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## Council

### OPEN MINUTES

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**Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 24 May 2018 at 9.30am.**

#### 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 R Pascoe              |
|                    | Cr P Southgate           |
|                    | Cr G Taylor              |
|                    | Cr L Tooman              |
|                    | Cr R Hamilton            |

|                |  |
|----------------|--|
| In Attendance: | Richard Briggs – Chief Executive   |
|                | Lance Vervoort – General Manager Community   |
|                | Jen Baird – General Manager City Growth  |
|                | Chris Allen – General Manager City Infrastructure                                      |
|                | Riki Manarangi – Corporate Policy Specialist   |
|                | Stafford Hodgson – Senior Strategic Policy Analyst                                     |
|                | Debra Stan-Barton – Project Manager, Regulatory Efficiency and Effectiveness Programme |
|                | Peter Skilton – Project Advisor, Regulatory Efficiency and Effectiveness Programme     |
|                | Blair Bowcott – Executive Director Special Projects                                    |
|                | Ken Cunningham – Strategic Land Manager  |
|                | Muna Wharawhara – Amorangi Maaori  |
|                | Greg Carstens – Acting Unit Manager, Economic Growth and Planning                      |
|                | Kelvin Powell – City Safe Unit Manager   |
|                | Julie Sanderson – Team Leader, Business Systems and Excellence                         |
|                | Fraser McNutt – Acting Unit Manager, Planning Guidance                                 |
|                | Justine Allen – Manager Civic and International Events                                 |
|                | Chad Hooker – Director of Operations, Waikato Stadium                                  |
|                | Brendan Stringer – Legal Services and Governance Officer                               |
|                | Race Loudon – Chief Executive Somerset Brewing Company                                 |

Governance Staff: Lee-Ann Jordan – Governance Manager  
Claire Guthrie and Rebecca Watson – Committee Advisors

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*Tame Pokaia carried out a blessing and the Venerable Paul Weeding carried out a reading to open the Council Meeting.*

**1. Apologies**

**Resolved:** (Crs Henry/Macpherson)

That the apologies from Crs Casson, Mallett and Bunting for early departure are accepted.

**2. Confirmation of Agenda**

**Resolved:** (Mayor King/Cr Casson)

That the Agenda is confirmed noting the following;

- a) that debate will be 2 minutes with an extension of 1 minute if required;
- b) Item 21 (*Licence to Occupy - Somerset Brewing Company Ltd*) is to be taken after Item 16 (*Electricity Easement – Hamilton Zoo*) to accommodate external presenters;
- c) Item C5 (*FMG Stadium Waikato – Proposed Development*) is moved into the open section of the meeting; and
- d) that the Chair's report will include verbal updates on Hamilton's Age-Friendly City confirmation, the 9<sup>th</sup> Floor Balustrade and a report back from the Chengdu Delegation.

**3. Declarations of Interest**

No members of the Council declared a Conflict of Interest.

**4. Public Forum**

There were no public forum speakers.

**5. Confirmation of Council Open Minutes - 19 April 2018**

**Resolved:** (Mayor King/Cr Casson)

That the Council confirm the Open Minutes of the Council Meeting held on 19 April 2018 as a true and correct record.

**6. Confirmation of Extraordinary Council Open Minutes - 26 April 2018**

**Resolved:** (Mayor King/Cr Bunting)

That the Council confirm the Open Minutes of the Extraordinary Council Meeting held on 26 April 2018 as a true and correct record.

**7. Confirmation of Council Open Minutes - 10 May 2018**

**Resolved:** (Mayor King/Cr Casson)

That the Council confirm the Open Minutes of the Council Meeting held on 10 May 2018 as a true and correct record.

**8. Confirmation of Elected Member Briefing Notes - Open - 26 April 2018**

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

That the Council confirm the open notes of the Elected Member Briefing held on 26 April 2018 as a true and correct record.

**9. Confirmation of Elected Member Briefing Notes - Open - 1 May 2018**

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

That the Council confirm the open notes of the Elected Member Briefing held on 1 May 2018 as a true and correct record.

**10. Chair's Report - 24 May 2018**

Mayor King took his report as read. He provided a verbal update on Hamilton becoming the first city in New Zealand to become part of the Global Network for Age- Friendly Cities and Communities. The Mayor acknowledged staff and Dame Peggy Koopman-Boyden for their work to achieve this milestone. He also noted that the 9<sup>th</sup> Floor Balustrade project would not proceed due to the proposed cost.

The Deputy Mayor Gallagher and Cr Pascoe and the Civic Events Manager provided a verbal report on the recent delegation to Chengdu, China.

