

## **THE WEST COAST REGIONAL COUNCIL**

### **MINUTES OF THE MEETING OF THE COUNCIL HELD ON 10 MAY 2011, AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH, COMMENCING AT 11.15 A.M.**

#### **PRESENT:**

R. Scarlett (Chairman), B. Chinn, A. Robb, T. Archer, D. Davidson, A. Birchfield, I. Cummings

#### **IN ATTENDANCE:**

C. Ingle (Chief Executive Officer), R. Mallinson (Corporate Services Manager), M. Meehan (Planning and Environmental Manager), C. Dall (Consents & Compliance Manager), T. Jellyman (Minutes Clerk)

#### **1. APOLOGIES:**

There were no apologies.

#### **2. PUBLIC FORUM**

There was no public forum.

#### **3. CONFIRMATION OF MINUTES**

**Moved** (Cummings / Birchfield) *that the minutes of the Council Meeting dated 12 April 2011, be confirmed as correct.*

*Carried*

#### **Matters arising**

There were no matters arising.

#### **REPORTS:**

##### **4.1 ENGINEERING OPERATIONS REPORT**

M. Meehan spoke to his report advising that quarry work is progressing well with a substantial amount of work being done in Blackball, Kiwi, Camelback and Inchbonnie quarries. M. Meehan reported that design work is underway in the Paroa / Saltwater Creek area. M. Meehan advised that a report has been received for design calculations for the Franz Josef Rating District upgrade. He stated that the riverbed has built up substantially and a report will be brought to next month's meeting regarding this. Cr Chinn stated that the tender price for the rock bought over from Whataroa for the Wanganui Rating District's works was very competitive. He stated that this tender price has saved the Wanganui Rating District close to \$100,000.

**Moved** (Robb / Archer) *that this report be received.*

*Carried*

##### **5.1 CORPORATE SERVICES MANAGER'S REPORT**

R. Mallinson spoke to his report advising that the surplus to the nine months is just under \$1.8M. He stated that this is a strong financial result and is very encouraging. Cr Archer commented that the Council's diversification strategy is now proving its worth.

**Moved** (Robb / Birchfield) *that this report be received.*

*Carried*

### 5.2.1 NZ LAPP (LOCAL AUTHORITY PROTECTION PROGRAMME DISASTER FUND)

R. Mallinson spoke to this report. He advised that he has been keeping council informed on this matter as our cover has been revoked as of the 13<sup>th</sup> of April. R. Mallinson advised that he will be attending a meeting in Wellington next week with the LAPP Fund administrators and this will provide a clearer picture as to where to from here. R. Mallinson advised that he would report back to council following this meeting. Cr Davidson feels that the LAPP fund has been an anticlimax as council has only ever had one claim. Cr Scarlett stated that \$180,000 was claimed for the Karamea flood and a lot of other councils will have contributed to LAPP but have never got anything out of it. R. Mallinson clarified that LAPP covers generally uninsurable assets. R. Mallinson advised that there are three options for council, private insurance which is cost prohibitive, community schemes such as LAPP or self insurance but the options are quite limited. Cr Archer commented that LAPP has always been considered to have reasonable premiums for the scope of the cover but the Christchurch earthquakes have pretty much used it all up. C. Ingle advised that up until the Christchurch earthquakes, regional councils were felt to be the biggest risk after the Manawatu floods. C. Ingle advised that following the earthquakes massive claims are coming from Christchurch City Council who have lost their stormwater and sewage infrastructure underground. Cr Davidson asked if there is any liability that Council could be held to by any affected parties who have protection works that fail while we are not covered by insurance. R. Mallinson responded that unless the works were poorly designed or constructed and they suddenly failed, we would not be liable. But should assets be damaged then Council would want to replace them for that community. Cr Birchfield stated that this is why is it very important for rating districts to rate to build up a fund in case of this type of situation.

