
Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Tuesday 13 December 2016 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 P Yeung

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	Sean Murray – Executive Director H3 and Events
	Debra Stan-Barton – Acting General Manager City Growth
	Chris Allen – General Manager Infrastructure
	David Bryant – General Manager Corporate
	Sean Hickey – General Manager Strategy and Communications
	Blair Bowcott – Executive Director Special Projects
	Luke O’Dwyer - City Planning Unit Manager
	Kelvin Powell – City Safe Unit Manager
	Andrew Parsons – City Development Manager
	Maire Porter – City Waters Manager
	Melissa Slatter – Senior Planner
	Lee Cowan – Communications Manager
	Nick Johnston – Strategic Advisor, Arts and Community
	Nancy Caiger – Chair, Mesh Sculpture Hamilton
	Stephen Halliwell – Project Advisor

Lachlan Muldowney – City Solicitor

Governance Advisors Lee-Ann Jordan – Governance Manager
Becca Brooke – Governance Team Leader
Claire Guthrie – Committee Advisor

1. Apologies

Resolved: (Mayor King/Cr Yeung)

That the apologies for lateness from Deputy Mayor Gallagher, be received and accepted.

2. Confirmation of Agenda

Resolved: (Mayor King/Cr Mallett)

That the agenda be confirmed noting the points below:

- Item 13 (Ruakura Inland Port; Ruakura and Percival Road Stopping) to be taken after Item 5 (Council – Open Minutes – 30 November 2016) to accommodate external guests attending in relation to this Item.
- Late Item (under separate cover) – C5 (Housing Accord) to be taken in the Public Excluded session of the meeting. The reason for lateness was as a consequence of further and on-going discussions between Hamilton City Council and the Ministry of Business, Innovation and Employment (MBIE). The reason the Item is to be taken in Public Excluded is to enable Council holding the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). The matter could not be taken to a later meeting due to external timeframes needing to be met.

3. Declarations of Interest

None

4. Public Forum

Dean Shields – General Manager Property, Tainui Group Holdings.

Spoke in relation to Item 13 (Ruakura Inland Port; Ruakura and Percival Road Stopping) stating that TGH is committed to the port development and would be starting works in the New Year 2017. The road closure was essential for the following reasons:

- it removed public traffic;
- allowed the efficient and effective functioning of the port;
- allowed users to access the port safely;
- permitted use of unregistered vehicles on the private road; and
- provided for an efficient rail platform.

Mr Shields confirmed TGH would meet all the costs of the road closure.

Sarah Nathan – Creative Waikato

Spoke in relation to Items 14 & 15 (Public Art Development Process and VOTR Public Artwork Panel respectively) and stated Creative Waikato would support a process to ensure artists and independent groups had access to art and urban design expertise when developing art projects. Ms Nathan believed the proposed process would provide a curation service for a consistent “look and feel” to the city.

Written Statement read out from Barbara and Allan Julian

In relation to Item 13 (Ruakura Inland Port; Ruakura and Percival Road Stopping), a statement from objectors Barbara and Allan Julian of Percival Road was read out. The statement referred to their concerns that the proposed rail crossing would breach the noise and visual mitigation measures considered appropriate by the Board of Inquiry; that there was no provision for residents cycling or walking on Ruakura Road where trucks would be entering and exiting the Inland Port; and there appeared to be no controlled intersection from Ruakura.

Deputy Mayor Gallagher joined the meeting (10.00am) during the Public Forum.

5. Council Open Minutes 30 November 2016

Resolved: (Cr Casson/Deputy Mayor Gallagher)

That the Council confirm and adopt as a true and correct record the Open Minutes of the Council Meeting held on 30 November 2016, subject to the minutes expressly recording that Mayor King withdrew from the meeting during discussion on Item 15 (Final decision on the A & A King Family Trust vs HCC Partly Operative District Plan) and Item C1 (Final decision on the A & A King Family Trust vs HCC Partly Operative District Plan) and was not present for discussion or voting on either matter.

Item 13 (Ruakura Inland Port; Ruakura and Percival Road Stopping) was taken after Item 5 (Council Open Minutes 30 November 2016) to accommodate external guests in attendance.

13. Ruakura Inland Port; Ruakura and Percival Road Stopping

The General Manager City Infrastructure introduced the staff report which sought decisions to finalise this nationally significant project which started in 2009. A series of processes had been used for community consultation on the road stopping.

