



## NOTICE OF MEETING

# FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE

I hereby give notice that an Ordinary Meeting of the Finance and Operational Performance Committee will be held on:-

**DATE:**            **Monday,            10 November 2003**            **TIME:**            **9.30 am**

**VENUE:**        **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

6 November 2003

Sharon Simiona  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8820

### **MEMBERSHIP:**

Councillors	JM	Clews, QSO, JP (Chairperson)
	BA	Brady, JP (Deputy Chairperson)
	DQ	Battersby, JP
	RP	Dallow, QPM, JP
	AC	Fenton
	OE	Hoskin, MNZM, JP
	PA	Hulse
	JP	Lawley
	GE	Nash, JP
	VS	Neeson, JP
	GB	Presland
	GW	Russell, JP
	CA	Stone
	DA	Yates, JP

Mayor Bob Harvey, QSO, JP (ex officio)

(Quorum 5 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

# WAITAKERE CITY COUNCIL



AGENDA FOR AN ORDINARY MEETING OF THE FINANCE AND OPERATIONAL  
PERFORMANCE COMMITTEE TO BE HELD IN THE CIVIC CENTRE,  
6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON  
MONDAY, 10 NOVEMBER 2003,  
COMMENCING AT 9.30 AM.

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**AGENDA FOR AN ORDINARY MEETING OF THE FINANCE AND OPERATIONAL PERFORMANCE COMMITTEE TO BE HELD IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY, ON MONDAY, 10 NOVEMBER 2003, COMMENCING AT 9.30 AM.**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

Section 46A(7) and (7A) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

**NOTE:** Urgent Business need not be dealt with now and may be delayed until later in the meeting.



**3 CONFIRMATION OF MINUTES**

Ordinary - Monday, 6 October 2003  
Ordinary - Thursday, 23 October 2003

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Finance and Operational Performance Committee held on Monday, 6 October 2003 including the Public Excluded minutes and the Ordinary Meeting held on Thursday, 23 October 2003, as circulated, be taken as read and now be confirmed.



## **PART I - PRESENTATIONS**

### **4 THE ESTABLISHMENT OF POSTER BOLLARDS ON COUNCIL OWNED LAND**

#### **PURPOSE OF THE REPORT**

The purpose of this report is to provide the Finance and Operational Performance Committee with information and a recommendation relating to the placement and management of poster bollards on the road reserve and other Council owned land within Waitakere City. A presentation relating to the information contained in this report is to be made to the Committee by Phantom Bill Stickers Limited (Phantom).

#### **BACKGROUND**

The report responds to correspondence from, and a meeting with, representatives of Phantom requesting that they be allowed to establish poster bollards on Council owned road reserve and other Council owned land such as outside Council facilities (such as the Aquatic Centre and Community centres).

AI-A23

A copy of the material supplied by Phantom, which describes the company, its aims, its management methods relating to the bollards as well as some examples of the places that they would wish to locate the bollards, as attached at A1 to A23. Phantom is a Christchurch based company and describes itself as "New Zealand's largest supplier of posters and flyers", having on average over 200 contracts per day promoting a vast range of activities and events. According to the information supplied it has contracts with both Wellington and Christchurch City Councils to establish and manage poster bollards within those cities.

The bollards are cylindrical 3.6m high concrete structures, with down lighting from the hood with the opportunity to have the City's logo on the apex. It is intended that the bollards be used primarily for the placement of posters relating to arts, entertainment, sports and events rather than product advertising, although this is a component of their use. Phantom proposes that they would allow an average of 10% of the space on the bollards to be used by Council and community groups, free of charge. It is envisaged by Phantom that they would establish up to 50 such bollards in the City.

#### **STRATEGIC CONTEXT**

One of the nine strategic platforms of the Long Term Council Community Plan is to make the City a vibrant and enjoyable place to live, work and play by creating attractive urban space. The vision for 2020 of the Urban and Rural Villages strategic platforms is to "*have public facilities, places and spaces teem with people; the streets alive and busy*". Town Centre revitalisation and the encouragement of the arts, cultural and sporting events are also seen as an important way of building strong communities, another of the nine strategic platforms. As described by Phantom "*the poster industry is an important vehicle in assisting the Arts in achieving public support through an effective medium at a cost effective price and the bollard forms a natural part of the streetscape, now widely accepted as street furniture*".

## ISSUES

### Management of the Bollards

The bollards are cylindrical 3.6m high concrete structures with down lighting from the hood with the opportunity to have the City's logo on the apex. Phantom manages the placement, removal and monitoring for graffiti of posters and "rogue" posters on the bollards. A single poster bollard would hold 30 posters for 15 events. The bollards are visited each day to ensure they are tidy and to put up new posters and replace old ones.

A24-A73

A full description of the management of the bollards is contained in the material supplied by Phantom as attached at A25 to A73.

The terms of the licence negotiated between Council and Phantom would ensure that no objectionable material is displayed and design quality is maintained.

### District Plan Criteria

As a landowner, Council has an interest in ensuring that structures placed on its land are properly managed and do not cause a nuisance or hazard to any road or reserve or community centre users or adjacent properties, or adversely affect the amenities of the neighbourhood and the open space network.

The examples that have been supplied show typical places that Phantom would like to establish bollards include the road reserve, outside community centres and places such as the Aquatic Centre and shopping malls. Some of these places are not on Council owned land and consequently are not within the scope of this report.

All land in the City is zoned and all structures on land must meet the rules of the District Plan. The roading network in Waitakere is contained within the Transport Environment of the Proposed District Plan and consequently all proposed poster bollards located within the road reserve need to meet the relevant rules of the Transport Environment. Some community facilities in the City such as the Aquatic Centre are within the Open Space Environment, and any building that is not provided for in a reserve management plan requires consent as a non-complying activity and would also need consent of the relevant community board. Other Council owned facilities such as the New Lynn Community Centre are on land within the Working Environment or the Living Environment for the Massey Community Centre.

The proposed poster bollard would meet the District Plan definitions of both a building and a sign and would hence require consent under the relevant rules for that Environment eg. Rule two - Design and Location of buildings of the Transport Environment and Rule four - Signs, of the Transport Environment. Consent would be required as a Limited Discretionary Activity under both rules. Bollards in the Transport Environment but adjacent to a site in the Working and Community Environment would also be a Limited Discretionary Activity under this rule but a non-complying activity when adjacent to a site identified in any other Human Environment.

Therefore, it is likely that all of the proposed bollards, if located on the road reserve within the Transport Environment, would require a resource consent as a Limited Discretionary Activity under the District Plan when located adjacent to sites in the Working and Community Environment (and as a non-complying activity when adjacent to sites in the other Human Environments including the Living Environment).

When located in the Open Space environment eg. outside the Aquatic Centre, or the Living Environment eg. the Massey Community Centre, consent as a non-complying building would be required. When located in the Community Environment a Limited Discretionary consent for signage would be required and, depending on the environment, further consent for the bollard as a building may also be required.

It is therefore apparent that resource consent would be required to establish poster bollards on Council owned land anywhere in the City.

### **Resource Consent Process**

As part of the resource consent process an assessment is made under the Resource Management Act 1991, which identifies the adverse effects of the proposal, the mitigation proposed/needed, and whether or not the application should be publicly notified.

