
MINUTES
of the
EXTRAORDINARY FULL COUNCIL MEETING
held
1.15 pm, Thursday, 6 September 2018
at
Tasman Council Chamber, 189 Queen Street, Richmond

Present: Mayor R Kempthorne, Councillors T King, S Bryant, P Canton, M Greening, K Maling, D Wensley, D McNamara, A Turley, S Brown, D Ogilvie, T Tuffnell, P Hawkes, P Sangster

In Attendance: Chief Executive (J Dowding), Executive Advisor (K Redgrove), Executive Assistant to the CEO (H Simpson), Corporate Services Manager (M Drummond), Community Development Manager (S Edwards), Environment and Planning Manager (D Bush-King), Acting Engineering Services Manager (D Fletcher), Principal Legal Advisor (L Clark)

Part Attendance: Programme Delivery Manager (R McGuigan), J Salter, Partner - Simpson Grierson, J Palmer, Waimea Irrigators Limited, Senior Resource Scientist – Water and Special Projects (J Thomas), On-line Communications Officer (B Cately), Strategic Policy Manager (S Flood), Environmental Policy Manager (B Johnson), Policy Advisor (A Gerraty)

1 OPENING, WELCOME

The Mayor welcomed those attending the meeting and summarised administrative and house-keeping matters for the forthcoming meeting, noting the high level of public interest and attendance.

Cr Greening moved a Point of Order stating that the meeting Agenda was in breach of Standing Order 26.7 because a similar notice of motion has been recommended in the report on the Waimea Dam that was to be considered by Council at this extraordinary meeting. He referenced supporting advice from Dr Mike Reid of LGNZ.

In support of his Point of Order, Cr Greening stated that the revised funding model for the Proposed Waimea Community Dam was essentially the same as the model that was rejected at Council's meeting on 28 August 2018. In addition, he suggested that the lack of support for the proposal that specific Councillors be nominated to continue negotiations with Waimea Irrigators Limited (WIL) indicated that there was no desire to revisit the defeated motion for

the funding model proposed or any variations to it. In support of this, he cited Standing Order 22.10.

The Chief Executive Officer responded that the draft resolution was different to any previous proposal. Mr Jonathan Salter of Simpson Grierson, acting as legal advisor to Council, confirmed that the proposal in the report referred to did not contain a Notice of Motion but had been included on the Agenda using the mechanism provided in Standing Order 23.6 'Revocation or alteration by recommendation in report'. He remarked that an inability to do so, as suggested by Cr Greening, would mean that Council could never revisit a decision made at a previous decision, where there was new information to consider. The Standing Order to which Cr Greening referred in support of his motion related to similar Notices of Motion proposed at the same meeting which the original had been defeated.

In consideration of the Chief Executive's advice and the comments made by Council's legal advisor, the Mayor rejected Cr Greening's Point of Order.

There was a discussion around the new proposal and a suggestion that this did not create any different position for Richmond ratepayers but provided preferential outcome for other Wards. The Corporate Services Manager responded that there was a distinct difference in the outcome of the new proposal for all ratepayers.

Councillors were reminded that, although their focus should be on the Ward they represent, their collective decisions are to be made in the best interests of the District as a whole.

2 PUBLIC FORUM

A written representation prepared by Mr Philip Cain was circulated to councillors and noted.

The Mayor explained the structure of Public Forum and that there was a time limit to be observed in accordance with the rules that had been publicly advertised prior to the meeting.

Mr Colin Johnson

Mr Johnson made reference to a petition that had been tabled. This supported the removal of the Mayor's casting vote which would be in line with Nelson City Council's Standing Orders. He suggested past occasions of the Mayor exercising his casting vote to advance the proposed Waimea Community Dam project represented a personal conflict of interest.

Mr Lewis Solomon

Mr Solomon referred to the actions and inactions of those whom he said have been misled by the proposed Waimea Community Dam project cost that was used to develop the funding model and wondered whether the new project estimate presented could be trusted as being accurate.

He cited scheme risk, project risk and fiscal risk as all being significant and expressed concern that the joint venture partner may not survive and so leave ratepayers to shoulder the cost. He urged Councillors to agree to a funding model that was more equitable to all users across the District.

Mr Murray Dawson

Mr Dawson believed there was a financial burden on ratepayers in the Zone of Benefit because they have an uncapped liability. He said that allegations of a shortage in the District's water resources were false and that there had been a deliberate use of incorrect information

solely for the purpose of the Council achieving its 51% shareholding in the joint venture for the proposed Waimea Community Dam.