Eight submissions were received, two in support and six objections with one further late objection. Staff have worked with objectors and resolved five of the seven objections. There were concerns around pedestrian and cycling safety which had been addressed, along with concerns around noise from the bells at the rail crossing. However, the final issues related to traffic efficiency could not be resolved and it was recommended that the final two objections go to the Environment Court for a decision.

Mr Muldowney, the City Solicitor, spoke to the image on page 151 of the Agenda, outlining the proposed road closure. He noted that the road would only be closed once the alternate access road had been implemented. Mr Muldowney gave an overview of the factors the Environment Court would consider in making a ruling, should the matter be referred there.

Resolved: (Mayor King/Cr Macpherson)

That:

- a) the report be received;
- b) Council approves the following conditions be confirmed as part of the road stopping process:

Ruakura and Percival Road shall not be stopped to the public until the following conditions have been met to the satisfaction of the General Manager City Infrastructure, Hamilton City Council, and in accordance with Boffa Miskell drawing A15101_058; Pedestrian and Cycle connections (December 2016):

1. *Realigned Ruakura Road shall be constructed and open for traffic*
2. *Road 3 of Tainui Group Holdings' Inland Port and the realigned Percival Road shall be constructed and open for traffic.*
3. *A 2.5m wide off-road shared footpath and cycle path shall be provided along Road 3.*
4. *A shared footpath and cyclepath shall be provided along existing Ruakura Road and Percival Road between Road 3 and the East Coast Main Trunk Railway connecting to the Ryburn/Percival Rd enclave.*
5. *A pedestrian sign (PW-29/WU1) shall be placed on Road 3 warning users of the presence of pedestrians potentially using this road.*
6. *The pre/post construction road safety audit required by conditions 45 & 46 of the Land Development Plan Consent for Areas A, C, E & F (010.2015.00008413.001) shall also consider and respond to the effect of the temporary and permanent transport network changes on pedestrians and cyclists.*
7. *Prior to the pre and post construction safety audits, the residents of the Ryburn/Percival enclave will be invited to meet with the independent safety audit team to advise them of any safety related concerns that they have observed or have in relation to the operation of the transport network connecting the enclave to the Ruakura/Silverdale Road intersection.*
8. *The new Percival Road level rail crossing shall be constructed using the KiwiRail Quiet Bell product.*
9. *2 x General Information Signs featuring the words "Furniture Refabricators"*

shall be provided and installed at the intersection of Realigned Ruakura Road and Road 3, and the intersection of Road 3 and old Ruakura Road. The sign will not feature a directional arrow.

10. *Two temporary sandwich board signs advertising the Furniture Refabricators shall be permitted at Ruakura/Silverdale Rd and Road 3/Realigned Ruakura Rd during the construction of the new Realigned Ruakura Road. These temporary signs will be removed once the construction of new road layout is completed.*
- (c) the Chief Executive be delegated authority to refer the outstanding objections to the road stopping process for parts of Ruakura and Percival Roads (approved by Strategy and Policy Committee on 3 November 2015) received from Alan and Barbara Julian of 53A Ryburn Road and Graeme Goodwin of 23 Ryburn Road to the Environment Court for a decision as prescribed by Schedule 10 of the Local Government Act 1974

The Meeting adjourned from 10.53am to 11.10am.

6. Waikato Waters Study - Consideration of Direction

The Executive Director Special Projects introduced the report which asked Council to confirm its preference on forming an asset-owning water and wastewater CCO for Hamilton City, Waipa and Waikato District Councils. This decision was postponed from last triennium to allow the newly elected councils to make the decision on the proposed CCO. There was also a recommendation to amend the draft Record of Agreement in relation to the decision making process for implementing waters meters to ensure the Council retained control of this decision.

The Executive Director reminded Elected Members that there had been a number of challenges and risks identified in the commissioned reports in relation to this project and, as a result, Waipa District Council now favoured a transitional approach. This was outlined in the MorrisonLow Report (Attachment 3 of the Report) and could be viewed as a pragmatic solution. A transitional approach to the establishment of an asset-owning CCO allowed Council to get started but introduced other decision points and opportunities to evaluate progress and options.

The Executive Director noted there would be costs involved to investigate options if the staged approach was preferred, possibly \$50,000-100, 000, but it was possible funding would be from savings in other areas and this would be reported to the Finance Committee.

In response to questions about the processes for billing ratepayers it was noted:

- That billing could be direct to consumers or it could be actioned through the Council;
- The process would be based on principles agreed to by the Council;
- The principles would be set out in the Record of Agreement; and
- The shareholders would have strong oversight to ensure processes were acceptable.

