

MINUTES	MEETING	TIME
<b>KĀPITI COAST DISTRICT COUNCIL</b>	<b>THURSDAY 15 OCTOBER 2015</b>	<b>10.00 AM</b>

Minutes of a six-weekly meeting of the Kapiti Coast District Council on Thursday 15 October 2015, commencing at 10.00 am in Council Chambers, Ground Floor, Kapiti Coast District Council, 175 Rimu Road, Paraparaumu.

#### PRESENT

Cr	M	Cardiff	Acting Mayor
Mayor	R	Church	<i>(from 10.35 am – 1.35 pm)</i>
Cr	D	Ammundsen	
Cr	M	Bell	
Cr	J	Elliott	
Cr	P	Gaylor	
Cr	K	Gurunathan	
Cr	J	Holborow	
Cr	D	Scott	
Cr	M	Scott	
Cr	G	Welsh	

#### ATTENDING

Mr	P	Edwards	(Chair, Paekākāriki Community Board)
Mr	J	Cootes	(Chair, Ōtaki Community Board)
Ms	F	Vining	(Chair, Paraparaumu-Raumati Community Board)
Ms	A-M	Ellison	(Member, Te Whakaminenga o Kāpiti)
Mr	P	Dougherty	(Chief Executive)
Mr	S	McArthur	(Group Manager, Strategy and Planning)
Mr	S	Mallon	(Group Manager, Infrastructure Services)
Mr	W	Maxwell	(Group Manager, Corporate Services)
Mr	K	Currie	(Group Manager, Regulatory Services)
Mr	K	Black	(Manager, Corporate Planning and Reporting)
Mr	T	Power	(Senior Legal Counsel)
Ms	S	Powell	(PDP Project Director)
Ms	J	McDougall	(Communications Manager)
Ms	A	Kenna	(Media Relations Manager)
Mr	N	Fowler	(Environmental Standards Manager)
Miss	A	McLaughlin	(Democracy Services Advisor - Minute-Taker)

The Acting Mayor welcomed everyone to the meeting. There was one minute's silence to mark the passing of Mayoress Vicki Church. Cr Cardiff read the Council Blessing.

KCDC 15/10/433

#### **APOLOGIES**

##### **MOVED (M Scott / Bell)**

**That apologies are accepted from Eric Gregory, Chair of the Waikanae Community Board and Rupene Waaka, Chair of Te Whakaminenga o Kāpiti.**

##### **CARRIED**

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## **DECLARATIONS OF INTEREST**

In relation to agenda item 9 on the Proposed District Plan (PDP) Hearings Panel – Appointment of Elected Commissioners and Management of Potential Conflict of Interest, declarations of interest were made by Cr Cardiff, Cr Ammundsen, Cr Bell, Cr Elliott and Ms Vining. All Councillors indicated they would abstain from voting in relation to their own consideration. Cr Cardiff would also vacate the Chair during this item and Cr Gaylor would take over as Chair.

KCDC 15/10/434

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

Salima Padamsey was not able to attend and in her absence Democracy Services Advisor, Annette McLaughlin, read out her statement.

It was clarified that the statement was made as an individual. It was also confirmed that she was a submitter to the PDP.

KCDC 15/10/435

### **MEMBERS' BUSINESS**

- (a) Responses to Public Speaking Time – the issues raised by Salima Padamsey would be dealt with during agenda item 9.
- (b) Leave of Absence - none was requested.
- (c) Matters of an Urgent Nature – there were none.

KCDC 15/10/436

### **NOTICE OF MOTION – CR K. GURUNATHAN**

Cr Cardiff read out Cr Gurunathan's notice of motion.

To provide context for his motion, Cr Gurunathan referred to an email sent to the Chief Executive and the Mayor dated 5 October:

*Following on from a recent briefing we had, on what's going on with regional local government and the September 29 joint media release from the Local Government Commission and the Mayoral Forum, I think there is a need to formalise the representation that you as mayor and Pat Dougherty as CEO make at the meetings and deliberations at regional level on potential changes to local governance structures and collaboration.*

*Councillors need to move a formal motion to legitimise this representation for this specific purpose simply because this is not a business-as-usual process and it has serious consequences for local governance with huge community interest. A formal motion will give a clear signal to the community that council as a whole sees merit in the process.*

*Secondly, any motion to legitimise this representation will also need to be underpinned by a reporting back mechanism that will allow councillors to be regularly informed. This*

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*should, at the very least, be parallel with Wayne Guppy's point in the joint statement where he states: "We are establishing a timetable for regular meetings to progress work together".*