Issues about amenity, landscape, cultural values, health and safety, community consultation and cumulative adverse effects as a result of the amount of bollards within an area are dealt with through the resource consent process.

Essentially therefore, any issues regarding the location of individual poster bollards would be assessed in detail through the resource consent process.

A building consent would also be needed as the bollards would be defined as a building under the Building Act 1991.

### **Consultation with Council Staff and Other Approval Required**

Community Boards have delegated authority to deal with issues relating to structures and leases on Council reserves and any proposed bollard on a reserve would require the consent of the relevant Community Board.

The proposal has also been discussed with relevant Council staff including the Asset Managers of Council facilities and land who have, in the main, expressed some initial concerns about the design of the bollards, the potential to distract from not only the Council facility but also the advertising for events at the Council facility outside which they would be located, and the number of bollards that Phantom wish to establish. However the information presented to date has been general in nature rather than specific and the proposed locations have not been subject to any level of scrutiny. It is therefore appropriate that the placement of the poster bollards not only be subject to the resource consent process but that the approval of the relevant Asset Manager with delegated authority (eg. Transport Assets and Leisure Services) also be required in relation to the location of the individual bollards.

Approval to the location of the bollards would therefore be subject to the relevant Community Board if located on a reserve and, if not located on a reserve, approval should also be sought from the relevant Asset Section of Council depending on the proposed location.

### **Lease Arrangements**

Phantom has proposed that a formal occupancy licence for the poster bollards be drawn up and have provided a draft lease agreement. Council's Legal Services Unit has viewed the draft lease agreement and has indicated that it would be satisfactory subject to some minor amendments. Essentially the proposed lease comprises an initial term of ten years with the right for Phantom to apply for a further five years (which renewed contract shall include a right to renew for two further terms) ie. a total of 25 years. On renewal Council can consider whether or not its policies, goals and objectives continue to support Phantom's services.

The contract also specifies the amount of bollards to be established in the City - an initial 20 bollards followed by the right to establish an additional thirty bollards at the rate of five per year. To manage the 10% allocation of space to Council it is proposed that Council appoint a representative to liaise with the company and that Phantom keeps a record of all "free of charge" posters to ensure that the 10% obligation is met.

However the details of the lease arrangement are entirely negotiable and could include a lesser or longer period or the right to place fewer bollards. It should be noted that the contract that Council has with Adshell in relation to bus shelters does not preclude Council entering into a contract with Phantom.

### **RESOURCES**

No additional resources would be required to allow the utilisation of Council land for the placement of poster bollards.

Phantom would be required to make a resource consent application, gain the consent of the relevant community board or asset manager, and pay the appropriate consent fees. Council would not gain any income from the lease of the land but would gain 10% of the space on the bollards for community advertising.

### **CONCLUSION**

The establishment of poster bollards on Council owned land would be subject to the resource consent process. This process would ensure that all issues relating to amenity, landscape, cultural values, health and safety, community consultation and cumulative adverse effects are assessed and subject to scrutiny. When the bollard would be on a reserve the consent of the relevant community board would also be required. When located adjacent to community facilities or on the road reserve it would be also be prudent to require the consent of the relevant asset manager to ensure that operational issues such as traffic and pedestrian safety and design issues relating to the facility are not compromised.

### **RECOMMENDATIONS**

1. That the information be received.
2. That approval in principle be given to the establishment of poster bollards on Council owned land in Waitakere City, subject to the individual bollard gaining resource consent, the approval of the relevant Community Board when located on park land or approval from the relevant asset manager when located on other Council owned land, and subject to a lease arrangement being entered into to the satisfaction of Council's Legal Services Manager.

Report prepared by: Elizabeth Wells, Principal Planner.



**5 QUARTERLY REPORT OF WAITAKERE CITY HOLDINGS LIMITED AND SUBSIDIARIES**

**PURPOSE OF THE REPORT**

The purpose of the report is to inform the Finance and Operational Performance Committee as to the performance of the Waitakere City Holdings Limited, its subsidiaries and associated organisations for the first quarter of the current financial year (three months ended 30 September 2003) and to present their Annual Reports for the year ended 30 June 2003 which have been recently completed.

**BACKGROUND**

Council, as shareholder, is required to receive, within three months of the end of the financial year, a report from its Holding Company in respect of the Company's operations for that year (Annual Report). That report, along with the Annual Reports of the subsidiaries and associated companies, are now presented.

In addition, through the development of the current years Statement of Intent for the Waitakere City Holdings Limited, it was determined that one of the Companies objectives was to present quarterly reports to this Committee of Council in respect of its performance and the performance of its subsidiaries and associated companies and organisations.

It should be noted that although the Waitakere Enterprise Trust Board has no legal link with the Holding Company, the Holding Company has been tasked by Council with a monitoring and advisory role over the Trust Board and in that capacity the respective reports of the Trust Board are included in this report.

**STRATEGIC CONTEXT**

Council has a financial investment in its Holding Company and subsidiaries. These companies assist the Council in meeting its strategic outcomes by a return on investment, involvement in strategic projects, economic development and in the support of service delivery.

**ISSUES**

The First Quarter Reports for the reporting entities are attached as follows:

- A74-A81* Techscape Limited as attached at pages A74 to A81;
- A82-A96* Waitakere Properties Limited as attached at pages A82 to A96;
- A97-A113* Waitakere Enterprise Trust Board as attached at pages A97 to A113.

These should be read in conjunction with the presentations of the respective Board Chairpersons and Chief Executives at this meeting.

No significant issues have been raised in the financial reports or management overviews in respect of the first quarter of the financial year. Techscape has indicated that it will be in a position to meet its financial obligations in respect of the budgeted dividend and interest payment to Waitakere City Holdings Limited which will, in turn, meet its budgeted obligations to the Council in the current financial year.

The Annual Reports for the year ended 30 June 2003 for the respective organisations are attached as follows:

*A114-A145* Waitakere City Holdings Limited as attached at pages A114 to A145  
*A146-A168* Techscape Limited as attached at pages A146 to A168;  
*A169-A191* Waitakere Properties Limited as attached at pages A169 to A191;  
*A192-A209* Waitakere Enterprise Trust Board as attached at pages A192 to A209.

Clear Audit opinions have been received in respect of these organisations.

### **CONCLUSION**

The Annual Reports of Waitakere City Holdings Limited, Techscape Limited, Waitakere Properties Limited and the Waitakere Enterprise Trust Board for the year ended 30 June 2003 have been completed and all have received clear audit opinions. No significant issues have been raised in those organisations "First Quarter Report" in respect of the current financial year with the Holding Company expected to meet its budgeted dividend payment to Council.

Any questions or queries should be directed to the respective Board Chairpersons and Chief Executives during the presentation of their reports.

### **RECOMMENDATION**

That the information be received.

Report prepared by: Alec Third, Accountant: Waitakere City Holdings Limited.



**PART II - PROPERTY**

**6 PROPOSED LEASE RENEWAL, ECOWATER PREMISES - 133 CENTRAL PARK DRIVE, HENDERSON**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely Proposed Lease Renewal, EcoWater Premises - 133 Central Park Drive, Henderson.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the 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 the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"><li>Proposed Lease Renewal, EcoWater Premises - 133 Central Park Drive, Henderson</li></ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"><li>enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li></ul>	<p>That 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.</p>

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 7(2)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- The report contains information which if released would affect the Council's negotiations.*



7 **LEASE OF COMMERCIAL PREMISES AT SHOP 2, 599 TE ATATU ROAD, TE ATATU PENINSULA**

**PURPOSE OF THE REPORT**

This report seeks the Finance and Operational Performance Committee's approval to grant a lease to the existing tenant of Shop 2, 599 Te Atatu Road, Te Atatu Peninsula for a term of two years with a right of renewal for a further two terms each of two years.