Motion: (Crs Mallett/Pascoe)

That:

- a) the report be received;
- b) Council amend the draft Record of Agreement for the decision to implement water metering as follows:

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board/ Management	Shareholders Jointly	Individual Shareholders	
Implementing water metering			✓	

- c) Council confirm its decision of July 2016 to adopt a draft Record of Agreement (with the above amendment) in relation to the potential formation of a sub-regional water and wastewater CCO.
- d) the Chief Executive be delegated responsibility to progress the project including discussions with Waipa and Waikato District Councils and advisors; to identify practicable options for working together; seeking further advice and modeling and to work with the Waters Governance Group as necessary; and
- e) the Chief Executive report back to Council on the findings of any additional advice received, including a draft public consultation document, and the preferred direction of each Council for the service delivery option for Waters Services.

Amendment: (Crs Macpherson/Yeung)

That:

- a) the report be received;
- b) Council amend the draft Record of Agreement for the decision to implement water metering as follows:

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board/ Management	Shareholders Jointly	Individual Shareholders	
Implementing water metering			✓	

- c) Council request further information and advice on the following options, whether for one, two or three Councils;
 - a. Enhanced Shared Services;
 - b. Council Controlled Organisation(CCO), including:
 - i. Asset-owning CCO
 - ii. Non Asset-owning CCO, transitioning to Asset-owning CCO (Waipa Model)
- d) the Chief Executive be delegated responsibility to convene the Waters Governance Group, to consider progressing the project, in conjunction with Waipa and Waikato District Councils and advisors, identifying practicable options for working together; and
- e) following (c) above, the Chief Executive prepare a consultation document in discussion with the Hamilton City Council members of the Waters Governance Group, for approval by Council, by 30 June 2017.

The Amendment was put.

Those for the Amendment: Councillors Gallagher, Yeung, O'Leary, Macpherson, Bunting, Casson, Henry, and Taylor.

Those against the Amendment: Mayor King, Councillors Pascoe, Mallett Southgate, and Tooman.

The Amendment was declared carried.

The Amendment as the Substantive Motion was then put.

Resolved: (Crs Macpherson/Yeung)

That:

- c) the report be received;
- d) Council amend the draft Record of Agreement for the decision to implement water metering as follows:

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board/ Management	Shareholders Jointly	Individual Shareholders	
Implementing water metering			✓	

- f) Council request further information and advice on the following options, whether for one, two or three Councils;
 - a. Enhanced Shared Services;
 - b. Council Controlled Organisation(CCO), including:
 - i. Asset-owning CCO
 - ii. Non Asset-owning CCO, transitioning to Asset-owning CCO (Waipa Model)
- g) the Chief Executive be delegated responsibility to convene the Waters Governance Group, to consider progressing the project, in conjunction with Waipa and Waikato District Councils and advisors, identifying practicable options for working together; and
- h) following (c) above, the Chief Executive prepare a consultation document in discussion with the Hamilton City Council members of the Waters Governance Group, for approval by Council, by 30 June 2017.

The Meeting adjourned from 1.20pm to 2.05pm.

Item 14 (Public Art Development Process) and Item 15 (Victoria on the River Public Artwork Proposal) were taken after the adjournment to accommodate an external guest in attendance.

14. Public Art Development Process

General Manager Community and the Strategic Advisor for Arts and Community introduced the report. The following points were made:

- The proposed Public Art Development Process had been updated to reflect the change in Council's governance structure. It retained many aspects of the previous process and would also expedite art projects through greater delegation to the General Manager.
- The maintenance budget was for outdoor artworks only.
- There was opportunity to consider an increase in budget through the Annual Plan.
- In Stage Two of the Proposed Public Art Development Process, Elected Members' consideration would relate to health and safety issues, maintenance requirements and site suitability, and not what constitutes good art.
- Terms of reference and supplementary documentation would be provided for Stage Two of the Proposed Public Art Development Process.
- There would be provision for technical experts to provide detailed design information so there were no surprises for Stage Three of the Proposed Public Art Development Process.

Motion: (Crs Southgate/Yeung)

That:

- a) the report be received;
- b) Council approves the Proposed Public Art Development Process for Permanent Artworks (Attachment 1 of the staff report).

Amendment: (Cr Pascoe/O'Leary)

That:

- a) the report be received;
- b) Council approve the Proposed Public Art Development Process for Permanent Artworks; and
- c) a Public Art Advisory Board be established.

