close 15 January 2016.
- c) The Business and Investment Subcommittee:
 - i. be delegated to hear and deliberate on submissions made to the proposed draft Public Places Bylaw 2016 and draft Public Places Policy; and
 - ii. reports a summary of the oral submissions and evidence presented on the proposed draft Public Places Bylaw 2016 and draft Public Places Policy, including recommendations, to the 16 February 2016 Strategy and Policy Committee as part of the staff report for deliberation and adoption.

Resolved: (Crs O'Leary/Mallett)

2. Election Signs Policy - Review

That the Election Signs Policy (attached as Attachment 2 in the Committee report) be deleted.

Councillors Gallagher, Macpherson and Wilson dissenting.

Resolved: (Crs O'Leary/Mallett)

3. Road Stopping - Ruakura Rd & Percival Rd

That:

- a) Council grants approval to initiate stopping the areas of Ruakura Rd and Percival Rd as indicated on Attachment 1 of the Committee report subject to:
 - i. The road stopping process be completed in terms of the Local Government Act 1974 (section 342 and 10th Schedule);
 - ii. Public consultation commencing on receipt of approval of the Minister of Land Information to stop the parts of Ruakura Rd and Percival Rd together with a survey plan approved by Land Information New Zealand for the areas of road proposed to be stopped as indicated in Attachment 1 of the Committee report;
 - iii. Any objections received from the public consultation are to be reported back to Council for consideration; and
 - iv. Closing of the roads is not to be undertaken until construction of the new agreed alternative roads are complete.
- b) The Chief Executive be delegated authority to sign all documentation relating to the road stopping process and legalisation of the land;
- c) all costs associated with the road stopping process, physical works associated with the closure and new alternative routes, transfer of existing utility services and legalisation of the land be the responsibility of Tainui Group Holdings Ltd;
- d) Council grants approval in principal for the transfer of the road area stopped to Tainui Group Holdings Ltd, upon the legalisation being completed and subject to any statutory obligations being met and also subject to the value of the land being included in a private development agreement to be reported back to Council for approval; and
- e) all costs associated with the transfer of the land to be the responsibility of Tainui Group Holdings Ltd.

Resolved: (Crs O'Leary/Mallett)

4. Road Stoppings - CDL Land New Zealand Ltd

That:

- a) an area of Brywood Rise totaling approximately 6162m², as shown on Attachment 2 in the Committee Report, be stopped in terms of the Public Works Act 1981, subject to the area being confirmed by a survey plan;
- b) the area of Brywood Rise stopped is transferred to CDL Land New Zealand Ltd in exchange for approximately 6552m² being vested in Council as road at no cost, as shown on Attachment 2 in the Committee report, subject to the area being confirmed by a survey plan; and
- c) an area of Sylvester Road totaling approximately 1265m², as shown on Attachment 3 in the Committee report, be stopped in terms of the Public Works Act 1981, subject to the area being confirmed by a survey plan;
- d) the area of Sylvester Road stopped is transferred to CDL Land New Zealand Ltd in exchange for approximately 1800m² being vested in Council as road at no cost, as shown on Attachment 3 in the Committee report, subject to area being confirmed by a survey plan;

- e) road stopping process to be completed in terms of the Public Works Act 1981;
- f) the Local Government Act road stopping process is to be completed if the Public Works Act 1981 process is unable to be complied with;
- g) all costs associated with the road stopping and land exchange processes are the responsibility of CDL Land New Zealand Ltd; and
- h) the Chief Executive be delegated authority to sign all documentation relating to the road stopping and land exchange.

8. Delegations to Positions

The Democracy Manager presented this Report for the Council to approve changes to the Delegations to Positions to reflect the recent restructure of the general manager positions. Staff noted that this policy needed rewriting, including updating the language; a comprehensive review would be completed in 2016.

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

That

- a) the report be received; and
- b) the changes to the Delegations to Positions Policy (Attachment 1 of the staff report) be approved.

The Meeting adjourned (2.22pm to 2.35pm).

