

**FENDALTON/WAIMAIRI COMMUNITY BOARD
AGENDA**

TUESDAY 17 MARCH 2008

AT 4.00PM

**IN THE BOARDROOM
FENDALTON SERVICE CENTRE
CORNER JEFFREYS AND CLYDE ROADS**

Community Board: Val Carter (Chairperson), Cheryl Colley (Deputy Chairperson), Sally Buck, Faimeh Burke, Jamie Gough, Mike Wall and Andrew Yoon.

Community Board Adviser
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- PART A - MATTERS REQUIRING A COUNCIL DECISION**
- PART B - REPORTS FOR INFORMATION**
- PART C - DELEGATED DECISIONS**

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1. APOLOGIES

2. CONFIRMATION OF MINUTES – 25 FEBRUARY AND 4 MARCH 2009

The minutes of the Board's ordinary meeting of Wednesday 25 February 2009 and its extraordinary meeting of 4 March 2009 are **attached**.

CHAIRPERSON'S OR STAFF RECOMMENDATION

That the minutes of the Board's ordinary and extraordinary meetings be confirmed.

3. DEPUTATIONS BY APPOINTMENT

Nil.

4. PRESENTATION OF PETITIONS

Nil.

5. NOTICES OF MOTION

Nil.

6. CORRESPONDENCE

Nil.

7. BRIEFINGS

Nil.

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ATTACHMENT TO CLAUSE 2

14. 5. 2009

**FENDALTON/WAIMAIRI COMMUNITY BOARD
25 FEBRUARY 2009**

**A meeting of the Fendalton/Waimairi Community Board
was held on Wednesday 25 February 2009 at 9.55am
in the Boardroom, Fendalton Service Centre.**

PRESENT: Val Carter (Chairperson), Sally Buck, Faimeh Burke, Cheryl Colley,
Jamie Gough, Mike Wall and Andrew Yoon.

APOLOGIES: Nil.

The Board reports that:

PART B - REPORTS FOR INFORMATION

1. DEPUTATIONS BY APPOINTMENT

Nil.

2. PRESENTATION OF PETITIONS

Nil.

3. NOTICES OF MOTION

Nil.

4. CORRESPONDENCE

Nil.

5. BRIEFINGS

Nil.

6. COMMUNITY BOARD ADVISER'S UPDATE

The Board **received** an update from the Community Board Adviser on forthcoming Board related activity over the coming weeks.

7. ELECTED MEMBERS' INFORMATION EXCHANGE

Nil.

8. QUESTIONS UNDER STANDING ORDERS

Nil.

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ATTACHMENT TO CLAUSE 2

PART C - REPORT ON DELEGATED DECISIONS TAKEN BY THE BOARD

9. CONFIRMATION OF MEETING MINUTES – BOARD MEETING OF 10 FEBRUARY 2009

The Board **resolved** that the minutes of its ordinary meeting of Tuesday 10 February 2009, be confirmed.

The meeting concluded at 10.00am.

CONFIRMED THIS 17TH DAY OF MARCH 2009

**VAL CARTER
CHAIRPERSON**

17. 3. 2009

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ATTACHMENT TO CLAUSE 2

9. 4. 2009

**FENDALTON/WAIMAIRI COMMUNITY BOARD
4 MARCH 2009**

**Minutes of an extraordinary meeting of the Fendalton/Waimairi Community Board,
held on Wednesday 4 March 2009 at 9.00am
in the Boardroom, Fendalton Service Centre.**

PRESENT: Val Carter (Chairperson), Sally Buck, Faimeh Burke, Cheryl Colley,
Jamie Gough, Mike Wall and Andrew Yoon.

APOLOGIES: Nil.

The Board reports that:

PART B - REPORTS FOR INFORMATION

1. DEPUTATIONS BY APPOINTMENT

Nil.

2. CORRESPONDENCE

A letter was received from Opus International regarding consultation on the Russley Road/Memorial Avenue Intersection Improvements.

The Board **decided** to request that Council staff and/or Opus International representatives be invited to provide a briefing to the Board on the details of the above project, preferably in combination with a site visit.

(The Board noted that in the meantime it was unable to provide comment for inclusion in a Council response being prepared by staff with respect to the consultation.)

3. COMMUNITY BOARD ADVISER'S UPDATE

The Board **received** an update from the Community Board Adviser on forthcoming Board related activity over the coming weeks.

PART C – DELEGATED DECISIONS

4. APPLICATION TO THE BOARD'S 2008/09 DISCRETIONARY RESPONSE FUND – OPTIONS FOR PROMOTING A POSITIVE WELCOME TO THE CITY ON MEMORIAL AVENUE

The Board was provided with an opportunity to consider allocating some of its 2008/09 Discretionary Response Fund towards options for presenting a positive image of the city during the 2009 Ellerslie International Flower Show, on the south side of Memorial Avenue from Russley Road to near the Copthorne Commodore Hotel and for a short distance south on the east side of Russley Road from the Memorial Avenue intersection.