*It would not be prudent for options to be dumped on councillors suddenly from on high following deliberations behind closed door.*

**MOVED (Gurunathan / Welsh)**

**That this Council notes that in June the Local Government Commission took off the table a proposal to amalgamate all the councils in the Wellington region. The Council also notes that while the proposal was withdrawn the underlying principles of the application to promote greater efficiencies amongst the region's councils is still live. This Council, therefore, supports the Mayor and CEO in continuing discussions with the Commission, the Mayoral Forum and the region's chief executives to achieve these efficiencies. Further, that this Council creates a formal process for the Mayor and CEO to regularly inform and update councillors and this be in parallel with the timetable of meetings being established by the Commission and the Mayoral Forum.**

**CARRIED**

Against the motion: Cr Elliott

*Cr Bell left the meeting at 10.16 am and returned at 10.22 am.*

KCDC 15/10/437

**ANNUAL REPORT TO 30 JUNE 2015 (SP-15-1719)**

Kevin Black, Manager, Corporate Planning and Reporting spoke to the report. The draft annual report was tabled at last week's Corporate Business Committee who recommended that the report be presented to today's Council meeting for adoption. Once the annual report has been adopted, Auditors would sign off the document, which would then be available to the public.

The Elected Member attendance record had been amended as discussed at last week's Corporate Business Committee meeting. This was the only change needed to be made. James Cootes asked that there be further explanation for the attendance record at Community Board meetings in future annual reports.

Cr Welsh extended his thanks to the staff involved in developing and producing the Annual Report. It was an excellent reflection of the good work from Council staff. Cr Cardiff said it was the most concise and easily understood report we have had.

*Mayor Church joined the meeting at 10.25 am.*

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**MOVED (Welsh / Bell)**

**That the Council adopts pursuant to Section 98 of the Local Government Act 2002, the Kāpiti Coast District Council Annual Report for the year ended 30 June 2015 attached as Appendix 1 to this report (SP-15-1719).**

**That the Council delegates to the Mayor, Chair of Corporate Business Committee and Chief Executive the authority to approve minor editorial changes to the material contained in the Annual Report 2014/15 (Appendix 1 to Report SP-15-1719) prior to publication.**

**CARRIED**

KCDC 15/10/438

**PDP HEARINGS PANEL – APPOINTMENT OF ELECTED COMMISSIONERS AND MANAGEMENT OF POTENTIAL CONFLICT OF INTEREST (SP-15-1704)**

The Acting Mayor vacated the Chair. Mayor Church advised that he had earlier asked Cr Gaylor to take over as Chair for this single item in accordance with Standing Order 2.3.1.

Stephen McArthur, Group Manager, Strategy and Planning spoke to the report and briefed everyone on the process going forward.

Sue Powell, PDP Project Director, made further comments on the district plan process, with substantive hearings planned to start in April 2016. There would be 71 available hearing days and the commitment by Elected Members was not insubstantial.

Tim Power, Senior Legal Counsel, briefly summarised the conflict of interest issue that was raised by an Elected Member. At the time Mr Aburn expressed an interest in the Commissioner role, he disclosed he had appeared as an expert witness for Paraparaumu Airport Limited (PAL) in 2008/09. Council had cause to look into this further given the concerns raised by the elected member and had sought comment from Mr Aburn and external legal advice from Simpson Grierson. Council was provided with a letter from Mr Aburn where he disclosed a conflict of interest and proposed that he stand down from the hearings on chapter 6. External advice from Simpson Grierson supported Mr Aburn's proposed solution.

Mr Alistair Aburn then spoke in support of his letter and read out a personal statement. He has been a resident of Kapiti for 16 years, was elected as a Councillor, and appeared as a sole Commissioner on a number of occasions. His registration of interest in the Commissioner role was based on his track record, having sat as a member of a panel or Chair of a panel approximately 100 times. Whilst a small number of decisions had been appealed, no decisions he had been involved in had been over-turned by the Environment Court.

One of the hearings, as sole Commissioner, was for the Christchurch City Council on Variation 16 which was the retail provisions for the Christchurch District Plan, prior to the Canterbury earthquakes. When the decision report was released, the Mayor commended him for the robustness and open-ness for the hearings process.

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This was the first time any suggestion had been made of having a conflict of interest as a hearing panel member. He absolutely endorsed the importance of impartiality and bringing an open mind on all matters under the RMA. He indicated that despite his previous role as an expert witness for PAL, he could bring an open mind to all matters before the panel. He had declared at the time of his appointment his earlier involvement. It was known to Council at the time. He did not believe that his involvement in 2008/09 would in any way impact his ability to be impartial, open-minded and fair to consider all points on any submission put forward on the PDP.

