

**MINUTES OF AN EXTRAORDINARY MEETING OF THE CHRISTCHURCH CITY COUNCIL
HELD AT 3PM ON TUESDAY 5 JUNE 2007 AND (MEANTIME HAVING BEEN ADJOURNED)
RECONVENED AT 11AM ON THURSDAY 7 JUNE 2007**

PRESENT: The Mayor, Garry Moore (Chairperson).
(Both 5 June and 7 June) Councillors Helen Broughton, Sally Buck, Graham Condon, Barry Corbett, David Cox, Anna Crighton, Carole Evans, Bob Parker, Bob Shearing, Gail Sheriff, Sue Wells and Norm Withers.

1. APOLOGIES

An apology for absence was received from Councillor Pat Harrow, who was overseas.

(Note: Councillor Harrow's apology for absence was also accepted at the reconvened meeting on 7 June 2007.)

It was **resolved** that the apology be accepted.

5. DEPUTATIONS BY APPOINTMENT

(a) MALVERN HILLS PROTECTION SOCIETY (INC)

Written and oral submissions regarding the Central Plains Water Trust's financial statements for the nine months ended 31 March 2007 were made by Rosemary Snoyink, Mark Christensen and David Lynch, representing the Malvern Hills Protection Society (Inc).

(b) WATER RIGHTS TRUST

Murray Rogers made oral submissions in his capacity as the Chairman of the Water Rights Trust. Mr Rogers stated that in the opinion of the Trust there were inherent flaws in the central plains water scheme, which had caused wide divisions in the community, and that the scheme should be put on hold until these concerns had been more fully addressed.

(c) ASHBURTON DISTRICT COUNCIL

Bede O'Malley presented written submissions in his capacity as Mayor of Ashburton District, in which he referred to the economic, social and environmental benefits of irrigation, future climate changes, the New Zealand Energy Strategy, the Canterbury Water Strategy and the perceived benefits of community irrigation schemes compared with private schemes.

6. ADJOURNMENT OF MEETING

Following the presentation of the submissions, it was resolved that the extraordinary meeting stand adjourned, to be reconvened at 11am on Thursday 7 June 2007.

The meeting then adjourned at 4.10pm.

7. RECONVENED MEETING

The meeting reconvened at 11am on Thursday 7 June 2007.

2. CENTRAL PLAINS WATER TRUST

It was **resolved** that the Council:

- (a) Agree that the issues/questions from Councillors attached as Appendix 1, together with any additional issues/questions identified be raised at the joint Christchurch City Council/Selwyn District Council meeting to be arranged for the purpose of holding discussions with the Central Plains Water Trust.
- (b) Receive the Central Plains Water Trust's Statement of Financial Performance, Statement of Movements in Equities, Statement of Financial Position, Statement of Cash Flows and the Statement of Accounting Policies for the nine months ended 31 March 2007.

(The meeting was then further adjourned at 11.22am on Thursday 7 June 2007, and reconvened at 1pm the same day.)

8. SUPPLEMENTARY ITEMS

The Mayor referred to the following supplementary items which had been separately circulated:

- Public excluded report on a proposal by Central Plains Water Ltd to borrow funds from one of its shareholders, such report having been circulated on Friday 1 June 2007 for the extraordinary Council meeting held on 5 June 2007 and reconvened on Thursday 7 June 2007.

The Mayor advised that it had not been possible to include this report in the agenda because the Council was awaiting updated legal advice which did not arrive until Friday 1 June 2007, but that the report needed to be considered at the present meeting.

- External legal advice regarding the liability of Councillors in relation to sections 44-46 of the Local Government Act 2002, an associated letter from the Council's insurer Risk Pool, and an updated draft loan agreement which had been circulated on Wednesday 6 June 2007 for the reconvened meeting on 7 June 2007.

The Mayor explained that these items had not been included in the agenda because the external legal advice, the associated letter from the Council's insurer and the updated draft loan agreement were not received until 6 June 2007, but that it was essential that they be considered at the present meeting.

It was **resolved** that all four items be received, and considered at the present meeting.

3. RESOLUTION TO EXCLUDE THE PUBLIC

- 1. It was **resolved** that the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
4. CENTRAL PLAINS WATER TRUST LTD FUNDING - LOAN AGREEMENT TO DAIRY HOLDINGS LTD) GOOD REASON TO WITHHOLD EXISTS) UNDER SECTION 7	SECTION 48(1)(a)

5. 6. 2007 and 7.6.2007

- 3 -

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Item 4 Conduct of Negotiations (Section 7(2)(i))

2. That Mr Willie Palmer, a Director of Central Plains Water Ltd, be permitted to remain at the meeting after the public has been excluded, to enable him to answer questions from Councillors regarding the financial position of the company and other associated issues which are relevant to the loan issue before the Council, and that Mr Palmer be required to leave the meeting after the questions and answers have been completed.
3. That Mr Paul Rogers of Anthony Harper also be permitted to remain at the meeting after the public has been excluded, to enable him to assist the Council in his capacity as the Council's legal adviser regarding the loan issue which is the subject of the public excluded report, as such advice is relevant to the loan issue.
4. That Mr Bob Lineham, former Director Strategic Investment of the Christchurch City Council, also be permitted to remain at the meeting after the public has been excluded, because of his prior knowledge of the subject of the public excluded report.

CONFIRMED THIS 14TH DAY OF JUNE 2007

MAYOR

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4. CENTRAL PLAINS WATER TRUST LTD FUNDING - LOAN AGREEMENT TO DAIRY HOLDINGS LTD

Mr Willie Palmer answered a number of questions raised by the Council in relation to the financial position of Central Plains Water Trust Ltd, and some associated issues relevant to the loan issue before the Council.

