
Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 28 July 2016 at 1:30pm.

PRESENT

Chairperson	Her Worship the Mayor J Hardaker
Deputy Chairperson	Cr G Chesterman
Members	Cr M Forsyth
	Cr M Gallagher
	Cr K Green
	Cr A King
	Cr D Macpherson
	Cr G Mallett
	Cr A O'Leary
	Cr R Pascoe
	Cr L Tooman
	Cr E Wilson
	Cr P Yeung

In attendance	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	Chris Allen – General Manager City Infrastructure
	David Bryant – General Manager Corporate
	Sean Murray – Director of H3 & Events
	Sean Hickey – General Manager Strategy & Communications
	Blair Bowcott – Executive Director Special Projects
	Kelvyn Eglinton – General Manager City Growth
	Julie Clausen – Programme Manager – Strategy
	Andrew Parsons – City Development Manager
	Ken Cunningham – Strategic Land Manager
	Mark Brougham – Programme Manager – Analysis & Research

Committee Advisors	Mrs MM Birch and Mr B Stringer
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1. Apologies

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

That the apologies from Councillor Macpherson (lateness) be received and accepted.

2. Confirmation of Agenda

The Chairperson noted the following:

- The attachments for Item 8, together with a memorandum from the General Manager Strategy & Communications with further proposed amendments to the draft submission, had been circulated to Elected Members; and
- That it was proposed Items 10 (in the Open Agenda) and C4 (in the Public Excluded Agenda) be discussed at the Council Briefing on 16 August prior to presentation to Council at its Meeting on 25 August 2016; and
- Attachment 2 for Item C3 (in the Public Excluded Agenda) had been circulated to Elected Members.

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

The Council confirms the Agenda, with the noted changes.

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

There was no Public Forum.

5. Founders Theatre - Engagement Feedback and Recommended Option

Councillor Macpherson arrived (1:36pm) during the introduction of Item 5.

The Director of H3 & Events ('the H3 Director') provided an overview of:

- the significant input received from the community during the consultation process; and
- the options presented for Council's consideration.

The H3 Director, supported by the Programme Manager – Strategy, responded to questions on the following points:

- **New Build Option**
 - i. As highlighted in the Hearings, every user had specific requirements. A multi-purpose facility would therefore be a realistic option.
 - ii. A prudent estimate for the life of a new theatre was 50 years.
 - iii. Community groups would be expected to be able to use the new venue, subject to satisfying standard requirements as to use of the property and equipment.

- **Interim Use of Founders Theatre**
 - i. Staff would need to further assess the estimated costs required to ensure Founders Theatre was compliant with Building Code requirements; a detailed report would be presented to the September 2016 Council meeting if required. Such report would need to be updated following the presentation of Momentum Waikato's plan in 2017, should the Council support its proposal.
- **Consultation**
 - i. A special consultative procedure ('SCP') under the Council's Significance & Engagement Policy and the Local Government Act would be triggered if the Council resolved to:
 - build a new theatre;
 - demolish Founders Theatre;
 - or refurbish Founders Theatre with the intention of changing its purpose.A SCP could also be required if the Refurbish Option (as detailed in the staff report) was selected by Council, given the financial impact of such a decision.
 - ii. Any refurbishment of Founders Theatre would need to take account of its existing heritage qualities.
- **Momentum's Proposal** (Attachment 6 of the staff report)
 - i. Momentum Waikato's proposal contemplated that Council would allocate \$100,000 towards the development of the Concept Design; Momentum Waikato contributing the same amount.
 - ii. Should Council support the proposal, it was expected that a detailed business plan would be presented to the incoming Council.
 - iii. A representative from Council management was expected to be on the panel established by Momentum; such panel would report back to Council on its recommendations. This would include a preferred site for the new theatre.
- **Financial Information**
 - i. Staff considered that the operating expenditure outlined in paragraphs 88 and 89 of the report reflected conservative estimates; operating income was assessed based on commercial and community events. Those revenue figures could alter depending on the decision made as to the future use of the existing Founders Theatre.
 - ii. The estimated \$50 million capital cost for a new theatre (paragraph 88 in the report) would result in a fully functioning theatre.
 - iii. The difference between the operating income expected for a refurbished Founders Theatre compared to a new build was explained.
 - iv. The impact of the options on the Council's financial strategy was examined; the incoming Council would need to decide whether to increase rates to maintain the debt to revenue target or extend that target to a later date.
 - v. Staff considered that the decision to invest in either a new build or refurbishment needed to focus on the community, not a commercial return.