He spoke of his conflict of interest and the reason why he wrote his letter dated 1 October 2015. Given that it had been raised by an Elected Member, he felt he needed to offer to step aside because of the perception of a conflict of interest. He concluded that he had offered to step aside as a member of the panel on chapter 6 matters. He would prepare a report to all submitters on the process he intended to follow in the hearings and in this document would be a section on conflict of interest and how these issues would be managed and dealt with at the time.

*Cr Elliott left the meeting at 10.55 am and returned at 10.58 am.*

Mr Power noted that categories of bias that make up the conflict of interest are set out in paragraph 5 of Simpson Grierson's advice.

*Cr Bell left the meeting at 11.11 am and returned at 11.13 am.*

There were further questions between Mr Aburn, Mr Power and Councillors in relation to legal advice and conflict issues.

*Ms Ellison left the meeting at 11.15 am and returned at 11.16 am.*

Each candidate (Cr Ammundsen, Cr Cardiff, Cr Elliott, Cr Bell and Ms Vining) were given the opportunity to speak to their nomination.

*The meeting adjourned at 11.35 am and reconvened at 11.45 am.*

Mr Power explained that to be an elected member commissioner there is an absolute requirement for them to be accredited. There is a reference to exceptional circumstances but these would not apply in this case. For pre-hearings, there is no legal requirement that anyone who conducts pre-hearing meetings is accredited.

Clarification was sought on some questions relating to nominee Cr Elliott. It was confirmed she was a submitter to the PDP (prior to her being elected as a councillor). The CEO confirmed there was no record of Cr Elliott's request to withdraw her submission.

The other candidates were asked if they were a submitter in their own name to the PDP. Cr Ammundsen, Cr Cardiff, Cr Bell and Ms Vining answered 'no'.

The Chair then asked each Elected Member and Ms Ellison to indicate their support for each candidate. A straw poll was then taken of the support for each candidate (with the candidates and Cr Welsh abstaining):

Cr Bell – no support  
Ms Vining – one supporter  
Cr Elliott – one supporter

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Cr Cardiff – eight supporters  
 Cr Ammundsen – six supporters

Cr Welsh suggested an alternative of appointing a hearings panel of three commissioners with no elected member commissioners. The CEO confirmed that this would revoke a previous resolution of Council (Standing Orders 3.9.18) and couldn't be done without a report or a formal notice of motion. Cr Welsh accepted this explanation.

Cr Elliott moved that the matter be left to lie on the table. The Chair confirmed this was a procedural motion which lapsed for want of a seconder.

**MOVED (Gaylor / Holborow)**

**That the Council appoint the following councillor to the Proposed District Plan hearings as elected commissioner:**

**Cr Mike Cardiff**

**CARRIED**

Abstained from voting: Cr Cardiff, Cr Welsh and Cr Elliott

**MOVED (Gaylor / M. Scott)**

**That the Council appoint the following councillor to the Proposed District Plan hearings as elected commissioner:**

**Cr Diane Ammundsen**

A division was requested:

For the motion: Mayor Ross Church, Cr Holborow, Cr Cardiff, Cr Gaylor, Cr Bell,  
 Cr M. Scott

Abstained from voting: Cr Ammundsen, Cr Elliott, Cr Welsh, Cr Gurnathan

Against the motion: Cr David Scott

**CARRIED**

Further clarification was needed from Richard Fowler about Mr Aburn's conflict of interest issue and Mr Power said he would seek to make contact with him.

Mr Power explained the process for handling declarations of conflict of interest. Once a conflict of interest is declared, it is up to Council to decide how to address the conflict of interest. The legal advice received commented on Mr Aburn's proposal that he withdraw from the hearings on Chapter 6. It concluded that this was an appropriate response to Mr Aburn's declaration. Simpson Grierson's advice does not cover the level of risk if the Council declined to accept Mr Aburn's proposal and proceed to appoint him for the whole PDP.

Mr McArthur stated that when the hearings are open in February there would be declarations of interest given by all members of the panel and then it is open to any party and any submitter to

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officially challenge that. Even if Council left Mr Aburn in as Chair, there is a second step that could be initiated.

Mr Power had checked with Mr Aburn that if Council resolved to not accept the proposal that he withdraw from chapter 6, there are adequate safe-guards in the process before the commencement of the hearings to address conflicts, if anyone had any objections or any possible conflict. Mr Aburn could manage this process. Mr Aburn was comfortable if the Council rejects that recommendation and resolves to appoint him for the whole PDP.