**BACKGROUND**

On 9 August 1988, Council's predecessor, the Waitemata City Council granted a lease of the premises at the Te Atatu Community Centre Building known as Shop 2, 599 Te Atatu Road, Te Atatu Peninsula to Good Guys Te Atatu (1986) Ltd who have ever since operated a home appliance and electrical goods shop at those premises.

A210

The location of the premises is shown on the map attached at page A210. The lease was for a two year term and provided for five further renewals each of two years which meant that the final expiry date was 16 August 1999.

The tenant has remained in possession with Council's consent since the expiry date on a basis of a monthly tenancy but has now requested Council to formalise the arrangement by granting to it a new lease for two years with two rights of renewal of two years each.

**STRATEGIC CONTEXT**

Waitakere is a place of innovative economic activities, providing local quality work and development options for its people. The Council has no immediate use for this property within the term of the proposed lease and there is therefore no objection on strategic grounds to the granting of the lease.

**ISSUES**

The tenant has operated successfully from this location for several years and has proved to be a reliable tenant and there have been no rent arrears problems. The business is well established in the Te Atatu Peninsula and provides a service to the residents in the locality.

**RESOURCES**

In accordance with normal procedures the costs of preparing the lease and having it executed and set up within Council's accounting system will be borne by the tenant.

**CONCLUSION**

A registered valuer has made a rental assessment of the premises and has arrived at a figure of \$11,960 per annum plus GST and the tenant has accepted this. The tenant has also agreed that the lease will be on the latest Law Society commercial Deed of Lease form, with its other terms (apart from rent) based on the expired lease. The tenant is however aware that no lease can proceed without the approval of this committee.

**RECOMMENDATIONS**

1. That the information be received.
2. That Council grant a lease of the commercial premises at Shop 2, 599 Te Atatu Road, Te Atatu Peninsula to Good Guys Te Atatu (1986) Ltd for a term of two years with two further rights of renewal each of two years.
3. That this Deed of Lease be executed by Council under seal.

Report prepared by: Maurice Hieatt, Solicitor.



**8 PROJECT TWIN STREAMS: PROPERTY PURCHASE**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely Project Twin Streams: Property Purchase.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the 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 the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"> <li>• Project Twin Streams : Property Purchase</li> </ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"> <li>• To protect the privacy of persons, including that of deceased natural persons and to;</li> <li>• enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</li> </ul>	<p>That 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.</p>

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 7(2)(a)(i) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The report contains information which if released would affect the Council's negotiations.*



## 9 **STREETLIGHTS MAINTENANCE WORKS**

### **PURPOSE OF THE REPORT**

This report seeks approval to increase the 2003/2004 approved budget for Streetlight Maintenance.

### **BACKGROUND**

The Streetlights Maintenance Contract covers the maintenance and renewal of 12,000 Council owned streetlights on both dedicated and shared poles. The contract also provides for regular patrols to identify faults, and for '24 times hours 7 days' response to emergency calls.

The contract is facilitated through the Street Lighting Inventory Management system used by Council.

### **STRATEGIC CONTEXT**

Streetlight maintenance supports Council's 'Integrated Transport and Communication' and 'Stronger Communities' platforms through contributing strongly to road safety.

### **ISSUES**

The rapid growth of new subdivisions and residential areas in Waitakere City has increased the number of streetlights by more than 1000 over the past three years. Many existing lights are failing owing to age exceeding service life; also the approved maintenance and renewal budget for 2003/2004 is not sufficient to carry out full servicing over the whole year.

Monitoring of this contract shows that expenditure is running at \$40,000 per month for July and August 2003, compared to an average monthly expenditure of \$35,000 for previous years.

The forgoing indicates that a total of \$78,000 of additional funding will be required over the existing budget.

### **SOURCE OF FUNDING**

In order to address the funding shortfall, it is recommended that additional funding of up to \$78,000 can be made available from the overall approved 2003/2004 annual maintenance budgets. This redistribution amount which represents 0.5% of the total operational budget of \$11,551,972, is sufficient to cover the required funds for the Streetlights Maintenance Contract to the end of June 2004. The overall operational budget is not altered, as the bottom line figure is unchanged. This is in line with Transfund's procedure, where reallocation from one work category to another is allowed on the basis of maintaining the overall approved bottom line. Transfund will be advised of the reallocation accordingly.

### **CONCLUSION**

The available funding of \$284,000 for the Streetlights Maintenance Contract is not sufficient to cover the quantum of maintenance and renewal required in 2003/2004.

The Committee is requested to approve additional funds of \$78,000 to cover the anticipated quantum of works. This will ensure that sufficient funds will be available to cover the works specified within the Streetlights Maintenance Contract. The funds would be utilised to maintain Council's Strategic Platform of "Strong Communities" through the provision of safety to drivers, pedestrians, properties and communities.

**RECOMMENDATIONS**

1. That the information be received.
2. That additional funding of \$78,000 be authorised for streetlight maintenance and that the Director: City Services be authorised to offset this amount by reducing roading maintenance and renewal programmes.

Report prepared by: Hussam Abdul-Rassol, Senior Transport Engineer.



**PART III - LEGAL AND CONSTITUTIONAL**

**10 AFFIXATION OF COMMON SEAL**

**EXECUTION OF DOCUMENTS: 29 September 2003 - 31 October 2003**

<b>Nº</b>	<b>NAME</b>	<b>PARTICULARS</b>
2785	WCC - AG & CP Powell	Drainage & Sanitary Sewer Easement in gross - CTs.NA139D/446 & 447 - 64 Don Buck Road - SPW 21476
2786	WCC - AG & CP Powell	Drainage Easement in gross - 64 Don Buck Road - SPW 21476
2787	WCC - Waitakere Citizens Advice Bureau (WAICAB)	Agreement 2003-2006
2788	WCC - Ngaire Sylvia Brabant	Fencing Agreement re CT.111237 - 10 Jillian Drive - SPW 21818
2789	WCC - Russell John Rix & Diana Marie Rix	Memorandum of Transfer - Walker Road - Resolution 3383/2002
2790	WCC - HM Twisk & DMS Bernhardt	Deed of Extension of Lease BNZ Building - Director of Corporate & Civic Services authority of 12/9/03
2791	WCC - 427 Developments Ltd	Covenant under s.220(2) Resource Management Act 1991 re Units IJ & IK - DP 3208785 - Great North Road - SPW 21755
2792	WCC - DJ Builders & Contractors Pte (NZ) Ltd	Surrender of Consent Notice D162810.3 re CT.NA139D/638 - 11 Natasha Lane - SPW 21064
2793	WCC - PT & MM Terveen	Drainage Easement in gross - CT.64492 - 25 Justin Place - SPW 20966
2794	WCC - Tony Tay & Associates Ltd	Drainage Easement in gross - CTs.39194 & 39195 - 17 Crown Lynn Place - SPW 21812
2795	WCC - Tony Tay & Associates Ltd	Water Supply Easement in gross - CTs.39194 - 17 Crown Lynn Place - SPW 21812
2796	WCC - Olympic Park Trust	Agreement for Development of Olympic Park - Resolution 1652/2003
2797	WCC - SJ & CE Vizor	Transfer Section 1, SO 314506 (102909) - Resolution 1281/2003
2798	WCC - RL & M Alach	Transfer Section 1, SO 309612 (112009) - Resolution 2163/2002
2799	WCC - Vector Limited	Easement Instrument to surrender electricity easement in gross marked as "L" and "N" on DP 317094 created by C210805.12
2800	WCC - Vector Limited	Easement Instrument to surrender electricity easement in gross marked as "F" on DP 317094 created by T553598.3
2801	WCC - Vector Limited	Memorandum of Transfer creating electricity easement in gross over area "G" on DP 327681 affecting CT.NA112488

