

19 April 2013

Memo To: The Mayor and Councillors
Memo From: Administration Advisers
**Subject: COUNCIL – GOVERNANCE AND POLICY AND PLANNING
LATE ITEMS – 23 APRIL 2013**

1. Public Late Items

1.1. Audit, Risk and Finance Committee – 16 April 2013

Document numbers 1494361 and 1495326

The unconfirmed minutes of a meeting of the Audit, Risk and Finance Committee held on 16 April 2013 (1494361), including the document tabled during the deputation at that meeting (1495326), are attached to be considered as a major late item at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 3.7.5, a procedural resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because it came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because receipt of the unconfirmed minutes of the meeting is required before the next scheduled meeting of the Council to enable a matter recorded in the minutes to be dealt with before the consultation period of the draft Annual Plan 2013/14 closes.

1.2. Response to Mr Chris Fitchett's Questions at Audit, Risk and Finance Committee

Document number 1496797

A report titled Response to Mr Chris Fitchett's Questions at Audit, Risk and Finance Committee is attached to be considered a major late item at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 3.7.5, a procedural

resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because it came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because a resolution is required before the next scheduled meeting of the Council to enable the matter to be dealt with before the consultation period of the draft Annual Plan 2013/14 closes.

1.3. Recommendation

THAT the items regarding:

- ***Audit, Risk and Finance Committee - 16 April 2013; and***
- ***Response to Mr Chris Fitchett's Questions at Audit, Risk and Finance Committee***

be considered at this meeting as major items not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable the matters to be dealt with before the consultation period of the draft Annual Plan closes.

2. Public Excluded Late Items

2.1. Nelson Regional Sewerage Business Unit Operations and Maintenance Contract

A public excluded report titled Nelson Regional Sewerage Business Unit Operations and Maintenance Contract is to be considered as a major late item at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 3.7.5, a procedural resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because it came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because a resolution on the matter is required before the next scheduled meeting of the Council to enable negotiations to be concluded prior to the end of the current financial year.

2.2. Theatre Royal Trust Deed

A public excluded report titled Theatre Royal Trust Deed is to be considered as a major late item at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 3.7.5, a procedural resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because it came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because a resolution on the matter is required before the next scheduled meeting of the Council to fit in with the High Court timetable.

2.3. Recommendation

THAT the public excluded items regarding:

- ***Nelson Regional Sewerage Business Unit Operations and Maintenance Contract; and***
- ***Theatre Royal Trust Deed***

be considered at this meeting as a major items not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable negotiations relating to the Nelson Regional Sewerage Business Unit matter to be concluded prior to the end of the current financial year and to enable the Theatre Royal Trust Deed matter to meet the High Court timetable.

PUBLIC EXCLUDED BUSINESS

3. Exclusion of the Public

Recommendation

THAT the public be excluded from the following parts of the proceedings of this meeting.

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 are as follows:

General subject of the matter to be considered	Reason for passing this resolution in relation to the matter	Particular interests protected (where applicable)
<p>Nelson Regional Sewerage Business Unit Operations and Maintenance Contract</p> <p>This report contains information regarding the negotiation of a contract.</p>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(h) To carry out commercial activities • Section 7(2)(i) To carry out negotiations
<p>Theatre Royal Trust Deed</p> <p>This report contains information regarding the transfer of assets to Nelson City Council.</p>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(i) To carry out negotiations

Minutes of a meeting of the Audit, Risk and Finance Committee
Held in the Council Chamber, Civic House, Trafalgar Street, Nelson
On Tuesday 16 April 2013, commencing at 9.05am

- Present: Councillor I Barker (Chairperson), His Worship the Mayor Aldo Miccio, Councillors G Collingwood, R Copeland, P Matheson and Mr G Thomas
- In Attendance: Councillors E Davy, R Reese, Chief Executive (C Hadley), Chief Financial Officer (N Harrison), Acting Executive Manager Community Services (R Ball), Executive Manager Support Services (H Kettlewell), Manager Community Relations (A Ricker), and Administration Adviser (L Laird)

1. Interests

- 1.1 There were no updates to the Interests Register and no conflicts of interest were noted.

