

3. 8. 2006



**PUBLIC STREETS ENCLOSURES AND FEES SUBCOMMITTEE
15 DECEMBER 2005**

**A meeting of the Public Streets Enclosures and Fees Subcommittee
was held on Thursday 15 December 2005 at 8.30am**

PRESENT: Councillor David Cox (Chairman),
Councillors Bob Shearing and Gail Sheriff.

IN ATTENDANCE: Jane Parfitt (General Manager City Environment),
Angus Smith (Property Consultancy Team Leader),
Stuart McLeod (Property and Leasing Adviser),
Weng Kei Chen (Asset Policy Engineer) and
Max Robertson (Council Secretary).

The Subcommittee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. REVIEW OF PUBLIC STREETS ENCLOSURES POLICY AND FEES CHARGED

INTRODUCTION

At its meeting on Thursday 15 September 2005 the Council considered the officers' report entitled "Review of Public Streets Enclosures Policy and Fees Charged" which detailed the results of the consultation that had been undertaken by Council officers with affected business owners and the general community in relation to:

- (a) The Council's Public Streets Enclosure Policy ("the Policy"); and
- (b) The method by which fees are calculated for the occupation of legal road for outdoor dining purposes.

That officers' report is attached as **Schedule One** to this report.

That officers' report recommended, due to the lack of participation by affected parties and the general community in the consultation process undertaken by Council officers and the mixed views expressed by those persons who did participate, that there was no manifest desire on the part of affected parties or the general public for change either to the Policy or the methodology used for licence fee calculations.

At the Council meeting of 15 September 2005 verbal submissions were also made to the Council on these issues by Mr Anthony Gough, Mr Clive Weston and Mr Peter Morrison.

After considering those verbal submissions and the officers' report the Council passed the following resolutions:

"That the officers' report be held over, and that this issue and the submissions made at the present meeting be referred to a subcommittee comprising any three of Councillors Cox, Crighton, Shearing and Sheriff for further consideration."

"That the Subcommittee consult with all interested parties and Council officers, and report back to the Council with its recommendations prior to 31 October 2005."

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BACKGROUND INFORMATION

The Subcommittee requested that Council officers provide the Subcommittee with the following background information:

- A copy of the current written Public Streets Enclosure Policy, a copy of which is attached as **Schedule Two** to this report.
- A list of all current licensees showing location and area covered by such licences, which list is attached as **Schedule Three** to this report.
- A Schedule of Payments payable under existing licences, a copy of which is attached as **Schedule Four** to this report.
- Copies of relevant valuation reports and related, attached as **Schedule Five** to this report.
- A brief report on matters detailing the relevant capital expenditure expended by the Council, a copy of which is attached as **Schedule Six** to this report.

HEARING OF SUBMISSIONS

Following the 15 September 2005 Council meeting, the Subcommittee decided to invite fresh submissions from directly affected parties and generally from members of the public.

An advertisement inviting public submissions was placed in 'The Press' newspaper on 1 October 2005 and all existing licensees of legal road for outdoor dining purposes were sent individual letters inviting them to forward written submissions. Submissions were expressed to be required to be received by the Subcommittee no later than Friday 14 October 2005.

Subsequently, 10 identical written submissions were received by the Subcommittee from the following persons or parties:

- Antony Gough of Hereford Holdings Limited, PO Box 1330, Christchurch
- Louis Viecele Field of Dreams Limited (The Tap Room), PO Box 870, Christchurch
- Clive Weston of Coyote Holdings Limited (Coyotes), PO Box 22-279, Christchurch
- Max Bremner of Crotalus Limited (The Bog Irish Bar), PO Box 225,7 Christchurch
- Anne-Marie Nadeau of Exclusion Limited (Ferment), PO Box 2262, Christchurch
- Anne-Marie Nadeau of Liquidity XO Limited (Liquidity), PO Box 2262, Christchurch
- Robert Mercer of Sticky Fingers Restaurant & Bar Limited (Sticky Fingers), PO Box 2465, Christchurch
- Michelle Butterfield of Viaduct Management Limited (Viaduct), PO Box 29176, Christchurch
- Colin Kordic of The Boulevard, PO Box 2262, Christchurch
- Harry Kain of Deli Bar Limited, PO Box 21-336, Christchurch

All submitters requested to be heard.