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

That the Council:

- a) receives the report;
- b) notes staff will report on the Western Town Belt Master Plan process at the June 2018 Community and Services Committee meeting; and
- c) approves the deferral of Te Rapa Sportsdrome and the Memorandum of Understanding with the Exscite Trust report and the Founders Theatre report until the Council meeting of 6 September 2018; and
- d) approves 50% of the cost of the LGNZ 2018 Conference registration fee for any Elected Member attending the conference from the budget '*Conferences by Resolution*'.

**11. Chief Executive's Report – Maori Representation Review Report Deferral**

The report was taken as read. The Governance Manager responded to questions from the Elected Members on reasons for the report's deferral and the future consultation process. It was noted that to ensure meaningful engagement with Maaori Council was required to comply with legislative requirements.

**Resolved:** (Mayor King/Cr Bunting)

That the Council notes that the staff report on Maaori representation options is deferred to August 2018.

**12. Class 4 Gambling Venue Policy - Deliberation and Adoption Report**

The Corporate Policy Specialist took the staff report as read and responded to questions from Elected Member on the types of organisations who own pokie machines and the requirements for the distribution of proceeds.

**Motion:** (Mayor King/Cr Macpherson)

That the Council:

- a) receives the report; and
- b) approves the proposed Class 4 Gambling Venue Policy for adoption.

**Amendment:** (Crs O'Leary/ Southgate)

That the Council:

- a) receives the report; and
- b) no amendments are made to the existing Class 4 Gambling Venue Policy.

**The Amendment was put.**

**Those for the Amendment:** Councillors Pascoe, Mallett, Tooman, O'Leary, Bunting, Casson, Henry, Southgate and Taylor.

**Those against the Amendment:** Mayor King, Deputy Mayor Gallagher, Councillors Macpherson and Hamilton

**The Amendment was declared carried.**

**The Amendment then became the Substantive Motion and was then put.**

**Those for the Substantive Motion:** Councillors Pascoe, Mallett, Tooman, O'Leary, Casson, Bunting, Henry, Southgate and Taylor.

**Those against the Substantive Motion:** Mayor King, Deputy Mayor Gallagher, Councillors Macpherson and Hamilton.

**The Substantive Motion was declared carried.**

**Resolved:** (Crs O'Leary/ Southgate)

That the Council:

- a) receives the report; and
- b) no amendments are made to the existing Class 4 Gambling Venue Policy.

**13. Dangerous and Insanitary Buildings Policy - Deliberation and Adoption Report**

Corporate Policy Specialist took the staff report as read and responded to Elected Members questions on staff resourcing needed to implement this policy. It was explained that the Council could not legally access buildings for inspection unless a complaint was received.

**Resolved:** (Crs Casson/Taylor)

That the Council approves the proposed Dangerous and Insanitary Buildings Policy for adoption.

**14. Regulatory Efficiency and Effectiveness Programme (REEP)- 10-Year Plan Funding**

The Project Manager, Regulatory Efficiency and Effectiveness Programme, spoke to the staff report. She, and the Chief Executive, responded to questions from Elected Members on the purpose and value of the future funding, process improvements and efficiencies that have been identified to date, the impact on the Operative District Plan, and processes to engage with developers. It was confirmed that there were staff resourcing issues in this area of Council which was a problem nationally.

**Resolved:** (Mayor King/Cr Taylor)

That Council receives the report.

**Crs O'Leary, Henry and Southgate Dissenting**

**15. Delegations under the Housing Accords and Special Housing Areas Act**

The Acting Planning Guidance Unit Manager took the staff report as read. It was clarified that other territorial authorities have Elected Members on their Accord Territorial Authority (ATA) Panels. In response to Elected Member questions it was noted that a conflict of interest would need to be declared if an Elected Member, who was interested in sitting on the ATA Panel or as an Independent Hearings Commissioner for a qualifying development, had expressed views about the development during a Council decision making process as this could lead to a risk of judicial review.

**Motion:** (Crs Macpherson/O'Leary)

That the Council:

- a) receives the report;
- b) establishes an Accord Territorial Authority Panel (ATA Panel) as per Section 89, HAASHA and delegates decision-making powers on notified Qualifying Development (QD) applications to it (Option 2 of this report);
- c) requests the Chief Executive prepares a report for the Council setting out the terms of reference and membership of the ATA panel for the Council to approve at 26 June 2018 Extraordinary Council meeting, noting that any councillor who is a member of the Panel must be RMA accredited.

