



MINUTES

**Ordinary Council Meeting
Tuesday, 27 April 2021**

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**MINUTES OF TAURANGA CITY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE TAURANGA CITY COUNCIL, COUNCIL CHAMBERS, 91 WILLOW STREET,
TAURANGA
ON TUESDAY, 27 APRIL 2021 AT 10.30AM**

PRESENT: Commission Chair Anne Tolley, Commissioner Shadrach Rolleston, Commissioner Stephen Selwood, and Commissioner Bill Wasley

IN ATTENDANCE: Marty Grenfell (Chief Executive), Paul Davidson (General Manager: Corporate Services), Barbara Dempsey (General Manager: Regulatory & Compliance), Susan Jamieson (General Manager: People & Engagement), Nic Johansson (General Manager: Infrastructure), Christine Jones (General Manager: Strategy & Growth), Gareth Wallis (General Manager: Community Services), Carlo Ellis (Manager: Strategic Maori Engagement), Josie Meuli (Council Controlled Organisations Specialist), Coral Hair (Manager: Democracy Services), Robyn Garrett (Team Leader: Committee Support), Raj Naidu (Committee Advisor), and Jenny Teeuwen (Committee Advisor)

1 OPENING KARAKIA

Carlo Ellis, Manager: Strategic Maori Engagement, opened the meeting with a Karakia.

2 APOLOGIES

Nil

3 PUBLIC FORUM

3.1 Mr Keegan Millar - Bay Venues Ltd strategic review

Key points

- Mr Millar had been campaigning for the last year to see Bay Venues Limited (BVL) become more transparent in their representation of the non-funded network; in particular, to address the crowding out of the private sector.
- The McGredy Winder report had recommended Option Three as the preferred way forward and it was noted that this option was the most popular model for delivering leisure facilities in New Zealand. Yet Tauranga City Council's (TCC) report had recommended Option One, the least favoured option in the McGredy Winder report.
- BVL's unfunded network, including Bay Audio Visual, Bay Catering, and Club Fit Gym, actively used predatory pricing and offered discounts which meant the private sector could not compete. Predicted overheads deficits for 2021-2022 meant that commercial ratepayers were funding their own competition.
- BVL's business units should service their own venues and not the venues that small businesses relied on to keep their heads above water. Mr Millar wanted to see that the inequity and the crowding out of the private sector was stopped.
- Recommended Option Three of the McGredy Winder report as the way forward.

The Commission Chair thanked Mr Millar for his presentation.

3.2 Councillor John Robson – Agenda items 11.1, 11.2 and 11.3

Key points

- Item 11.3 – Strategic review of Bay Venues Limited:
 - Cr Robson was not uncomfortable with the staff recommendation.
 - Appreciated the transparency of the exercise that was evidenced in the public consideration of the report and attachments.
- Item 11.2 – Council Controlled Organisations half yearly reports
 - Would appreciate more transparency in the council controlled organisations reports; specifically the amount of support received from TCC and other councils, both directly and indirectly.
 - Would like to see a review of the council controlled organisation eco-system; in particular the area of economic development. In Cr Robson's opinion Priority One, which received \$1.5million from councils and only \$250,000 from memberships, was not a membership organisation but a private club funded by the ratepayer. No other council had this model. Believed Priority One should be bought in-house as a council controlled organisation or be cut adrift.
- Item 11.1 – establish Strategy, Finance and Risk Committee:
 - The report failed to provide the requisite level of information and analysis necessary to support quality decision making.
 - Any decision based on this report would be open to professional, legal and political challenge.
 - Urged the Commissioners to let the report lie on the table as not fit for purpose.

The Commission Chair thanked Cr Robson for his presentation.

3.3 Mr Rob Paterson – Proposal to establish a Strategy, Finance and Risk Committee and Bay Venues Limited strategic review

Key points

- Opposed the formation of the proposed Strategy, Finance and Risk Committee.
- Believed the composition and mix of the proposed committee members was wrong and the committee's scope was too wide.
- Did not recommend that the Bay Venues Limited (BVL) operation be brought back in to TCC, but agreed with the Price Waterhouse Coopers (PWC) recommendation to privatise the commercial business units of the BVL operation.

The Commission Chair thanked Mr Paterson for his presentation.

4 ACCEPTANCE OF LATE ITEMS

Nil

5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

6 CHANGE TO THE ORDER OF BUSINESS

Nil

7 CONFIRMATION OF MINUTES

7.1 Minutes of the Council meeting held on 12 April 2021

RESOLUTION CO6/21/1

Moved: Commissioner Stephen Selwood
Seconded: Commissioner Shadrach Rolleston

That the minutes of the Council meeting held on 12 April 2021 be confirmed as a true and correct record.

