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## Finance Committee

### *Komiti Tahua*

### OPEN MINUTES

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**Minutes of a meeting of the Finance Committee held via Audio Visual Link on Tuesday 28 April 2020 at 10:01am.**

#### **PRESENT**

Chairperson	Cr R Pascoe
Deputy Chairperson	Cr Maxine van Oosten
Members	Mayor P Southgate
	Deputy Mayor G Taylor
	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr A O’Leary
	Cr S Thomson
	Cr E Wilson

In Attendance:	David Bryant – General Manager Corporate
	Chris Allen – General Manager Development
	Jen Baird – General Manager City Growth
	Lance Vervoort – General Manager Community
	Sean Murray – General Manager Venues, Tourism and Major Events
	Eeva-Liisa Wright – General Manager Infrastructure Operations
	Blair Bowcott – Executive Director, Special Projects
	Tracey Musty – Financial Controller
	Christie Harger - Corporate Business Manager
	Emily Botje – Facilities Unit Manager
	Greg Carstens - Growth, Funding and Analytics Unit Manager
	James Clarke – Advisor to the Mayor
	Lance Haycock - Programme Manager, Capital Projects
	Liam Blackwell – Digital Specialist
	Mark Moonsamy - Programme Manager - Transport Improvement
	Nick Murphy - Program and Performance Team Leader
	Rebecca Whitehead - Business and Planning Manager
	Sarah Seel - PMO Manager
	Surya Pandey - Programme Manager City Wide Water
	Irene James - Finance & Commercial Director
	Dan Silverton - Communication and Engagement Advisor
	Andrew Parsons - Strategic Development Manager
	Muna Wharawhara - Amorangi Maaori

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Governance Staff: Amy Viggers – Governance Team Leader  
Rebecca Watson – Governance Advisor

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**1. Apologies**

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the apologies for lateness from Mayor Southgate are accepted.

**2. Confirmation of Agenda**

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the agenda is confirmed.

**3. Declarations of Interest**

No members of the Committee declared a Conflict of Interest.

**4. Public Forum**

No members of the public wished to speak.

**5. Confirmation of the Open Finance Committee Minutes - 11 February 2020**

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the Committee confirm the open Minutes of the Finance Committee meeting held on 11 February 2020 as a true and correct record.

**6. Chair's Report**

The Chair took the report as read. He responded to questions from Committee Members concerning the budgeted spend on projects, debt to revenue ratio, the impact of Covid-19 on income streams and the current financial strategy.

**Resolved:** (Cr Pascoe/Cr Wilson)

That the Finance Committee receives the report.

*Mayor Southgate joined the meeting (10.43am) during the above item. She was present when the matter was voted on.*

**7. Capital Monitoring Report**

The General Manager Development spoke to the report, and gave an overview of the emerging issues noted in the report. Staff responded to questions from Committee Members concerning Borman Road West pedestrian facilities, Te Awa Cycleway closure and remediation works, tracking of the Covid-19 financial impact and the management of deferrals.

**Staff Action:** *Staff undertook to bring a report to a future Infrastructure Operations committee meeting concerning Borman Road West pedestrian facilities.*

**Staff Action:** *Staff undertook to bring a report to the next Infrastructure Operations Committee meeting concerning options for the Te Awa Cycleway remediation works.*

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the Finance Committee receives the report.

**The meeting adjourned from 11.31am to 11.43am.**

**8. Annual Monitoring Report to 29 February 2020**

The Financial Controller introduced the report noting that the balancing the books and the accounting result were on track. Staff responded to questions from Committee Members concerning personnel costs and job vacancies, CE cost savings and the impact of Covid-19 and how it could be included in future reports to the Committee.

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the Finance Committee receives the report.

**9. Financial Strategy Monitoring Report (*Recommendation to Council*)**

The Corporate Business Manager provided an overview of the purpose of the report. She noted the key outcomes from the report including maintenance of a debt to revenue ratio below 230%.

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the Finance Committee receives the report.

That the Finance Committee recommends the Council:

- a) approves capital movement of \$17.4M from the 2019/20 Financial Year to future years as identified in the 28 April 2020 Capital Portfolio Monitoring Report;
- b) approves the significant forecast adjustments as set out in paragraphs 19 to 25 of this report; and
- c) approves the revised forecast Financial Strategy position for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 26 to 33 of this report.

