

**MINUTES OF AN EXTRAORDINARY MEETING OF
THE DUNEDIN CITY COUNCIL HELD IN THE
COUNCIL CHAMBER, MUNICIPAL CHAMBERS ON
MONDAY, 20 APRIL 2009, COMMENCING AT
9.02 AM**

PRESENT:

Mayor Peter Chin, Councillors Bill Acklin, John Bezett, Syd Brown, Neil Collins, Dave Cull, Michael Guest, Paul Hudson, Andrew Noone, Chris Staynes, Teresa Stevenson, Richard Walls, Colin Weatherall and Kate Wilson

IN ATTENDANCE:

Jim Harland (Chief Executive), Athol Stephens (General Manager Finance and Corporate Support), Grant Strang (General Manager Customer Services), Tony Avery (General Manager City Environment), Graeme Hall (General Manager Community Life), Kate Styles (General Manager Strategy and Development) and Pam Jordan (Governance Support Officer)

CHAIR:

Mayor Peter Chin

1 APOLOGIES

An apology was received from Councillor Fliss Butcher.

It was moved (The Mayor/Cull):

"That the apology be accepted."

Motion carried

RESOLUTION TO EXCLUDE THE PUBLIC

Councillor Noone entered the meeting at 9.03 am.

It was moved (The Mayor/Brown):

"That the public be excluded from the following part of the proceedings of this meeting, namely, Item 2.

The general subject 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 (1) 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 (1) for the passing of this resolution.

2	Construction Contract for Proposed Forsyth Barr Stadium at the University Plaza	That the public conduct of the whole or the relevant part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. (Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information - Section 7(2)(b)(ii)) (Enable any local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i))	Section 48(1)(a)
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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 (in parenthesis) after each item.

That Messrs Stewart Barnett, Malcolm Farry and Mike Coburn (Carisbrook Stadium Trust), Lale Ieremia (Arrow International), Andrew Millard (Rawlinsons), Frazer Barton and Fraser Goldsmith (Anderson Lloyd) be permitted to remain at this meeting after the public has been excluded because of their knowledge of item 3. This knowledge, which will be of assistance in relation to the matters to be discussed, is relevant because they have provided the information for the report under consideration."

Motion carried

The Council went into non-public at 9.05 am and resumed in public at 2.36 pm. The meeting then adjourned until 2.50 pm. Councillors Stevenson and Weatherall returned to the meeting following the adjournment at 2.51 pm.

The Mayor here advised that the Infrastructure Services Committee meeting, which was to have taken place at 2.00 pm, had been convened and adjourned until the following day at 12.00 noon.

He advised of resolutions that had been passed in the non-public part of the meeting regarding the High Court proceedings relating to an interim injunction requested by Stop the Stadium Inc, namely:

"That the Council:

- 1 notes that Stop the Stadium Inc has on 17 April 2009 filed proceedings against the Dunedin City Council for an interim injunction in respect to the stadium project.*

- 2 *resolves to defend the proceedings with urgency and instructs the Chief Executive to work with the Council's legal advisors and, if appropriate, to instruct Queen's Counsel to represent the Council.*
- 3 *notwithstanding the proceedings, confirms its commitment to Resolution 7 of its meeting of 9 February 2009."*

3 **CONSTRUCTION CONTRACT FOR PROPOSED FORSYTH BARR STADIUM AT THE UNIVERSITY PLAZA**

A report from the Chief Executive (Jim Harland) identified progress made in meeting the terms and conditions the Council had set down for construction of the Awatea Street Stadium to be known as the Forsyth Barr Stadium at the University Plaza.

The Council had also considered confidential material relating to this subject with a view to releasing to the open agenda as much as possible after its consideration.

Since receipt of a letter dated 28 January 2009 which contained a Guaranteed Maximum Price (GMP) offer from Hawkins Construction Ltd, it had been updated. The main change was to increase the GMP contract value from \$129,759,285 excluding GST to \$130,414,595. The increase was substantially due to escalation and a reflection of risk transfer from the client held contingency to the GMP contractor. The overall budget for the project was as set out below:

GMP Contract	\$130,414,595
Professional Costs	\$25,603,540
Adjusted Sums	\$7,994,000
Sub Total	\$164,012,135
Available unallocated construction contingency	\$1,387,865
Total	\$165,400,000

The only reasons for any increase in cost beyond that represented by the GMP would be for approved scope amendments. To assist the public understand the contract, a layman's guide had been prepared by the City Solicitor.

Proposed revised recommendations from those contained in the report were circulated and the Chief Executive commented on the changes.

It was moved (Brown/Guest):

"1 That this report is received."

Motion carried

The Mayor read a letter from the Chairperson of the Otago Regional Council dated 17 April 2009 advising that subject to conditions being met, the Council would advance funding for the project in accordance with a timetable set out in the letter. Copies of the letter were circulated.

