

OTAGO REGIONAL COUNCIL

Minutes of an Ordinary meeting of the Council held in the Council Chamber, 70 Stafford Street, Dunedin on Wednesday 10 February 2016 commencing at 8.30 am

Present:

Cr Stephen Woodhead (Chairperson)
Cr Gretchen Robertson (Deputy Chairperson)
Cr Graeme Bell
Cr Doug Brown
Cr Louise Croot MNZM
Cr Michael Deaker
Cr Gerrard Eckhoff
Cr Gary Kelliher
Cr Trevor Kempton
Cr Sam Neill
Cr Bryan Scott
Cr David Shepherd

**Request for
Leave of Absence:**

Cr David Shepherd
The request for leave of absence was approved on the motion of Crs Woodhead and Deaker.

In attendance:

Peter Bodeker
Nick Donnelly
Fraser McRae
Scott McLean
Gavin Palmer
Caroline Rowe
Janet Favel

CONFIRMATION OF AGENDA

There were no changes to the agenda.

MINUTES

- (i) The minutes of the public portion of the Ordinary meeting of Council held on 9 December 2015, having been circulated, were adopted on the motion of Crs Robertson and Bell.

- (ii) The minutes of the Extraordinary meeting of Council held on 27 January 2016, having been circulated, were adopted on the motion of Crs Robertson and Neill.

Matters arising from the minutes

There were no matters arising from the minutes.

PART A – CHAIRPERSON’S AND CHIEF EXECUTIVE’S REPORTS

Item 1

2016/0605 **Chairperson’s report.** Chair, 1/2/16

The Chairperson provided an overview of his activities for the period to 1 February 2016. Cr Woodhead further commented on his report:

- The Charter of Understanding with Murihiku was close to completion and was to be signed at the 7 March meeting with Murihiku.
- Cr Woodhead noted that former Councillor Miles Singe had passed away, and invited Cr Croot to speak. Cr Croot commented that Mr Singe was a colourful character, and she had served on Council with him from 1992 to 1998. He had a varied career, having served with the Army in Malaysia and Vietnam, and as a journalist for the former *Evening Star*.

Cr Woodhead then reported on the 5 February LGNZ National Council meeting. The next iteration of the LGNZ business plan included establishment of a local government risk agency (LGRA), which resulted from the Christchurch earthquakes and a review of local government insurance provision businesses. Government was supportive of the concept and an establishment board was working to develop the agency. A three year transitional agency was proposed to raise risk, resilience and self sustainability across the sector. The purpose of the agency was to help local government understand risks and infrastructure, provide data and templates to use following an event, and ensure councils were adequately protected. The agency would be funded by central government. Cr Woodhead noted that currently government funded 60% of costs after a natural disaster. Government was concerned about exposure around the country because of variable risk management and cover, and the state of infrastructure. Councils would be encouraged to take full responsibility for small events, Central government would deal with larger events.

The reason for the creation of the agency was queried. Cr Woodhead explained that it was not an insurance agency, but was formed in partnership with central and local government as result of fallout post-Christchurch earthquakes, to help local government understand its risks.

Item 2
2016/0614 **Chief Executive's Report.** CE, 3/2/16

The Chief Executive provided an overview of his activities for the period to 3 February 2016. The following points were discussed further:

- S17A Local Government Act – S17A required councils to review all deliverables and identify inefficiencies, with work on the reviews at least commenced by August 2017. Mr Bodeker advised that the new requirements had been discussed at the recent Otago CEs' meeting, and consideration was being given to shared services, which could include Civil Defence Emergency Management and harbour safety.
- Regional Council Special Interest Groups (SIGs) – Mr Bodeker considered that SIGs were very valuable, and commented that ORC was involved in those relevant to the regional sector. He noted that Gerard Collings was a member of the Transport SIG, and Mike Goldsmith chaired one of the hazards SIGs.
- Port, harbour and waterways safety review – the contract had been let to a New Zealand company.
- Manuherikia Irrigation Group – Mr Bodeker noted that he was an observer at the group's meetings. The proposal had been circulated to the community seeking possible options. From his discretionary fund, the CEO had committed funding for half of the consultation costs, about \$80,000, and ORC would underwrite the rest if government funding was not available. He commented that this work was critical for ORC, with 40% of 1C activity being in the Manuherikia valley

Cr Kelliher was asked to respond to a question about the Dairy Creek Scheme. He explained that it had been proven Manuherikia water could not be moved into the Dairy Creek area. The Dairy Creek Scheme was fully consented, and ready to lay pipes. The scheme would irrigate 2000 ha, and was one of the most expensive schemes in the country in terms of cost/ha. The Manuherikia Strategy Group was now ready to seek approval from landowners and irrigators. After two very dry years, the community saw the necessity for progress. Cr Kelliher commented that the ORC offer of funding was greatly appreciated by the group. Irrigators and deemed permit holders would be encouraged to be involved, as this would be their only opportunity to get irrigation from the scheme.