The Amendment was put.

Those for the Amendment: Councillors Pascoe, Tooman and O'Leary.

Those against the Amendment: Mayor King, Councillors Gallagher, Yeung, Mallett, Macpherson, Bunting, Casson, Henry, Southgate and Taylor.

The Amendment was declared lost.

The Motion was then put.

Resolved: (Crs Southgate/Yeung)

That:

- a) the report be received;
- b) Council approved the Proposed Public Art Development Process for Permanent Artworks (Attachment 1 of the staff report).

15. Victoria on the River Public Artwork Proposal

The Strategic Advisor for Arts and Community introduced the report with the Chair of the Mesh Sculpture Trust. They responded to questions on the proposal. Concerning costs to ratepayers, it was noted that Mesh is fully self-funded; costs to Council would be for future maintenance of artworks.

Nancy Caiger stated Mesh was happy with the proposed Public Art Process and wanted to continue to work with Council to bring new artwork to the City. The proposal sought approval of the artist's brief so the process could be started in the New Year. Their aim was an artwork that engaged the public with Victoria on the River and they would leave the artists to come up with concepts to achieve this. Guidance would be sought from Council once details of the proposed artwork were decided with the artist.

Resolved: (Mayor King/Cr O'Leary)

That:

- a) the report be received;
- b) Council approves Mesh Sculpture Trust's public art proposal for the Victoria on the River site at Stage One of the Public Art Development Process; and
- c) the General Manager Community ensures appropriate consultation is undertaken between MESH and VOTR architects as to the sculpture's location.

Item 11 (Rubbish and Recycling – Referral of Submissions to Regulatory Hearings Committee) was taken after Item 15 (Victoria on the River Public Artwork Proposal) to accommodate staff availability.

11. Rubbish and Recycling - Referral of Submissions to Regulatory Hearings Committee

Resolved: (Crs O'Leary/Tooman)

That:

- a) the report be received;
- b) Council approves the Regulatory and Hearings Committee to hear submissions in February 2017 from the rubbish and recycling public engagement process.

7. Chair's Report

Mayor King spoke to his report. He noted that external taskforce members would include non-planning professionals such as architects and surveyors, i.e. people who were involved in working with both sides of the planning and building processes. The Regulatory Efficiency and Effective Taskforce would include expert staff from within the organisation and would report back to Council.

Resolved: (Mayor King/Cr Casson)

That:

- a) the report be received;
- b) a Regulatory Efficiency and Effective Taskforce is established and that the membership of this taskforce is:
 - The Mayor;
 - Chief Executive;
 - General Manager, Infrastructure;
 - General Manager, City Growth; and
 - three External Members (to be selected by the members of the Taskforce)

8. Delegations to Positions Policy

The report was taken as read.

Resolved: (Crs Tooman/O'Leary)

That:

- a) the report be received;
- b) Council approves the delegations to the Committees and other subordinate decision-making bodies, and external appointments, as detailed in the Governance Structure document approved by Council on 9 November 2016; and
- c) Council approves the revised Delegations to Positions Policy (Attachment 2 of the staff report), which is to replace the current Delegations to Positions Policy with effect from 1 February 2017, and the delegations detailed in the Policy.

9. Re-appointment of Panel of Independent Hearings Commissioners for certain RMA Matters

It was noted that the list of commissioners did not include any new members or many women. It was confirmed that any Elected Members who are Commissioners would be approached to take hearings. The Chief Executive would source information on courses for Elected Members who wished to become Independent Hearings Commissioners.

Resolved: (Crs O'Leary/Tooman)

That the report be received.

Cr Southgate dissenting.

10. North City Road Land

The report was taken as read.

Resolved: (Mayor King/Cr Southgate)

That:

- a) the report be received;
- b) the areas of land identified as A and B in Attachment 1 of the staff report are declared surplus to Council requirements;
- c) the areas of land identified as A and B in Attachment 1 of the staff report, subject to legal survey, are offered back to the previous owners for purchase in terms of section 40 of the Public Works Act 1981;
- d) the areas identified as A and B in Attachment 1 of the staff report are not required by the previous owners, they are sold on the open market at a purchase price supported by independent market advice;
- e) the road area identified as C in Attachment 1 of the staff report be stopped and sold on the open market at a purchase price supported by independent market valuation, subject to finalisation of access arranged for the Hamilton Christian School; and
- f) the Chief Executive be delegated authority to:
 - i. commence the disposal of areas A & B in Attachment 1 of the staff report at this time;
 - ii. determine the appropriate time to initiate the formal road stopping process over Area C in Attachment 1 of the staff report and dispose of the land;
 - iii. execute all documentation in relation to the road stopping and sale and purchase process for the identified land areas shown on Attachment 1 of the staff report as A, B and C.

