

**MINUTES OF A MEETING OF THE MARLBOROUGH DISTRICT COUNCIL
HELD IN THE COUNCIL CHAMBERS, SEYMOUR STREET, BLENHEIM ON
THURSDAY 9 DECEMBER 2010 COMMENCING AT 3.00 PM**

Present

The Mayor A T Sowman, Clrs J L Andrews, J A Arbuckle, J P Bagge, G S Barsanti, D W R Dew, G I T Evans, T E Hook, P J S Jerram, J C Leggett, F D Maher, D D Oddie, T M Sloan and G Taylor.

In Attendance

Messrs A R Besley (Chief Executive), A P Quirk (District Secretary) and M J Porter (Democratic Services Co-ordinator).

Prayer

The meeting opened with a prayer.

C.10/11.225 Presentation of Certificates to Former Councillors -

The Mayor presented Certificates of Appreciation to former Councillors A D Barker, E I Davidson, T R Harrison, N W Weetman and W O Brice. The former Councillors took the opportunity to present a valedictory speech.

C.10/11.226 Confirmation of Minutes -

The Mayor/Clr Arbuckle:

That the Minutes of the First Council Meeting following the 2010 Triennial General Elections held on 28 October 2010 (Minute Nos. C.10/11.139 to C.10/11.156) be taken as read and confirmed.

Carried

Committee Reports

C.10/11.227 Hearings Committee -

Clrs Barsanti/Arbuckle:

That the Committee reports contained within Minute Nos. H.10/11.135 to H.10/11.136 and H.10/11.137 to H.10/11.138 be received and the recommendations adopted.

Carried

C.10/11.228 Commissioner Hearing Decisions -

Clrs Barsanti/Arbuckle:

That the Commissioner Hearing Decisions as contained within the reports dated 25 to 27 May & 7 September 2010, 7 October 2010 and 4 November 2010 be received and the recommendations adopted.

Carried

NB: Clr Dew abstained from voting on Minute No. H.10/11.137.

C.10/11.229 Assets & Services Committee -

Clr Taylor advised in relation to the Footpath Management Policy (Minute No. P.10/11.165) that following a meeting with CBD retailers at the Marlborough Chamber of Commerce the policy has gone out to retailers for consultation.

Clr Taylor, in relation to Minute No. P.10/11.185 (Farmers Market Storage Shed (Temporary)), read from an email he had received earlier in the day from Chris Fortune (Marlborough Farmers Market). The relevant content of the email, as received, is reproduced below for recording purposes, without alteration:

Jennie Crum has informed Robert that we are unable to accept the leasing of Pig Pens Proposed by the A&P. We wish to work and act interdependently of there group as this is the best way forward for the future of the Marlborough Farmers Market. The leasing of Pig pens puts us back to where we first started 9 years ago, no prospect of being independent.

This is based on a number of factors and while we work in good faith with all parties we are unwilling to be held against a barrel as we have in the past.

A serious issue for us as a organisation is that they are are 100% not to allowing us to access power points that are just feet away from our market. We have used these power points for 9 years with no issues. We are currently improvising by bringing power to the market over a long distance which is presenting Serious Safety issues not only to our producers but also consumers.

Members discussed the issue noting that the recommendation of the Assets and Services Committee was that the issue lie on the table until this Council meeting. Members noted the content of the email and with this new information agreed that the issue of the building of a storage shed should be referred back to the Assets and Services Committee for further consideration.

Clrs Taylor/Bagge:

That the issue of the building of a storage shed at A&P Park for the Marlborough Farmers' Market be referred back to the Assets and Services Committee for further consideration.

Carried

Clrs Oddie and Hook both advised that the matter of the Picton Foreshore Cruise Ship Markets (Minute No. P.10/11.183) had been progressed with the parties involved.

Clrs Taylor/Leggett:

That the Committee report contained within Minute Nos. P.10/11.157 to P.10/11.188 be received and the recommendations adopted.

Carried

NB: Clr Dew abstained from voting on Minute Nos. P.10/11.176 and P.10/11.177.

C.10/11.230 Community & Financial Planning Committee -

The audited accounts for the 2009/10 financial year for Destination Marlborough were tabled (Minute No. A.10/11.195 refers).

Clrs Maher/Dew:

That Destination Marlborough's Audited Accounts for the Financial Year ending 30 June 2010 be received.

Carried

Clrs Maher/Dew:

That the Committee report contained within Minute Nos. A.10/11.189 to A.10/11.205 be received and the recommendations adopted.

