
Strategy & Policy Committee

OPEN MINUTES

Minutes of a meeting of the Strategy & Policy Committee held in Council Chamber, Municipal Building, Garden Place, Hamilton on Tuesday 16 February 2016 at 2:00pm.

PRESENT

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| Chairperson | Cr A O'Leary |
| Deputy Chairperson | Cr A King |
| Members | Her Worship the Mayor J Hardaker Cr G Chesterman Cr M Forsyth Cr M Gallagher Cr D Macpherson Cr G Mallett Cr L Tooman Cr P Yeung |
| In Attendance | Blair Bowcott – Executive Director Special Projects Sean Hickey – General Manager Strategy and Communications Debra Stan-Barton – Acting General Manager City Growth Kelvin Powell – Unit Manager City Safe Julie Clausen – Programme Manager – Strategy |
| Committee Advisor | Mr B Stringer and Mrs J Pani |

1. Apologies

Resolved: (Crs O'Leary/Yeung)

That the apologies from Councillors Wilson, Green (Conflict of Interest) and Pascoe be received and accepted.

2. Confirmation of Agenda

Resolved: (Cr O'Leary/Her Worship the Mayor Hardaker)
The Committee to confirm the Agenda.

3. Declarations of Interest

Councillor Green advised the Chairperson, prior to the Meeting, of a previously disclosed conflict of interest in Item 5 - *Recommendations from Business and Investment Subcommittee 9 February 2016* – and, accordingly, did not attend the Meeting.

4. Public Forum

No Public Forum was required.

5. Recommendations from Business and Investment Subcommittee 9 February 2016

At the invitation of the Chairperson, Her Worship the Mayor Hardaker, Chairperson of the Business and Investment Subcommittee ('the Subcommittee'), introduced the item. She highlighted that the proposed changes to the Public Places Bylaw 2016 ('the PP Bylaw'), as presented in the staff report, were not covered at the Subcommittee meeting.

The PP Policy

The Unit Manager City Safe ('Unit Manager') and Programme Manager – Strategy ('Programme Manager') spoke to the report and responded to questions on the following points:

- **Drafting**
 - i. The review and engagement on the PP Policy commenced prior to the new process that removed the need for principles in Council policies.
 - ii. Staff were asked to correct:
 - a. the duplication of the definition of 'Market'; and
 - b. the second bullet point in the definition of 'Mobile shop' to read:

"....have been ordered for delivery."
- **Mobile Shops**
 - i. The PP Policy contemplated three mobile shops permitted to operate in the central city in addition to the existing Old English Baked Potato van ('the Potato Van'), which traded by way of a Council resolution. Mobile shops trading just outside the central city area identified in the map in Schedule 4 ('the Central City') would not be subject to the conditions detailed in clause 4.5.
 - ii. With reference to clause 5, Schedule 3 of the PP Policy, staff advised that there would be a qualitative selection process for the issue of permits for proposed mobile shops in the Central City. Clause 4.5(VI) to (VII) in the PP Policy set out the expected timeframes for permit applications.
 - iii. Permits would not be transferable and a renewal for a mobile shop operating in the Central City would be treated as a new application.

- iv. The definition of 'Mobile shops' was wide enough to include individuals trading from private vehicles.
 - v. While cafes and restaurants were required to provide toilet facilities, there was no such legislative requirement for mobile food vendors.
 - vi. The public liability insurance cover required for mobile shops (clause 5.1 (IV), Schedule 3) should read "\$2 million" to align with the requirement for establishments that used outdoor furniture (clause 1.4.10).
- **Buskers**
 - i. Through submissions, residents living in the central city noted that they did not approve an extension to the permitted busking hours. Staff clarified that an end time of 1am was proposed in the PP Policy issued for public consultation and, following receipt of feedback, this was amended to 11pm when presented to the Subcommittee.
 - ii. The prohibition for buskers to remain in a single location for more than two hours was consistent with the position taken with other major cities. There was an expectation buskers would liaise with adjoining shop owners.
 - **Outdoor Furniture**

The 1.7 metre wide clearway on footpaths along Victoria Street had been in place since 2009; staff believed a 2 metre wide clearway provided consistency across the city and aligned with other major centres in New Zealand.
 - **Enforcement**

Staff endeavoured to resolve any indiscretions by permit holders through discussions in the first instance, though revocation of a permit was always available, if appropriate.

The PP Bylaw

In response to questions, the Unit Manager stated that:

- the proprietor of the Potato Van contacted Council to advise of periods when they would be closed; and
- the level of fine stipulated in clause 10.1 of the PP Bylaw (an amount not exceeding \$20,000) reflected the maximum amount a local authority could impose under the Local Government Act (LGA'). Council could choose to lower that threshold if it so desired.

