

MINUTES	MEETING	TIME
<b>KĀPITI COAST DISTRICT COUNCIL</b>	<b>THURSDAY 07 MAY, 2015</b>	<b>2.05 PM</b>

Minutes of a meeting of the Kapiti Coast District Council on Thursday 7 May 2015, commencing at 2.05 pm in Council Chambers, Ground Floor, Kapiti Coast District Council, 175 Rimu Road, Paraparaumu.

**PRESENT**

Mayor	R	Church	Chair
Cr	D	Ammundsen	
Cr	M	Bell	
Cr	M	Cardiff	
Cr	K	Gurunathan	
Cr	P	Gaylor	
Cr	J	Holborow	
Cr	D	Scott	
Cr	M	Scott	
Cr	G	Welsh	

**ATTENDING**

Mr	P	Dougherty	(Chief Executive)
Mr	S	McArthur	(Group Manager, Strategy and Planning)
Mr	S	Mallon	(Group Manager, Infrastructure Services)
Mr	M	de Haast	(A/g Group Manager, Corporate Services)
Ms	J	McDougall	(Communications Manager)
Mr	T	Power	(Senior Legal Counsel)
Ms	V	Starbuck-Maffey	(Democracy Services Manager)

The Mayor welcomed everyone to the meeting and read the Council blessing.

KCDC 15/05/359

**APOLOGIES**

**MOVED (Mayor/M Scott)**

**That apologies be accepted from iwi representative Ann-Maree Ellison, Fiona Vining Chair of the Paraparaumu-Raumati Community Board, James Cootes Chair of the Ōtaki Community Board, Eric Gregory Acting Chair of the Waikanae Community Board, and Philip Edwards, Chair of the Paekākāriki Community Board.**

**CARRIED**

It was noted that Cr Elliott was on leave of absence.

**DECLARATIONS OF INTEREST**

Cr Ammundsen declared an interest in item 10 and would take no part in the debate or voting on this matter.

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KCDC 15/05/360

**PUBLIC SPEAKING TIME (FOR ITEMS RELATING TO THE AGENDA)**

John Le Harivel spoke about item 10 about the Code of Conduct complaint and Council culture.

KCDC 15/05/361

**CONFIRMATION OF MINUTES**

**MOVED (M Scott/Welsh)**

**That the minutes of the Council meeting on 17 March 2015 be accepted as a true and accurate record of that meeting.**

**CARRIED**

KCDC 15/05/362

**MEMBERS' BUSINESS**

- (a) Responses to Public Speaking Time - none were required.
- (b) Leave of Absence - none was requested.
- (c) Matters of an Urgent Nature – there were none.

KCDC 15/05/362

**CONTRACT C026 ROAD MAINTENANCE 2015-2018: TENDER EVALUATION REPORT (IS-15-1565)**

This report was presented by Group Manager Infrastructure Services Sean Mallon. The report sought Council's approval to award the new roading maintenance contract for the next three years to Downer with a possible extension to five years.

Councillors were pleased with the savings achieved and asked to see what difference it made as a percentage of rates reduction as well as the option of debt repayment using these savings, over the next three years. The intention was to include this information in the Chief Executive's report as part of Annual Plan process.

There was a query about the management of costs incurred through damage to local roads caused by Expressway traffic, and the logging trucks. The contract allowed Council to do the work, and then seek to recover costs from the parties that contributed to the damage.

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**MOVED (Welsh/Ammundsen)**

That the Council accepts the tender of Downer New Zealand Limited for the sum of \$8,824,047 plus GST and notes that the Contract is partially a measure and value contract meaning that payments under the Contract will depend on the amount of work done, but will be in accordance with Long Term Plan and Annual Plan budgets.

**CARRIED**

KCDC 15/05/363

**APPROVAL OF AMENDMENTS TO LOCAL GOVERNMENT FUNDING AGENCY (LGFA) DOCUMENTATION (Corp-15-1575)**

Mark de Haast, Acting Group Manager Corporate Services spoke to the report, saying that Council was required to make some minor changes to establishment documents in order to continue being able to borrow money from the LGFA. This was a requirement imposed on all councils and the deadline was tomorrow.

There was some concern expressed about the level of debt and borrowing and whether swaps were still available and these aspects were clarified. It was intended to invite the LGFA to address the Council in a few months' time.

**MOVED (Cardiff/Holborow)**

That the Council approves the draft changes to the following Local Government Funding Agency agreements:

- Multi-Issuer Deed (Appendix 1 to Report Corp-15-1575);
- Equity Commitment Deed (Appendix 2 to Report Corp-15-1575);
- Notes Subscription Agreement (Appendix 3 to Report Corp-15-1575);
- Shareholders' Agreement (Appendix 4 to Report Corp-15-1575).

That the Council authorises the Chief Executive to approve any minor changes to such documents prior to their execution.

**CARRIED**

KCDC 15/05/364

**CODE OF CONDUCT COMPLAINT (Mayor-15-1507)**

Senior Legal Counsel Tim Power introduced this report. The matter had been discussed a number of times with the complainant, Mr Ruthe, Cr Ammundsen and the Mayor. Councillors queried the report authorship as the Mayor had co-signed it and it was clarified that under the Council's Code of Conduct there was no prescribed process for conducting the investigation or writing the report. In today's case the complaint had been made by a member of the public which was allowable under the Code. There was a low threshold for establishing the whether or not a complaint needed to be investigated. The report had to be

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considered in a public session and there was no right of appeal after today. The Office of the Ombudsman had no jurisdiction over the decisions of Council.