**10. Quarter Two - Service Performance Measures 2019-20**

The Unit Manager Strategy and Corporate Planning spoke to the report, noting that two performance measures that would not be achieved. Committee Members asked questions concerning survey timings and results/data, the opportunity for the data to inform work of other Committees and how the targets/reporting categories are set via the Long Term Plan process. Staff advised that the report was originally written to be presented to the March 2020 Finance Committee meeting and was deferred to this meeting due to Covid-19.

**Resolved:** (Cr Wilson/Cr Bunting)

That the Finance Committee receives the report.

**The meeting adjourned from 12.44pm to 1.33pm.**

**11. Contract Extensions for Contracts 10093, 09026A, 12021A and 18340**

The Facilities Unit Manager took the report as read. Staff responded to questions from Committee Members concerning the impact of contract sums on the Long Term Plan budget, when contracts may be retendered and Council's procurement policy.

**Staff Action:** *Staff undertook to provide further information to Elected Members concerning sustainability standards included as part of the procurement policy.*

**Motion:** (Cr Pascoe/Cr Macpherson)

That the Finance Committee:

- a) approves the extension of contract term for the following contracts:
  - (i) Contract 10093 Facilities Glazing Maintenance and Associated Services to 30 June 2021.
  - (ii) Contract 13126 Carpark Licence Management Agreement to 30 June 2021.
- b) approves the extension of contract term and Approved Contract Sum for
  - (i) Contract 09062A Facilities Electrical Maintenance and Associated Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$5.7 million.
  - (ii) Contract 12021A Facilities Fire Security Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$3.3 million.
- c) approves the Approved Contract Sum for Contract 18340 Facilities Renewals and New Build Programme at \$23 million.

**Amendment:** (Cr Gallagher/Cr Forsyth)

That the Finance Committee:

- a) approves the extension of contract term for the following contracts:
  - (i) Contract 10093 Facilities Glazing Maintenance and Associated Services to 30 June 2021.
  - (ii) Contract 13126 Carpark Licence Management Agreement to 30 June 2021.
- b) approves the extension of contract term and Approved Contract Sum for
  - (i) Contract 09062A Facilities Electrical Maintenance and Associated Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$5.7 million.
  - (ii) Contract 12021A Facilities Fire Security Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$3.3 million.
- c) approves the Approved Contract Sum for Contract 18340 Facilities Renewals and New Build Programme at \$23 million noting that the provision of \$10 million to cover new and unbudgeted works that may be brought forward to assist in Hamilton's recovery can only be used if the works are further approved by the Council or appropriate Committee.

**The Amendment was put.**

**Those for the Amendment:** Deputy Mayor Taylor, Crs Gallagher, Forsyth and Naidoo-Rauf

**Those against the Amendment:** Crs Pascoe, O'Leary, Macpherson, Thomson and van Oosten

**The Amendment was declared LOST.**

**The Motion was then put and declared CARRIED.**

**Resolved:** (Cr Pascoe/Cr Macpherson)

That the Finance Committee:

- a) approves the extension of contract term for the following contracts:
  - (i) Contract 10093 Facilities Glazing Maintenance and Associated Services to 30 June 2021.
  - (ii) Contract 13126 Carpark Licence Management Agreement to 30 June 2021.
- b) approves the extension of contract term and Approved Contract Sum for
  - (i) Contract 09062A Facilities Electrical Maintenance and Associated Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$5.7 million.
  - (ii) Contract 12021A Facilities Fire Security Services extension of contract term to 30 June 2021 with an Approved Contract Sum of \$3.3 million.
- c) approves the Approved Contract Sum for Contract 18340 Facilities Renewals and New Build Programme at \$23 million.

**Cr Forsyth Dissenting.**

*Cr Bunting left the meeting (1.43pm) during the above item. He was not present when the matter was voted on.*

*Cr Wilson left the meeting (2.10pm) during the above item. He was not present when the matter was voted on.*

*Cr Naidoo-Rauf left the meeting (2.27pm) at the end of the above item. She was present when the matter was voted on.*

**13. New Zealand Local Government Funding Agency Amendments**

The Financial Controller spoke to the report noting that change would enable Local Government Funding Agency to lend to Council Control Organisations. She responded to questions from Committee Members concerning the effect of the amendment on debt to revenue ratio, how Council Controlled Organisations would borrow and securities used against borrowing.