Cr Pascoe left the meeting at 3.55pm during the above Item. He was not present when the matter was voted on.

12. Access Hamilton Strategy

The General Manager Infrastructure introduced the report.

The report proposed revising the Access Hamilton Strategy to align with national and regional policy and to allow the city to access national land transport funding.

It was also proposed to form a Taskforce to review central city parking. Strategies from the Central City Transformation Plan, such as free parking before 9am and after 3pm, and new parking technology were already implemented or underway. It was considered appropriate to review the effectiveness of the changes.

In addition, on-street parking opportunities in the central city were being reviewed and consultation was to be undertaken with local businesses and the Hamilton Central Business Association and reported back to the Growth and Infrastructure Committee in February 2017.

Extension of Time

Resolved: (Crs Macpherson/Casson)

That the Meeting be extended in accordance with Standing Order 3.2.7.

Resolved: (Crs Bunting/Macpherson)

That:

- a) the report be received;
- b) Council approve the Terms of Reference for an Access Hamilton Strategy Task Force (noting Deputy Mayor Gallagher and Cr Southgate as the additional Elected Members; and a representative from NZTA and a representative from Waikato Regional Council as ex officio positions) attached to this report, and that the Task Force report back to the Growth and Infrastructure Committee by June 2017;
- c) Council approve the Terms of Reference for a Central City Parking Control Task Force (noting Crs Bunting and O'Leary as the additional Elected Members; and the Chair of Hamilton Central Business Association (HCBA) as the External Appointee) attached to this report, and that the Task Force report back to the Growth and Infrastructure Committee by June 2017; and
- d) Council request staff to report back to the Growth and Infrastructure Committee in February 2017 identifying all opportunities to increase the on street parking numbers in the Central City.

Cr Pascoe re-joined the meeting at 4.05pm during the discussion on the above Item. He was present when the matter was voted on.

16. Western Rail Trail Update

General Manager Infrastructure introduced the staff report and expressed his disappointment that the budget had not been met because of the following issues:

- A contract schedule error meant the traffic signal ducts had been omitted from both contractors agreements; and
- Land contaminated by asbestos and other refuse had increased costs substantially.

The General Manager Infrastructure stated an independent group had undertaken a review of the scope and remaining risk to this project and the additional requested funding was based on this review. The funding requested included a reasonable contingency figure.

Concerns were raised that the proposed areas of savings on the project would reduce the quality of the rail trail. It was clarified that the planting that was not proceeding at this point (because of the hot weather) would be completed next year at a suitable time and the reduction in CCTV and lighting would not affect safety.

There were three discretionary traffic projects that could be put on hold and the funding diverted to the rail trail as well as surplus funding from the Rototuna Roothing upgrade project. In combination this should be sufficient to offset costs ensuring no impact on Council's financial strategy.

Resolved: (Crs Mallett/Macpherson)

That:

- a) the report be received;
- b) Council approve an increase of \$920,000 to the Approved Contract Sum for Contract 15363; Western Rail Bike Trail from \$4,280,000 to \$5,200,000 excluding GST which includes a contingency allowance of \$500,000 for further unforeseen risks.

17. Resolution to Exclude the Public

Resolved: (Crs Casson/Bunting)

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 Public Excluded Minutes 30 November 2016) Good reason to withhold) information exists under	Section 48(1)(a)
C2. Recommended appointment of a Trustee to Vibrant Hamilton Trust) Section 7 Local Government) Official Information and) Meetings Act 1987)	
C3. Variation to Contract 11079 for the External Appointments to the Audit and Risk Committee		
C4. Approval - Renewal of Stadia Contracts		
C5. Housing Accord (LATE ITEM)		

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 prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C3.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C4.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
Item C5. (LATE ITEM).	to enable Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	Section 7 (2) (i)

The Meeting adjourned from 4.52pm to 5.05pm.

The Meeting went into a Public Excluded session at 5.05pm.

The Meeting adjourned at 6.00pm during the Public Excluded session and reconvened at 10.43am on Wednesday, 14 December 2016.

The Meeting was declared closed at 1.00pm, Wednesday, 14 December 2016.