Carried

C.10/11.231 Environment Committee -

Clr Jerram reported that the position of the Rural Representative on the Environment Committee (Minute No. R.10/11.214) had been considered by the Councillors charged with that task and that Mr Ross Beech was the nomination. Clr Jerram advised the meeting of Mr Beech's background and qualifications for the role.

Clrs Jerram/Evans:

That Mr Ross Beech be appointed as the Rural Representative on the Environment Committee.

Carried

Clrs Jerram/Barsanti:

That the Committee report contained within Minute Nos. R.10/11.210 to R.10/11.224 be received and the recommendations adopted.

Carried

C.10/11.232 Grants Sub-Committee -

Clrs Andrews/Bagge:

That the Sub-Committee report contained within Minute Nos. E.10/11.206 to E.10/11.209 be received and the recommendations adopted.

Carried

C.10/11.233 2011 Council Meeting Schedule

C405-01

Attached to the Order Paper for consideration was the draft schedule of meetings for 2011.

The Mayor/Clr Andrews:

That the meeting schedule for 2011 be approved.

Carried

C.10/11.234 Enforcement and Prosecution Committee

C135-E04

Staff reported that the purpose of the report was to finalise composition of the Enforcement and Prosecution Committee.

The Environment Committee at its meeting on the 10 June 2010 considered a presentation from the District Solicitor, Mr Radich on the establishment of such committee. The Committee's recommendation that such a Committee be established was adopted by Council. It was intended it would have authority to consider matters of enforcement and prosecution. It was made clear at the time that decisions in relation to enforcement and prosecutions must be made properly and impartially based on information made available to the decision makers. The closest analogy given was to a Commissioner dealing with a resource consent application. In such a situation the decision of the Commissioner is essentially a decision of Council and should not be questioned

Initially the Council retained the ultimate decision making capacity on matters of enforcement and prosecution it being acknowledged that scope of Council's involvement on matters considered by the Committee would be limited to accepting any recommendations or, in exceptional circumstances, referring them back to the Committee for consideration. Council resolved as follows:

- That it establish in accordance with clause 30, schedule 7, Local Government Act 2002 establish a committee to be called the Enforcement and Prosecution Committee
- That such Enforcement and Prosecution Committee be delegated under clause 32, schedule 7, Local Government Act 2002 full authority to consider and recommend on matters of enforcement and prosecution for all functions within Council.

- That Council accepts the recommendations of that Committee and only in exceptional circumstances refers recommendations back to that Committee for further consideration.
- That the membership of that Committee be as follows:
 - Two Councillors to be named as members each with an alternate to allow for absence conflict;
 - The Chief Executive or an alternate nominated by the Chief Executive
 - The District Solicitor or a barrister/solicitor or alternate nominated by him.
- That the Enforcement and Prosecution Committee, once appointed, assess protocols for that Committee to follow and the criteria for that Committee to consider when determining whether or not enforcement action ought to be taken.

The Committee has determined on the protocols and criteria and has authorised some actions. The protocols essentially follow the Crown Law Prosecutions protocols except for the inclusion of two elected members as members of the Committee. It was considered important that in setting the protocols and criteria there be two Councillor Representatives since it effectively was establishing policy for Council. The Committee is essentially operating in a quasi judicial fashion and on that basis it is considered a power to consider and decide is more appropriate than to recommend.

Members asked that different options of membership be investigated.

Clrs Jerram/Andrews:

1. **That the previous decision of Council establishing a Committee be confirmed but with the following modifications:**
 - 1.1. **That the delegation be amended so that it provides for the Committee to consider and decide on matters of enforcement and prosecution for all functions within Council to the point**
 - 1.2. **That membership of the Committee is amended so that reference to two Councillors named as members be reduced to one with an alternate to allow for absence or conflict.**
2. **That the Councillor appointed to the Committee be Councillor Maher (Wairau / Awatere) with the alternate Councillors appointed being Councillor Oddie (Marlborough Sounds) and Councillor Leggett (Blenheim).**

Carried on a show of hands 8 to 5.

C.10/11.235 Report from the Electoral Officer on the 2010 Triennial Election *E090-10-17*

A report from the Electoral Officer on the 2010 Triennial Election process was attached to the Agenda.

Clrs Barsanti/Bagge:

That the information be received.

Carried

C.10/11.236 Decision to Conduct Business with the Public Excluded -

Cirs Barsanti/Bagge:

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- **Confirmation of Public Excluded Minutes**
- **Committee Reports (Public Excluded Sections)**
- **Sister City Sub-Committee Community Representation**

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 each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Sister City Sub-Committee Community Representation	In order to protect the privacy of natural persons, as provided for under Section 7(2)(a).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed at 4.20 pm.

Confirmed this 7th day of March 2011

A T SOWMAN
MAYOR

Record No: 1121793