2. Confirmation of Order of Business

- 2.1 The Chairperson, Councillor Barker informed the Committee of a request for the opportunity to speak from Mr Chris Fitchett.
- 2.2 The Chairperson declared that it was appropriate for Mr Fitchett to address the Committee as his concerns were within the delegations of the Audit, Risk and Finance Committee. As the Chairperson, Mr Barker determined to treat it as a deputation.
- 2.3 A view was expressed that an address from a member of the public should be made to full Council. Councillor Barker said Mr Fitchett needed a response to complete his submission to the draft Annual Plan 2013-14, which was due on 26 April 2013, and there was no opportunity to address the Council within this timeline.

3. Deputation

Mr Chris Fitchett told the Committee he had submitted a letter to the Nelson Mail regarding concerns with the Council's financial statements. He gave the Committee an overview of these concerns and tabled a document (1495326) with further detail.

In summary, Mr Fitchett said he felt the financial statements were irresponsible and he highlighted issues associated with the Wastewater budget and the Statement of Financial Position. Mr Fitchett requested that officers respond to the points he had raised.

Resolved

THAT officers will report back to Council on the matters raised by Mr Fitchett in the attached presentation (1495326), as soon as possible.

His Worship the Mayor/Copeland

Carried

The Chief Executive encouraged Councillors to approach officers if they had any concerns with, or wanted an understanding of, the financial statements.

4. Confirmation of Minutes – 19 March 2013

Document number 1477687, agenda pages 3-6 refer.

Resolved

THAT the minutes of a meeting of the Audit, Risk and Finance Committee, held on 19 March 2013, be confirmed as a true and correct record.

Matheson/Collingwood

Carried

5. Status Report – Audit, Risk and Finance Committee

Document number 1374515, agenda page 7 refers.

5.1 Events Resource Consent

In response to a question, the Acting Executive Manager Community Services said the mediation date was set for 23 April and Council would receive a full report after this.

The Chief Executive advised that the Council was both the applicant and the upholder of the consent, therefore it was important to follow due process to ensure the integrity of the consent.

The Committee discussed where this overspend would be allocated and how this situation had arisen.

The Chief Executive reminded the Committee that this was the subject of a previous report and was discussed at a previous meeting. It was agreed that a full and final report would be brought to the Council when possible, highlighting where best to allocate this overspend and explaining how this situation had arisen.

Resolved

THAT the Status Report – Audit, Risk and Finance Committee (1374515 v5) be received.

Collingwood/Thomas

Carried

6. Finance Report for the Period Ending 28 February 2013

Document number 1481418, agenda pages 8-27 refer.

The Chief Financial Officer presented the report. The Committee asked questions to parts of the report.

6.1 Transport

6.2 Concern was expressed at the \$294,000 under budget for parking. In response to a question, the Chief Financial Officer said free parking days over winter accounted for about \$15,000.

6.3 The Committee discussed factors for the decrease in revenue and noted the importance of parking revenue. The Committee mentioned the Parking Strategy and said it would help with the strategic planning of parking for the City.

6.4 Wastewater

The Committee noted the issues, and proposed course of action, associated with the Nelson North Wastewater Treatment Plant.

6.5 Social

The Committee discussed the budgets associated with Festivals, and the \$474,000 overspend. The Chief Executive explained that the overspend was only representative of the first part of the financial year and by the end of the financial year these budgets would be closer to their projection.

It was agreed that a report on the Festivals budget will be presented to the Council in the coming weeks.

6.6 Corporate

The Committee discussed the decrease in Forestry revenue and it was noted that this decreased projection was due to the access issues, which would have an impact on our ability to harvest, and therefore on the revenue.

It was agreed that the Council would receive a full report on its Forestry assets and revenue in due course.

In relation to Council owned properties, the Committee noted the need for a report back on its property portfolio. The Chief Executive said this was something she intended to address.

6.7 Capital Expenditure

The Committee questioned clause 16.1 and asked why this figure (\$10 million) had been removed from the capital projections.

The Chief Financial Officer said this figure came about as a result of Council decisions during the drafting stage of the draft Annual Plan 2013-14.

Attendance: His Worship the Mayor left the meeting at 10.16am.