**Moved** (Archer / Birchfield) *that this report be received.*

*Carried*

### 5.2.2 LONG TERM PLAN (2012 / 22) TIMELINE

R. Mallinson spoke to this report and advised that Council will soon be beginning the LTP project as required under Section 93 of the Local Government Act 2002. R. Mallinson stated that this is a significant project for Council that will require a sustained effort from staff and also councillors to achieve. R. Mallinson encouraged any councillors who are available to attend the SOLGM workshop on the 22<sup>nd</sup> of June which is to be held in conjunction with Grey District Council. Cr Scarlett asked if there would be any radical changes from the last LTP process carried out three years ago. R. Mallinson responded that the TAFM legislation requires a new financial strategy and various other new requirements.

**Moved** (Birchfield / Archer) *that this report be received.*

*Carried*

### 5.2.3 DEVELOPING A POLICY FOR VEXATIOUS COMPLAINTS

Cr Birchfield asked for this item to be placed on the agenda. Cr Scarlett invited Cr Birchfield to speak on this matter. Cr Birchfield stated that he received a phone call from a resident in the Stafford area who is being complained about by two individuals in this area. Cr Birchfield stated that most of these complaints are unsubstantiated. Cr Birchfield stated that he has been concerned about this matter for a couple of years now and he feels that it is time something was done. Cr Birchfield said that staff are being called out on the weekends for vexatious complaints and this is costing council money and it is annoying anyone who is trying to do anything in the area. Cr Birchfield stated that if this was happening in Karamea and staff were being sent up there the cost would be huge. Cr Birchfield feels that because Stafford is handy staff are being sent there all the time. Cr Birchfield stated that he would like the two individuals who are doing the complaining spoken to and he would like to see them charged for these visits from now on. Cr Scarlett asked C. Dall what legally could be done about this. C. Dall advised that legally Council has a responsibility to respond to the complaint as it may turn out that there is a non-compliance with a rule or a resource consent. C. Dall advised that Council has the discretion with how it deals with complaints and generally ascertains from the complainant whether the alleged activity is happening at the moment and if not then an immediate response is not required. If it is a long way away and there is a prospect that by the time staff get there it is nighttime or the activity has stopped then it is unlikely that a site visit would be made as a matter of urgency. C. Dall stated that if there is an opportunity to observe the problem then an inspection would be done. Cr Scarlett asked that if someone is making frequent and unsubstantiated complaints can council legally tell them to go away and advise the caller that a site visit would not be made. C. Dall advised that in the past contact has been limited between an individual and the council in responding to a particular issue. In this case the individual was

informed that one call per week would be accepted and any additional calls would not be answered. Cr Robb asked if it is fair that someone close by is getting visited by staff more often than if repeated complaints were made further away. C. Dall advised that complaints are followed up on and gauged as to how urgent or whether the activity has ceased or not. Cr Robb asked if several complaints are made and all are found to be innocent then are there guidelines in place for dealing with such vexatious complaints. C. Dall advised that if there is evidence that it is not a genuine complaint then council is entitled to say that the complaint is not going to be investigated but this would be done on a case by case basis. Cr Scarlett asked C. Dall if the person making the allegation could be charged for council's time if the complaint is proved to be innocent. C. Dall responded that there is not any provision under the legislation to charge for this. Cr Archer concurred with C. Dall and stated that every council in the country faces similar issues and stated that there is no mechanism within the RMA for charging a person and it spells out what you are allowed to charge for. Cr Archer advised that when long distances are a factor it might be possible to warrant or appoint an officer to do a quick check in an attempt to reduce costs. C. Dall stated that this could be a possibility and in the past council has worked with other councils or agencies for this purpose. Cr Scarlett asked if a councillor in the area could be asked to check on activity. C. Dall advised that council has done this in the past. Cr Cummings stated that a consent holder is visited twice annually by the council and he pays for that visit. C. Dall responded that this only provides a very small snapshot as most activities operate 365 days per year. Cr Scarlett stated that he thought that Phase 2 of the RMA reforms would deal with vexatious complaints. C. Ingle stated that this matter could be brought up with the Minister and MP Auchinvole when they visit on the 26<sup>th</sup> of May. C. Ingle advised MP Auchinvole chaired the select committee and this is an issue that happens across the whole of the country when repeat complainants become difficult to manage. C. Ingle feels that research should be done into how other councils manage this issue. C. Ingle advised that the Ombudsman told us that it is allowable to restrict phone calls from a frequent complainant to one phone call per week. Cr Robb asked if the person that is being complained against could take civil action against the complainant. Cr Scarlett stated that this can be done but one has to prove that the complainant is being vexatious. C. Dall advised that a lot of this comes down to judgement and is very much on a case by case basis. C. Dall agreed to look into this matter and report back to council. Cr Archer advised that over the years there has been a number of commissions of inquiry undertaken whereby the findings and recommendations of the commission have made it very clear that councils have a statutory duty of care to investigate all complaints. Cr Archer stated that until there is a change to the Act councils would still have to investigate all complaints. Cr Archer advised that if ten complaints were received over the telephone and one was justified, how could this be separated out over the telephone. Cr Archer advised that the reasonable test would only be able to applied if the legislation allows for this. Cr Birchfield stated that there is one very simple way to cure this and that is to charge the complainant for the time. C. Dall advised that all charges set are under either the Local Government Act or the RMA. Cr Birchfield does not believe that a complainant cannot be charged for a call out of staff. C. Ingle responded that the consent holder can be charged if they are non-compliant but the reverse is not the case in law and this is why this matter must be brought to the Minister's attention.

