

Minutes of a meeting of the Governance and Policy and Planning

Held in the Council Chamber, Civic House, Trafalgar Street, Nelson

On Thursday 15 December 2011, commencing at 9.00am

Present: His Worship the Mayor A Miccio (Chairperson), Councillors I Barker, A Boswijk, G Collingwood, R Copeland, E Davy, K Fulton, J Rackley, P Rainey, R Reese, D Shaw and M Ward

In Attendance: Chief Executive (K Marshall), Executive Manager Support Services (H Kettlewell), Executive Manager Community Relations/Kaihautū (G Mullen), Chief Financial Officer (N Harrison), Manager Strategic Response (C Ward), Manager Community Relations (A Ricker), Manager Policy and Planning (N McDonald), Executive Manager Regulatory (R Johnson) and Administration Adviser (A Rose)

Apologies: Apologies were received and accepted from Councillors P Matheson and I Barker for lateness

Opening Prayer

Councillor Davy gave the opening prayer.

1. Conflicts of Interest

No updates to the Conflict of Interest Register were noted, and no conflicts of interest with any agenda items were declared.

2. Public Forum

2.1 Summerset Village Signage

Mr Mark Lile spoke to Council regarding a decision made by staff under delegated authority, on behalf of Council, as the road controlling authority, not to allow a second directional finger board sign proposed to be installed to direct road users down Sargeson Street to the Summerset Village entrance.

He tabled a paper and read it (document number 1213176).

Mr Lile said that he was appealing the decision. He then answered questions.

2.2 Improving the Flow of Freshwater from the Maitai into the Marina

Mr Kerry Neal and Mr Jim Williamson addressed the Council requesting that the current channels that provide for water flow from the Maitai River into the Marina be improved.

They pointed out that the flow of freshwater into the Marina reduced the build up of salt-water weed and shellfish that foul the hulls of boats and consequently, dramatically reduced the need for anti-fouling to be carried out. It was advised that normally boat owners would expect to carry out anti-fouling every two or three years and this can cost in excess of \$2,000. Also, it was pointed out that this work has to be done very carefully to minimise environmental impact.

They said that simply allowing enough freshwater to flow into the Marina from the Maitai River will dramatically reduce the need for anti fouling. Mr Neal and Mr Williamson asked Council to undertake some investigation and improve this water flow so the maximum benefit could be obtained

In answer to a question Mr Neal said he believed that the costs would be willingly borne by the Marina users.

2.3 Problem Gambling Foundation of New Zealand

Dr Philip Townshend tabled a paper (document number 1213707) and read it. He urged Council to stand by the consultations carried out in 2010 and retain the 2007 Gambling Policy but with a lowered cap on the number of 'pokie' machines.

He said that he was making this request as a ratepayer in Nelson and as the Research Director of the Problem Gambling Foundation of New Zealand. He then outlined the grounds on which the request was made, as set out in the document he tabled, and he answered Councillors' questions.

2.4 Council's Decision to Establish a Māori Ward

Mr Jim Cable addressed the Council regarding Council's decision to establish a Māori Ward for the next Local Body Elections, and requested Council to rescind the decision to save the ratepayers the cost of holding a poll, should the petition against the decision be successful.

He expressed his views against the decision and the way that the matter had been brought to the Council table.

He said that the petition against the decision is less than 100 signatures short of the number required to demand Council to hold an expensive poll. He said that he believed the poll will show that the community did not want a Māori Ward and this would be a vote of no confidence in the Council. He said that Council has the opportunity to rescind its decision and should consider this option very carefully.

Mr Cable then clarified some points in his submission.

2.5 Nelson Gambling Taskforce

Mr David Johnston and Mr Darci Goldworthy addressed the Council regarding the proposed review to Council's Gambling Policy. They urged Council not to put gambling machines in the community and certainly not next to schools, playgrounds and kindergartens.

They said they thought Council was very progressive in a lot of things and they were asking that when Council considers its new Gambling Policy, it makes a democratic decision for all the people, bearing in mind the social, cultural and economic costs to the community of having gambling machines.

3. Confirmation of Minutes

22 November 2011

Resolved

THAT the minutes of a meeting of the Nelson City Council – Quarterly Chief Executive Report, held on Tuesday 22 November 2011, be confirmed as a true and correct record.

Barker/Boswijk

Carried

24 November 2011

Resolved

THAT the minutes of a meeting of the Nelson City Council – Community Services and Infrastructure, held on Thursday 24 November 2011, be confirmed as a true and correct record.

Davy/Rainey

Carried

4. Mayor's Report

The Mayor presented his report (document number 1209083) which had been circulated after the agenda had closed.