It was moved (Guest/Acklin):

"2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which

committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:

- 7a) Confirmation of Otago Regional Council funding of not less than \$37.5 million."

[This had been confirmed by the Otago Regional Council.]

Motion carried

It was moved (Guest/Walls):

- "2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:

- 7b) Satisfactory conclusion to the planning process and approval of a Plan Change by the Courts."

[The appellants had withdrawn their appeals to the Environment Court and the Council had declared the Plan Change operative.]

Motion carried

It was moved (Guest/Collins):

- "2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:

- 7c) i) The Rates and Funding Working Party continues to identify ways in which the ratepayers contributions to the capital cost of the stadium can be reduced by \$20 million providing it comes from sources that do not have a direct cost to ratepayers.

[This was not a requirement to be completed before the signing of the contract.]

- ii) Discussion and agreement with the ORC occurs on the sharing of any external funding which reduces ratepayer costs."

[Discussions were underway between the Council's General Manager Finance and Corporate Support and the Otago Regional Council's Director Corporate Services.]

Following discussion the motion was **put and carried**.

It was moved (Guest/Bezett):

- "2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:

- 7d) That Council retains the funding line in the draft LTCCP for the project."

[The Council had retained the funding line in the draft LTCCP for the project which was consistent with last year when the substantive consultation took place with the community of Dunedin.]

Following discussion the motion was **put and carried**.

A letter from the Minister for the Rugby World Cup, the Hon Murray McCully, confirming that the Crown would provide a grant of \$15 million (net) towards the construction of the stadium with the expectation that the stadium would be completed and available for the Rugby World Cup 2011, was read and circulated. An email from the Minister's office confirming a payment date of 1 July 2009 was also circulated.

It was moved (The Mayor/Brown):

- "2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:**

- 7e) That a funding source to meet the \$15 million shortfall in private sector funding be confirmed."**

[The Government had agreed to underwrite the \$15 million shortfall in private sector funding and discussions had taken place to confirm the detail of this arrangement. The Hon Murray McCully met with the Mayor, Deputy Mayor, representatives from CST and officials on Wednesday 15 April 2009 to further progress this. The Council noted the advice received at the meeting that this would now be a grant to be paid on 1 July 2009 in expectation that the Stadium would be completed in time for the Rugby World Cup.]

Following discussion the motion was **put and carried**.

It was moved (Brown/Acklin):

- "2 That progress in meeting the Dunedin City Council's Resolution 7 passed at a meeting held on 9 February 2009 which committed the Council to the Awatea Street Stadium project on the following terms and conditions be noted:**

- 7f) That the DCC instructs the CST to continue to investigate further funding options including:**
- i) savings on the GMP budget**
 - ii) additional funding over and above the target of \$45.5 million**
 - iii) ways to address the \$3 million shortfall of funding from the target of \$10 million, from the Otago Community Trust.**

[The Carisbrook Stadium Trust and its project delivery team were aware of the need to investigate ways to find the \$3 million shortfall in funding from the Community Trust of Otago which had been confirmed at \$7 million rather than the targeted \$10 million and also continuing to raise funding over and above the \$45.5 million private sector target.]

Following discussion the motion was **put and carried**.

It was moved (The Mayor/Brown):

"3 That the GMP offer dated 15 April 2009 from Hawkins Construction Ltd of \$130,414,595 be accepted subject to a favourable outcome, confirmed by the City Solicitor, to the High Court legal proceedings to be advised at latest by 5.00 pm, Monday, 27 April 2009 noting that the total project cost, including professional fees and adjusted sums is \$164,012,135 and that there is an unallocated construction contingency of \$1,387,865 for a total construction project cost of \$165,400,000."

Councillor Walls left the meeting from 3.51 to 3.52 pm.

A number of questions were asked about issues such as the use of local resources and contractors, grass growing and turf, the GMP offer, piling and geotechnical issues, roofing, acoustics, job creation, pricing of materials, the contractor and the public tender process.

It was confirmed that Hawkins Construction had been advised of the proposed resolution that the contract would be confirmed the following Monday after the High Court decision, and had deemed this acceptable, subject to the contract being signed that day.

Councillor Hudson left the meeting from 4.50 pm to 4.54 pm during the course of debate.

Following extensive discussion the motion was **put and carried** on a division 10:4.

For: Councillors Acklin, Bezett, Brown, Collins, Guest, Hudson, Noone, Walls, Weatherall, The Mayor
Against: Councillors Cull, Staynes, Stevenson, Wilson

The Mayor extended the Council's thanks to the many people who had been involved in the project since its inception, in particular the Chief Executive for his leadership in recent years, and expressed the hope that the High Court decision would be in the Council's favour.

The meeting concluded at 5.18 pm.

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MAYOR