## **6.0 CHIEF EXECUTIVES REPORT**

C. Ingle reported that he attended the High Court hearing in Christchurch for the Wetlands case on the 19<sup>th</sup> of April. C. Ingle reported that he hosted a meeting with Grey District Council staff on the 20<sup>th</sup> of April to discuss Saltwater Creek / New River coastal river mouth works that were constructed under the RMA emergency provisions.

C. Ingle reported that he and Cr Scarlett attended the Zone 5 & 6 conference in Christchurch on the 26<sup>th</sup> and 27<sup>th</sup> of April. He advised that this was a very informative meeting and was also attended by Hon Chris Auchinvole.

C. Ingle reported that he spoke at the Federated Farmers Annual General meeting on the 2<sup>nd</sup> of May which was attended by both West Coast MP's.

C. Ingle reported that the latest BERL Economics report states that despite the national economic situation the West Coast is going well with a 4% GDP increase which is attributed mainly to the mining sector. He advised that there is good progress being made in the mining industry with new operations in pipeline for the Buller area for coal as well as gold.

C. Ingle advised that Dr Nick Smith's visit would provide a great opportunity to inform him of our concerns for the environment and how we are managing things and how things can be done better in the future. C. Ingle feels that the Minister will be very interested in elected members views on the new NPS for Freshwater Management that has recently been released.

Cr Chinn asked if there were any questions asked of C. Ingle at the Federated Farmers meeting. C. Ingle responded that there was some concern about the level of fines imposed on prosecutions and whether people would continue to complain with this level of fines. C. Ingle explained to them that the level of the fine is imposed by the court and it is out of Council's control. C. Ingle reported that there were

questions about council funding and the fact that there is no net rate increase again this year. C. Ingle stated that the major concern was the Biodiversity National Policy Statement. Federated Farmers had made a submission on this.

**Moved** (Robb / Davidson) *that this report be received.*

*Carried*

## **7.0 CHAIRMANS REPORT (VERBAL)**

Cr Scarlett reported that he felt there were two standout speakers at the Zone 5 & 6 conference. One of these speakers was a Geologist who spoke about the Christchurch earthquakes who gave the meeting a very good insight to the Christchurch situation. Cr Scarlett reported that he also dealt with matters brought to his attention by local constituents.

**Moved** (Scarlett / Archer) *that this report be received.*

*Carried*

## **GENERAL BUSINESS**

There was no general business.

The meeting closed at 11.55 a.m.

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Chairman

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Date