



MINUTES OF THE ORDINARY MONTHLY MEETING OF THE GORE DISTRICT COUNCIL, HELD IN THE COUNCIL CHAMBERS, CIVIC ADMINISTRATION BUILDING, 29 CIVIC AVENUE, GORE, ON TUESDAY 24 NOVEMBER 2009, AT 7:35 pm

PRESENT His Worship the Mayor (Mr Tracy Hicks JP), Crs Bolger, Davis, Dixey, Dixon, Harvey, Heller, Highsted, Gardyne, Grant, McLennan and Sharp.

IN ATTENDANCE The Chief Executive (Mr Stephen Parry), General Manager, Corporate Services (Mr Russell Duthie), General Manager, District Assets (Mr Paul Withers), Roading Manager (Mr Murray Hasler), Parks and Recreation Manager (Mr Ian Soper), Asset Manager, Utilities (Mr Ross Haslemore), Community Development Officer (Ms Colleen Te Au), HR/Administration Manager (Susan Jones), and 5 members of the public in the gallery.

His Worship advised the day marked the 20th anniversary of the first meeting of the Gore District Council. He said in that time, many good decisions had been made along with perhaps some not so good ones. He thought the creation of the Gore District had been good for the area and was the right decision made by the Local Government Commission.

1. CONFIRMATION OF MINUTES

RESOLVED on the motion of Cr Harvey, seconded by Cr Dixey, **THAT** the Minutes of the Ordinary Monthly Meeting of the Gore District Council, held on Tuesday 27 October 2009, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Sharp, seconded by Cr Heller, **THAT** the Report of the Meeting of the Community Services Committee, held on Tuesday 10 November 2009, as presented, be accepted as an accurate and complete record.

RESOLVED on the motion of Cr Harvey, seconded by Cr Highsted, THAT the recommendations contained within the report of the Community Services Committee meeting held on Tuesday 10 November 2009, as presented, be ratified.

RESOLVED on the motion of Cr Highsted, seconded by Cr Heller, THAT the Report of the Meeting of the Finance and Policy Committee, held on Tuesday 10 November 2009, as presented, be accepted as an accurate and complete record.

RESOLVED on the motion of Cr Bolger, seconded by Cr Davis, THAT consideration of the recommendations contained within the report of the Finance and Policy Committee meeting held on Tuesday 10 November 2009, be held over until after consideration of agenda item 7 – Gore Multi-Sport Centre Charitable Trust – Deed of Licence.

RESOLVED on the motion of Cr Dixey, seconded by Cr Dixon, THAT the Report of the Meeting of the Operations Committee, held on Tuesday 10 November 2009, as presented, be accepted as an accurate and complete record.

RESOLVED on the motion of Cr Bolger, seconded by Cr Davis, THAT consideration of the recommendations contained within the report of the Operations Committee meeting held on Tuesday 10 November 2009, be held over until after consideration of agenda item 7 – Gore Multi-Sport Centre Charitable Trust – Deed of Licence.

2. GORE A & P ASSOCIATION ANNUAL ACCOUNTS (50.12.2)

A memo had been received from the Parks and Recreation Manager, together with a copy of the annual audited financial accounts for the year ended 30 June 2009, for the A & P Joint Management Committee.

RESOLVED on the motion of Cr Bolger, seconded by Cr Gardyne, THAT the information be received.

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3. MANAGEMENT OF CUSTOMER SERVICE REQUEST PRIORITIES AND HAZARDS (46.12.9)

A report had been received from the General Manager, District Assets following a recent tragedy involving a Council owned asset in Auckland, that raised the question “did we do enough to prevent such an incident occurring here?” A review of how the Council prioritised and managed service requests was subsequently undertaken and it was found that whilst there

was confidence in the system as it existed, a recommendation for enhancement had been made to the IT Manager to incorporate a priority flag on a request, particularly high priority jobs.

In response to Cr Sharp, the General Manager advised that the customer service system had the ability to notify a member of the public if they asked for a response to be given.

Cr Heller questioned whether staff were asking people if they wanted a response. He cited recent complaints he had made that he had not been asked if he wanted a report back.

Cr Dixon said staff taking the calls were asking complainants to leave their name and number.

The Chief Executive said it was difficult if people claimed anonymity yet complained down the track that they had complained numerous times. Anonymity did not provide a clear trail of complaints made.

In response to His Worship, the General Manager was unsure if names and contact details were mandatory for privacy reasons.

The Chief Executive added the names of complainants were not disclosed to third parties.

The Rounding Manager said some people did request anonymity and that was noted in the customer service request to ensure that everyone was aware of it.