The Committee discussed Attachment 2 of the report. The Committee were advised that this table only showed where a project was completed against budget, and did not take into account when or how this project was delivered and how much over or under budget it was.

There was a discussion about how best to portray this information in a way that was helpful for Councillors to accurately identify when a project was not likely to be delivered against its capital expenditure forecasts.

It was noted that a report would be provided at the next Committee meeting with information about meeting frequency for the next financial year, the frequency of reporting on operational expenditure versus capital expenditure particularly in the first half of the year, Health and Safety information, and litigation issues.

Resolved

THAT the Finance Report for the Period Ending 28 February 2013 (1481418) be received and the variations noted.

Copeland/Thomas

Carried

There being no further business the meeting ended at 10.35am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Comments for Audit, Risk and Finance Committee - Public Forum – 16/4/13

When Cr Barker asked me if I would like to speak at a public forum today I initially said no. I did not want to be seen to be receiving preferential treatment at a time when the Draft Annual Plan is out for public consultation. I have since reconsidered as I would like to make a brief explanation of why I have written to the Nelson Mail on the issue of deficit funding, make an offer to explain my concerns to the councillors, and finally ask a couple of questions, the answers to which may assist me with the preparation of my submission.

First of all, I am not a political animal, and I am not pushing my concerns in support of any one candidate. I am simply concerned for the future of Nelson. Deficit budgeting to the tune of \$12.7m. over two years is very short-sighted and irresponsible. It cannot continue.

I realise that it is very difficult for any lay person to understand a set of financial statements, and local authority financial statements are probably even harder to understand. The reason I wrote to the Nelson Mail to express my concerns was to draw them to the attention of accountants and other professionals who understand financial statements, but do not normally even look at the Annual Plan. I have written two letters to the Nelson Mail, one of which has not yet been published and is presumably with Council management for comment, as it was sent 10 days ago. It is not possible to adequately explain my concerns in a 200 word letter to the editor, or even in a five minute submission to the plan. I have already been approached by two councillors to explain the financial statements and/or my concerns with the current draft plan. I would be happy to meet with any councillor on a one to one basis to repeat this exercise so that they could have a better understanding of my concerns.

The questions I have are:

1. In the Wastewater account, (page 16 of the Draft Annual Plan), the "Payments to staff and suppliers" has increased by almost \$3 million, which is an increase of 49.4%. While this is in line with the Long Term Plan (LTP) I would have thought the increase was significant enough to justify an explanation in the current draft plan. I have gone back to the LTP and under "Nelson North Wastewater Treatment Plant odour issues" I have found a comment that; *"Maintenance aeration and sludge dredging is required to remove high points. Council confirmed funding for this work of \$2m. in year 1 and \$3.1m. in year 2."* I would therefore have expected to see a \$2m. increase in year 1 and a further \$1.1m. in year 2 before dropping back to the original levels. In fact the LTP only shows a \$400k increase in year 1 and then a \$3m. increase in year 2 before dropping back to 2012/13 levels. More importantly as far as I am concerned, this is maintenance, and so an operating cost, and so why is \$3.1m. being funded through borrowings? It has nothing to do with the December 2011 flood event.
2. The Statement of Financial Position, (page 55), shows the "Total Ratepayer's Equity" (i.e. net assets of the Council), as being \$1.229b. as at 30 June 2014. This is \$16m. less than the LTP forecast for 30 June 2013, and a huge \$56m. less than the LTP forecast for 2014. I am surprised that there is no explanation in this year's draft plan for these very significant variations from what was prepared only one year earlier. Is there an error in the LTP? Could someone please explain to me the reasons for the variation?

Thank you for listening to me today, and I look forward to receiving answers to these questions so as to enable me to complete my submission to the Draft Annual Plan.

Chris Fitchett – 15/4/2013

*Tabled Audit, Risk and Finance
Committee 16 April 2013.*

Response to Mr Chris Fitchett's Questions at Audit, Risk and Finance Committee

1. Purpose of Report

- 1.1 To respond to questions raised by Mr Chris Fitchett at the Audit, Risk and Finance committee meeting on 16 April 2013. The 2013 and 2014 financial years have been exceptional in relation to both the 2011 Extreme Rainfall event funding and the decision to remediate Nelson North Wastewater Treatment Plant.