<b>Nº</b>	<b>NAME</b>	<b>PARTICULARS</b>
2802	WCC	Consent of Local Authority to Surrender of Easement D6160527 and registration of Stormwater Drainage Easement against CTs.NA136B/477 & 136B/478 – 48 Routley Drive
2803	WCC - KS Hooi & SL Lim	Surrender of Drainage Easement in gross created by Transfer D686053.1 - 225 Godley Road
2804	WCC - KS Hooi & SL Lim	Drainage Easement in gross - Area A on DP318975
2805	WCC - McDonald's Restaurants of New Zealand Ltd	Bond re SPW 21691
2806	WCC - McDonald's Restaurants of New Zealand Ltd	Memorandum of Transfer creating pedestrian ROW easement in gross - CT.NA112487
2807	WCC - McDonald's Restaurants of New Zealand Ltd	Easement Instrument to create ROW - CT.NA112487
2808	WCC - McDonald's Restaurants of New Zealand Ltd	Easement Instrument to Surrender Easement - CT.NA36C/824
2809	WCC - McDonald's Restaurants of New Zealand Ltd	Memorandum of Transfer - fee-simple of part CT.NA67083 with land covenants
2810	WCC - McDonald's Restaurants of New Zealand Ltd	Memorandum of Transfer - fee-simple of part CT.NA36C/824 with land covenants
2811	WCC - BA Cheffings & MK Standen	Deed of Waiver - s.40 Public Works Act 1981 - Resolution 1289/2003
2812	WCC	Declaration that Plan Change No.1 to the Waitakere District Plan operative from 30 October 2003
2813	WCC	Auckland Region Civil Defence Emergency Management Group Establishment Agreement
2814	WCC - Rewa Stanley Clark	Authority for Use of Dedicated Road - 87A & 89 Triangle Road - SPW 20961
2815	WCC - Antoinette Mitchell	Warrant of Appointment & Evidence of Identity - No.WCC092
2816	WCC - Brendon O'Rourke	Warrant of Appointment & Evidence of Identity - No.WCC089
2817	WCC - Core Holdings Ltd	Surrender of Drainage Easement in gross created by Transfer 603326 - CT.NA1863/55 - 12 Grainger Road - SPW 20175
2818	WCC - Everbright Investment Ltd	Drainage Easement in gross - CTs.83166-83172 – 20 Taranui Place - SPW 21567
2819	WCC - Everbright Investment Ltd	Water Supply Easement in gross - CTs.83166-83172 – 20 Taranui Place - SPW 21567

Nº	NAME	PARTICULARS
2820	WCC - Everbright Investment Ltd	Fencing Agreement - CT.83171 - 20 Taranui Place, SPW 21567
2821	WCC - Tyre City Ltd	Deed of Renewal of sublease as per clause 3.2 of original lease - 271 West Coast Road
2822	WCC	Notice of Determination under s.36(3) Building Act 1991 to remove s.36(2) Certificate D687541.1 from CT.NA20D/485 - 226 Godley Road
2823	WCC - Waste Management NZ Ltd	Settlement Agreement re Redvale Contract and Concourse arrangement
2824	WCC - RJ McKay & BT Watson	Deed of Waiver - s.40 Public Works Act 1981 - Resolution 1289/2003
2825	WCC - GR & FM Faulkner	Drainage Easement in gross - CT.NA123A/112 - 4 Elcoat Avenue - SPW 20200
2826	WCC	Consent of Local Authority as chargeholder of SLC129734.1 to registration of a Mortgage in favour of TTNZ Custodians (FM) Ltd - 160-170 Metcalfe Road - CT.NA1378/31

#### **RECOMMENDATIONS**

1. That the information be received.
2. That the action taken in affixing the Common Seal on the documents as set out in the agenda report be adopted.

Report prepared by: Magdalene Conceicao, Executive Officer (Legal).



## **PART IV - FINANCE**

### **11 OPERATING AND CAPITAL EXPENDITURE SUMMARIES**

#### **PURPOSE OF THE REPORT**

The purpose of this report is to inform the Finance and Operational Performance Committee as to the level of the year to date operating and capital expenditure by Unit compared to budget.

#### **BACKGROUND**

A211 This report covers expenditure for the first 3 months of the current financial year ending 30 September 2003. The financial summary, is attached at page A211.

#### **ISSUES**

A full financial review, including forecasts through to the end of the year, has almost been completed, the results of which will be reported through to the December 2003 meeting of this Committee.

If you require any further information in respect of this report, other than of a general nature, please contact either the writer or the Director: Finance prior to the meeting to enable the query to be researched.

#### **RECOMMENDATION**

That the information be received.

Report Prepared by: Alec Third, Chief Management Accountant.



### **12 STATUS OF SPECIAL FUNDS**

#### **PURPOSE OF THE REPORT**

The purpose of this report is to keep the Committee informed as to the status of Special Funds.

#### **FUNDS**

A212 The Special Fund balances as a t30 September 2003 and summary transactions for the first three months of the current financial year is attached at page A212.

If you require any further information in respect of this report, other than of a general nature, please contact either the writer or the Director: Finance prior to the meeting to enable the query to be researched.

#### **RECOMMENDATION:**

That the information be received.

Report prepared by: Alec Third, Chief Management Accountant.

**13 BORROWING AND INVESTMENT REPORT**

This report has been circulated separately with the agenda.



**14 PAYMENTS FOR APPROVAL**

**PURPOSE OF THE REPORT**

The purpose of this report is to advise of payments made by the Council.

**BACKGROUND**

This report provides details of payments made to external suppliers in excess of \$5,000. In addition there is a summary listing, which aggregates payments made to various organisations and suppliers for the Committee's information. These payments have already been processed as allowed by delegations approved by the Council. If any Councillor requires information regarding the nature of any payment, that information can be provided.

**PAYMENTS**

*A213* A summary schedule of payments made for the period 12 September 2003 to 17 October 2003 is attached at page A213.

*A214-A218* A further schedule of all payments of \$5,000 and above, together with the reason for the payment as attached at pages A214 to A218. If a Committee member wishes to ask specific questions relating to any of these payments, prior to the meeting, then such questions can be directed to the Director: Finance.

**RECOMMENDATIONS**

1. That the information be received.
2. That the contracts let and payments made be approved.

Report prepared by: Andrew Pollock, Director: Finance.