**Resolved:** (Cr Pascoe/Cr van Oosten)

That the Finance Committee:

- a) receives the New Zealand Local Government Funding Agency Amendments report;
- b) authorises the Council's entry into the documentation noted in this report;
- c) authorises the Chair and the Deputy Chair of the Finance Committee to execute the following deeds for the purposes of the recommendations (b) above;
  - i. Amendment and Restatement Deed (Multi-issuer Deed);
  - ii. Amendment and Restatement Deed (Notes Subscription Agreement); and
  - iii. Amendment and Restatement Deed (Guarantee and Indemnity)
- d) authorises the Chief Executive to execute the Chief Executive Certificate and such other documents and take such other steps on behalf of Council as the Chief Executive considers it is necessary or desirable to execute or take to give effect to recommendation (b) above.

*Cr Wilson re-joined the meeting (2.29pm) during the above item. He was present when the matter was voted on.*

## 12. Resolution to Exclude the Public

**Resolved:** (Cr Pascoe/Cr van Oosten)

### 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 the Public Excluded Finance Committee Minutes - 11 February 2020	) Good reason to withhold ) information exists under ) Section 7 Local Government ) Official Information and ) Meetings Act 1987	Section 48(1)(a)
C2. Report on overdue debtors as at 31 March 2020 & Debt write-offs 2019/20	)	
C3. Covid-19 Existing Contract Implications		

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 to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment	Section 7 (2) (a) Section 7 (2) (f) (ii)
Item C3.	to avoid the unreasonably, likely prejudice to the commercial position of a person who supplied or is the subject of the information to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (b) (ii) Section 7 (2) (h)

**The meeting moved into a closed session at 2.38pm.**

**The meeting was declared closed at 3.34pm.**

**Minute Note 26/06/2021:**

*On 25/06/2021 the following resolutions were determined to be released to the public via these minutes and the quarterly update.*

**Covid-19 existing contract implications**

**Resolved:**

*That the Finance Committee:*

- a) receives the report;*
- b) notes the Central Government direction to Government agencies that the actions taken by the New Zealand Government in putting in place various restrictions including moving to COVID-19 Alert Level 4 constitute the making of a statute and/or regulation giving rise to a variation claim under clause 5.11.10 of NZS 3910:2013 (Conditions of contract for building and civil engineering construction);*
- c) notes the strong view from the construction sector that clause 5.11.10 (statutes/regulations giving rise to variation claims) is applicable as a result of the Central Government actions and that a variation with costs, including time related costs for extensions to the contract period, is warranted;*
- d) notes that if the construction sectors view was to apply to all their costs, then all responsibility for the effects of COVID-19 would rest with the Principal (being Council, in respect of NZS 3910:2013 contracts to which Council is a party), which is not a fair outcome nor one necessarily warranted by the contracts;*
- e) approves that the Council, in principle, adopts the same interpretation as Central Government and deems the actions taken by Central Government in putting in place various restrictions including moving to COVID-19 Alert Level 4 constitute the making of a statute and/or regulation;*
- f) approves, subject to the agreement in principle in (e) above, the Chief Executive to offer to cover variation costs, including time-related costs, on a project by project basis depending on the circumstances of each contract, in order to achieve a fair and equitable outcome through negotiation;*
- g) notes that in reaching agreement with each contractor the Chief Executive will ensure that any Central Government support is accounted for in the negotiations, as well as a sharing of cost between the Principal and the Contractor;*
- h) notes that any agreement on cost will be managed within the current Council delegations policy meaning that if any cost increase causes the Approved Contract Sum for any individual contract to exceed the Chief Executive delegation of \$3,000,000, this will need to come back to Council or Committee for approval;*
- i) endorses the Chief Executive to offer an Advance Entitlement Payment to any Contractor that requests it on the basis that:*
  - i. it is an advance payment against future entitlements and not an additional payment; and*
  - ii. an assessment of each contractor is made in relation to risk of them becoming insolvent or not completing the contract; and*
- j) notes that the decision and information in relation to this matter be released at the appropriate time, to be determined by the Chief Executive.*