CARRIED

8 DECLARATION OF CONFLICTS OF INTEREST

Nil

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

11.1 Governance Structure - establish Strategy, Finance and Risk Committee

Staff Coral Hair, Manager: Democracy Services
Carlo Ellis, Manager: Strategic Maori Engagement

The report was taken as read.

Commission Chair comments

- The Commission had disestablished all standing committees of the previous council. All of the standing committees had a voting member who had been nominated by Te Rangapū Mana Whenua o Tauranga Moana.
- The Commission had been clear that they wanted to maintain the rights and responsibilities of council as much as possible and had looked to find a way to maintain the tangata whenua representative vote.
- There had also been an independent person with voting rights who provided an oversight on financial issues. It had been noted that this skill set was not present amongst the appointed commission and, therefore, an independent person specifically for the financial capacity was required.
- The Commission was looking to maintain both decision making rights with the formation of the new Strategy, Finance and Risk Committee.

Further Commissioner comments

- The capability that the tangata whenua representatives would bring was highlighted.
- It was noted that the committee was an advisory recommendatory committee and would make recommendations to council. The Commission Chair would have a casting vote.
- The role of the four Commissioners was to represent the community view and they had been extremely active in reaching out to over 200 community groups and individuals so far and would continue to do so. Those that the Commission had met with had been a good representation of the whole community and not just sectors of the community. The Commission was listening and hearing what the community was saying and were guided in decision making by that input.

In response to questions

- Te Rangapū Mana Whenua o Tauranga Moana had undertaken a robust exercise to seek nominations for representatives that had the specific skillsets required for each of the previous four standing committees.
- A blend of skills would be required to support the Commission in decision-making; including a strong understanding of the history of Tauranga, strong governance support, strong decision making, a strong understanding of the role, financial acumen and skills in the legal sector, and also the ability to lean on other skill sets when required.
- There had been no public consultation undertaken for the tangata whenua representative appointments to the previous committees. The decision was made by the council of the time.
- There was no Local Government Act 2002 (LGA) requirements to consult on committee structures.
- To provide context, it was suggested that the reasons in terms of the decision the Commission had reached be included into the recommendations to provide a greater understanding on what the focus had been on, noting that paragraphs 8 and 9 of the report would be a good starting point.
- It was also suggested that taking appropriate account of the Treaty of Waitangi be included in Section A1 of the Terms of Reference.

RESOLUTION CO6/21/2

Moved: Commissioner Shadrach Rolleston

Seconded: Commissioner Bill Wasley

That the Council:

- (a) Receives the report “Governance Structure – establish Strategy, Finance and Risk Committee”.
- (b) Pursuant to clause 30(1)(a) Schedule 7 of the Local Government Act 2002, establishes a Strategy, Finance and Risk Committee as a Standing Committee of the Council.
- (c) Adopts the Terms of Reference for the Strategy, Finance and Risk Committee in Attachment 1 and delegates to it the role, scope and powers specified therein (pursuant to clause 32 Schedule 7 of the Local Government Act 2002).
- (d) Appoints the following members to the Strategy, Finance and Risk Committee and appoints Commission Chair Anne Tolley as Chairperson and (insert name) as Deputy Chairperson.

Name	Position
Commission Chair Anne Tolley	Chairperson
Commissioner Shadrach Rolleston	Member
Commissioner Stephen Selwood	Member
Commissioner Bill Wasley	Member
Matire Duncan	Te Rangapū Mana Whenua o Tauranga Moana Chairperson
To be appointed	Tangata Whenua representative
To be appointed	Tangata Whenua representative
To be appointed	Tangata Whenua representative
To be appointed	External independent appointee (specific financial and audit experience required)

- (e) Acknowledges that the externally appointed members of the Strategy, Finance and Risk Committee have the skills, attributes or knowledge that will assist the work of the Committee.
- (f) Approves voting rights for the four commissioners, the three tangata whenua representatives and the external independent appointee of the Strategy, Finance and Risk Committee. For the avoidance of doubt, the Te Rangapū Mana Whenua o Tauranga Moana Chairperson will not be a voting member.
- (g) Requests the Chief Executive review the remuneration for the external representatives and reports back to the Council as soon as practicable.
- (h) In the interim until the remuneration has been reviewed, approves the remuneration for the external members of the Strategy, Finance and Risk Committee as follows:
 - Tangata Whenua Representatives \$8,000 per annum
 - Chairperson Te Rangapū Mana Whenua o Tauranga Moana \$8,000 per annum
 - External independent appointee - Chief Executive to negotiate an amount
- (i) Delegates to the Chief Executive the authority to determine the contractual terms and conditions of appointment for the externally appointed members, excluding remuneration.
- (j) Confirms the Strategy, Finance and Risk Committee will meet six weekly when members are appointed.
- (k) Takes note of paragraphs 8 and 9 from the report and acknowledges the decision of the past Council in appointing the Tangata Whenua voting representatives to Standing Committees.
- (l) Adjusts the Terms of Reference (Section A1) to take appropriate account of the principles of the Treaty of Waitangi.