15 **SINKING FUND COMMISSIONERS 30 JUNE 2003 FINANCIAL STATEMENTS**

**PURPOSE OF THE REPORT**

The purpose of this report is to present to the Finance and Operational Performance Committee the audited financial statements of the Sinking Fund Commissioners for the year ended 30 June 2003.

**BACKGROUND**

Sinking Funds were a requirement of the Local Authority Loans Act, which was repealed with effect from 1 July 1998. There is no statutory requirement for the Sinking Fund Commissioners to continue, though Council has resolved that the sinking funds relating to debt raised prior to 1 July 1998 should continue to be administered by the Commissioners. Any monies collected to repay debt issued after 1 July 1998 is administered through the Council's Liability Management and Investment Policy. The administration of the Sinking Funds by the Commissioners is expected to cease in 2007.

**STRATEGIC CONTEXT**

The Liability Management and Investment Policy governs the management of the sinking fund investments. More specifically under section 5.1.3 of the policy the following points illustrate the management of the investments. These are:

- The Council is not required to use sinking funds as a mechanism for loan repayments. The minimum required contribution will be maintained until the settlement of debt raised prior to 1 July 1998.
- A statement of sinking funds is prepared half yearly and annually by the Sinking Fund Commissioners.
- The Sinking Fund Commissioners, if they chose to maintain cash investments, will manage those investments as per the following investment policy and within the prescribed credit limits outlined in section 5.3 of this policy document.
- Given that the Council will be a net borrower for the remaining life of the existing sinking funds, the sinking funds should be either invested in short term bank deposits and be maturity matched with equivalent borrowings, or invested within Council in accordance with Section 299 of the Local Government Act 2002.

**ISSUES**

The annual audit of the Sinking Fund Commissioners was recently conducted by Audit New Zealand, with no matters or irregularities reported.

With the introduction of the Local Government Act 2002, the Sinking Fund Commissioners can now legally invest the sinking fund investment into Council. This provision was also included in the Council's Liability Management and Investment Policy, and adopted during the Long Term Council Community Plan. The Commissioners agreed, at their last meeting held on 16 October 2003, that this position was acceptable. However, the funds remain as liquid investments at this time.

A219-A230

Attached at pages A219 to A230 is the audited financial statements for the year ended 30 June 2003, including the audit report on behalf of the Auditor-General.

## CONCLUSION

The Sinking Fund Commissioners financial statements for the year ended 30 June 2003 have been completed and audited with no issues reported.

## RECOMMENDATION

That the information be received.

Report prepared by: Bruce Wilkin, Funds Accountant.



## 16 COMMUNITY HALLS FUND ALLOCATION 2003/2004

### PURPOSE OF THE REPORT

The purpose of the report is to provide the Financial and Operational Performance Committee information regarding the assessment of the Community Halls Fund. The report also seeks endorsement of the recommended allocations.

### BACKGROUND

Council provides a number of community facilities available for public use. It also provides assistance to community groups through the provision of funds to help maintain community operated, not for profit halls, and urban/community based marae, which are available for public use.

The Community Halls fund is currently set at \$42,000 per year through the Annual Plan. There are 22 Community Halls in Waitakere City that are eligible to apply for financial assistance through this fund.

The fund is available to assist management committees in running and maintenance costs, small scale equipment and improvements to the facility and include such projects as upgrading kitchen facilities, minor paintwork and promoting the facility.

### STRATEGIC CONTEXT

Council's Community Facilities Plan states that Council provides three types of buildings for general community use; community centres, community houses and community halls. The Council provides community space to ensure there are places for people to meet, talk, play learn - and have fun. A range of different spaces are needed to cater for different activities. Community facilities also help to build community spirit by bringing people together.

A strategy and action from the Council adopted Community Facilities Plan states that Council will develop support for other providers of community facilities, which will include support for community halls through the Halls fund.

The Community Halls Fund aligns with the Community Assistance Policy with the goal of the Policy being to help strengthen the ability of local community groups to create a strong social base for Waitakere City and to meet local needs.

The Community Halls Fund also meets Policy One of the Marae Support Policy, "Council assistance provided to marae", where it has been determined that Iwi based and urban/community based marae can apply to this fund.

## PROCESS OF ALLOCATION

The closing date for the 2003/2004 contestable Community Halls Fund was set at 26 September 2003.

Application forms were sent to all groups who are eligible to apply for funding. The fund was also promoted during a series of workshops held in 2003 to assist the community to access funding from both Council and external funding agencies.

A total of fifteen applications were received. The full amount requested was \$42,711 with total funds available of \$42,000.

A weighting system was then used to ensure a consistent and transparent assessment of the applications based on the criteria, priorities and considerations of the fund.

Priorities were assessed against building requirements, health and safety issues (in regard to what they were applying for funding for), the group's current financial status, the capacity for income based on the facility's location and quality, and the usage per month.

The recommended allocation of funds is as follows:

NAME OF ORGANISATION	NAME OF HALL	AMOUNT REQUESTED	RECOMMENDED ALLOCATION
Glen Eden Community & Rec Centre	Glen Eden Community Centre	\$2,500	\$2,500
Henderson Valley Hall Trust Board	Henderson Valley Community Hall	\$3,000	\$3,000
Herald Island Residents & Ratepayers Assn	Herald Island Community Hall	\$3,000	\$2,800
Hobsonville Hall Society	Hobsonville Hall	\$3,000	\$3,000
Huia-Cornwallis Ratepayers & Residents Assn Inc	Huia Hall	\$1,947	\$1,950
Laingholm District Citizens Assn Inc	Beach Hall	\$3,000	\$3,000
Laingholm District Citizens Assn Inc	Village Hall	\$3,000	\$2,950
Moire Road Community Facility	Moire Road Community Hall	\$3,000	\$2,950
Oratia Residents & Ratepayers Assn	Settlers Hall	\$3,000	\$2,950
Oratia Residents & Ratepayers Assn	Small Hall	\$3,000	\$2,950
Piha Community Centre Society	Barnett Hall	\$3,000	\$2,950
Sunnyvale Ratepayers & Residents Assn Inc	Sunnyvale Community Hall	\$3,000	\$3,000
Titirangi Country Womens Institute	MacAndrew Hall	\$3,000	\$3,000
Waiatarua Ratepayers & Residents Assn	Waiatarua Community Hall	\$3,000	\$2,800

NAME OF ORGANISATION	NAME OF HALL	AMOUNT REQUESTED	RECOMMENDED ALLOCATION
Whenuapai Ratepayers & Residents Assn	Whenuapai Village Hall	\$2,264	\$2,200
Total		\$42,711	\$42,000

The full amount of \$42,000 has been allocated.

It should be noted that all groups eligible for the Council's Community Halls Fund have the capacity to, and do, source other funding. Since Council's funds are limited not all groups are able to receive the total amount requested. The Community Assistance Administrator will offer assistance in sourcing other funding to all groups to ensure that their projects take place. They also receive regular funding newsletters detailing other schemes available.

### RESOURCES

There is \$42,000 allocated in the 2003/2004 Annual Plan for the Community Halls Fund. The Community Assistance Administrator administers the process.

### CONCLUSION

Council provides assistance to community groups through the provision of funds to help maintain community operated, not for profit halls, and urban/community based marae, which are available for public use halls. There are 22 Community Halls in Waitakere City that are eligible to apply for financial assistance through this fund and application forms were sent to them all.

A total of fifteen applications were received. The full amount requested was \$42,711 with total funds available of \$42,000.