Resolved

THAT a working group including Councillors Boswijk and Shaw, and Chief Executive Keith Marshall, be officially formed to progress the review around improved Council consultation and greater community engagement throughout the decision making process;

AND THAT a report on the possible reinstatement of the Standing Committee structure be completed and brought to Council for a decision as soon as possible in the new year.

Davy/Rainey

Carried

GOVERNANCE ITEMS

5. Status Report - Governance

Document number 1034743, agenda page 21 refers.

Resolved

THAT the Status Report – Governance (1034743) be received.

Barker/Shaw

Carried

6. Portfolio Holder's Report

Councillor Barker said it was 50 years since he had started to work in Local Government. He gave a short address, recalling his lifetime working in Local Government, both as a staff member and as an elected member, first in Dunedin and later in Nelson. He recalled some of the good and bad decisions he had witnessed as well as some of the notable personalities he had served and worked with. He expressed concern about the ever-increasing devolvement of responsibility from Central Government to Local Government as well as the ever-increasing plethora of controlling documents that Councils are now required to produce. However, he said, he had enjoyed and was still enjoying the challenges of working in Local Government.

His Worship the Mayor congratulated Councillor Barker and his congratulation was endorsed by the meeting with acclamation.

Councillor Barker then made a brief report on his Local Government visit to Japan and to Nelson's Sister City Miyazu.

Attendance: The meeting adjourned from 10.05am to 10.35am for morning tea with the staff to celebrate and recognise the work that the staff had done over the past 12 months. After the adjournment His Worship the Mayor left the meeting and Councillor Boswijk, as Deputy Mayor, assumed the Chair.

7. Legal Advice in Respect to Mr Ken Beckett's Public Forum Item from 24 November 2011

Document numbers 1201058 and 1205447, agenda pages 24-33 refer.

Ms Camilla Owen, a partner of Duncan Cotterill lawyers, joined the meeting and answered questions on the opinion she had given on the Māori Ward issue.

Ms Owen said she was confident that Council had had regard to all the necessary statutory requirements for making the decision and she confirmed that, although there was still a potential risk of judicial review, she felt this was highly unlikely.

Attendance: Councillors Rainey and Rackley left the meeting at 10.40am.

Ms Owen confirmed that if the petitioners do not reach the threshold required to demand a poll, Council could take that as the community saying that there was support for the Maori Ward.

She confirmed that if Council had to demonstrate that it had regard to the views of the community under the principles of the Local Government Act. It was arguable it could not demonstrate that without holding a poll.

Attendance: His Worship the Mayor returned to the meeting at 10.50am and assumed the Chair.

After further discussion around the desirability of Council holding a poll, Ms Owen advised that Council should wait until either the community demanded a poll, or the petition did not reach the required numbers, before Council considered whether it wanted to hold a poll or not.

The majority view after discussion was that Council had made a lawful decision to create a Maori Ward and the right thing today was to receive Ms Owen's opinion and wait to see if a successful petition was forthcoming to demand a poll. If the petition was not successful, then Council may consider holding its own poll. Some discussion was had about rescinding the decision but Council did not support this.

Resolved

THAT the Māori Ward – Opinion for Councillors dated 8 December 2011 (1205447) be received;

AND THAT Ms Owen be thanked for her attendance at the meeting today.

Boswijk/Fulton

Carried

8. Chief Executive Report - Governance

Document number 1187638, agenda pages 22-23 refer.

8.1 Updates to the Delegations Register

Resolved

THAT the Chief Executive, or his nominee, be delegated the authority to approve the execution of Deeds of Encumbrance on Council land.

Barker/Boswijk

Carried

Resolved

THAT the Chief Executive Report – Governance (1187638) be received.

Barker/Boswijk

Carried

9. **Review and Amendment of Procedure for Appointment of Directors/Trustees of Council Controlled Organisations and Council Controlled Trading Organisations**

Document number 1197387, agenda pages 34-41 refer.

The Executive Manager Support Services, Hugh Kettlewell, presented the report.

Councillor Barker seconded by Councillor Davy moved the recommendation in the report.

There was some concern expressed regarding clause 5.1 "That no Director/Trustee may be appointed for a fourth successive term."

Councillor Shaw seconded by Councillor Reese moved a procedural motion, that the matter be left to lie on the table. The motion was put and **lost**.

After some further discussion, Councillor Reese seconded by Councillor Shaw moved an amendment to Councillors Barker and Davy's motion, adding the words to the end of clause 5.1 in the policy "unless there are special circumstances."

