

THE WEST COAST REGIONAL COUNCIL

MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE HELD ON 14 JUNE 2011 AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH, COMMENCING AT 10.30 A.M.

PRESENT:

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

IN ATTENDANCE:

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

1. APOLOGIES

Moved (Robb / Davidson) *that the apologies from F. Tumahai, T. Archer, T. Scott, be accepted.*

Carried

2. PUBLIC FORUM

There was no public forum.

3. MINUTES

Cr Birchfield drew attention to page four of the minutes relating to the recommendation for the bond release. He stated that it is VH Mining Ltd and not DH Mining Ltd. (see May minutes for the handwritten correction).

Moved (Robb / Birchfield) *that the minutes of the previous Resource Management Committee meeting dated 10 May 2011, be confirmed as correct, with the correction included.*

Carried

Matters Arising

There were no matters arising.

4. CHAIRMAN'S REPORT

Cr Chinn reported that he attended the Regional Land Transport Strategy hearing on the 17th of May. He stated that this was interesting and some good points came out of this hearing. Cr Chinn advised that he attended the meeting on the 26th of May which was part of Dr Nick Smith's, Minister for the Environment, visit to the West Coast. Cr Chinn stated that he attended the Regional Land Transport Committee meeting on the 27th of May. Cr Chinn also attended the annual plan hearing and workshop on the 31st of May.

Moved (Chinn / Birchfield) *that this report is received.*

Carried

5. REPORTS

5.1 PLANNING AND ENVIRONMENTAL GROUP

5.1.1 PLANNING & ENVIRONMENTAL MANAGER'S MONTHLY REPORT

M. Meehan spoke to this report advising that the time period to hold hearings and release decisions on the Wetlands – Variation 2 has been extended out by two years this is due to matters that are currently before the court.

M. Meehan reported that the Environmental Protection Authority Act (EPA) was passed by Parliament on the 11th of May. He advised that this now establishes the new EPA as a stand-alone crown agent from the 1st of July 2011.

M. Meehan advised that staff are still analysing impacts for this council of the new National Policy Statement for Freshwater. M. Meehan will report to council on this matter shortly.

M. Meehan reported that there is now a new National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. He advised that this new standard requires district councils to control land use changes, subdivision and disturbance of soil affected or potentially affected by contaminants. M. Meehan advised that this council did not submit on the proposed NPS, final regulations are still to be drafted.

M. Meehan reported that new EEZ (Exclusive Economic Zone) and ECS (Extended Continental Shelf) legislation has been approved by Cabinet. He advised that the EEZ legislation aims to manage the adverse affects of currently unregulated activities in the EEZ and ECS zones. This will include the construction of petroleum platforms, seabed mining, aquaculture structures, carbon capture and storage, and marine energy generation structures, which will then allow the classification of activities. M. Meehan advised that the new EPA would consider, approve or decline consent applications under the new legislation.

M. Meehan reported that the first draft of the Surface Water Quality SoE report is currently being reviewed by staff and will be presented to council soon.

M. Meehan advised that Resource Science staff are investigating the Blackball Mine discharge with assistance of Envirolink funding, to what can be done to mitigate the impacts of the historical discharge into Ford Creek.

M. Meehan reported that heavy rainfall event of the 25th and 26th of May resulted in the Buller, Grey and Waiho rivers all going through their alarm levels. He stated that this rain event was mainly coastal.

M. Meehan reported that an upgrade of the rainfall site for the Styx River at Mount Browning has been completed. He advised that this new site is 100 metres from the old site and after six months the old site will be relocated once the new site is up and running.

M. Meehan drew attention to the Flood Report for the 27th and 28th of December 2010 weather event a copy of which was circulated with the agenda papers. He advised that the flood report contains information relating to rainfall data, return periods, river levels, flood damage and anecdotal information from the community.

Cr Davidson spoke of the discolouration of Lake Mahinapua. He asked M. Meehan to explain what causes this brownish colouring. M. Meehan advised that this is a natural occurrence but staff are investigating the characteristics of CDOM (coloured dissolved organic matter) and how this affects water clarity, and the trends over the last few years. Cr Davidson asked if there is a connection between CDOM and farming. M. Meehan discounted this. Cr Birchfield stated that council should be looking at all West Coast lakes and comparing the levels of all the nutrients and clarity concerns instead of looking at just Lake Brunner on its own. Cr Birchfield feels that the farming community could be being blamed for something they are not responsible for. M. Meehan advised that all lakes have been investigated for water quality matters with the help of Envirolink funding. C. Ingle stated if the level of monitoring being done in Lake Brunner were to be duplicated across another ten West Coast lakes then this would cost the ratepayer an enormous amount of money. C. Ingle stated that funding resources need to be put into those areas that are most likely to be impacted by human activities. Cr Davidson asked if DoC is doing any monitoring of water quality in these lakes. C. Ingle responded that they don't, as this would be taxpayer money being wasted.