Mr Dawson went on to request an independent assessment of the 'triggers' to water rationing. He referred to Plan Change 47 and a report prepared by Landcare which he remarked did not contain any warranty or representation as to its accuracy and resulted in no liability for loss/or damage arising from reliance upon its contents.

Mr Maxwell Clark

Mr Clark relayed a number of conflicts of interests referenced in previous Council meetings. and maintained that these conflicts were still live and the Councillors involved – Crs Maling and Brown – could not take part in today's decision relating to the proposed Waimea Community Dam.

Mr Michael Waring

Mr Waring explained that a number of enquiries he had undertaken raised concerns about the unknown investor in WIL's proposal to be a joint venture party to the Waimea Community Dam. He said his enquiries suggested this investor may be connected with water bottling plants exporting extracted water. He made reference to Councillors' connections with local organisations which amounted to a conflict of interest that should be declared.

Mr Waring also commented that Council's Capital Works Programmes must be for the benefit of all ratepayers.

Dr Roland Toder

Dr Toder said that large dams are uneconomic and many countries around the world are looking at alternative solutions because affordability and financial merit becomes an issue. He expressed concern at the increase of rates and asked that Council exercise extreme caution in the terms of any agreement with the joint venture parties. He believed WIL may overstretch itself and there could be more cost overruns. Loans may be required to fill the gap but they have to be repaid.

Dr Toder asked that Council reconsider conducting a binding public referendum on the proposed Waimea Community Dam.

Ms Shona McBride

Ms McBride introduced herself as a semi-retired resident of Richmond. She said she could not fully retire because she has to afford a high level of rates. She mused that if water is in such short supply why is such a lot of water being extracted from a Brightwater bore, bottled and exported. What can we do to stop the bullying from the Mayor and some Councillors

Ms Rachael Boyak, MP

Ms Boyak explained she had represented the Labour Party in the 2016 General Election but was attending the Public Forum in a personal capacity to express her views on the proposed Waimea Community Dam. She urged Councillors to carefully consider the significant contribution from Central Government before they exercise their vote.

Ms Boyak confirmed there was Labour support for the Local Bill for land acquisition in the Lee Valley. She personally supported the project but had some reservations and would want to see Council properly addressing the issue of soil nitrates.

Ms Boyak said it was critical that Council finds a way that ratepayers will not be unfairly burdened over and above the existing commitments. She said that, on balance, the benefits outweighed the risks and asked Councillors to support the project.

Mr Andrew Spittal, Businessman

Mr Spittal said that recently, Council had approved his application for a Special Housing Area (SHA). The aim of this development was to produce affordability and bring people back into Richmond. He went on to describe the financial revenue this SHA would generate for Council both from Development Contributions and through future rating.

Mr Spittal made reference to a contract he had negotiated with an international company that wished to build a development in Queen Street. He said if the proposed Waimea Community Dam was not supported, the company would be unlikely to proceed with their investment.

With insufficient water, he said that there could be no growth but existing infrastructure would still have to be funded and this cost would have to come from existing rates income.

Mr James Patterson

Mr Patterson said he wanted to see the Tasman District prosper and for this to occur, a reliable and abundant water supply was critical because this directly affected industrial activities supplying employment. He understood that the Waimea Plains provided some of the most fertile soils in New Zealand and without the proposed Waimea Community Dam, the water supply and consequently, the District's businesses would not survive. He believed it was imperative that Council does not lose the funding from Central Government that is currently on offer.

Mr Nicholas Chandler, Businessman

Mr Chandler said the anti-Waimea Community Dam campaigners had created uncertainty and he wished to present some solid facts from a business point of view.

He said that the vital component in his glue manufacturing process was water, although a high percentage of wastewater was reused in the process. Any shut down of the plant for longer than 5 days created a shortage. He calculated that without the dam, water restrictions of far less than those predicted would cause a shut down heir manufacture. This would affect permanent staff, full time contractors and hundreds of others dependent on these operations.

Mr David Easton

Mr Easton wished to remind Council that they were decision-makers as defined by the Local Government Act (LGA) and must consider the current and future needs of communities to ensure infrastructure needs are met in the most cost effective way.

He said that Council had the opportunity of a unique funding model that facilitates water security for the benefit of the majority and commented that a dam less than half the size of the proposed Waimea Community Dam would still cost 80% of the proposed price currently tabled. He urged Councillors to follow the advice of the many professional experts that had been engaged over the years and not the advice of those that opposed the project.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil.