Staff would review what discussions were required with neighbouring authorities in terms of funding contributions after the Council decided on which option was to be implemented.

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

That:

- a) the report be received.
- b) Council supports building a new performing arts theatre in Hamilton and commits in principle, a maximum of \$30million plus GST contribution towards the new build. This sum includes any funding sourced from other Waikato Councils or government sources and funds.
- c) Council accepts the proposal by Momentum Waikato and the process proposed in their memo dated 16 July 2016 (attachment 6 of the report).
- d) The Chief Executive is delegated authority to prepare a Heads of Agreement between Momentum Waikato and Hamilton City Council for delivery of the new performing arts theatre and report back to Council on 27 February 2017 with that Agreement and the Concept Design recommendation for Council approval.
- e) The Council approves \$100,000 contribution towards the cost of the Concept Design.
- f) Council notes that a Special Consultative Procedure may be required before Council can resolve final approval for the Heads of Agreement. The Chief Executive is to provide appropriate advice at the 27 February 2017 meeting.
- g) Staff are to investigate the following options for Founders Theatre, including any capital costs required and annual operating costs, and report back to the Council on 29 September 2016:
 - i. Re-opening Founders in the interim period, including demand for the different use options;
 - ii. Retaining Founders in the long term, including demand for use options;
 - iii. To demolish Founders.

The Meeting adjourned from 3:35pm to 3:50pm.

6. Ring Road – Cobham Drive Connection

The General Manager City Infrastructure ('GM Infrastructure') and City Development Manager highlighted, and responded to questions on, the following matters:

- **Options**

- i. The indicative plan on the Wairere Drive/Cobham Drive Grade Separated Intersection (page 176 of the Agenda) was consistent with the Southern Links designation. This reflected a preferred long-term view of the intersection. A detailed design plan, including scope for a four-lane road connected to Cambridge Road, would be presented back to the Council for approval.
- ii. Staff had reconsidered their previous recommended option on this matter following further assessment of the financial implications of that option and taking account of growth increasing at higher than expected levels.
- iii. An explanation was provided as to why the roundabout envisaged in the staff's earlier recommended option would need to be removed as part of the growth development of Peacocks 2.

- **Bridges**

The recommended option contemplated the construction of an overbridge at Cobham Drive, which would include pedestrian and cycling facilities (as per the indicative plan on page 177 of the Agenda). This was instead of the earlier proposal of a roundabout and separate pedestrian/cycle bridge at the intersection in question.

- **New Zealand Transport Agency**

- i. Preliminary discussions with NZTA were positive; the recommended package would still need to be presented to them for consideration.
- ii. Additional information on NZTA's £1 billion fund for road infrastructure projects would be presented to Elected Members at the Council Briefing and Council Meeting in August 2016

Resolved: (Crs Macpherson/Wilson)

That:

- a) the report be received.
- b) Council confirm a grade-separated Wairere Drive/ Cobham Drive intersection, consistent with the Southern Links designation, as its preferred intersection form;
- c) staff undertake initial planning, investigation and concept design work for the grade separated intersection in preparation for the 2018-28 10 Year Plan and any potential application to the Government's \$1 billion fund to fast-track infrastructure development;
- d) staff engage with the New Zealand Transport Agency and progress a subsidy application based on b) and c) above.

Councillor Wilson left the Meeting (4:35pm) at the conclusion of Item 6, and took part in the voting.

7. Drainage Reserve - Part Sale/Purchase

The GM Infrastructure and Strategic Land Manager explained the valuation of the drainage reserve area identified on Attachment 1 of the staff report, which was based on the amalgamation of that land into the adjoining land. Staff were satisfied as to the basis of that valuation.

Motion: (Crs Chesterman/Forsyth)

That:

- a) the report be received.
- b) Council grants approval for the revocation of the reserve status of approximately 405m² of land, shown as Lot 1 on Attachment 2, in terms of Section 24 of the Reserves Act 1977 subject to:
 - i. any objection(s) being received from the public consultation process being reported to Council for determination.
 - ii. the Department of Conservation's approval being obtained.
- c) Council grants approval for the sale of approximately 405m², shown as Lot 1 on Attachment 2, to 3 Sealegs Ltd for \$40,000 (plus GST, if any) subject to:
 - (i) A survey plan being approved by Land Information New Zealand for the area being purchased.
- d) all costs associated with the revocation and sale and purchase processes are to be the responsibility of 3 Sealegs Ltd.
- e) the Chief Executive be delegated authority to:
 - i. Execute all documentation relating to the revocation of the reserve status.
 - ii. Execute all documentation relating to the sale and purchase of the land.