The amendment was put and **carried** and became the substantive motion and it was resolved

THAT the amended policy for the Procedure for Appointment of Directors/Trustees of Council Controlled Organisations and Council Controlled Trading Organisations (1197406) be adopted subject to the following being added to clause 5.1, "unless there are special circumstances".

Reese/Shaw

Carried

REPORTS FROM COMMITTEES

10. **Audit, Risk and Finance Committee – 22 November 2011**

Document number 1195898, agenda pages 42-45 refer.

Resolved

THAT the minutes of a meeting of the Audit, Risk and Finance Committee held on Tuesday 22 November 2011 be received.

Barker/Collingwood

Carried

POLICY AND PLANNING ITEMS

11. Status Report – Policy and Planning

Document number 1034725, agenda pages 46-48 refer.

Resolved

THAT the Status Report – Policy and Planning (1034725) be received, subject to the status of item 3 on the agenda, page 47, being amended by deleting the last word 'assessment' and adding the words 'Management and Minimisation Plan'.

Reese/Copeland

Carried

12. Chief Executive Report – Policy and Planning

Document number 1186127, agenda pages 49-67 refer.

12.1 Proposed Pedestrian Refuge – Rocks Road

The Manager Strategic Response, Chris Ward, and Engineering Adviser, Sue McAuley, joined the meeting and displayed two aerial photographs showing options for the pedestrian refuge in Rocks Road.

After discussion, Council favoured the northern option.

Resolved

THAT public feedback on the proposal to build a pedestrian refuge on Rocks Road at the base of Days Track be noted;

AND THAT work proceed on the design and construction of a pedestrian refuge in the 2011/12 financial year as a matter of priority.

Fulton/Ward

Carried

12.2 Thematic Historical Overview of Nelson City

Resolved

THAT the Thematic Historical Overview of Nelson City (1176578) be received by Council.

Shaw/Collingwood

Carried

It was noted that an updated history of Nelson City was needed to be produced as soon as the right opportunity presented itself.

12.3 Parking and Vehicle Control Bylaw 2011 (No 207)

Resolved

THAT the Parking and Vehicle Control Bylaw 2011 (No 207) as amended following the hearing of submissions (1172229) be adopted as a final version of the Bylaw and shall come into force on 15 December 2011.

Reese/Davy

Carried

12.4 Navigation and Safety Bylaw

Resolved

THAT Councillor Davy be appointed to the Hearings Panel to hear and consider submissions to the amended Navigation and Safety Bylaw.

Shaw/Reese

Carried

12.5 Earthquake Prone Building Policy – Implementation Status

Because of the other pressures on staff time, as a result of the flooding emergency, it was agreed to defer consideration of item 6 on the Chief Executive's Report, Earthquake Prone Building Policy, to the next Council meeting.

Resolved

THAT the Chief Executive Report – Policy and Planning (1186127) be received.

Boswijk/Davy

Carried

13. Review of Gambling Policy 2007

Document number 1187412, agenda pages 68-72 refer.

The Manager Policy and Planning, Nicky McDonald, and Principal Adviser – Community, Jenny Hawes, joined the meeting and presented the report.

There was agreement that before Council proceeded with the review of the Gambling Policy, a workshop should be held, in the New Year, to enable Councillors to obtain a clear view of all the issues, including any Special Consultative Procedure that would be needed. It was recognised that doing so this would slow down the process.

Resolved

THAT a Council workshop be held in the new year to consider matters, including a Special Consultative Procedure, in relation to a review of the Gambling Policy.

Reese/Shaw

Carried

14. Parks and Reserves Activity Management Plan 2012-2022

Document number 1193163, agenda pages 73-75 refer.

Resolved

THAT the Parks and Reserves Activity Management Plan 2012-2022 (1196117 and 1197621) be adopted as the version that will inform the Long Term Plan 2012-2022.

Reese/Shaw

Carried

Attendance: The meeting adjourned for lunch from 12.20pm to 1.10pm. Councillors Rainey and Rackley rejoined the meeting after the luncheon interval.

15. Consultation on Proposed Changes to Local Bus Routes

Document number 1193934, agenda pages 76-78 refer.

Resolved

THAT Councillors Barker, Collingwood and Copeland be delegated responsibility for hearing submissions and making recommendations to the Council on proposed changes to local bus routes.

Reese/Davy

Carried

REPORTS FROM COMMITTEES

16. Regional Transport Committee – 1 December 2011

Document number 1202436, agenda pages 79-83 refer.

Resolved

THAT the minutes of a meeting of the Regional Transport Committee held on Thursday 1 December 2011 be received.

Davy/Collingwood

Carried

It was noted that there had been a request from the Regional Transport Committee for Council to receive the last Regional Transport Strategy Monitoring Report for Councillors' information and to be taken into account for Council's Long Term Plan 2012-2022 process.