4 DECLARATIONS OF INTEREST

Cr Wensley wished to emphasise she did not consider there was a conflict of interest, perceived or actual, relating to the hydro-electricity component of the proposed Waimea Community Dam.

Cr Maling, in response to allegations made in the Public Forum, confirmed that he had the Auditor General's advice confirming he had no interest over and above that held by the public in general and no other interests that needed to be declared.

Cr Brown also referred to allegations made in Public Forum and confirmed her interest in Fonterra was that of a representation role for farmers. She had no connections with Fonterra's commercial operations.

5 LATE ITEMS

Nil.

6 PRESENTATIONS

Nil.

7 REPORTS

7.1 Responsible Camping Fund Projects

The Strategic Policy Manager tabled amendments to the recommended resolution and her explanation of the changes was accepted by Council.

Moved Cr Tuffnell/Cr Canton

CN18-09-1

Tuffnell/Canton

That Council:

- 1 receives the Responsible Camping Fund Projects Report; and**
- 2 notes the Expression of Interest funding request to the Responsible Camping Fund (Attachment 1) previously forwarded to the Ministry of Business, Innovation and Employment; and**
- 3 approves the implementation of the list of projects detailed below, to be funded through the Responsible Camping Fund; and**

Project	Funding
Additional monitoring and enforcement capacity	\$35,000
Toilet block at Fittal Street, Richmond (car park near entrance to Richmond Resource Recovery Centre)	\$130,000
Hire portaloos at camping locations (e.g. Taupata Point and McLeans Beach)	\$20,000

Wash-sinks at Motueka Beach Camp Reserve	\$10,000
Waste compactors at camping locations (e.g. Alexander Bluff, Taupata Point and either the KiwiCamp site or Waitapu Bridge)	\$35,000
Site improvements at Waitapu Bridge, the KiwiCamp site, and Alexander Bluff	\$80,000
Waitapu Bridge intersection upgrade	\$50,000
Establishment of a new KiwiCamp facility (at a site to be confirmed, subject to consents and consultation)	\$300,000
Total	\$660,000

- 4 **instructs staff to initiate a review of the Freedom Camping Bylaw to allow camping in non-self-contained vehicles at**
- **the Fittal Street car park, near the entrance to Richmond Resource Recovery Centre; and**
 - **the KiwiCamp facility site (once confirmed); and**
- 5 a) **instructs staff to further investigate and develop (if possible) a KiwiCamp facility in time to utilise the Responsible Camping Funding, and a site for the new Motueka dump station funded by the Tourism Infrastructure Fund; and**
- b) **delegates Council decision making to Councillor Hawkes, Councillor Brown, and Councillor Turley, or their nominated substituted Councillor, to expedite the projects; and**
- 6 a) **agrees that any cost overruns for installing the new KiwiCamp facility, up to \$30,000, will be paid for from the Motueka Ward RFC account; and**
- b) **notes that if cost overruns are higher than \$30,000, a formal funding request will be made to Council.**

CARRIED

8 CONFIDENTIAL SESSION

8.1 Procedural motion to exclude the public

In response to a request for explanation, the Chief Executive confirmed the reasons cited for reviewing the additional information on the proposed funding model related to sensitive and ongoing commercial negotiations with the joint venture parties, Waimea Irrigators Limited (WIL) and Crown Irrigation Investments Limited (CIIL).

The Chief Executive advised that the withholding of information was necessary in the circumstances to enable Council to carry on the ongoing commercial negotiations with joint venture partners and that good reason existed to keep the content of those negotiations confidential. She said that those reasons outweigh the public interest in making that information available at this stage. Those good reasons include that the basis and form of

those commercial negotiations are commercially sensitive, and that the documentation includes obligations of confidentiality e.g. the term sheets contain confidentiality clauses. She also said that the resolutions to be considered at the meeting involved the option of instructing staff to proceed with negotiations. These discussions are likely to discuss not only Council's negotiating position, but also Council staffs' assessment of the other parties' negotiating positions. It would be detrimental to the ongoing negotiations to have this information in the public domain. The Chief Executive advised that a representative from the Council's external lawyers, Simpson Grierson, was present at the meeting in anticipation of the consideration of legally privileged and confidential information.

The Corporate Services Manager confirmed the name of the private investor was not known. He went on to clarify that there were matters in the joint venture terms sheets that, based on the revised proposal that Council has received, could not be separated into matters that could and could not be released into the public domain. Consequently the decision to consider the proposal in committee was unavoidable.