A weighting system was used to ensure a consistent and transparent assessment of the applications based on the criteria, priorities and considerations of the fund.

### RECOMMENDATIONS

1. That the information be received.
2. That the Finance and Operational Performance Committee allocate funding for the Community Halls Fund as outlined in the report and the following recommended amounts.

NAME OF ORGANISATION	NAME OF HALL	AMOUNT REQUESTED	RECOMMENDED ALLOCATION
Glen Eden Community & Rec Centre	Glen Eden Community Centre	\$2500	\$2500
Henderson Valley Hall Trust Board	Henderson Valley Community Hall	\$3000	\$3000
Herald Island Residents & Ratepayers Assn	Herald Island Community Hall	\$3000	\$2800
Hobsonville Hall Society	Hobsonville Hall	\$3000	\$3000
Huia-Cornwallis Ratepayers & Residents Assn Inc	Huia Hall	\$1947	\$1950

NAME OF ORGANISATION	NAME OF HALL	AMOUNT REQUESTED	RECOMMENDED ALLOCATION
Laingholm District Citizens Assn Inc	Beach Hall	\$3000	\$3000
Laingholm District Citizens Assn Inc	Village Hall	\$3000	\$2950
Moire Road Community Facility	Moire Road Community Hall	\$3000	\$2950
Oratia Residents & Ratepayers Assn	Settlers Hall	\$3000	\$2950
Oratia Residents & Ratepayers Assn	Small Hall	\$3000	\$2950
Piha Community Centre Society	Barnett Hall	\$3000	\$2950
Sunnyvale Ratepayers & Residents Assn Inc	Sunnyvale Community Hall	\$3000	\$3000
Titirangi Country Womens Institute	MacAndrew Hall	\$3000	\$3000
Waiatarua Ratepayers & Residents Assn	Waiatarua Community Hall	\$3000	\$2800
Whenuapai Ratepayers & Residents Assn	Whenuapai Village Hall	\$2264	\$2200
Total		\$42,711	\$42,000

Report prepared by: Jan Brown, Community Assistance Administrator.



## 17 REGIONAL FUNDING POLICY

### PURPOSE OF THE REPORT

The purpose of this report is to advise the Finance and Operational Performance Committee of the results of a review of funding of various regional committees and functions.

### BACKGROUND

Earlier this year the Auckland Region Chief Executive Officers Forum (CEOs Forum) set up a Project Team to look at regional funding issues of various Committees and functions that were funded either wholly or in part by the Council's of the Auckland Region.

The CEOs Forum considered the Project Team's report at its meeting held on 5 September 2003. The Forum adopted the recommendations of the Project Team, with the dissenting vote of the Chief Executive Officer of the Auckland Regional Council with regard to that Council's share of the costs of the Civil Defence Emergency Management Group, and resolved that the report be forwarded to the various Councils for information.

A231-A279 A copy of the Project Team's Report and an Executive Summary are attached at pages A231 to A279.

### **STRATEGIC CONTEXT**

With the exception of the allocation of costs of the Civil Defence Emergency Management Group, no significant change is recommended to the basis of cost allocation.

However, in the light of the Auckland Regional Council Chief Executive's dissenting view on the resolution of the CEOs Forum, there may be no unanimity across the region in determining the basis of cost allocation of the Civil Defence Emergency Management Group budget in the forthcoming year.

### **ISSUES**

The report sets out guiding principles to be considered when considering the basis on which the costs of various regional projects and functions should be allocated across the various Councils in the Auckland region. The identified principles are:

- Benefits
- Responsibility
- Representation

In the application of these principles, there must in some cases be a trade-off to be made between the principles to avoid perverse or unintended results if the principles were literally applied. For example, the application of the representation principle (the representation on the Committee, or the number of votes to be exercised) could result in an allocation of costs, which does not fairly reflect the benefits accruing.

A difficulty encountered in allocating costs is determining the share to be attributed to the Auckland Regional Council.

The ultimate beneficiaries of the functions are seen to be the citizens of the region, and these are common to both the territorial local authorities and the Auckland Regional Council.

The majority recommendation of the CEOs Forum was to adopt the recommendation that the Auckland Regional Council should bear 50% of the normal annual administrative and other related operational costs of this function. The Auckland Regional Council dissented from this recommendation.

### **RECOMMENDATION**

That the information be received.

Report prepared by: Colin North, Revenue Accountant.



**PART V - GENERAL**

**18 TECHSCAPE LIMITED - PERFORMANCE AND GOVERNANCE**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely Techscape Limited - Performance and Governance.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the 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 the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"><li>• Techscape Limited - Performance and Governance</li></ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"><li>• To enable the local authority holding the information to carry out, without prejudice or disadvantage commercial activities.</li></ul>	<p>That 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.</p>

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 7(2) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- *The report contains information which if released would affect the Council's commercial activities.*



**19 WATERCARE SERVICES LIMITED - GOVERNANCE UPDATE**

**PURPOSE OF THE REPORT**

The purpose of this report is to update Councillors on three matters related to the Watercare Shareholders' Representative Group, which Council must approve under the terms of its Shareholders' Agreement, and a further matter which has yet to be considered by the Watercare Shareholders' Representative Group, for which instruction to Shareholder Representatives is desirable and timely. The four matters are:

1. Seeking formal approval to the outcome of the 2003 Directors' Review and Appointment Process;
2. Seeking formal approval on the '2003' Statement of Corporate Intent;
3. Seeking formal approval for proposed changes to the Shareholders' Agreement itself; and
4. The potential for Watercare's entry into the retail sector, via a proposed arrangement with Manukau City Council.

A280-A314

A copy of the '2003' Statement of Corporate Intent, and a copy of the existing Shareholders' Agreement appear, as attached at pages A280 to A314.

**BACKGROUND**

Watercare Services Limited, the provider of bulk water and wastewater services to much of the Auckland Region, is owned by the Territorial Local Authorities of Auckland. The Council has two representatives on the Watercare Shareholders Representative Group, Councillors Clews and Lawley. The main functions of the Shareholders Group are to appoint the Board of Watercare Services, to input to Watercare's Statement of Corporate Intent and monitor the performance of the Board against the Statement of Corporate Intent. An officers Group with representatives from the shareholder Territorial Authorities supports the Shareholders Group.

The shareholding percentages are as follows:

Auckland City Council -	41.6%
Manukau City Council -	25.1%
Waitakere City Council -	16.7%
North Shore City Council -	11.5%
Papakura City Council -	03.7%
Rodney District Council -	01.4%

Under the provisions of the Shareholders' Agreement, decisions ratified collectively at a meeting of the Shareholders' Representative Group (75% support threshold) bind the parties (shareholding councils) to approve such decisions.

**STRATEGIC CONTEXT**

Waitakere City Council is a 16.7% shareholder in Watercare Services Limited (Watercare), although the company is legally prohibited from paying a financial dividend to its owners. Further, Waitakere City is a customer of Watercare, as it purchases bulk water for resale to the city's residents.

Strategically, Waitakere City's interest in Watercare Services relates to an ability to influence the long-term strategic direction, to enhance service delivery, water quality, and price efficiency.

## ISSUES

### 2003 Board Review and Appointment Process

The Watercare Services Limited Shareholders Agreement requires the Shareholders Representative Group to implement and manage a process for reviewing the relevant knowledge, experience and skills of the existing Directors of the company. Past reviews have taken place from August to November of each year (approximately).