CROSS COUNCIL ITEMS

17. Saxton Velodrome – Funding

The Principal Adviser Community Projects, Andrew Petheram, joined the meeting and presented the report.

During discussion it was agreed to modify the final part of clause 5 of the recommendation to read, “with payment being subject to the Saxton Velodrome Trust making significant progress with meeting its funding contribution.”

Document number 1197057, agenda pages 84-90 refer.

Resolved

THAT agreement in principle is given to establishing a velodrome at Saxton Field subject to final design and pricing being acceptable to Council;

AND THAT the Saxton Velodrome be adopted as a regional facility;

AND THAT the contribution from the Saxton Velodrome Trust be 20% of the total design and construction costs, currently estimated to be in the order of \$2,000,000;

AND THAT the remaining 80% be contributed from the Nelson City Council and the Tasman District Council, with Nelson contributing 43% and Tasman 37%;

AND THAT Nelson City Council’s funding contribution be included for consideration in the 2012-2022 Long Term Plan in 2012/2013 with payment being subject to the Saxton Velodrome Trust making significant progress with meeting its funding contribution;

AND THAT the costs of decommissioning of the existing cycling track at Trafalgar Park be included for consideration in the 2012-2022 Long Term Plan in 2013/14.

Shaw/Davy

Carried

18. Public Forum Discussion

18.1 Summerset Village

The Chief Executive said that a report would come to Council regarding this signage issue for Summerset Village, and Mr Lile would be advised accordingly.

18.2 Proposal to Improve the Flow of Freshwater from the Maitai into the Marina.

The Chief Executive said that a report would come to Council regarding the proposal to improve the flow of freshwater from the Maitai into the Marina, and Mr Neal and Mr Williamson would be advised accordingly.

18.3 Council’s Decision to Establish a Māori Ward.

It was agreed that Mr Cable be thanked for his presentation

18.4 Problem Gambling Foundation of New Zealand and Nelson Gambling Taskforce.

It was agreed that Dr Townshend, Mr Johnston and Mr Goldsworthy would be advised that Council will be holding a workshop in the New Year to consider matters including any Special Consultative Procedure in relation to a review of the Gambling Policy.

Attendance: Councillor Fulton left the meeting at 1.20pm.

19. Exclusion of the Public

Resolved

THAT the public be excluded from the following parts of the proceedings of this meeting in accordance with section 7 and 48(1)(a) of the Local Government Official Information and Meetings Act 1987 on the grounds that the public conduct of this part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists.

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Nelson City Council Public Excluded Minutes – 22 November 2011	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons • Section 7(2)(g) To maintain legal professional privilege
2	Nelson City Council Public Excluded Minutes – 24 November 2011	Section 48(1)(a) The public conduct of this matter would be likely to result in	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(a) To protect the

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
		disclosure of information for which good reason exists under section 7	privacy of natural persons <ul style="list-style-type: none"> • Section 7(2)(b) To protect information that may disclose a trade secrets or the commercial position of a person • Section 7(2)(c) To protect information that is subject to an obligation of confidence • Section 7(2)(g) To maintain legal professional privilege • Section 7(2)(h) To carry out commercial activities • Section 7(2)(i) To carry out negotiations
3	Public Excluded Status Report – Governance This report contains information regarding the sale and purchase of land	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(i) To carry out negotiations
4	Public Excluded Chief Executive Report – Governance This report contains information regarding the Port Nelson Limited Three Monthly Result	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(h) To carry out commercial activities
5	Request for Potential Candidates for Consideration as	Section 48(1)(a) The public conduct	The withholding of the information is necessary:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
	Directors/Trustees for Council Controlled Organisations	of this matter would be likely to result in disclosure of information for which good reason exists under section 7	<ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons • Section 7(2)(c) To protect information that is subject to an obligation of confidence • Section 7(2)(f)(ii) To protect individuals from improper pressure and harassment • Section 7(2)(i) To carry out negotiations
6	<p>Public Excluded Status Report – Policy and Planning</p> <p>The report contains information regarding the future use of land; and an application to the Contaminated Sites Remediation Fund.</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)(b) To protect information that may disclose a trade secrets or the commercial position of a person • Section 7(2)(c) To protect information that is subject to an obligation of confidence • Section 7(2)(i) To carry out negotiations

Shaw/Davy

Carried

The meeting went into public excluded session at 1.25pm and resumed in public session at 1.58pm.

20. Re-admittance of the Public

Resolved

THAT the public be re-admitted to the meeting.

Boswijk/Collingwood

Carried

There being no further business the meeting ended at 1.58pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date