Amendment: (Crs Macpherson/Gallagher)

That:

- a) the report be received.
- b) an independent peer review of the valuation supplied by staff, be sought by staff and brought back to the next Council meeting on 25 August 2016.

Those for the Amendment: Councillors Gallagher, Yeung, O'Leary and Macpherson

Those against the Amendment: Her Worship the Mayor Hardaker, Councillors King, Green, Forsyth, Pascoe, Chesterman, Mallett and Tooman

The Amendment was declared lost. The Motion was then put.

Resolved: (Crs Chesterman/Forsyth)

That:

- a) the report be received.
- b) Council grants approval for the revocation of the reserve status of approximately 405m² of land, shown as Lot 1 on Attachment 2, in terms of Section 24 of the Reserves Act 1977 subject to:
 - i. Any objection(s) being received from the public consultation process being reported to Council for determination.
 - ii. The Department of Conservation's approval being obtained.
- c) Council grants approval for the sale of approximately 405m² shown as Lot 1 on Attachment 2 to 3 Sealegs Ltd for \$40,000 (plus GST, if any) subject to:
 - i A survey plan being approved by Land Information New Zealand for the area being purchased.
- d) all costs associated with the revocation and sale and purchase processes are to be the responsibility of 3 Sealegs Ltd.
- e) the Chief Executive be delegated authority to:
 - i. Execute all documentation relating to the revocation of the reserve status.
 - ii. Execute all documentation relating to the sale and purchase of the land.

Councillors Gallagher and Macpherson dissenting.

8. Consideration and Approval of HCC's Draft 2 Submission to the Local Government Act 2002 Amendment Bill (No 2)

Councillor Wilson returned to the Meeting (5:05pm) during discussion on Item 8.

The General Manager Strategy & Communications ('GM Strategy') introduced the report and his associated Memo circulated to Elected Members on 27 July 2016. He noted that:

- the first bullet points, in red, under the heading *Recommendations* for paragraphs 1 and 2 on the first page of the Memo required to be changed to read:

That Council supports the Development Contributions Working Group working with the Government to refine aspects of the Bill relating to development contributions.

- in relation to paragraph 2.5 of the draft submission, SOLGM now supported Option A, which was a change from its previous position.

The following changes to the draft submission were to be made at the request of Elected Members:

- i. Paragraph 3.1.1 – "...with the local authorities **and communities** impacted by the investigation."
- ii. Paragraph 3.2.2 – "...a poll is mandatory except for CCOs **and or** where the Reorganisation Plan...."

In response to questions, the GM Strategy supported by the Programme Manager – Strategy, noted the following:

- **PWC Tax Opinion**
PWC would present directly to the Select Committee.
- **10 Year Service Delivery Plan**
An explanation of the options under paragraph 2.5 of the draft submission was provided. The key issue was whether Council had an intent that communities were consulted on the Service Delivery Plan, as detailed in the Bill.
- **Aggregation of neighbouring land**
The Local Government Commission would continue to adjudicate on any disputed potential aggregation or transfer of land from one local authority to another.
- **Presentation of submission in person**
Staff would clarify that the Council wished to be heard in relation to its submission.

Elected Members expressed concern as to the format and language used in the Council's submissions.

Councillor Green retired from the Meeting (5:20pm) during discussion on Item 8, and did not take part in the voting.

Resolved: (Crs Macpherson/Mallett)

That Council supports the position in paragraph 2.5.2 of the draft submission.

Resolved: (Crs Macpherson/Pascoe)

1. That the text in section 2.3 ('**Development Contributions**') and 2.3.1 on page 3 of the **Draft 2 Submission** (Attachment 1 of the staff report) be replaced with the following:

Recommendations

- That Council supports the development contributions working group working with the Government to refine aspects of the Bill relating to development contributions.
- That local authorities should retain the ultimate decision-making authority over the content of their own policy and the manner in which a future CCO is able to amend it.
- That HCC supports investigation into CCOs developing their own policies to recover costs with approval by appropriate local authorities.
- That Department of Internal Affairs guidance material be published early (ahead of the Bill's enactment).
- That the Bill should recognise the limits of practicality for councils when setting its requirements, given the anticipated increase in complexity of DC Policies due to integration with CCOs, which will put further strain on resourcing policy development and its administration.