CARRIED

11.2 Council Controlled Organisations Half Yearly Reports to 31 December 2020

Staff Josie Meuli, Council Controlled Organisations Specialist

The report was taken as read.

In response to questions

- As the predominant partner in the arrangement, TCC took on the lion's share of the preparation of the reporting work. It tended to be more of a functional relationship rather than a constructive relationship.
- Directors of Bay of Plenty Local Authority Shared Services Limited (BOPLASS) were the chief executives of every local authority, underlined by an operational group made up of senior managers.
- A link to the MahiTahi local government collaboration portal would be provided to the Commissioners.
- It was requested that an update on the Tourism Bay of Plenty's (TBoP) performance area "Supports Councils to explore alternative funding mechanisms" be provided to the Commissioners.
- TBoP's performance area "Measure visitor spend", benchmarking for future years was noted. An update of when this would occur and how it would be reported back would be provided to the Commissioners.

RESOLUTION CO6/21/3

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the Council-Controlled Organisations Half Yearly Reports to 31 December 2020 report.
- (b) Receives Bay Venues Limited's report on its performance for the six months to 31 December 2020, as required by the 2020-2021 Statement of Intent.
- (c) Receives Bay of Plenty Local Authority Shared Services Limited's report on its performance for the six months to 31 December 2020, as required by the 2020-2021 Statement of Intent.
- (d) Receives Tauranga Art Gallery Trust's report on its performance for the six months to 31 December 2020, as required by the 2020-2021 Statement of Intent.
- (e) Receives Tourism Bay of Plenty's report on its performance for the six months to 31 December 2020, as required by the 2020-2021 Statement of Intent, noting that Western Bay of Plenty District Council as joint shareholder, will receive the report at their Council meeting also on 27 April 2021.
- (f) Receives the Local Government Funding Agency's report on its performance for the six months to 31 December 2020, as required by the 2020-2021 Statement of Intent.

CARRIED

11.3 Strategic review of Bay Venues Limited and shareholder feedback to the draft Statement of Intent 2021-2024

Staff Gareth Wallis, General Manager: Community Services

The report was taken as read.

The following recommendation additions/changes were requested by the Commissioners:

- Recommendation (d) be amended to read that the representative from council would be a member of the executive team.
- A recommendation be added stating that a letter of acknowledgement and thanks would be written to the retiring Board Members of Bay Venues Limited.
- A recommendation be added requiring that the following be reported back to Council by September 2021 (latest):
 - Investigation and options for co-branding of Tauranga City Council/Bay Venues Limited facilities.
 - Clarity on the roles of the shareholder providing strategic direction and Bay Venues Limited's implementation role.
 - Investigation and options regarding avoidance of competition within the private sector by Bay Venues Limited.
- A statement to be added to recommendation (e) regarding the financial reporting being re-shaped to clearly show how much the BVL business units were being subsidised by the ratepayers or whether they were operating completely separately, to better understand and mitigate the perceived unfair competition with the commercial sector.
- A recommendation be added that noted the feedback on the Statement of Intent (Page 13, Objective 8) to reflect the TCC role in providing strategic direction and BVL's role in implementation, and also noted the feedback on the enduring Statement of Expectations (page 23, Section 3.3) to reflect Objective 12 of the Statement of Intent.

In response to questions

- The appointments to the appointment panel would be discussed between the Chief Executive and the Commissioners. The appointment decisions would be made by the Commissioners.

At 11.38am the meeting adjourned.

At 11.52am, the meeting resumed.