In terms of the current review and appointment process, the Shareholders' Representative Group took the following steps:

- The sub-committee engaged Boardworks International Limited (principal Graeme Nahkies), who specialise in reviews of boards and directors. The company was engaged to undertake a review of the Watercare Board, together with a more detailed review of the Chair and an examination of the interface between the Watercare Board and the Shareholders' Representative Group.
- During the same period, the Officers' Working Group reviewed the board's performance in relation to its Statement of Corporate Intent and the specific goals that the shareholders required the board to focus on during the course of the 2002/2003 financial year.

Mr Nahkies reported that the company is being directed in better fashion than at any other time during the history of the councils' ownership of the company. More specifically, the influence of the new Chair (Mr Graeme Hawkins) is helping to further the development of positive relationships between the company and its major stakeholders, as opposed to the potential for the negative effects of intrigue and divisiveness.

At the culmination of 2002, the Watercare Shareholders' Group appointed three new Directors, being: Graeme Hawkins, Cath Handley, and Patrick Snedden. The intention was to give the board greater critical mass while many of its members were relatively new, and then reduce the size of the board through attrition with the next resignation, whenever that may be. Unfortunately, during 2003, a legal technicality forced the resignation of Mr Gary Taylor, and the board size was reduced earlier than anticipated.

However, given the positive report received from the external reviewer, the Shareholders' Representative Group has decided to reappoint Sir Douglas Graham and Dr. Ian Parton, who are retiring by rotation this year, but who have offered themselves for re-election.

Shareholding Councils are required, under the terms of the Shareholders' Agreement, to instruct their representatives to so vote at the company's Annual General Meeting in December 2003.

### Statement of Corporate Intent

At the March 2003 meeting of the Finance and Operational Performance Committee, Councillors were asked to consider potential changes to the 2003/2004 Statement of Corporate Intent. Since that time, this council's representatives have been in negotiation (in conjunction with other council shareholders) towards the conclusion of the document, which has been ratified by the Shareholders' Representative Group, and which as attached at pages A280 to A314.

A280-A314

Although the document has been finalised, has been in operation since October 2003, and a binding resolution has been passed by the Shareholders' Representative Group, it is a matter of process under the Companies Act 1993 that a formal resolution approving the Statement of Corporate Intent must be passed by the parties (shareholding councils), and a recommended resolution has been provided for this purpose.

### Changes to Shareholders' Agreement

With the resignation of Mr Drummond at the close of 2002, and the appointment of a new Chair for 2003 onward, deficiencies were discovered in both the Company Constitution and the Shareholders' Agreement, which limited the ability of the shareholders to appoint the company Chair.

The Directors subsequently modified the Company Constitution to remedy this deficiency, and lawyers were engaged on behalf of the Shareholders' Representative Group to make similar changes to the Shareholders' Agreement. At the same time, other changes to the Shareholders' Agreement were requested, to remedy other deficiencies, which had come to light since the establishment of the Shareholders' Representative Group. Two proposed changes have been resolved:

1. The Shareholders' Representative Group agreed to amend Clause 18 of the Shareholders' Agreement to remove the requirement for parties to nominate applicants to be appointed as a Director of Watercare. To clarify, the proposed change will not constrain each Council from nominating proposed shareholders. Rather, the change is designed to remove the requirement for Director appointees to be subject to formal notification between the councils. Since the Shareholders' Representative Group, which makes decisions that are binding on all parties, approves appointees the formal notification of names within shareholding councils has been a superfluous step.
2. The Shareholders' Representative Group has agreed to amend the Shareholders' Agreement to now specify that the Shareholders' Representative Group appoints the Chair and Deputy Chair of the Board of Watercare, in line with changes to the company's Constitution, and as opposed to the Board itself making the appointments.

A315

After approaching Central Government for approval to amend the Shareholders' Agreement, the Department of Internal Affairs has requested individual letters of support from each Council to be sent a copy of a draft letter, as sent by Auckland City Council, as attached at page A315.

Again, after acceptance by the Shareholders' Representative Group itself, approval by Waitakere City Council is a matter of process required under the Companies Act 1993, and a recommended resolution has been provided for this purpose.

### Proposed Vertical Integration Into Retail Services

Between 2000 and 2002, the Auckland region participated in a Water Industry Review, which investigated possible modifications to the delivery of water and wastewater services. Waitakere City residents supported the 'modified status-quo' option, which entails service delivery via current systems, albeit with the implementation of potential efficiencies where appropriate.

In late 2002, unbeknown to Waitakere City, and without the mandate of the Shareholders' Representative Group, Watercare Services made submission to the Local Government Bill to remove the word 'bulk' from the legislation, which would allow the company to trade at all levels of the industry. "Eleventh hour negotiations" by this council prevented the full impact of the company's efforts from being implemented, however the resulting legislation permits the company to operate outside the 'bulk' market, if it first obtains 75% or more support from the Shareholders' Representative Group.

During 2003, Watercare and Manukau City (and, to a lesser extent, Auckland City) have been investigating the potential consequences of Watercare's contracted services at the retail level. It is possible that the Shareholders' Representative Group will need to vote on this issue as early as December 2003, despite there being, at time of writing, a paucity of detail in the public domain.

At this stage, then, it is recommended that Councillors instruct their representatives on the Shareholders' Representative Group to oppose Watercare's integration into other levels on the service delivery chain, for reasons which include the following:

- Waitakere City residents and ratepayers have expressed their preference for a 'modified status-quo' option, in preference to vertical integration.
- The Shareholders' Representative Group is about to engage an externally driven cost-efficiency review of Watercare Services. Until this has been carried out, the shareholding councils have no certainty as to whether a proportion of any suggested efficiency gains could have been achieved without vertical integration, or how significant such savings might be. The senior management of Watercare Services have advised that they do not have sufficient resource to undertake both the cost-efficiency review and the preparation for entry into Manukau City's retail market at the same time. It is the writer's opinion that the former should take priority since it establishes a firm basis for the latter investigation, and also because it is within the scope of the company's existing core business.
- In the event of Watercare's entry into the retail market, the entire service of a commodity that is essential to human life (from rain- and river-water collection to the collection and treatment of wastewater and its return to the natural environment) will be controlled by a corporation which has, for much of its business, monopoly powers, and is primarily driven by financial performance and the need to meet international credit-rating requirements. The social and environmental aspects of service delivery, which have historically taken place at the customer-facing level, would, by necessity, be replaced with a priority on financial targets that would be difficult to monitor or govern in the current industry environment. It is recommended that supporting such a move would, consequently, be contrary to Waitakere City's strategic platforms on which policy decisions are based.

In summary, it is recommended that, in the absence of raw data at time of writing, Councillors instruct their Shareholder Representatives not support Watercare's entry into the retail water industry in the Auckland region, at least until the outcomes of any efficiencies arising from the shareholders' own cost-efficiency review of Watercare Services' existing operation are known.

## **CONCLUSION**

Councillors are asked to resolve in connection with the following matters:

- To approve the re-election of Sir Douglas Graham and Dr. Ian Parton as Directors of Watercare Services Limited at the Annual General Meeting of Watercare Services Limited, to be held in December 2003. This is as a result of a binding decision made by the Shareholders' Representative Group.
- To approve the final '2003' Statement of Corporate Intent for Watercare Services Limited. This is as a result of a binding decision made by the Shareholders' Representative Group.