9. Reclassification of Enderley Park and Lake Rotokauri Park

The Parks and Open Spaces Manager and the Community Development & Leisure Manager, presented this item on proposed changes of classification of Enderley Park and Lake Rotokauri Park following public consultation. The following was noted in response to questions, which included responses to the issues raised by Mr Derrick in the Public Forum:

- There had been one submission to the change of classification of Enderley Park in the public notification process.
- Information had been sent to Mr Derrick and staff had discussions with him on several separate occasions. A link to the Council agenda was sent to Mr Derrick and today a copy of the letter from Waikato-Tainui had been sent to Mr Derrick. A copy of this letter from Waikato-Tainui would be handed to Mr Derrick following the Council meeting.
- There were two process underway; one changing classification of the reserves, the other process relating to a review of the community facilities. It was noted that the community facilities review would be reported to Council in February 2016.
- Staff confirmed that all statutory processed and timeframes had been complied with.

Motion: (Her Worship the Mayor Hardaker/Crs Chesterman)

- a) That the report be received.
- b) That pursuant to section 24 of the Reserves Act 1977, the Hamilton City Council hereby

changes the classification of that part of Enderley Park described in Schedule One, to local purpose (community facilities) subject to the provisions of the Act.

Schedule One

Reserve Name	Area (ha)	Legal Description	Computer Freehold Register
Enderley Park	0.1885	Lot 2 DPS7131	175536

- c) That pursuant to section 24 of the Reserves Act 1977, the Hamilton City Council hereby changes the classification of Lake Rotokauri Park described in Schedule Two below to local purpose (ecological management) reserve subject to the provisions of the Act.

Schedule Two

Reserve Name	Area (ha)	Legal Description	Computer Freehold Register
Lake Rotokauri Park	3.3433	Lot 20 DPS 57794	93338

The Motion expressed in Parts was voted on in Parts.

Amendment to b): (Crs Macpherson/King)

- b) That changes to the classification of part of Enderley Park be deferred until the report is presented to the February Strategy and Policy Committee

The Amendment (Crs Macpherson/King) was Put

Those for the Amendment:

Councillors Gallagher and Macpherson

Those against the Amendment:

Her Worship the Mayor Hardaker,
Councillors Chesterman, Forsyth, Pascoe,
O'Leary, King, Mallett, Wilson and
Tooman

The Amendment was declared lost.

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

That:

- a) The report be received.
- b) Pursuant to section 24 of the Reserves Act 1977, the Hamilton City Council hereby changes the classification of that part of Enderley Park described in Schedule One, to local purpose (community facilities) subject to the provisions of the Act.

Schedule One

Reserve Name	Area (ha)	Legal Description	Computer Freehold Register
Enderley Park	0.1885	Lot 2 DPS7131	175536

- c) Pursuant to section 24 of the Reserves Act 1977, the Hamilton City Council hereby changes the classification of Lake Rotokauri Park described in Schedule Two below to local purpose (ecological management) reserve subject to the provisions of the Act.

Schedule Two

Reserve Name	Area (ha)	Legal Description	Computer Freehold Register
Lake Rotokauri Park	3.3433	Lot 20 DPS 57794	93338

Councillor Macpherson dissenting to b)

10. Provisional Local Alcohol Policy

Prior to the City Safe Unit Manager and Programme Manager – Strategy introducing this Report the Democracy Manager confirmed that following the resolution from the Strategy and Policy Committee, the entire Local Alcohol Policy was being presented to the Council for consideration.

The City Safe Unit Manager advised that if the Council did not adopt a Local Alcohol Policy the provisions within the Sale and Supply of Alcohol Act 2012 would apply. All applications for liquor licenses would continue to be determined by the District Licensing Committee, with decisions around hours subject to appeal to ARLA.

Motion: (Crs O’Leary/Wilson)

That:

- a) The report be received;
- b) The proposed Provisional Local Alcohol Policy (PLAP) reflecting the three matters determined on the 3 November be adopted;
- c) Council proceeds to notify the PLAP on 27 January 2016; and
- d) The Liquor Licensing Policy and the Licensed Premises Policy be deleted from the 27 January 2016.

Amendment to b): (Crs Forsyth/Macpherson)

That:

One-way door

6. A one way door restriction will apply to on-licences in the Central City Zone from 2am (Monday to Sunday).

The Amendment (Crs Forsyth/Macpherson) was Put.

Those for the Amendment:	Councillors Gallagher, Forsyth, King, Macpherson and Tooman
Those against the Amendment:	Her Worship the Mayor Hardaker, Councillors Chesterman, Pascoe, O’Leary, Mallett and Wilson

The Amendment was declared lost.