RESOLUTION CO6/21/4

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the Strategic Review of Bay Venues Limited report.
- (b) Receives the McGredy Winder Strategic Review of Bay Venues Limited (Attachment 1), the Price Waterhouse Coopers' Options Analysis (Attachment 2), and the Recreation, Sport & Leisure Consultancy Benchmarking Report (Attachment 3).
- (c) Supports a modified version of Option 1 as outlined in the McGredy Winder Strategic Review – an enhanced status quo – continuing with current operational arrangements, strengthened by clearer Key Performance Indicators.
- (d) Confirms changes to the current Bay Venues Limited Board structure and directs staff to develop a process to appoint a new, leaner Board, including a member of the Executive from Tauranga City Council, with a stronger community focus and reviewed director remuneration, to be in place from 1 July 2021, as detailed in the Next Steps section of this report (paragraphs 60-65).
- (e) Notes that the required additional rates funding will be confirmed by staff following a review of Council funding, to ensure ongoing sustainability, and will include the amount of community subsidy not currently being funded to Bay Venues Limited in the Long-term Plan 2021-31, and reorganise BVL's finance structure and funding model to be more transparent, simple and easy to understand.
- (f) Receives the Bay Venues Limited Draft Statement of Intent 2021/22 to 2023/24.
- (g) Confirms shareholder feedback to the Draft Statement of Intent with some additional specific areas of early focus for the new Bay Venues Limited Board (as outlined in paragraph 38 of this report), including but not limited to; restructuring the organisation's finance structure and funding model to be more transparent, simple and easy to understand; investigating the viability of moving community halls and community centres back under the direct control of Council; and looking for opportunities to deliver operational efficiencies through shared service delivery models with Council.
- (h) Writes a letter of acknowledgement and thanks to the retiring Board Members for their good service to Bay Venues Limited and the community.
- (i) Provides a report by September 2021 (latest) regarding:
 - (i) Investigation and options for co-branding of Tauranga City Council/Bay Venues Limited facilities.
 - (ii) Clarity on the roles of the shareholder providing strategic direction and Bay Venues Limited's implementation role.
 - (iii) Investigation and options regarding avoidance of competition within the private sector by Bay Venues Limited.

- (j) Notes the feedback on the Statement of Intent (Page 13, Objective 8) to reflect the TCC role in providing strategic direction and BVL's role in implementation, and notes the feedback on the enduring Statement of Expectations (page 23, Section 3.3) to reflect Objective 12 of the Statement of Intent.

CARRIED

11.4 Dog Registration Fees 2021/22

Staff Barbara Dempsey, General Manager: Regulatory & Compliance

The report was taken as read.

RESOLUTION CO6/21/5

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Shadrach Rolleston

That the Council:

- (a) Receives the Dog Registration Fees 2021/22 report.
- (b) Increases the dog registration standard fee by \$5.00 to \$92.00 per dog.
- (c) Sets the penalty for dogs that are not registered by 31 July at 50% of the standard fee.

CARRIED

11.5 Civil Defence Emergency Management Controller Endorsements

Staff Barbara Dempsey, General Manager: Regulatory & Compliance

The report was taken as read.

RESOLUTION CO6/21/6

Moved: Commission Chair Anne Tolley

Seconded: Commissioner Bill Wasley

That the Council:

- (a) Receives the Civil Defence Emergency Management Controller Endorsements report.
- (b) Endorses the following nominations for Tauranga City Council's Local Controllers:
 - (i) Nigel McGlone – Acting Manager: Environmental Regulation
 - (ii) Sam Fellows – Acting Manager: Sustainability and Waste
 - (iii) Mike Naude – Manager Special Projects: Transportation
- (c) Endorses the rescindment of appointment as Local Controller for Rowan Wallace – Manager: Emergency Management.

CARRIED

12 DISCUSSION OF LATE ITEMS

Nil

13 PUBLIC EXCLUDED SESSION

RESOLUTION TO EXCLUDE THE PUBLIC

RESOLUTION CO6/21/7

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Bill Wasley

That:

- (a) the public be excluded from the following parts of the proceedings of this meeting.
- (b) Dave Brunsdon, Kestrel Group, be permitted to remain at this meeting after the public has been excluded, because of his knowledge of item 13.3 to be discussed - Elizabeth St Parking Building Strengthening.

The general subject matter 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 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 for the passing of this resolution
<p>13.1 - Public Excluded Minutes of the Council Meeting held on 12 April 2021</p>	<p>s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p> <p>s7(2)(g) - the withholding of the information is necessary to maintain legal professional privilege</p> <p>s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p> <p>s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p> <p>s7(2)(j) - the withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage</p>	<p>s48(1)(a) - 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 would exist under section 6 or section 7</p>
<p>13.2 - Smiths Farm Access</p>	<p>s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p>	<p>s48(1)(a) - 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 would exist under section 6 or section 7</p>

<p>13.3 - Elizabeth St Parking Building Strengthening</p>	<p>s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p>	<p>s48(1)(a) - 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 would exist under section 6 or section 7</p>
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CARRIED

At 12.23pm, the meeting resumed in the open session.

14 CLOSING KARAKIA

Commissioner Shadrach Rolleston closed the meeting with a Karakia.

The meeting closed at 12.25pm.

The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council Meeting held on 10 May 2021.

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CHAIRPERSON