RESOLVED on the motion of Cr Davis, seconded by Cr Sharp, THAT the report be received.

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4. PROPOSED MERGER OF SOUTHLAND AND OTAGO DISTRICT HEALTH BOARDS – CONSULTATION DOCUMENT (26.3.1)

The Chief Executive had advised that the Southland and Otago District Health Boards were presently seeking submissions on a possible merger of the two Boards to form a single District Health Board for the Southland and Otago regions. A copy of the consultation document had been circulated. Submissions closed on 11 December.

The proposed merger had been discussed at a Mayoral forum recently and it was thought the combined meeting of elected members in the Southland region on 9 December would be a useful forum to further discuss the advantages and

disadvantages of it. The views of those at the Mayoral forum were that whilst a merger may have some benefit, there needed to be a guaranteed voice for rural Southland in particular, on the Board of an enlarged entity.

His Worship said he had attended the consultation meeting in Gore with about 20 other people. The point was clearly made that there was concern about representation in the rural area from an enlarged Board.

Cr Gardyne thought it important that the Council makes its own submission. It had a different perspective to the other Southland Councils.

Cr Dixey thought consideration of travel requirements needed to be borne in mind.

Cr Gardyne moved THAT the Council make its own submission, and endorse the proposed merger.

Cr Bolger thought the Council should embrace a regional submission but did agree with where Cr Gardyne was coming from.

His Worship agreed but thought it prudent to wait and see what the other Councils came up with.

Cr Harvey had a lot of faith in bringing the two Boards together but he did not want to see smaller communities miss out and suffer as a result.

Cr Davis supported Cr Bolger's comments, but thought with the joint meeting held on 9 December and submissions due by 11 December, there was not a lot of time for a submission to be written.

The motion was seconded by Cr Dixey.

His Worship asked Cr Gardyne for some input so that the submission could be drafted.

Cr Dixey referred to transport and to make certain that the local hospital, being in a rural area, was given adequate funding and support in any new system.

His Worship had a concern around representation and whilst there should be faith with those who are elected, when the deficits were addressed and the Board was looking for \$30 million, he believed the eyes would be on Southland. He would

like some effort put into effective representation being assured outside of Invercargill and Dunedin. Although the Health Boards had to be elected using STV, he suggested a Ward system should be encouraged.

The motion was put and it was carried.

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His Worship reminded the Council of the joint meeting to be held in Te Anau on Wednesday 9 December.

Cr Bolger pointed out with the passing of the resolution, the Council had effectively scuttled any regional submission.

5. ALCOHOL IN OUR LIVES (50.53)

A copy of the submission that had been prepared by a panel comprising Crs Bolger, Highsted and Heller, together with the Chief Executive and the Community Development Officer in response to the Law Commission's paper on the reform of New Zealand liquor laws, entitled "Alcohol in our Lives" had been circulated.

His Worship thought the submission was very good and he thanked those members of the panel for putting it together.

Cr Harvey did not support licensing trusts, but acknowledged the Maitua Licensing Trust did a good job with the control of alcohol locally.

RESOLVED on the motion of Cr Harvey, by Cr Davis, THAT the submission be received and endorsed.

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6. GORE MULTI-SPORTS CENTRE CHARITABLE TRUST – DEED OF LICENCE (37.24)

A copy of the Deed of Licence entered into by the Multi-Sports Centre Charitable Trust with the Ministry of Education which centred on free usage of the new indoor events centre in return for a capital sum payment of \$358,121 plus GST had been circulated. The Deed had a term of 25 years and afforded comprehensive usage rights to local schools.

The Chief Executive said whilst the content of the Deed may come as something of a surprise to the Council, it had been well known that the money from the Ministry of Education came as a result of some fairly lofty expectations in terms of usage of the centre. It also explained the conservative budgets provided by

the Council knowing that a large number of the potential users would not be paying for entry.

Cr Heller was concerned that the Council had been drip fed information and in the memo from the Chief Executive, he stated that the education funding was a capital sum. He did not agree. He believed it was an income grant to cover the subsidy that the Council was making over a 25 year period. The schools had use of the facility and \$358,121 was the payment for that. He did not believe it was a capital sum. In the recommendations held over from the Committee reports, the Council was not to take over any liabilities. He believed there were liabilities. First, there was a loan of \$358,121 which would be shown as a suspensory loan on the Councils books and discounted by 1/25th each year. There was \$29,190 in consent fees still outstanding and an interest free loan of \$50,000 on the car park. When the Council took ownership, it would inherit a debt of \$437,311. To say it would inherit the facility debt free was a dream. He was also concerned about the Deed of Licence which had been signed off by all parties, except the Ministry of Education. He noted the Charitable Trust had been signed by one person. He did not believe an organisation of that size could legally have one signature signing off a document of that magnitude. His final concern was in the calculation to work out how much the funding would be from the Ministry, the students at St Peter's and St Mary's had been included. On page 13, the schedule of schools to which the licence applied, was listed, but it did not include St Mary's or St Peter's College. He thought if the Council had been provided all of the information earlier then it could have made a more informed decision. He noted that none of the Trustees were in attendance at the Council meeting. He believed the Trust was using revenue income as capital funding and he was not happy about it.