The Meeting adjourned (3.20pm to 3.40pm).

Amendment to b): (Crs Mallett/Wilson)

That:

Maximum trading hours for “Other” on-licences

Maximum trading hours applicable to on-licences in Hamilton City are as follows for Other (Area):

Sunday-Thursday be 7am until Midnight

Friday and Saturday be 7am until 1am (the following day)

The Amendment (Crs Malett/Wilson) was Put.

Those for the Amendment: Councillors Gallagher, Forsyth and Macpherson
Those against the Amendment: Her Worship the Mayor Hardaker, Councillors Chesterman, Pascoe, O'Leary, King, Mallett, Tooman and Wilson

The Amendment was declared lost.

The Meeting adjourned (4.45pm to 4.50pm).

Amendment to b): (Crs Gallagher/Tooman)

That:

Off-licence closing trading hours

11. Maximum trading hours applicable to off-licences in Hamilton City are as follows:
7am – 9pm Monday to Sunday.

Explanatory Note:

Council has reduced the trading hours from 10pm to 9pm to reduce the availability of alcohol for late evening consumption and preloading which evidence suggests is an issue during these hours.

The Amendment (Crs Gallagher/Tooman) was Put.

Those for the Amendment: Councillors Gallagher, Forsyth, King, Macpherson, Tooman and Wilson
Those against the Amendment: Her Worship the Mayor Hardaker, Councillors Chesterman, Pascoe, O'Leary, and Mallett

The Amendment was declared carried. The Mover and Seconder of the Motion were in agreement to incorporate this change to the Provisional Local Alcohol Policy into the Motion which was then Put.

Resolved: (Crs O'Leary/Wilson)

That:

- a) The report be received;
- b) The proposed Provisional Local Alcohol Policy (PLAP) attached to the staff report, with an amendment to clause 10 to change maximum trading hours applicable to off-licenses in Hamilton City to 7am to 9pm, be adopted;
- c) Council proceeds to notify the PLAP on 27 January 2016; and
- d) The Liquor Licensing Policy and the Licensed Premises Policy be deleted as from the 27 January 2016.

Councillor King dissenting.

11. Resolution to Exclude the Public

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

Section 48, Local Government Official Information and Meetings Act 1987

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 - 29 October 2015) Good reason to withhold information exists under	Section 48(1)(a)
C2. Proposed District Plan Appeals Update) Section 7 Local Government 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 protect the privacy of natural persons	Section 7 (2) (a)
Item C2.	to maintain legal professional privilege	Section 7 (2) (g)

Councillors Chesterman and King retired from the meeting at 5.50pm.
Councillor O'Leary retired from the meeting at 5.55pm during the public excluded session.

The Meeting moved into a Public Excluded session (5.50pm to 6.23pm).

The Meeting was declared closed at 6.23pm.

MOTION Crs O'Leary/Wilson

Recommendations from Management

That:

- a) The report be received;
- b) The proposed Provisional Local Alcohol Policy (PLAP) reflecting the three matters determined on the 3 November be adopted;
- c) Council proceeds to notify the PLAP on 27 January 2016; and
- d) The Liquor Licensing Policy and the Licensed Premises Policy be deleted from the 27 January 2016.

AMENDMENT CRS FORSYTH/MACPHERSON

1. One-way door

6. A one way door restriction will apply to on-licences in the Central City Zone from 2am (Monday to Sunday). (including the definitions section)

Lost 5-6.

AMENDMENT – Crs Mallett/Wilson

Maximum trading hours for “Other” on-licences

Maximum trading hours applicable to on-licences in Hamilton City are as follows for Other (Area):

Sunday-Thursday be 7am until Midnight

Friday and Saturday be 7am until 1am (the following day)

LOST 3 for and 8 against

AMENDMENT – Crs Gallagher/Tooman

Off-licence closing trading hours

11. Maximum trading hours applicable to off-licences in Hamilton City are as follows:

7am – 9pm Monday to Sunday.

Explanatory Note:

Council has reduced the trading hours from 10pm to 9pm to reduce the availability of alcohol for late evening consumption and preloading which evidence suggests is an issue during these hours.

CARRIED 6-5

AMENDMENT – CR King

Clause 5. Maximum trading hours applicable to on-licences in Hamilton City (Central City Zone) are Monday to Sunday 7am to 2.30am (the following day)