John Palmer of WIL confirmed the investor was not connected with the water bottling plant on the Waimea Plains.

The Mayor said he was satisfied there was commercially sensitive information that must remain confidential. For Council not to receive the information to assist with their decision-making would be irresponsible.

Moved Mayor Kempthorne/Cr Bryant CN18-09-2

That the public be excluded from the following part(s) of the proceedings of this meeting, aside from Mr John Palmer (WIL), Messrs Murray Gribben and Richard Westbury, Crown Irrigation Investments Limited (CIIL), Mr Pat Dougherty, Nelson City Council (NCC) and Mr Jonathan Salter, Simpson Grierson who are permitted to remain for the in committee session. 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.

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:

8.2 Waimea Community Dam

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

Cr Turley called for a division.

Brown	For
Bryant	For
Canton	For
Greening	Against
Hawkes	For
Kempthorne	For
King	For
Maling	For
McNamara	Against
Ogilvie	For
Sangster	For
Tuffnell	For
Turley	Against
Wensley	Against

CARRIED

The meeting went into committee at 2.28 pm and resumed in open session at 5.07pm.

8.2 Waimea Community Dam (open session)

Councillors noted their agreement during the in committee portion of the meeting to report the resolution into the open meeting and to release the revised Table 1 (Proposed Funding), Table 2 (Typical Rates including GST) and the content of paragraphs 1.2.1 to 1.2.4 of the Executive Summary from the report. The resolution made in committee was as follows:

Moved Cr Tuffnell/Cr Bryant
CN18-09-3

That the Full Council:

- 1. receives the Waimea Community Dam report RCN18-09-02; and**
- 2. revokes resolution CN18-08-26 made at the Full Council meeting on 28 August 2018; and**
- 3. re-confirms its decision of 27 July 2017 (CN17-07-20) that the proposed Waimea Community Dam in the Lee Valley is the best solution for meeting the community's need for good quality, local water supply infrastructure; and**
- 4. agrees, that for financial modelling and Joint Venture negotiations purposes, that Council's share (51%) of the \$23 million(m) projected capital cost increases in the proposed Waimea Community Dam Project will be funded by:**
 - a. borrowing through the Local Government Funding Agency of approximately \$11.5m and back to back on-lending of \$5.75 m to the proposed Council Controlled Organisation (CCO), with the CCO finance for the costs for that \$5.75m being met by a CCO finance charge to Waimea Irrigators Limited (WIL); and**

- b. accepting an increase in the term from 10 years to 20 years for the zero interest rate \$10m Crown Irrigation Investments Limited (CIIL) Environmental Loan with four equal \$2.5m repayments at five yearly intervals; and
 - c. utilising approximately \$150,000 per annum of the money saved by the reduced repayments on the CIIL Environmental Loan, to service finance costs in relation to the environmental and public benefit Council loans.
5. instructs staff to progress negotiations and work streams through to a final agreement for Council approval as part of the project financial close in late November 2018; and
6. notes that the reason for reviewing the Council’s funding position is the offer of additional financial support by Waimea Irrigators Limited and Crown Irrigation Investments Limited;
7. agrees that the reasons for supporting the Dam include:
 - the broad range of benefits offered by the proposed Waimea Community Dam compared to the alternatives, including addressing Council’s water management obligations under the Resource Management Act; the National Policy Statement on Freshwater Management; and the National Policy Statement on Urban Development Capacity;
 - the costs, lower level of benefits, risks and uncertainty associated with the alternatives; and
 - the obligation to provide good quality infrastructure that is most cost effective for households and businesses; and
8. notes that Waimea Irrigators Limited and Crown Irrigation Investments Limited have reviewed their position and funding in order to directly address concerns raised by Council and to facilitate reaching financial close and that all parties to the Joint Venture will make their final decision at that time; and
9. agrees to report the above resolutions into the open meeting and to release the revised Table 1 (Proposed Funding), Table 2 (Typical Rates including GST) and the content of paragraphs 1.2.1 to 1.2.4 of the Executive Summary from the report.

Cr Greening called for a division.

Brown	For
Bryant	For
Canton	Against
Greening	Against
Hawkes	For
Kempthorne	For
King	For
Maling	For
McNamara	Against
Ogilvie	For
Sangster	Against
Tuffnell	For
Turley	Against
Wensley	For

With 9 FOR and 5 AGAINST the motion was CARRIED

The Mayor thanked Councillors and staff for their attendance at the meeting.

The meeting concluded at 5.07pm.

Date Confirmed:

Chair:

Unconfirmed