Moved (Birchfield / Davidson) *that this report and the December 2010 Flood Report is received.*

Carried

5.1.2 CIVIL DEFENCE & REGIONAL TRANSPORT REPORT

C. Ingle spoke to this report advising that following a meeting of the Welfare Advisory Group, Red Cross are changing their focus and structure a little bit. C. Ingle stated that this is as a result of their experiences with the February Canterbury earthquake. C. Ingle advised that as a result of the serious aftershocks in Christchurch yesterday, the civil defence group here is on standby but at this stage assistance has not yet been requested.

C. Ingle reported that the West Coast Engineering Lifelines Group met on the 2nd of June and they are looking at a number of actions to follow up after the Canterbury earthquake experience.

C. Ingle reported that there has been quite a lot of activity with Regional Transport. He advised that the Regional Transport Strategy submissions process has now been completed. C. Ingle advised that NZTA have now put a plan out for improving the Mingha Bluff to Rough Creek realignment. C. Ingle reported that this council has made submissions in support of this upgrade. He stated that the next step would be to see if funding could be obtained for the upgrade.

C. Ingle reported that improvements are being sought for the Taramakau Bridge to see if this can be improved for Westland Wilderness Cycle Trail. C. Ingle reported that Francois Tumahai has been appointed as a cultural representative to the Regional Transport Committee. Mr Tumahai will take the lead role with Terry Scott becoming the alternate.

C. Ingle advised that he is seeking council's approval to make the surveying on total mobility satisfaction a two yearly process rather than an annual process.

Moved (Scarlett / Davidson)

1. *That the Council accept the nomination to the RTC of the Te Runanga o Ngati Waewae representative and the Te Runanga o Makaawhio alternate, on the Council's Regional Transport Committee.*

2. *That Council move to two-yearly surveying on total mobility satisfaction and defer the annual plan reporting requirements for 2010 / 11 until 2011/12.*

Carried

5.1.3 CIVIL DEFENCE - FUEL REPORT

C. Ingle spoke to this report advising that Cr Davidson had requested a copy of this report at the last council meeting. C. Ingle stated that staff have read through this report again and most actions have been followed up on but there is some guidance at the national level which needs attention. He noted that this report was prepared three years ago and he feels it is now timely that the Lifelines Group is asked to revisit these future actions to ascertain where to from here. Cr Davidson stated that this is an excellent report and that fuel is the most important resource to assist with the response and recovery in a major event. He feels we are right on the edge of this at the moment and it is important that fuel storage on the West Coast is pushed. Cr Davidson stated that diesel storage is very important in order to get key industries up and running again on the West Coast in the event of a disaster. Cr Cummings agreed with Cr Davidson. Cr Cummings feels that the fuel companies should be approached and that council should write to the fuel companies regarding this.

Moved (Cummings / Davidson) *that Council write to the fuel companies outlining concerns regarding fuel storage on the West Coast.*

Carried

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

Carried

5.1.4 ADOPTION OF THE WEST COAST REGIONAL LAND TRANSPORT STRATEGY AND REGIONAL PUBLIC TRANSPORT PLAN

C. Ingle spoke to this report advising that this is the final step of the Land Transport Strategy adoption with the Regional Land Transport Committee process, submissions and hearings and decisions being complete. C. Ingle stated that this is now the way forward for the next thirty years. Cr Birchfield drew attention to the amount of money being spent in the future on cycling. Cr Birchfield stated that this money comes from the road user, and money is being taken from the motorist to use on cycling. Cr Scarlett stated that there are health benefits with cycling and there has been strong representation on the regional transport committee supporting cycling. C. Ingle stated that he understands that the funding is more for the cycleway projects that Westland District and Grey District councils are undertaking and this is related to the government policy on walking and cycling strategies. Cr Birchfield stated that this is money that the motorist pays through fuel tax and road user charges that the cyclist doesn't pay. Cr Birchfield is not in favour

of this as there are a lot of one way bridges that need replacing on State Highway 73 and he would rather see money spent on these bridges than on cycling.