2. That the text in Appendix 1 of the **Draft 2 Submission** (Attachment 1 of the staff report) for '**HCC's Position/Recommendations**' on page 8 under the heading '**Development Contributions s63**' be replaced with the following:

Recommendations

- That Council supports the development contributions working group working with the Government to refine aspects of the Bill relating to development contributions.
- That local authorities should retain the ultimate decision-making authority over the content of their own policy and the manner in which a future CCO is able to amend it.
- That HCC supports investigation into CCOs developing their own policies to recover costs with approval by appropriate local authorities.
- That Department of Internal Affairs guidance material be published early (ahead of the Bill's enactment).
- That the Bill should recognise the limits of practicality for councils when setting its requirements, given the anticipated increase in complexity of DC Policies due to integration with CCOs, which will put further strain on resourcing policy development and its administration.

Explanation/Comment

- HCC foresees that there will be challenges in balancing the policy consistency and certainty needed by a new CCO, given the range of existing policy and funding frameworks, including variations in DC methodologies, which currently exists between stakeholder councils.
- New or amended DC Policies will need to strike a balance between the variations in existing policy and smooth the integration between the multiple DC policies affected by the CCO empowerment proposed.
- Clear provision must also be made for the resolution of disputes which may arise between substantive CCOs and stakeholder councils concerning the required (or agreed) amendments to DC policies and, given that stakeholder councils will be responsible for the application or administration of the policy.

3. That a plain English short summary of Council's submissions on this Bill is made available to the public, Councillors and the Select Committee.

Resolved: (Crs Macpherson/Pascoe)

That:

- a) the report be received.
- b) HCC's Draft 2 submission to the Local Government Act 2002 Amendment Bill (No 2) be considered and approved as amended by the Council.
- c) the approved submission be sent to the Local Government and Environment Committee prior to the 8 August 2016 submission closing date.
- d) subsequent to Council's approval, the submission be uploaded to HCC's website.
- e) local Members of Parliament be advised of and encouraged to support Council's approved submission.
- f) the attached submission from PWC (made on behalf of HCC, Waikato District Council and Waipa District Council) be approved.

9. Waikato Plan Update

The Executive Director Special Projects ('the Executive Director') responded to questions on the following points:

- **Cost**
\$1.2 million had been budgeted across the regional authorities for the completion of the Waikato Plan, including public consultation.
- **Regional Plans and Strategies**
 - i. Clarification was provided on the difference between FutureProof, a subregional growth strategy, and Waikato Plan, which focussed on the betterment of the community across Waikato.
 - ii. The Chief Executive agreed to make enquiries as to which group or person had taken responsibility to ensure there was alignment across key regional plans that had been, or were being, developed.
- **Waikato Story**
There was a lack of understanding on the current status of the Waikato Story and its alignment to the Waikato Plan. Staff were requested to bring a draft of the Waikato Story to Elected Members for comment and input.
- **Council Feedback**
 - i. Previous feedback from the Council had been provided to the Joint Committee overseeing the Waikato Plan; a number of points from which had been captured.
 - ii. A highly customised and refined summary would be used as part of the engagement with key stakeholders.
- **Timeframes**
A revised draft of the Waikato Plan is expected to be ready for the Council Briefing in September 2016.

Resolved: (Her Worship the Mayors Hardaker/Chesterman)

That:

- a) the report be received.
- b) staff are to present drafts of the Waikato Plan and the Waikato Story at the Council Briefing in September 2016, together with details as to timeframes and costs of the respective projects.

10. Growth in Hamilton

To be presented at the Council Briefing on 16 August 2016, as agreed by the Council.

11. Recommendations to Council - Strategy and Policy Committee Meeting - 19 July 2016

Resolved: (Crs O'Leary/Wilson)

1. Hamilton Central City Safety Plan Annual Report

That:

- a) the Hamilton Central City Safety Plan be changed to annual reporting in line with other Council Plans.
- b) the following new action is included in the status report on the actions in the Hamilton Central City Safety Plan:
 - (i) City Safe and Central Library to work together to ensure library staff have strategies and training appropriate for dealing effectively with incidences of anti-social behavior.
- c) Council note that staff will work with HCBA to understand the concerns behind the response to question 12, page 91 of the Committee's Agenda (*Hamilton City Council responds appropriately to safety concerns*).