- To approve the proposed changes to the Shareholders' Agreement for Watercare Services Limited. This is as a result of a binding decision made by the Shareholders' Representative Group.
- To instruct Shareholder Representatives to vote against Watercare's entry into retail service delivery at the Local Network Operator level. Although this matter has come up for discussion at the October 2003 meeting of the Shareholders' Representative Group, no binding decision has yet been made. It is recommended that instruction to this Council's representatives to vote with knowledge of Council's resolution is now timely.

### **RECOMMENDATIONS**

1. That the information be received.
2. That Council endorses Sir Douglas Graham and Dr. Ian Parton to be reappointed to the Watercare Board of Directors at the company's forthcoming Annual General Meeting.
3. That the Chief Executive be authorised to sign all necessary documentation in relation to the exercising of this council's vote at Watercare's Annual General Meeting.
4. That Council approves the 2003 Statement of Corporate Intent for Watercare Services Limited, as approved by the Watercare Shareholders' Representative Group.
5. That the Chief Executive be authorised to write to the Department of Internal Affairs, approving the changes to the Watercare Shareholders' Representative Group Shareholders' Agreement, as adopted by the Watercare Shareholders' Representative Group.
6. That Waitakere City Council's representatives on the Watercare Shareholders' Representative Group be instructed not to support Watercare's entry to the retail sector of the Auckland regional water industry at this stage and to vote against any related recommendation that may be put to them at Shareholder Representative Group meetings.

Report prepared by: Michael Riley, Project Manager: Strategic Property.



20 **MARGAN AVENUE STORMWATER TUNNEL**

This item will be considered in the Confidential Supplement of the agenda, and has been circulated to members separately with this agenda.

**PROCEDURAL MOTION TO EXCLUDE THE PUBLIC**

That the public be excluded from the following part of the proceedings of this meeting, namely Margan Avenue Stormwater Tunnel.

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation of the 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 the matter to be considered.	Reason for passing this resolution in relation to the matter.	Ground(s) under Section 48(1)(a) for the passing of this resolution.
<ul style="list-style-type: none"><li>Margan Avenue Stormwater Tunnel</li></ul>	<p>The withholding of information is necessary in order to:</p> <ul style="list-style-type: none"><li>To maintain legal professional privilege.</li></ul>	<p>That 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.</p>

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 7(2) of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public as follows:

- The report contains information which is subject to legal proceedings.*



**PART VI - SUBCOMMITTEE REPORTS**

**21 TENDERS SUBCOMMITTEE**

**THE SUBCOMMITTEE SUBMITS THE FOLLOWING REPORTS OF ITS ORDINARY MEETINGS HELD ON FRIDAY, 10 OCTOBER 2003 AND THURSDAY, 16 OCTOBER 2003 AND FRIDAY, 24 OCTOBER 2003.**

**MATTERS CONSIDERED**

A316-A324

The Subcommittee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meetings are attached at pages A316 to A324.

**The Subcommittee Recommends:**

That the Ordinary Meeting reports of the Tenders Subcommittee held on Friday, 10 October 2003 and Thursday, 16 October 2003 and Friday, 24 October 2003 be received.

JM Clews, QSO, JP  
**CHAIRPERSON**



**22 CREATIVE COMMUNITIES SCHEME ALLOCATION SUBCOMMITTEE**

**THE SUBCOMMITTEE SUBMITS THE FOLLOWING REPORTS OF ITS ORDINARY MEETINGS HELD ON TUESDAY, 28 OCTOBER 2003 AND TUESDAY, 4 NOVEMBER 2003.**

**1. CREATIVE COMMUNITIES SCHEME ALLOCATION – SEPTEMBER 2003**

**Your Subcommittee recommends:**

That the following funding allocations from the Creative Communities Scheme be approved:

No	Group Name	Funds Requested	Amount Recommended
3	Arohanui Special School	\$2,481.00	\$2,000.00
4	Children's Literature Foundation of NZ Inc/Storylines Festival	\$5,000.00	\$2,500.00
5	Chinese New Settlers Services Trust	\$2,500.00	0.00
6	Christian City Church Auckland	\$3,000.00	\$1,500.00
7	Kaurilands Community Pre-School	\$960.00	\$500.00
8	Leataata O Le Lumanai Samoa Trust	\$5,000.00	\$2,500.00
9	Maja and Damon Birchfield	\$4,184.00	0.00
10	Massey Primary	\$842.00	\$842.00

11	Oratia Out of School Care Facility	\$3,562.00	\$1,750.00
12	Pandemonium Theatre Company	\$2,000.00	\$1,000.00
13	Playwrights Association of New Zealand	\$2,000.00	\$1,500.00
14	Te Atatu South Kindergarten	\$1,467.00	\$750.00
15	Titirangi Kindergarten	\$312.00	0.00
16	West Auckland Hospice	\$700.00	0.00
17	Alexander Efimov	\$5,000.00	\$2,500.00
18	Andrea Tunks	\$5,000.00	\$2,000.00
19	Auckland Philharmonia Orchestra Society	\$5,000.00	0.00
20	Carol Anne Aldred	\$5,000.00	0.00
21	CCS Auckland Inc	\$3,000.00	0.00
22	Faye Norman	\$2,000.00	\$1,000.00
23	Free Spirit Peace Productions	\$5,000.00	\$2,500.00
24	Friends of Arataki	\$5,000.00	0.00
25	Gertrud Wagner	\$2,500.00	0.00
26	Gleem Productions	\$4,000.00	\$3,000.00
27	Healing Through Arts Trust	\$5,000.00	\$3,000.00
28	Ivy Granite & Frontage Productions	\$3,000.00	\$2,400.00
29	Joy Puppets	\$2,099.00	\$1,000.00
30	Lesley Smith	\$3,000.00	\$2,000.00
31	Lopdell House Gallery	\$2,960.00	\$1,200.00
32	Louise Talamani Tu'u	\$800.00	\$800.00
33	Mary Woodward	\$5,000.00	\$2,500.00
34	Massey Community Trust	\$1,000.00	\$1,000.00
35	Nga Putiputi Kanikani Trust	\$5,000.00	\$2,000.00
36	Oratia School & Community Development Group	\$1,300.00	\$1,000.00
37	Pacific Culture & Art Exchange Centre	\$1,000.00	0.00
38	Ugly Shakespeare Company	\$700.00	\$700.00
39	West Auckland Opera Video Enthusiasts Group	\$3,000.00	0.00
40	Tautai Contemporary Pacific Arts Trust	\$4,000.00	\$2,000.00
	<b>Total</b>	<b>\$113,367.00</b>	<b>\$45,442.00</b>
	<b>Amount Available for Allocation</b>		<b>\$45,468.75</b>

2. **OTHER MATTERS CONSIDERED**

A326-A332

The Subcommittee dealt with a number of items for which it has delegated powers to act and a copy of the minutes of the meetings are attached at pages A326 to A332.

**The Subcommittee Recommends:**

That the Ordinary Meeting reports of the Creative Communities Scheme Allocation Subcommittee held on Tuesday, 28 October 2003 and Tuesday, 4 November 2003 be received.

VS Neeson, JP  
**CHAIRPERSON**