Cr Robertson queried whether funding commitments of this type should be considered by Council before being finalised, for protection of the Council and the CEO. She accepted that in this instance the correct process was followed. The Chair advised that he had discussed the matter with the CEO, and the timing of meetings determined when action had to be taken. The scheme was very complex, and he was pleased with the value engineering that had been carried out.

Councillors considered that the ORC's funding, and the progress of the scheme, should be documented. Cr Woodhead commented that the CE's delegation was \$200,000 a year, and Council would be updated when the delegation was exercised.

Comment was made that the discretionary fund should be used for unusual situations, and it was considered that the Manuherikia Scheme was business as usual. Cr Woodhead explained that the CE's discretion was put in place to ensure communities' timeframes were not delayed by political processes. It was suggested that the name of the CE's discretionary fund was misleading and should be changed.

Cr Woodhead moved
Cr Croot seconded

That the Chairperson's and Chief Executive's reports be received.

Motion carried

PART B – RECOMMENDATIONS

Item 3

2015/1129 **Approval of Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water.** DPPRP, 17/12/15

The report noted that Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago was now ready to be approved as all appeals had been resolved. Council's seal needed to be affixed and a date set for making the change operative.

It was noted that appeals had been settled, with some minor amendments being made to meet submitters' concerns.

Cr Neill moved
Cr Croot seconded

That the Council:

- (i) Approve Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago appended to this report; and*
- (ii) Affix Council's seal to Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago; and*
- (iii) Make Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago operative on Monday 1 March 2016 and publicly notify that date on Saturday 20 February 2016.*

Motion carried

PART C – ITEMS FOR NOTING

Item 4

2016/0613 **Financial Report.** DCS, 4/2/16

The report provided information in respect of overall Council finances for the six months ended 31 December 2015.

Mr Donnelly referred to the Statement of Comprehensive Revenue and Expenses and noted that the surplus of \$1.395m was ahead of what was expected, but expenditure would be increased, reducing the underspend, as larger items were carried out.

The underspend on Regional Plan Change Water and Plan Change 1C implementation was noted, and comment was made that either better ways had been identified of carrying out this work, or it was behind schedule. Mr Donnelly explained that the expenditure would be further explained in the 8 month review. A forecast would be prepared if the underspend continued. The importance of keeping the momentum of the plan change work was noted.

Cr Shepherd moved
Cr Kempton seconded

That the report be received.

Motion carried

Item 5

2016/0612 **Documents signed under Common Seal.** DCS, 2/2/16

The report informed the Council of delegations which had been exercised.

Cr Robertson moved
Cr Croot seconded

That the report be received.

Motion carried

Item 6 **Reports from Councillors**

Cr Bell – on behalf of ORC Cr Bell had judged the Otago Ballance Farm Awards.

Cr Neill -

- December – attended a meeting of the WW1 Centenary Commemoration group.
- Last week he and Dr Palmer attended a meeting of East Coast Boardriders regarding St Clair Beach. Discussion centred around where Clutha dams affected sand movement, and St Clair wharf.

PART D – HEARING

Item 7 Code of Conduct hearing

Cr Woodhead stood down, and Cr Robertson assumed the Chair.

Cr Robertson noted that a complaint had been received from Cr Eckhoff alleging breaches by Cr Woodhead of the Code of Conduct in his relationships with the public and with elected members, specifically referring to the Chair's mandate in relation to discussions about harbourside development. An Extraordinary meeting of Council held on 27 January had formally received the complaint and adopted the proposed hearing process. The complainant, Cr Eckhoff, would speak first, then Cr Woodhead, with no time limits for either speaker. Councillors would then be invited to speak, with a time limit of five minutes each. Crs Eckhoff and Woodhead, in that order, would then have the opportunity to reply. Clause (a)(iii) of the process recommended Standing Orders 13.2 and 13.4-13.9 (Rules of Debate) be temporarily suspended as they did not relate to this situation.

Cr Croot moved
Cr Scott seconded

That Standing Orders 13.2, 13.4, 13.5, 13.6, 13.7, 13.8 and 13.9 (Rules of Debate) be temporarily suspended.

Motion carried

Cr Eckhoff

Cr Eckhoff raised a point of order, that the two complaints, breach of Standing Orders and breach of the Code of Conduct, should be treated separately. Cr Robertson ruled that the matters were received as a collective complaint and would be addressed together.

Cr Eckhoff noted that he had received Cr Woodhead's response at 8.30am that morning.