Cr Davidson drew attention to the government's focus on "Roads of National Significance", in terms of funding priorities. Cr Davidson stated that there are no roads of national significance on the West Coast and he feels this is unfair. C. Ingle stated that there is only one road of national significance in the whole of the South Island and that is the motorways in Christchurch and the rest are in the North Island. Cr Scarlett stated that there has been a lot of representation on this matter particularly in provincial areas. Cr Scarlett gave the example of Southland having a huge economic benefit to their region and yet they to are on the same par as the West Coast because they do not have any roads of national significance. Discussion ensued on this topic and the economic benefits and advantages and disadvantages in other areas.

Moved (Robb / Scarlett)

That Council adopt the West Coast Regional Land Transport Strategy, and the Regional Public Transport Plan which is included as a chapter to the Strategy, pursuant to section 79(2)(a) of the Land Transport Management Amendment Act 2008 and section 9 (1) of the Public Transport Management Act 2008.

Carried

5.2 CONSENTS AND COMPLIANCE GROUP

5.2.1 CONSENTS MONTHLY REPORT

C. Dall spoke to this report advising that the joint hearing for Buller Coal Ltd consent applications for its proposed Escarpment Mine is currently taking place in Westport. Cr Archer is chairing this hearing, which should be completed by next week.

C. Dall reported that the appeals related to Solid Energy NZ Ltd proposed hydropower scheme on the Denniston Plateau have now been resolved. He advised that the a draft consent order resolving the appeals was lodged with the Environment Court and approval of the consent order is now awaited. Cr Scarlett asked what stage is the Mokihinui Hydro project consenting process at. C. Dall responded that timetable issues are currently being worked through and the hearing is unlikely to take place before mid 2012. C. Dall advised that Meridian is currently gathering further information in relation to their proposal including undertaking a Buller district wide assessment of outstanding natural features and landscapes.

Moved (Robb / Scarlett) *that the June 2011 report of the Consents Group be received.*

Carried

5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

C. Dall spoke to this report. He drew attention to two minor mistakes in his report. C. Dall reported that most farms have now ceased milking for the season.

C. Dall advised that OceanaGold Ltd have reported that they have discovered a sediment laden water seep from the embankment of the tailings dam at the mine site. He stated that the prompt remedial action was taken the company now seeking further advice to get to the root of the problem. C. Dall advised that further reports are awaited but at this stage it does not like there were any significant adverse affects.

C. Dall reported that staff are currently investigating a consent breach at the Roa Mining Company Ltd mine site.

C. Dall reported that there has been a number of complaints received relating to alluvial gold mining operations which staff are following up on. He advised that there have also been a number of breaches of permitted activity rules.

C. Dall reported that the Council's / Crown hearing for the prosecution against Mr Derek Newton for the alleged illegal works in the bed of the Taramakau River and the sentencing hearing for Mr Paul Stewart for an illegal discharge of dairy effluent to water took place a couple of weeks ago.

C. Dall advised that in the Newton case the Judge needed to rule on two points of law before the jury could proceed. C. Dall advised that after hearing these two points of law the Judge ruled that the Jackson consent did not allow for the works done and the bed of the Taramakau River was where the council had identified it to be. Following this the Crown Prosecutor and Mr Newton's

lawyer met and an agreement was made which resulted in Mr Newton pleading guilty to two of the six charges laid against him. C. Dall advised that a Disputed Facts Hearing would take place in September regarding the effects of the illegal works.

C. Dall reported that regarding Mr Stewart's case of illegal dairy discharge, Mr Stewart was fined \$25,000.

C. Dall reported that a reasonable number of work programmes for mining have been received during the reporting period.

C. Dall reported that an oil spill occurred in the Westport harbour the same day that council staff were attending an oil spill response training session. He stated that staff deployed booms and absorbent pads to contain the spill. C. Dall stated that enforcement action is still being considered.