*Cr Bell left the meeting at 1.16 pm and returned at 1.18 pm.*

Mr Power commented that the declaration itself cannot be withdrawn and could not be changed. Mr Aburn has only made a recommendation for dealing with it.

Mr Aburn came back to the podium to respond to more questions. He confirmed he would be comfortable and happy to chair the whole process including Chapter 6. The whole process must be transparent and fair. If the appointment stands, it was his intention to write to each panel member, asking if there were any conflicts, which would be tabled at the opening of the hearings in February 2016 and effectively invite comment from the submitters to respond to that. He confirmed that he could absolutely chair the meeting in an open and impartial way.

**MOVED (M Scott / Gurunathan)**

**That Council notes Mr Aburn's declaration, but this Council asserts its full confidence in Mr Aburn's ability to (1) bring an open mind to all matters to be heard (2) manage any conflicts of interest that may arise and therefore does not accept his offer to withdraw from Chapter 6 matters.**

**CARRIED**

*Cr Elliott left the meeting at 1.32 pm and returned at 1.34 pm.*

Mr Power had succeeded in contacting Richard Fowler to get his understanding of the independent Review Panel's recommendation that Council go with a single panel for the entire hearing, as opposed to different panels hearing different aspects, which was the original intent of the council. Cr Gurunathan was concerned that Mr Aburn stepping back from chairing chapter 6 was creating the risk of different panels and therefore contrary to the advice of the review panel. Mr Fowler confirmed that he and Sylvia Allan were concerned about different panels hearing different aspects, but that it could be expected that individual members may need to step out of a single panel for reasons of conflict of interest or other issues (such as ill-health preventing them from attending). He therefore confirmed that Mr Power's understanding was correct.

**MOVED (Gaylor / Welsh)**

**That the appointment of accredited councillors to assist with pre-hearing meetings be delegated to the Mayor, Deputy Mayor and Chair of the Regulatory Management Committee.**

**CARRIED**

Against the motion: Cr David Scott

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*The meeting adjourned at 1.32 pm and reconvened at 2.04 pm.  
Mayor Ross Church left the meeting at 1.35 pm.*

There was some further discussion about re-wording the previous resolution to provide for the appointment of Community Board members and iwi representatives.

**MOVED ( Bell / M Scott)**

**That the appointment of accredited elected members and iwi representatives to assist with pre-hearing meetings be delegated to the Mayor, Deputy Mayor and Chair of the Regulatory Management Committee.**

**CARRIED**

KCDC 15/10/439

**REQUEST FOR TERRITORIAL AUTHORITY CONSENT FOR A TAB BOARD VENUE OPERATING AT AMOHIA STREET, KAPITI LIGHTS, PARAPARAUMU (RS-15-1727)**

Nick Fowler spoke to the report. The TAB in question already exists and is currently licensed to Kapiti Hospo Limited as a pub/TAB. The Act requires that the Council give consent when the New Zealand Racing Board proposes to take over a TAB venue, and this is not delegated.

There was a question on the timing of the current gambling policy and Mr McArthur said the work programme for all bylaws and policies would come back to Council before the end of the year.

*Cr Michael Scott left the meeting at 2.21 pm and returned at 2.24 pm.*

**MOVED (Bell / M Scott)**

**That the Council gives Territorial Authority consent to the application by the New Zealand Racing Board to establish a TAB Board Venue, known as Paraparaumu TAB, at the site of the Black Stag, Amohia Street, Kapiti Lights, Paraparaumu, as set out in Attachment One to this report (RS-15-1727).**

**CARRIED**

Against the motion: Cr David Scott

KCDC 15/10/440

**FOOD SAFETY BYLAW 2006 (RS-15-1694)**

Nick Fowler spoke to the report. The Food Safety Bylaw 2006 was required to be formally adopted. There would be no impact on the food industry by administering this bylaw.

The interface with new migrants and their understanding of the new bylaw was queried. Mr Fowler confirmed that there had been several training sessions this week and some new migrants had attended these sessions.

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**MOVED (Ammundsen / Holborow)**

**That Council adopts the Food Safety Bylaw 2006 (as attached at Appendix 1 to Report RS-15-1694).**

**CARRIED**

KCDC 15/10/441

**2015 REPRESENTATION REVIEW : FINAL PROPOSAL – APPEALS AND OBJECTIONS (CORP-15-1723)**

Wayne Maxwell, General Manager, Corporate Services, spoke to the report. There had been extensive consultation over the district. There were no appeals and objections to Council's final proposal. There was one letter from Federated Farmers and there would be further discussions with them in the new triennium. Due to boundary changes, Council was obliged to put this final proposal to the Local Government Commission no later than 15 January 2016. The Local Government Commission's decision would be final.