Breach of Standing Orders

Cr Eckhoff drew attention to SO 23.4.3 "The following persons [the Chairperson and specified others] are authorised to make statements on behalf of the Council, consistent with the policies of the Council". He noted that ORC had no formal or informal policy on harbourside development, and he considered that Cr Woodhead had breached Standing

Orders by commenting to media on this issue. Cr Eckhoff disagreed with Cr Woodhead's reported statement that his mandate came from his position as elected Chair of the Council, commenting that this was not the case when the Councillors had had no input. Reference was also made to Cr Woodhead's comments about progress and decisions on talks about the harbourside, and Cr Eckhoff observed that at no point did Cr Woodhead clarify that these statements were of a personal nature. He had checked with LGNZ, who considered that it was important that the whole of Council was involved right from the start in the harbourside, or any other, discussions. Cr Eckhoff also enquired about the role of Port Otago Ltd in harbourside development, noting that the company had delegated authority to manage the wider area.

Breach of Code of Conduct

Reference was made to Cr Woodhead's reported view of Cr Eckhoff as "a politician making some noises". Cr Eckhoff considered this comment personal and designed to undermine him. He noted Cr Woodhead's comment that he was concerned to hear of Cr Eckhoff's concerns only through the media. Cr Eckhoff stated that this was untrue and cited minutes of Council meetings and workshops which documented when his concerns had been raised. Cr Woodhead had stated that politicians should not be involved in the question of harbourside, university, and Stafford Street land, and suggested that responsibility for this matter be handed to Chalmers Properties. Cr Eckhoff considered councillors needed time to reflect on this proposal.

Cr Eckhoff in summary stated that he believed Cr Woodhead had deliberately misled councillors and the public, and had spoken in such a way as to undermine him (Cr Eckhoff). He considered this was a most serious offence. He noted that mistakes could be made, but retraction should be given. Cr Woodhead had undermined councillors, his comments were not respectful, and he was focused not on the issues but on the personalities.

Cr Woodhead

Cr Woodhead noted that his response to Cr Eckhoff's assertions had been circulated, and rejected the assertion that there had been a breach of the Code of Conduct. He pointed out in relation to his discussions with Mayor Cull about the harbourside that he had delegated authority to be involved in such discussions, and that none of the discussions resulted in a decision. With regard to his relationship with other councillors, Cr Woodhead observed that the comments attributed to him in the complaint related to a different context on a different day.

Councillor comments

Cr Deaker believed that Cr Eckhoff's complaint did not have merit, and therefore no action was required. He agreed that there could be a perception of being sidelined because councillors did not meet often or socialise much, and suggested that following the next election consideration

should be given to what were regarded as Council conventions, including defining the role of the Chair.

Cr Kempton noted there were two complaints, the first relating to Cr Woodhead's relationships with the public. Cr Kempton did not consider that the discussions between Cr Woodhead and Mayor Cull committed either council to a course of action. With reference to the second complaint, relationships with other elected members, Cr Kempton considered Cr Eckhoff's comments about Cr Woodhead's mandate were inflammatory, and Cr Woodhead's comment about Cr Eckhoff making 'political noise' was not wise. Cr Kempton considered that there had not been a breach of the Code of Conduct, and that no action should be taken.

Cr Brown considered Cr Eckhoff's comments had validity, and agreed with Cr Deaker's comment that councillors felt disconnected with some issues. He noted that the issue of Council office accommodation had been ongoing for nine years, and considered that some of Cr Woodhead's public statements about progress had a potential to mislead the public. Cr Brown noted that Cr Woodhead had said in public that his preference was for the harbour basin site. He considered that Cr Eckhoff was justified in raising this issue.

Cr Scott commented that in order to carry out his role effectively, the Chair needed to communicate, as he had in this case with Mayor Cull. He respected Cr Eckhoff for raising the issues, his right to write to ODT, and his right to reaffirm that the Chair should seek a mandate from his councillors. Cr Scott commented that he had asked a number of times about mayor to mayor, staff to staff, and ministry to council interaction. He hoped that both parties would take note of the points raised by councillors, and advised that he did not consider that there had been a breach of the Code of Conduct.

Cr Neill respected Cr Eckhoff's right to lay the complaint, but considered that the Chair had acted correctly.

Cr Shepherd was saddened that this situation had arisen. He respected the right of councillors to make their opinions known, but he considered Cr Eckhoff was getting precious about issues that could have been settled by a phone call. Cr Shepherd did not think Cr Woodhead had overstepped his role, and would vote against the complaint.

Cr Kelliher respected Cr Eckhoff's right to make complaint, and respected Cr Woodhead's role. He advised that he would vote against the Code of Conduct complaint.

Cr Bell noted the importance of better communication between councillors. He also noted that the harbourside development was a DCC matter.

Cr Croot also expressed disappointment that the situation had developed to this point. She noted the importance of the Triennial agreement, that ORC elected the Chair, and that the harbourside had been an issue for many years.