Mr Palmer then retired from the meeting at 2.50pm.

Mr Paul Rogers of Anthony Harper then answered a number of questions by Councillors relating to the draft loan agreement.

It was **resolved** to note the external legal advice received from Simpson Grierson, that it was unlikely that a decision to withhold consent to the security arrangements currently involving Dairy Holdings Ltd and Central Plains Water Trust Ltd would give rise to personal liability of Councillors under sections 44-46 of the Local Government Act 2002.

Councillor Parker then moved:

"1. That the Council authorise the General Manager Corporate Services and the General Manager Regulation and Democracy Services jointly to:

- (i) approve the Loan Agreement that CPWL borrow funds from DHL and any amendments to the Loan Agreement that will ensure that its terms comply with the objectives of CPWT's Trust Deed;*
- (ii) approve the security arrangements in the Loan Agreement to protect as far as is commercially possible the Council's position with regard to its existing advance of \$494,145.88;*
- (iii) approve further loan agreements between CPWT, CPWL and lenders in respect of borrowings by CPWL up to a maximum of \$4.8 million, being the limit of permitted borrowings set out in the DHL Loan Agreement.*

This authorisation being subject to CPWT demonstrating to Council's satisfaction:

- (i) that they are meeting the overriding role of the trust, to ensure the long-term community protection of the region's scarce water resources and;*
- (ii) that they are giving effect to the Trust's objectives to provide and facilitate opportunities for agricultural and horticultural diversity in the region.*

2. That further to the Council's resolution of 16 November 2006, the Council undertake a comprehensive review of the Trust's membership."

The motion was seconded by the Mayor.

5. 6. 2007 and 7.6.2007

- 5 -

Councillor Shearing then moved by way of amendment:

“That the Council require the Central Plains Water Trust to demonstrate to the Council’s satisfaction:

1. *That they are meeting the overriding role of the Trust, to ensure the long term community protection for the region’s scarce water resources and;*
2. *That they are giving effect to the Trust’s objectives to provide and facilitate opportunities for agricultural and horticultural diversity in the region.*

before the Council makes any further decisions on endorsing the loan.”

The amendment was seconded by Councillor Withers and when put to the meeting was declared **lost** on division no 2 by 8 votes to 5, the voting being as follows:

Against (8): The Mayor and Councillors Buck, Corbett, Crighton, Evans, Parker, Sheriff and Wells.

For (5): Councillors Broughton, Condon, Cox, Shearing and Withers.

Councillor Parker then moved by way of further amendment:

“1. That the Council authorise the General Manager Corporate Services and the General Manager Regulation and Democracy Services jointly to:

- (i) approve the Loan Agreement that CPWL borrow funds from DHL and any amendments to the Loan Agreement that will ensure that its terms comply with the objectives of CPWT’s Trust Deed;*
 - (ii) approve the security arrangements in the Loan Agreement to protect as far as is commercially possible the Council’s position with regard to its existing advance of \$494,145.88;*
 - (iii) approve further loan agreements between CPWT, CPWL and lenders in respect of borrowings by CPWL up to a maximum of \$4.8 million, being the limit of permitted borrowings set out in the DHL Loan Agreement.*
2. *That the authorisation referred to in clause 1 above be subject to the Council being satisfied by the Central Plains Water Trust:*
 - (i) That the original intention of the April 2003 Memorandum of Understanding “that the Trust has as its sole overriding objective continued public ownership (through the Christchurch City Council and Selwyn District Council) of the resource consents to be obtained ... which will ensure long term community protection of the region’s ‘scarce water resources’ ” is being delivered.*
 - (ii) That the following objects of the Trust as set out in the April 2003 Trust deed are also being delivered:*

‘The Settlers declare that the Trust is a trust for charitable purposes for the benefit of the present and future inhabitants of the Regions and further declare and direct that the Trust Fund may be applied and used exclusively by the Trustees for the following general purposes within New Zealand (“the Objects”), namely:

 - (a) to encourage, support and facilitate sustainable development of the water resources of the Regions for the benefit of the inhabitants;*
 - (b) to provide and facilitate opportunities for agricultural and horticultural diversity in the Regions;*
 - (c) to provide and facilitate education to the inhabitants of the Regions in relation to water issues affecting the Regions;*
 - (d) to appropriate balance enhancement of economic benefits for the Regions with enhancement of ecological, social and recreational values for the Regions.’*
3. *That, further to the Council’s resolution of 16 November 2006, the Council undertake a comprehensive review of the Trust’s membership.”*

5. 6. 2007 and 7.6.2007

- 6 -

The further amendment was seconded by the Mayor and when put to the meeting was declared **carried** as the substantive motion on division no 3 by 8 votes to 5, the voting being as follows:

For (8): The Mayor and Councillors Condon, Cox, Evans, Parker, Shearing, Sheriff and Wells.

Against (5): Councillors Broughton, Buck, Corbett, Crighton and Withers.

(4.30pm Councillor Evans retired.)

9. RELEASE OF CONFIDENTIAL INFORMATION

The Mayor reminded Councillors of the need for reports and other items considered by the Council at meetings with the public excluded to remain confidential, until such time as they could be publicly released.

10. READMISSION OF THE PUBLIC TO THE MEETING

Resolved: That members of the public be readmitted to the meeting, and that the resolution adopted by the Council with the public excluded be made publicly available.

11. CONCLUSION

The reconvened meeting concluded at 4.15pm on Thursday 7 June 2007.

CONFIRMED THIS 14TH DAY OF JUNE 2007

MAYOR