**Amendment:** (Crs Pascoe/Casson)

That the Council:

- a) receives the report;
- b) delegates decision-making powers on notified Qualifying Development (QD) applications to a panel of Resource Management Act (RMA) accredited Commissioners (**Option 1** of this report); and
- c) approves the changes to the Independent Hearings Commissioners' Panel's Terms of Reference in the Council's Governance Structure, as set out in Attachment 1 to this report.

**The Amendment was put.**

**Those for the Amendment:** Councillors Pascoe, Mallett, Tooman, Casson and Southgate.

**Those against the Amendment:** Mayor King, Deputy Mayor Gallagher, Councillors O'Leary, Macpherson, Henry, Bunting, Taylor and Hamilton.

**The Amendment was declared lost.**

**The Motion was then put and declared carried unanimously.**

**Resolved:** (Crs Macpherson/O'Leary)

That the Council:

- a) receives the report;
- b) establishes an Accord Territorial Authority Panel (ATA Panel) as per Section 89, HAASHA and delegates decision-making powers on notified Qualifying Development (QD) applications to it (Option 2 of this report);
- c) requests the Chief Executive prepares a report for the Council setting out the terms of reference and membership of the ATA panel for the Council to approve at 26 June 2018 Extraordinary Council meeting, noting that any councillor who is a member of the Panel must be RMA accredited.

## **16. Electricity Easement - Hamilton Zoo**

The General Manager Community and the Strategic Land Manager took the staff report as read. In response to Elected Members questions it was clarified that WEL had recommended putting the power lines underground.

**Resolved:** (Mayor King/Cr Hamilton)

That the Council approves:

- a) an easement to WEL Networks for the transmitting and/or conveying electricity, telecommunications and computer media underground over approximately 130m<sup>2</sup> of Council owned land (Lot 1 DP 429730) subject to:
  - i. An easement Survey Plan being approved by Land Information New Zealand.
  - ii. WEL Networks being responsible for the payment of costs associated with surveying the easement area and the undergrounding of the cables.
  - iii. WEL Networks being responsible for its own legal costs associated with the easement document.
  - iv. Staff agreeing to the alignment of the undergrounding of the WEL Networks cables.
  - v. Council being responsible for its own legal costs associated with the easement document.
  - vi. Council being responsible for a electricity connection from a WEL Networks Ltd pillar box to adjacent Council owned zoo facilities.
- b) delegates to the Chief Executive to sign all documentation relating to the easement document, with costs to be met by WEL and the Council as per paragraphs 16-18 of this report.

*Cr Bunting retired from the meeting (12.24pm) during the above item. He was not present when the matter was voted on.*

## **21. Licence to Occupy - Somerset Brewing Company Ltd**

The staff report was taken as read.

**Resolved:** (Mayor King/Cr Casson)

That the Council approves:

- a) a Licence to Occupy to Somerset Brewing Company Ltd for an area of approximately 10m<sup>2</sup> over Council land (Lot 4 DPS 14250) subject to:
  - i. Somerset Brewing Company Ltd being responsible for all costs associated with the preparation of the Licence to Occupy documentation.
  - ii. The engineering plans being acceptable to Council.
  - iii. Somerset Brewing Company Ltd being responsible for reinstating the affected ground area to its original state following the laying of the pipe underground.
- b) delegates the Chief Executive to sign all documentation relating to the Licence to Occupy, noting that all costs associated with this matter will be borne by Somerset Brewing Company Ltd.

## **17. Open Air Burning Bylaw – Review**

The Corporate Policy Specialist took the report as read and confirmed that public consultation was not required if the only amendments were to bring the Policy into line with the new Act.

**Resolved:** (Mayor King/Cr Hamilton)

That the Council:

- a) receives the report; and
- b) requests staff to bring a revised Open Air Burning Bylaw to the 2 August 2018 Council meeting for adoption.

## 18. Online Voting Trials - Local Electoral Matters Bill

Governance staff took the report as read. They responded to questions from elected Members concerning:

- The national working group investigating the feasibility of online voting
- Possible voter subsets
- Risks to Council including costs and online security
- Timing of legislation
- Potential next steps

**Motion:** (Crs O'Leary/Henry)

That the Council:

- a) confirms its interest in exploring participation in an online voting trial for the 2019 local authority elections.
- b) requests the Chief Executive and Electoral Officer to further investigate the considerations and costs of undertaking an online voting trial of the following subset(s) of voters:
  - whole of city and voter subset(s) staff believe are feasible.
- c) notes that staff will:
  - i. provide updates to Elected Members on the matters in paragraph 2(d); and
  - ii. present a further report for a decision by the Council on whether to undertake an online voting trial for the 2019 local authority elections.
- d) notes that paragraphs 2(a)-(c) above does not commit the Council to participating in a trial for online voting at the 2019 elections.
- e) notes that an online voting trial is conditional upon:
  - i. the Local Electoral Matters Bill being enacted;
  - ii. regulations being made under the Local Electoral Regulations 2001 authorising the Council to undertake a trial of online voting;
  - iii. technical compliance protocols for a trial (including security and assurance) being developed by the Department of Internal Affairs and implemented and reviewed by the Electoral Officer and staff;
  - iv. agreement with the Waikato Regional Council and Waikato District Health Board on the allocation of costs for undertaking a trial;
  - v. agreement with a provider to undertake the trial on behalf of the Council; and
  - vi. the Council resolving to undertake a trial of online voting in accordance with regulations.

**AND**

- f) that the Council requests the Chief Executive to draft a submission to the Justice Commission on the Local Electoral Matters Bill to bring back to the Extraordinary Council meeting on 26 June 2018.

**Amendment:** (Deputy Mayor Gallagher/Cr Tooman)

That the Council:

- a) confirms that it is not interested in exploring participation in a trial for online voting at the 2019 local authority elections; and
- b) requests the Chief Executive to draft a submission to the Justice Committee on the Local Electoral Matters Bill to bring back to the Extraordinary Council meeting on 26 June 2018.

**The Amendment was put.**

**Those for the Amendment:** Mayor King, Deputy Mayor Gallagher, Councillors Mallett, Tooman, Casson and Taylor.

**Those against the Amendment:** Councillors Pascoe, O'Leary, Macpherson, Henry, Southgate and Hamilton.

**The Amendment was declared equal and the Chair used his casting vote to declare the Amendment carried.**

**The Amendment became the Substantive Motion and was then put.**

**Those for Substantive Motion:** Mayor King, Deputy Mayor Gallagher, Councillors Mallett, Tooman and Casson.

**Those against the Substantive Motion:** Councillors Pascoe, O'Leary, Macpherson, Henry, Southgate, Taylor and Hamilton.

**The Substantive Motion was declared lost.**

***The meeting adjourned 1.22pm to 2.07pm.***

*Cr Pascoe retired from the meeting during the adjournment.*

**19. Council's Draft 2 Submission to the Local Government (Community Well-being) Amendment Bill**

The staff report was taken as read.

**Resolved:** (Mayor King/Cr Mallett)

That the Council:

- a) receives the report;
- b) approves Council's **Draft 2** submission to the Local Government (Community Well-being) Amendment Bill;
- c) notes the approved submission will sent to the Parliament's Governance and Administration Committee by 25 May 2018; and
- d) notes the approved submission will then be uploaded to Council's website.

**Cr Mallett Dissenting.**

*Cr Macpherson (2.12pm) re-joined the meeting after the above item. He was not present when the matter was voted on.*

*Deputy Mayor Gallagher (2.18pm), and Cr Hamilton (2.18pm) re-joined the meeting after the above item. They were not present when the matter was voted on.*

*The following publicly excluded item, C5 (FMG Stadium Waikato – Proposed Development), was moved into the open session of the meeting.*

**C5. FMG Stadium Waikato - Proposed Development**

Director of Operations, Waikato Stadium, spoke to the staff report. In response to questions from Elected Members, he clarified some of the contract clauses, involving term length and costs.

**Resolved:** (Mayor King/Cr Casson)

That the Council:

- a) receives the report; and
- b) delegates authority to the Chief Executive to execute the final commercial agreement with the Chiefs Rugby Club Limited as per paragraphs 11-15 of this report.

**20. Resolution to Exclude the Public**

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

**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. Confirmation of Council Public Excluded Minutes - 19 April 2018             | ) Good reason to withhold information exists under Section 7 Local Government | Section 48(1)(a)   |
| C2. Confirmation of Extraordinary Council Public Excluded Minutes - 10 May 2018 | ) Official Information and Meetings Act 1987                                  |  |
| C3. Confirmation of Elected Member Briefing Notes - Closed - 17 April 2018      | )   |  |
| C4. Confirmation of Elected Member Briefing Notes - Closed - 1 May 2018         | )   |  |

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 negotiations  | Section 7 (2) (i) |
| Item C3. | to prevent the disclosure or use of official information for improper gain or improper advantage | Section 7 (2) (j) |
| Item C4. | to prevent the disclosure or use of official information for improper gain or improper advantage | Section 7 (2) (j) |

**The meeting went into a public excluded session at 2.16pm.**

**The meeting was declared closed at 2.18pm.**