2. Recommendation

THAT the information in the report (1496797) be noted.

3. Discussion

Wastewater Account

- 3.1 In the Long Term Plan 2012-22 there was \$5m approved over years 1 and 2 for Nelson North Wastewater Treatment Plant to remediate pond failures (year 1 \$2m and Year 2 \$3.1m). In Year 1, all of this project was capital related expenditure (new aerators etc) and year 2 was for desludging. Initially the desludging cost was treated as capital expenditure, however Audit NZ's view was that the desludging costs did not meet the test of an asset so needed to be treated as an operating cost, notwithstanding this only needs to be done every 30 years. Both parties agreed it is appropriate to loan fund this as the benefit will be received by both current and future ratepayers. This is in accordance with the Local Government Act section 100 (1) (c). The funding treatment of the desludging was covered in the Upfront section of the Long Term Plan 2012-22 on page 26.

100 Balanced Budget Requirement

- (1) A local authority must ensure that each year's projected operating revenues are set at a level sufficient to meet that year's projected operating expenses.*
- (2) Despite subsection 2(c), a local authority may set projected operating revenues at a different level from that required by that subsection if the local*

authority resolves that it is financially prudent to do so, having regard to-

- (a) the estimated expenses of achieving and maintaining the predicted levels of service provision set out in the Long Term Plan 2012-22, including the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and*
- (b) the projected revenue available to fund the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and*
- (c) the equitable allocation of responsibility for funding the provision and maintenance of assets and facilities throughout their useful life; and**
- (d) the funding and financial policies adopted under section 102.*

Statement of Financial Position

- 3.2 The net asset difference can be explained by a combination of three reasons.
- 3.3 Firstly the timing of the capital programme up to 30 June 2014 ie whether the asset had received practical completion signoff and was capitalised at year end and therefore revalued as at 30 June 2012, 2013 and 2014 compared to what was assumed in the Long Term Plan 2012-22 (otherwise treated as work in progress in the Notes to the Accounts only).
- 3.4 The revaluation indices (Local Government Cost indices) used for 30 June 2012, 2013 and 2014 in the Draft Annual Plan are lower than the forecast by Business and Economic Research Limited (BERL) used in the Long Term Plan 2012-22 and the cumulative effect thereof. The lower indices in the Draft Annual Plan are mainly due to the uncertainty around the flow on impact and timing of the Christchurch rebuild on costs the Local Government around the country. The revaluation impact was noted on page 37 of the 2013/14 Draft Annual Plan and was \$33 million.
- 3.5 In addition to this, the vested assets were \$14.4 million lower than projected over these three years.
- 3.6 Reviewing other Councils Draft Annual Plans highlights similar movements in asset revaluations and this needs to be put in context against a fixed asset base of \$1.3 billion.

Deficit Funding

- 3.7 There was a comment in Mr Fitchett's letter about deficit budgeting of \$12.7m over the year 2012/13 and 2013/14. Officers are uncertain about how this number has been derived.
- 3.8 There are a number of other reasons, other than covered in paragraph 2 of this report, why Council may run an operating deficit in any given year. For 2013/14 there are residual amounts for the 2011 Rainfall Event (\$483,000). In addition Council does not fund depreciation on a number of assets (\$1.6m), mainly New Zealand Transport Agency funded assets. Other items which are capital in nature, but accounting standards require to be treated as operating expenses, are the Brook Sanctuary Fence Grant (\$512,000).
- 3.9 In 2012/13 the bulk of the deficit relates to the 2011 Rainfall Event works \$3.4m, depreciation not funded (as above \$1.5m), Velodrome Capital Grant \$0.9m and Suter Capital Grant \$0.5m.

4. Other Factors

- 4.1 In December 2012, based on the Long Term Plan 2012-22, Council obtained an external credit rating from Standard and Poor's, who use internationally recognised benchmarks to determine credit ratings. Council obtained an AA- long term credit rating with a stable outlook and its positive financial management was highlighted as a strength.
- 4.2 This, alongside an unqualified audit from Audit NZ, should give ratepayers and Councillors comfort that the Council finances are being managed prudently in accordance with the Local Government Act

Clare Hadley
Chief Executive

Attachments

None

No supporting information follows.