Cr Davis agreed and said the Trustees had signed the Deed, not the Council. She wondered if it could be challenged, especially with the Council likely to be the new owner of the facility. If the Council had been involved with the Deed it would never had signed it nor given away rights for 25 years.

Cr Davis moved THAT the Council challenge the Deed of Licence and obtain clarification on it.

The Chief Executive said the Deed could be wrapped up in the due diligence process. The Council could obtain legal advice as to whether the Deed was enforceable on the Council and whether the document being signed by one Trustee was in accordance with the Trust Deed.

Cr McLennan was also concerned about the project. The schools had preferential rights to the whole complex, no matter what, or the funding was not forthcoming. He thought some sort of mediation needed to be engaged in to try and resolve it. He thought it had been the “con of the decade.” He estimated it could cost 6-7% in rates for the first year and 2-3% a year thereafter.

The motion was seconded by Cr Gardyne.

Cr Dixey referred to the list of activities that the schools could use the facility free of charge, and the subsidies provided for the swimming pool and ice rink.

The Chief Executive advised there had been a deliberate decision made by the Council, at the invitation of the Charitable Trust in seeking the money it needed, to offer up a continuation of the discount that had been traditionally offered to school children using the aquatic centre. The Council had resolved in 2005 to continue offering the discount so it could be included in the Deed. Nothing had changed as the Council had always offered discount to schools. He could not comment about the ice rink.

Cr Bolger cautioned the Council on not suggesting what the impact on rates might be. It needed to get the facts right first and be certain it was going to squeeze the costs as tightly as possible. He did not want people to panic.

Cr Bolger suggested the words “pending completion of a due diligence investigation”, be added to Cr Davis’ motion.

Crs Davis and Gardyne were agreeable to the addition.

Cr Gardyne said the original suggestion of a grant from the Ministry was to have been in the order of \$700,000. As a result of his attendance at the meetings for the events centre, the money would be used for final payments to contractors. In support of what Cr Heller had said, it was a grant for ongoing funding for the benefits received by school children in the District. The Council should be raising a loan for the amount, hold the amount in suspense and drip feed it into the operation of the centre over the next 25 years in keeping with the Deed from the Ministry of Education. From his initial reading of the document, he understood the Council’s capacity to enter into the agreement was as a subordinate to the multi-sports complex. However, on re-reading it, it was clearly as a party, as owner of the aquatic centre. He could not understand where the responsibility of the Council was to be a party to the

agreement in lieu of the Gore multi-sports complex. The Council was taking over the ownership but not the Licence. He wanted a legal opinion in terms of the Council's obligation with the Ministry. He did not think a document could be executed without two signatories and that clearly had not happened. There were elements where the Multi-Sports Complex Committee signed the agreement under duress and that needed to be looked at as well. The calculations done in arriving at the \$358,000 a discount rate used was 8%. He thought a rate of 4 or 5% would be more appropriate and if it was, the \$700,000 became closer. The agreement needed to be challenged. He referred to comments from the Mayor to Andrew Morrison in emails that the basis of funding the facility would likely be capital rating, but that would be the "con of the decade." He could not condemn enough that the Council had been fed information piece meal. The Council should have been made aware of issues such as the Licence before making any decision in September on ownership or operation of the facility.

His Worship asked for clarification over the comment that the document had been signed under duress.

Cr Gardyne advised he had made the point that the agreement may be challenged and the Multi-Sports Centre Committee had signed the contract under duress – it was the only way they were going to get funding to complete the centre. They were short of options and saw it as the out, regardless of the conditions.

Cr Bolger said Cr Gardyne could not accuse the Council of being conned. It had been invited by the major funders to rescue the project. It was its responsibility to do that and it now had to step up to the challenge on how best to do that in a business like manner. It was not compelled to take on any debt that there may be, but it had to be diligent about it and it would be.