Cr Eckhoff - reply

Cr Eckhoff stated that he had brought this complaint because of what he saw as a direct attack on representative democracy and his concern at the perceived autocratic style. He commented that his letters/emails/phone calls to Cr Woodhead over the years had rarely received a response, and he had found it very difficult to engage with Cr Woodhead on matters where he appeared to have made his mind up. Cr Eckhoff had found that his only recourse was through the media. He took his responsibilities as a councillor very seriously, and he often received comments from members of the public thanking him for speaking out. In relation to communication, he commented that one of the best methods was for Chairs to report back to council on their activities. Cr Eckhoff noted that the Council's mission was openness and transparency, and that could be brought about by a collegial approach to decision making. Cr Eckhoff also noted that an elected chair of an organisation was in that role 24/7, whether in a formal or an informal situation, and whenever that person spoke, it was interpreted by media to be the council view. For that reason it was important to clarify when a point put forward was a personal or council view.

Cr Woodhead – reply

Cr Woodhead did not wish to make any further comment.

Discussion

Cr Deaker moved *'That on the matter of these complaints, the Council take no action.'*

Cr Robertson suggested that the process should be to decide whether a complaint had been established, and following that, to determine any action that should be taken. Cr Deaker considered that his motion stated that no complaint had been established, therefore no action need be taken. Cr Robertson pointed out that the complaint needed to be formally completed, and must follow the process agreed at the 27 January meeting. For that reason the motion could not be accepted.

Cr Brown considered that the two complaints should be handled separately. Cr Robertson pointed out that she had outlined at the beginning of the discussion that the two complaints would be handled together. She suggested a motion indicating whether any complaint had been established regarding a breach of the Code of Conduct.

Cr Brown moved
Cr Bell seconded

That a Code of Conduct complaint has been established regarding a breach of the Code of Conduct in terms of the relationship with the public and/or elected members.

The motion was put by division:

For: Crs Bell, Brown, Eckhoff

Against: Crs Croot, Deaker, Kelliher, Kempton, Neill, Robertson, Scott, Shepherd, Woodhead

Motion lost

Cr Croot moved
Cr Shepherd seconded

That Standing Orders 13.2, 13.4, 13.5, 13.6, 13.7, 13.8 and 13.9 be reinstated.

Motion carried

Cr Woodhead resumed the chair

PART E – MINUTES OF MEETINGS

Item 8 **Recommendations of the Communications Committee meeting** held on 27 January 2016, for adoption

Cr Kempton moved
Cr Croot seconded

That the recommendations of the Communications Committee meeting held on 27 January 2016 be adopted.

Motion carried

Item 9 **Recommendations of the public portion of the Finance and Corporate Committee meeting** held on 27 January 2016, for adoption

Cr Shepherd moved
Cr Kelliher seconded

That the recommendations of the public portion of the Finance and Corporate Committee meeting held on 27 January 2016 be adopted.

Motion carried

Item 10 **Recommendations of the Policy Committee meeting** held on 27 January 2016, for adoption

Cr Robertson moved
Cr Deaker seconded

That the recommendations of the Policy Committee meeting held on 27 January 2016 be adopted.

Motion carried

Item 11 **Recommendations of the Regulatory Committee meeting** held on 27 January 2016, for adoption

Cr Neill moved
Cr Eckhoff seconded

That the recommendations of the Regulatory Committee meeting held on 27 January 2016 be adopted.

Motion carried

Item 12 **Recommendations of the Technical Committee meeting** held on 27 January 2016, for adoption

Cr Scott moved
Cr Deaker seconded

That the recommendations of the Technical Committee meeting held on 27 January 2016 be adopted.

Motion carried

PART F - EXCLUSION OF PUBLIC

Cr Woodhead moved
Cr Bell seconded

That the public be excluded from the following part of the proceedings of the meeting.

The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1)(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution are as follows:

	<i>General subjects to be considered</i>	<i>Reason under LGOIMA for passing this resolution</i>	<i>Grounds under S.48 for the passing of this resolution</i>
<i>Item 13</i>	<i>Minutes of the In Committee portion of Council meeting held on 9 December 2015, for adoption</i>	<i>To enable any local authority holding the information to carry on negotiations, without prejudice or disadvantage. (S7(2)(h))</i>	<i>S.48(1)(a)(i)</i>
<i>Item 14</i>	<i>Recommendations of the In Committee portion of the Finance and Corporate Committee meeting held on 27 January 2016, for adoption</i>	<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. S7(2)(f)(i)</i>	<i>S.48(1)(a)(i)</i>

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 or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.

Motion carried

Following discussion of Items 13 and 14,

Cr Woodhead moved
Cr Shepherd seconded

That the meeting resume in open session.

Motion carried

The meeting closed at 10.50 am



Chairperson