Cr Scarlett asked C. Dall what ramifications does the disputed facts hearing in Mr Newton's case have on the Judge's ruling. C. Dall responded that the ruling is a matter of sentencing and the facts that are in dispute are the actual and potential effects of the river works. Cr Davidson stated that his understanding was that the bank Mr Newton built did not have resource consent. C. Dall advised that Mr Newton was claiming that he was doing works under Mr Jackson's 1996 consent for a series of rock groynes. C. Dall stated that council believed that this was not the case and presented evidence to that effect and the Judge was satisfied that the consent didn't apply to the Newton works. Cr Davidson stated he was under the impression that council could be legally responsible for any effects to land owned by property owner's downstream if council is aware that these works had been carried out without resource consent. Cr Davidson asked if this is correct. C. Dall clarified council has a general duty of care to uphold the law, under its legislation and part of this is to ensure that appropriate enforcement action is taken in relation to non-compliance. Cr Scarlett gave an historic example of a similar case that council had experience with. Cr Davidson stated that he made his decision on the prosecution in this case, in good faith. He felt that he had acted responsibly and he does not always vote in favour of prosecutions but he is disappointed that decisions on prosecutions have come out in the newspapers and the full facts as they were discussed in committee were not given. Cr Davidson stated that he took an oath when he came onto council that he would act in a manner to the best skill of his judgement. He stated that in this case it has seemed like the council was split on the issue. Cr Cummings stated that they weren't split. Cr Davidson stated that he is not prepared to breach confidentiality, but he cannot recall that anyone voted against this case. Cr Birchfield stated that council voted to prosecute Mr Newton if he did not remove the wall. Cr Birchfield stated that Mr Newton did remove the wall but the case still went ahead. Cr Scarlett stated that Mr Newton did not remove the wall completely. Cr Scarlett stated that the most disturbing thing that he read in the newspaper was that Cr's Birchfield and Cummings implied that they were against prosecutions. Cr Scarlett stated that predetermination is wrong in law. Cr Scarlett stated that as Councillors, you need to look at the facts, be impartial and clear on decisions and by being predetermined against prosecutions, fairness is then not applied. Cr Birchfield suggested that Cr Scarlett goes back through the minutes as he has voted for prosecutions when it is the end of the line and where necessary. Cr Birchfield stated that he feels council has an agenda for prosecuting ratepayers and he does not agree with this. Cr Scarlett stated that this is not an agenda and is Cr Birchfield's view and this is an incorrect view. Cr Scarlett stated that as a council, the facts are looked at and advice is taken from staff. Cr Scarlett feels we are a pretty lenient council when you look at the rest of New Zealand and we are fair to people. Cr Scarlett stated that the first step with enforcement action is to help get things right, then abatement, then fines and then if things are still not put right then council has a duty of care and a statutory obligation to ensure that council carries out the functions that it is here for. Cr Scarlett stated that to be reported in the newspapers as saying that I am against prosecutions and I am not going to prosecute anyone is a predetermination. Cr Birchfield stated that it was not reported like that. Cr Cummings stated that it was not reported that Mr Newton was arrested and put in Christchurch prison for the night and then sent to Papanoa Prison for another two nights. Cr Scarlett asked what was the reason for this. Cr Cummings said that this was because the prehearing was close to Easter. Cr Scarlett stated that he was of the understanding that Mr Newton failed to turn up at court and the Judge ordered his arrest. Cr Robb queried if this should be being discussed at this meeting. Cr Robb stated that the thing that disturbs him the most is Cr Cummings's comment in the newspaper saying that "they (councillors) are scared if they don't do something (prosecute), then council will be disbanded and that is what we want". Cr Robb asked Cr Cummings if this statement is true. Cr Robb asked Cr Cummings why is he sitting on this council if he wants it disbanded. Cr Robb asked Cr Cummings if he felt this was ethical? Cr Robb drew attention to Cr Scarlett comments about the fact that Cr Cummings is predetermining his views based on the fact that he wants to get the council disbanded. Cr Robb asked Cr Cummings if he is trying to undermine the council

by making poor decisions? Cr Robb reminded Cr Cummings that he was not even on the council when the Newton decision was made. Cr Robb noted that Cr Cummings did not name the other councillor who was on council at the time of this prosecution. Cr Cummings stated that he did not like the media article. Cr Robb responded that Cr Cummings commented to the newspaper, so either Cr Cummings has been misrepresented or the newspaper is totally wrong. Cr Chinn stated that there is a general feeling that council should use fining system more before they go to prosecution and he feels that the fine system is like speeding tickets, if you get enough of them, you soon get the message to do the right thing.

Moved (Robb / Birchfield) *that the June 2011 report be received.*

Carried

6.0 GENERAL BUSINESS

There was no general business.

The meeting closed at 11.25 a.m.

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Chairman

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Date