Cr Gardyne clarified that Cr Bolger may have misunderstood what he had said. He said the con of the decade would be the subsequent apportionment of rating if it fell under capital value rating. He accepted the responsibilities the Council had.

His Worship said any discussion around rating and where the apportionment would lie was yet to be held. That would be for the Council to decide. Cr Gardyne was repeating comments that he had been purported to make but his comments were around targeted rating.

He added none of this was a surprise and anyone who thought it was, was fooling themselves. The Council knew the Trust had signed up a deal that was going to commit the Council. It was no surprise. There was a facility that was going to be great and the people wanted to get on and use it. Whilst the Council had some due diligence to undertake and ascertain where its responsibilities lie and those of the Trustees, he did not think the discussion on the document should impede those. The feeling he was getting was to get on and get it opened so it could be used. The Council had an opportunity to do that, however, in saying that, there was some serious due diligence to be undertaken and if there was any obligation to be referred to the Trustees and there may well be, the Council needed to ensure it went back to them.

Cr Harvey said he had seen the document a few years ago and it was not new. Some of the members of the Committee knew about it, but the Trustees did not talk about it at all.

Cr Dixey referred to a workshop held three months ago when the Deed had certainly been mentioned.

Cr McLennan said he was in a position to give an analysis of the multi-sports complex and he stood by his comment that the Ministry of Education funding was the con of the decade. He said the complex was very good, but it was not the people who openly told him their opinions, but the quiet and unassuming people in the community who would support things like the facility because they believed it was the right thing to do. He clarified that until the due diligence and outcome of the Licence was known, the sale and purchase would not be agreed to.

His Worship said it was subject to the recommendations included in the Committee reports.

The motion was put and it was carried.

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Cr Bolger moved THAT the recommendations contained within the report of the Finance and Policy Committee meeting held on Tuesday 10 November 2009, as presented, be ratified.

The motion was seconded by Cr Davis.

Cr Gardyne questioned if a legal opinion was sought on the education funding, how, in good faith could the Council move on all of the recommendations. He suggested that the first two recommendations be accepted.

His Worship said there was a sequence, and if there was anything the Council was not happy with, then the next recommendation would not proceed.

Cr Gardyne asked if the indoor events centre was transferred for \$1 how could a depreciation programme be commenced for \$60,000 a year.

His Worship said that was slightly irrelevant at this stage. The process of working out the operation of the facility would happen in time.

The motion was put and it was carried.

RESOLVED on the motion of Cr Highsted, seconded by Cr Grant, THAT the recommendations contained within the report of the Operations Committee meeting held on Tuesday 10 November 2009, as presented, be ratified.

7. REVIEW OF GAMING VENUE POLICY (54.12)

Cr McLennan moved THAT the Council publicly announce its intention to review the Gambling Venue Policy via the conduct of a special consultation process as required by Section 102 of the Gambling Act 2003.

The motion was seconded by Cr Dixey.

Cr Heller questioned the number of gaming machines in the District and said the numbers in the report were not correct.

The Chief Executive confirmed he was right. The Department of Internal Affairs had provided the Council with some inaccurate numbers. The total number of machines in the District was 85. In turn, the gaming machine ratio was in fact 1 machine per 105 people.

Cr Heller said the existing machines were unable to be changed, so why have public consultation on something that the Council could do nothing about.

The Chief Executive advised the Council was statutorily obliged to review its policy every three years and through a special consultative procedure. He confirmed that under existing use rights, there was nothing that could be done about the 78 machines that had been in place since 2001.

He added the new policy had to be reviewed and adopted by mid-March 2010. It was envisaged having the submission

process open shortly and run through until about the end of January. A panel would be appointed to hear any submissions received.

The motion was put and it was carried.

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8. REGULATORY BULLETIN (2.14.3/11.5.2)

The Council perused the regulatory bulletin containing a schedule of building consents issued for October 2009, together with comparisons with the previous two years. A schedule of land use consents issued as at 2 November had also been circulated.

RESOLVED on the motion of Cr McLennan, seconded by Cr Davis, THAT the bulletin be received.

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9. REPORTS FROM COUNCILLORS (46.12.9)

Cr Grant reported a resident of Ardwick Street had caught 6 possums in their garden over the past few weeks.

His Worship said he and the Chief Executive attended a Rural Sector meeting the previous week, which had been very worthwhile.

He also referred to the Shared Services Forum held where a lot of discussion had been held on the proposed reform of civil defence in Southland.

The Mataura Pool Working Party held its first meeting on 11 November.

The Rural Halls and Domains Sub-Committee had met the previous day and made grants to various halls around the District.

The meeting concluded at 8:47 pm