The Permit Fees

The Unit Manager and Programme Manager responded to questions on the following points:

- **Local Government Act**

The LGA required territorial authorities to recover only their reasonable costs incurred for a matter for which a fee was charged. This principle covered both an administration fee and permit fee. Staff outlined a range of fees other authorities charged in relation to mobile shops to highlight the variance across the country.
- **Administration Fee**

An administration fee was not levied for all the permit types (as listed in paragraph 2 of Attachment 3), which was consistent with other authorities.
- **Other Activities on the Footpath**

Events or stalls in Garden Place/Civic Plaza required a different permit than that stipulated for 'Other Activities on the Footpath'.

Staff recommended that the existing permit fees and charges schedule be supplemented with the additional fees for Other Activities on Footpaths and Option 3 for mobile shops (as detailed in paragraph 6 of Attachment 3). It was suggested that such changes should be presented to the Finance Committee at its April 2016 meeting.

The Meeting adjourned from 3:25pm to 3:40pm during discussion on the above item.

Councillor Macpherson returned to the Meeting after the adjournment at 3:50pm.

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

That:

- a) the report be received; and
- b) the Public Places Policy be adopted, with the following changes:
 - i. Remove the duplication of the definition of 'Market';
 - ii. Amend the definition of "Mobile shops" to change 'order' to read 'ordered';
 - iii. Amend clause 5.1 (IV), Schedule 3, to change '\$1 million' to read '\$2 million';
 - iv. Amend clause 3.1 (IV), Schedule 3, to add the following at the end:
'cover to a minimum of \$2 million.'

Amendment: (Crs Chesterman/King)

That no mobile traders/stores be permitted in the defined Central City area, except (by permit) for market days, special events and the existing exemption.

The Meeting adjourned from 4:15pm to 4:20pm during debate on the above Item.

The following procedural motion was moved:

Resolved: (Crs King/Gallagher)

That the Committee temporarily suspend Standing Order 3.7.12 to allow a Councillor to Move more than one amendment to the Motion before the Committee.

The Amendment (Crs Chesterman/King) was then put.

That no mobile traders/stores be permitted in the defined Central City area, except (by permit) for market days, special events and the existing exemption.

Those for the Amendment: Councillors King, Gallagher, Chesterman, Mallett and Macpherson

Those against the Amendment: Councillors Forsyth, Yeung, Hardaker, Tooman and O'Leary

The Amendment was declared equal. The Chairperson did not exercise her casting vote.

The Executive Director Special Projects ('Executive Director') advised the Committee that the result of the vote was that the PP Policy remained as presented to the Committee.

It was clarified that the Committee could recommend the PP Bylaw for adoption without also approving the PP Policy; the existing policy would continue in those circumstances.

Councillor Forsyth retired from the Meeting (4:50pm) following the conclusion of the vote on the Amendment (Crs Chesterman/King).

A further Amendment was then put:

Resolved: (Crs Macpherson/King)

That a change be made to clause 1.4.1 and that it read:

"There must be a continuous 2 metre wide clearway maintained on all footpaths at all times with the exception of Victoria Street within the area contained in the map in Schedule 4, which will be 1.7 metres."

Her Worship the Mayor Hardaker and Councillor Tooman dissenting.

Councillor Mallett retired from the Meeting (5:03pm) during debate on the further Amendment (Crs Macpherson/King) and did not take part in voting.

The Meeting adjourned from 5:05pm to 5:10pm.

With the agreement of the Mover and Seconder of the Motion, and the remaining members of the Committee, the Motion was changed to include the further Amendment, which was carried (Crs Macpherson/King), together with some additional points. The revised Motion was then put:

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

Recommendation to Council:

That:

- a) the Public Places Policy be adopted with the following changes:
 - i. Remove the duplication of the definition of 'Market';
 - ii. Amend the definition of "Mobile shops" to change 'order' to read 'ordered';
 - iii. Amend clause 1.4.1 to read:

'There must be a continuous 2.0 metre wide clearway maintained on all footpaths at all times with the exception of Victoria Street within the area contained in the map in Schedule 4, which will be 1.7 metres.'
 - iv. Amend Clauses 4.2 to read "Mobile shops are not permitted to operate within the Central City (as defined in the map in Schedule 4)." and Clause 4.5 be deleted;
 - v. Amend clause 5.1 (IV), Schedule 3, to change '\$1 million' to read '\$2 million';
 - vi. Amend clause 3.1 (IV), Schedule 3, to add the following at the end:

'cover to a minimum of \$2 million.'; and
 - vii. Clauses 5.1 (V) and (VI), Schedule 3, be deleted;
- b) the Public Places Bylaw 2016 be approved with the removal of the staff recommendations;
- c) consistent with the resolution made by Council in 2009, Council undertakes not to enforce the Bylaw against the Old English Baked Potato Van, provided it pays the prescribed annual fee. This entitlement will cease on the sale or the closure of this business;
- d) a fee for Other Activities on Footpaths is set at an administration fee of \$85.00 and a per event permit fee of \$20.00; and
- e) the Public Places Bylaw 2016 and Public Places Policy come into force on the 25 February 2016.

Councillor Gallagher retired from the Meeting (5:23pm) during discussion on the revised Motion (Her Worship the Mayor Hardaker/Cr O'Leary) and did not take part in voting.

The Meeting was declared closed at 5:30pm