Resolved: (Crs O'Leary/Wilson)

2. Governance Policies Review - Citizens Initiated Referenda Policy

That the Citizens Initiated Referenda Policy be retained.

Resolved: (Crs O'Leary/Yeung)

3. Trade Waste and Wastewater Bylaw 2016 Deliberation and Adoption Report

That Council:

- a) determine that the Hamilton Trade Waste and Wastewater Bylaw 2016 does not give rise to implications under the New Zealand Bill of Rights 1990.
- b) accept the recommended changes to the Hamilton Trade Waste and Wastewater Bylaw 2016 as shown in Attachment 3 to the Committee Report.
- c) adopt the Hamilton Trade Waste and Wastewater Bylaw as at 15 August 2016.
- d) note that the Plain English Guide will be placed on the Council website, in an easy-to-find location, by 15 August 2016.

Resolved: (Crs O'Leary/Forsyth)

4. Sustainability Principles

- a) That Council adopt the Sustainability Principles as follows:
- 1) Council anticipates and acts to prevent or mitigate environmental degradation where there are threats of serious or irreversible damage.
 - 2) Council includes environmental, economic, social, and cultural considerations in its decision-making criteria.
 - 3) Council is an integral part of regional efforts to restore and protect the water quality of waterways.
 - 4) Council is an integral part of regional efforts to restore and protect biodiversity in Hamilton City.
 - 5) Council works with central government to deliver on national greenhouse gas emission reduction targets and supports resilience to climate change in our communities.
 - 6) Council promotes walking, cycling, public transport and other low carbon transport options.
 - 7) Council works to improve the resource efficiency and health of homes, businesses and infrastructure in our city.
 - 8) Council supports the use of renewable energy and uptake of electric vehicles.
 - 9) Council ensures that it understands, prepares for and responds to the impacts of climate change.
 - 10) Council works with its communities to minimise the production of waste and maximise opportunities to recycle.
 - 11) Council uses its position as a city leader to educate and influence the wider Hamilton community to embrace sustainability.
- b) That the Sustainable Hamilton Strategy is retired.

Councillor Mallett dissenting

It was noted that the Sustainability Advisory Panel's function, under its Terms of Reference, has been completed.

Motion: (Crs O'Leary/Her Worship the Mayor Hardaker)

5. That the Active Hamilton Strategy be deleted.

Amendment: (Crs Mapherson/Forsyth)

5. That the Active Hamilton Strategy be referred to the incoming Council.

Those for the Amendment: Councillors Gallagher, Wilson, Forsyth, Pascoe, Chesterman, Tooman and Macpherson

Those against the Amendment: Councillors King, Yeung, Hardaker, Mallett and O'Leary

The Amendment was declared carried and put as the Substantive Motion.

Resolved: (Crs Macpherson/Forsyth)

5. That the Active Hamilton Strategy be referred to the incoming Council.

Councillor Mallett dissenting.

12. Council - Open Minutes - 30 June 2016

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

That Council confirm and adopt as a true and correct record the Open Minutes of the Council Meeting held on 30 June 2016.

13. Resolution to Exclude the Public

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

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. Recommendations to Council - Council Controlled Organisations (CCO) Subcommittee Meeting - 6 July 2016) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)

- C2. Waterworld Contract
Matter Update
- C3. Ruakura Private Developer
Agreements
- C4. Growth in Hamilton - Under
Separate Cover
- C5. Council - Public Excluded
Minutes - 30 June 2016
- C6. CE Review - Verbal Report

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 maintain legal professional privilege | Section 7 (2) (g) |
| Item C3. | to enable Council to carry out commercial activities without disadvantage | Section 7 (2) (h) |
| Item C4. | to prevent the disclosure or use of official information for improper gain or improper advantage | Section 7 (2) (j) |
| Item C5. | to prevent the disclosure or use of official information for improper gain or improper advantage | Section 7 (2) (j) |
| Item C6. | to prevent the disclosure or use of official information for improper gain or improper advantage | Section 7 (2) (j) |

Councillor Wilson retired from the Meeting (6:15pm) at the conclusion of Item 13.

The Meeting adjourned from 6:15pm to 6:45pm.

The Meeting went into a Public Excluded session from 6:45pm until 8:10pm.

The Meeting was declared closed at 8:10pm.