The Mayor explained that, in the name of natural justice, he had granted Christopher Ruthe and Salima Padamsey 20 minutes speaking time each, outside the usual Standing Orders provisions of three minutes for individual speakers or ten minutes for deputations, but this in no way created a precedent.

Salima Padamsey requested the report be let lie on the table until such time as the Ombudsman had dealt with an existing complaint [number 403150] which challenged the process. Ms Padamsey outlined the substance of her allegations and asked that her name be cleared. She further requested that a number of Councillors and the Mayor recuse themselves from the process today as she believed they were biased, and that the report itself was biased against her.

Before outlining his concerns Christopher Ruthe queried the validity and appropriateness of the process being followed today and said he had been misled as he had anticipated that the process used for the complaint against Cr Elliot would be followed. Tim Power reiterated that the Code did not prescribe the process and there was no equivalence with the Cr Elliott complaint. Mr Ruthe and Ms Padamsey had both been provided with the draft report before the meeting and gave no indication that they were disadvantaged.

Mr Ruthe believed that the two meetings prior were about attempting to resolve the matter and the question of process had not been discussed and should have been. He asked that the record include his point that he had never been asked to address anybody without knowing what would be the content of the decision. Today's meeting should be about examining the evidence to establish whether there was sufficient material to further the complaint. He asked if it was the Council's intention to make a decision to expressly exclude the Ombudsman's involvement.

Mr Ruthe then detailed six main issues he believed pertinent: (1) the requirement to wait for the result of the Ombudsman's investigation; (2) the misdirection of the report which did not address whether the grounds for the complaint had been established; (3) the authorship of the report not being clear; (4) Councillor statement made against the wrong person (Ms Padamsey was speaking for Coastal Ratepayers United (CRU), not personally at the times cited); (5) bias in the report – it lacked balance and impartiality; (6) the tainting of Councillors in the decision-making process as the report came to conclusions against Ms Padamsey.

The Mayor invited questions from Councillors. Discussion included the following points:

- Some Councillors believed that they needed more time to come to a decision; other Councillors said a delay would be untenable and as they had all read the newspaper articles and been present at the meetings where the statements by Cr Ammundsen and Ms Padamsey were made it should be possible to make a decision today.
- The question was asked of Mr Ruthe whether the complaint was lodged with the Ombudsman before or after the Council report was circulated to him and Ms Padamsey for comment. (The Council report was circulated to all Councillors and made publicly available on the Council website on the Friday afternoon.) Mr Ruthe

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indicated the complaint had been lodged with the Ombudsman on the Monday i.e. after the report was released.

- Cr Ammundsen was invited to make a statement in rebuttal. She said she had only done her job as Chair of the Regulatory Management Committee, and could not apologise as she did not believe she had done anything wrong and could not be held responsible for what the media said.
- The Chief Executive said that Councillors had three options today: adopt the recommendation in the report which would see closure to the matter; leave the report lying on the table and await the Ombudsman decision which could take months, or accept this report as a preliminary one and refer the matter to an independent panel.
- Councillors agreed the Code of Conduct should be amended to provide a better defined process for dealing with complaints and focus on the behavior of Councillors towards each other rather than allowing members of the public to lodge complaints under the document.

**MOVED (M Scott/Gaylor)**

**That Council note the complaint of Ms Padamsey regarding the alleged breach of the Council's Code of Conduct by Councillor Diane Ammundsen and agree to take no further action.**

**A division was called:**

**For the motion: the Mayor, Cr M Scott, Cr Welsh, Cr Gaylor, Cr Holborow, Cr Bell**

**Against the motion: Cr D Scott, Cr Cardiff, Cr Gurunathan.**

**CARRIED**

Cr Ammundsen abstained from both the voting and the discussion.

KCDC 15/05/365

**PUBLIC SPEAKING TIME (COVERING OTHER ITEMS NOT ON THE AGENDA)**

1. Richard Halliday spoke to his submission about Julie Snodgrass and her dog Beau.

2. Dale Evans spoke to his submission (circulated) saying he wished to make a submission to the Proposed District Plan (PDP) Review on the matter of brothels.

Stephen McArthur clarified for Mr Evans that it was too late to make a submission but if other people had submitted on the same process he could join them. A full response would be provided under the OIA process after the exact nature of Mr Evans' concerns were ascertained.

The Mayor responded to Mr Halliday outlining the times he had visited the pound.

*The meeting adjourned at 3.44pm and reconvened at 4.06pm.*

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**RESOLUTION TO GO INTO PUBLIC EXCLUDED**

**MOVED (M Scott/Bell)**

	<p><b>PUBLIC EXCLUDED RESOLUTION</b></p> <p>That, pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987, the public now be excluded from the meeting for the reasons given below, while the following matters are considered:</p> <ul style="list-style-type: none"> <li>• <b>Chief Executive Recruitment Process : Presentation Topic and Interview Questions, and Redundancy/ Amalgamation Clause to be Included in Individual Employment Agreement (OD-15-1569)</b></li> </ul> <p>The general subject of each matter to be considered, while the public are 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:</p>	
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<p><b>Chief Executive Recruitment Process : Presentation Topic and Interview Questions, and Redundancy/Amalgamation Clause to be Included in Individual Employment Agreement (OD-15-1569)</b></p>	<p>Section 7(2)(a) – to protect the privacy of natural persons.</p> <p>Section 7(2)(i) – enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>	<p>48(1)(a): That the public conduct of the whole or 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 would exist.</p>
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**CARRIED**

*The meeting came out of public excluded session at 5.02pm and was closed.*

Signed ..... / ..... / 2015  
 Mayor Ross Church, Chair