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Full copies of all the written submissions received by the Subcommittee are attached as **Schedule Seven** to this report.

Council officers (Angus Smith, Weng Kei Chen, Stuart McLeod and Neil Carrie) reviewed the written submissions received and prepared in written form their comments in respect to each submission. These written officer comments were provided to the Subcommittee as part of its deliberation. A full copy of those officer comments entitled "Submissions.1 14 October 2005" is attached as **Schedule Eight** to this report.

Neil Carrie provided additional written comment on the written submissions and a copy of this document entitled "Additional Comments Neil Carrie" is attached as **Schedule Nine** to this report.

Those submitters who indicated a wish to speak to their submissions were heard by the Subcommittee in person on 28 October 2005.

The following persons personally appeared before the Subcommittee:

- Harry Kain: Barcelona
- Robert Mercer: Sticky Fingers Restaurant and Bar
- Antony Gough: Hereford Holdings Limited
- Clive Weston: Coyotes
- Louis Vieceli: Tap Room
- Peter Morrison: Hotel Association of New Zealand.

Mr Morrison had not previously submitted a written submission, but appeared before the Subcommittee in support of the submitters who had previously provided written submissions.

A full summary of the verbal submissions made to the Subcommittee on 28 October 2005 appears in the minutes of that meeting attached as **Schedule Ten** to this report.

VALUATION ISSUES

Following the hearing of the submissions on 28 October 2005, the Subcommittee requested valuation advice be obtained from Mr Richard Chapman of Ford Baker Valuations.

That valuation advice was subsequently received in the form of a written valuation report and considered by the Subcommittee.

A copy of the FordBaker valuation report entitled "Ford Baker" is attached as **Schedule Eleven** to this report.

CONCLUSION

The Subcommittee concluded after considering the submissions received and the information available to it (as attached in the Schedules to this report), that the Council's methodology for calculating applicable fees for the occupation of legal road for outdoor dining purposes was reasonable. It also concluded that parts of the associated Public Streets Enclosures Policy relating to the design and placement of the street furniture were unduly restrictive and therefore should be replaced by a more flexible policy that took into account the concerns expressed by the submitters.

As the review is now complete, the Subcommittee therefore submits the following recommendations to the Council.

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RECOMMENDATIONS

The Subcommittee therefore recommends:

- (a) That the Council retain the current fee charging methodology, as set out in the officers' report previously submitted to the Council on 15 September 2005, a copy of which is attached as **Schedule One** to this report.
- (b) That the current prescriptive Public Streets Enclosures Policy be revoked, and replaced with the revised policy attached as **Schedule Twelve** to this report in order to allow Council officers more flexibility in issuing and monitoring licences for the occupation of public streets and other public spaces for such purposes.
- (c) That all licensees occupying public streets and other public spaces be required to pay the full rental due in accordance with the Council's current charging policy.
- (d) That all occupiers who have erected tables, chairs and other street furniture on public streets and other public spaces be required to enter into the Council's standard form of licence for the occupancy of the affected spaces.
- (e) That the Corporate Support Manager and Transport and City Streets Manager be severally delegated power to:
 - (i) Institute enforcement proceedings where an occupier refuses to accept the fees and other conditions applicable in respect of the subject site within the terms of the Council's policy, and have those fees and conditions documented in a licence.
 - (ii) Institute enforcement proceedings where a licensee fails to meet the terms and conditions of their existing licence.
 - (iii) Terminate the occupancy of the subject site or sites, in either of the circumstances referred to in (i) and (ii) above

CONSIDERED THIS 3RD DAY OF AUGUST 2006

MAYOR