**MOVED (Welsh / D Scott)**

**That Council note the information provided in report Corp-15-1723, including the requirement to refer the Council's representation review process information to the Local Government Commission for final determination, in accordance with the provisions of the Local Electoral Act 2001.**

**CARRIED**

KCDC 15/10/442

**REPORTS AND RECOMMENDATIONS FROM STANDING COMMITTEES AND COMMUNITY BOARDS (CORP-15-1708)**

Regulatory Management Committee

The resolution was amended with an updated date and it was confirmed that the road signs would be changed:

**MOVED (Bell / Ammundsen)**

**That Council reduces the speed limit on Kapiti Road from Arko Place to Hurley Road to 50 km/h and includes it within the Paraparaumu/Raumati Urban Traffic Area effective from Monday 30 November. This provides the statutory notice period to the NZTA and the NZ Police as required under the Land Transport Rule.**

**CARRIED**

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**MOVED (Bell / Ammundsen)**

**That Council revokes the Kapiti Coast District Council Speed Limits Bylaw 2005 and approves the adoption of the Kapiti Coast District Council Speed Limits Bylaw 2015 as attached in Appendix 1 of report IS-15-1659.**

**CARRIED**

**MOVED (Gurunathan / Bell)**

**That Council receives Report Corp-15-1708 (Reports and Recommendations from Standing Committees and Community Boards).**

**CARRIED**

KCDC 15/10/443

**CONFIRMATION OF MINUTES**

**MOVED (M Scott / Bell)**

**That the minutes of the Council meeting on 16 July 2015 be accepted as a true and accurate record of that meeting.**

**CARRIED**

**MOVED (Gurunathan / Bell)**

**That the minutes of the Council meeting on 6 August 2015 be accepted as a true and accurate record of that meeting.**

**CARRIED**

It was agreed to amend the minutes of the 11 August 2015 meeting:

- Changed date at top of page one to 11 August

**MOVED (M Scott / Bell)**

**That the amended minutes of the Council meeting on 11 August 2015 be accepted as a true and accurate record of that meeting.**

**CARRIED**

It was agreed to amend the minutes of the 27 August 2015 meeting:

- Public Speaking: Salima Padamsey: second to last sentence to read:  
"Cr Holborow said she recollected making the remark and was willing to retract it."

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- Code of Conduct Complaints report: Cr Janet Holborow: first sentence to read: "John Vickerman read out the statement by Dr Bolton regarding Cr Janet Holborow who responded by saying she would not change her statement today as it had been truthful according to her recollection".

**MOVED (Holborow / Bell)**

**That the amended minutes of the Council meeting on 27 August 2015 be accepted as a true and accurate record of that meeting.**

**CARRIED**

Against the motion: Cr Elliott

KCDC 15/10/444

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

There were no other public speakers.

*The Council went into public excluded session at 2.40 pm.*

KCDC 15/10/445

**RESOLUTION TO GO INTO PUBLIC EXCLUDED**

**MOVED (Gaylor / Bell)**

	<p><b>PUBLIC EXCLUDED RESOLUTION</b></p> <p><b>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:</b></p> <ul style="list-style-type: none"> <li>• <b>PDP Hearings Panel – Appointment of Iwi Commissioner (SP-15-1662)</b></li> <li>• <b>Confirmation of Public Excluded Minutes – 11 August 2015</b></li> </ul> <p><b>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:</b></p>	
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General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under Section 48(1) for the passing of this resolution
<p><b>PDP Hearings Panel – Appointment of Iwi Commissioner (SP-15-1662)</b></p>	<p>Section 7(2)(a) - to protect the privacy of natural persons.</p> <p>Section 7(2)(b)(ii) - would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.</p> <p>Section 7(2)(f)(i) - maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority.</p> <p>Section 7(2)(i) - enable any local authority holding the information to carry on, without prejudice or disadvantage, commercial activities.</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>
<p><b>Confirmation of Public Excluded Minutes – 11 August 2015</b></p>	<p>Section 7(2)(a) – to protect the privacy of natural persons.</p> <p>Section 7(2)(f)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority ... in the course of their duty.</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>

**CARRIED**

*The meeting came out of public excluded session at 2.48 pm and was closed.*

Signed ..... / ..... / 2015  
 Cr Mike Cardiff, Acting Chair