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ATTACHMENT TO CLAUSE 2

The Board **resolved** to:

- (a) Not proceed with options discussed in the report regarding presenting a positive image on the Memorial Avenue/Russley Road intersection during the Eilerslie International Flower Show.
- (b) Request a report investigating long-term options to beautify the Memorial Avenue entrance to the city, in particular with respect to areas of concern around the Memorial Avenue and Russley Road intersection.

The meeting concluded at 9.35am.

CONFIRMED THIS 17TH DAY OF MARCH 2009

**VAL CARTER
CHAIRPERSON**

8. ROAD STOPPING POLICY

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Unit Manager Corporate Support
Author:	Angus Smith, Manager Property Consultancy

PURPOSE OF REPORT

1. The purpose of this report is to request that the Board recommend to the Council the adoption of a formal policy in relation to the stopping of legal road.

EXECUTIVE SUMMARY

2. The Council at its meeting on the 14 August 2008 passed the following resolution in response to a report concerning a proposed stopping of legal road adjacent to the property at 10 Waiwetū Street –

“It was resolved that the Council leave this matter to lie on the table at Council until the Council has resolved its policy position on these matters, as highlighted by the report on the disposal of surplus road land outside 173 Clyde Road, which was deferred by the Council at its meeting on 12 June 2008.”

3. A report recommending the adoption of policy and delegations for road stopping was subsequently considered by Council on the 25 September 2008 which resulted in the following resolution –

*“It was **resolved** on the motion of Councillor Wall, seconded by Councillor Buck, that this report be forwarded to Community Boards for their comment and a subsequent amended report to be brought back to the Council.”*

4. This report, amended from the original to incorporate comments/issues arising from the Council debate, seeks to attend to this resolution.
5. Every year the Council stops a number of roads, or parts of road(s), either to meet Council policies or strategies, or in direct response to a road stopping application by a third party. Most of these are straight-forward applications involving small non-complying land parcels held by the council along the road frontage of properties no longer required for roading purposes. The decisions taken on these straight-forward applications are generally governed by infrastructure needs at an asset planning and management level. Accordingly, allowing these minor decisions to be undertaken at a management level, rather than at a governance level, would enable such applications to be processed more quickly, more efficiently and with less cost and would have remove unnecessary administrative issues from the Council’s meeting agenda. However, some road stopping applications are more strategic in nature and involve significant parcels of land that should be considered by elected members.
6. At the moment individual road stopping decisions are made in isolation without reference to a policy document or statement of Council objectives. Accordingly staff have prepared a draft ‘Road Stopping Policy’ for consideration by the Council.
7. In summary, this report proposes:
 - (a) That the Council:
 - Approves and adopts the attached Road Stopping Policy
 - Approves the delegations set out in the staff recommendations to this report that delegate the decision making for minor road stopping decisions to Council staff and the delegation for all other road stopping decisions to Community Boards.
 - (b) That Community Boards may:
 - approve or decline any road-stopping applications received in relation to any legal road situated in their Wards where such decision making is consistent with the Council’s Road Stopping Policy and is **not** subject to a staff delegation.

8. Cont'd

- (c) That the Corporate Support Manager under delegated authority may:
- approve or decline road-stopping applications only where:
 - The area of road to be stopped is not a complying lot under the City Plan on its own; and
 - It will be necessary for the stopped road to be amalgamated with the title to the adjoining property; and
 - The adjoining owner is the logical purchaser of the stopped road; and
 - The proposed road-stopping complies with the Council's Road Stopping Policy.
 - where his delegated authority applies, determine which statutory road-stopping process is to be used and implement the necessary statutory and other procedures required to affect the road stopping in accordance with the Road Stopping Policy.
8. The Council has the legal ability to stop roads either under the Local Government Act 1974 (LGA), or the Public Works Act 1981 (PWA). The major difference between the two procedures is that under the LGA process there is a requirement for public notification and the ability of members of the public to object, whereas, with the consent of all adjoining land owners, there is no such general consultation requirement and objection process under the PWA.
9. Currently the Christchurch City Council does not have a Road Stopping Policy. The development of such a policy will ensure that the Council's decision-making and application processes are clear and consistent. Consistency is required in terms of determining under which Act a road will be stopped, as well as the assessment and evaluation criteria to be utilised.
10. The recommended Policy has been developed by the Property Consultancy Team in consultation with the Asset and Network Planning Unit, the Legal Services Unit and the Survey Team.

FINANCIAL IMPLICATIONS

11. The Policy is based on the principle of full cost recovery from third party applicants and recommendations will be made through the Annual Plan and LTCCP processes to support this. It is proposed that purchasers of land will reimburse the Council for the costs (including Council Staff time) and disbursements incurred by the Council to complete the transaction.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

12. Yes.

LEGAL CONSIDERATIONS

13. Under the Local Government Act 2002 the Council is permitted to adopt a policy to provide guidelines as to the criteria and process to be adopted by the Council when considering and implementing any decision to stop any legal road.
14. The Council has the ability to stop road, or parts of a road, either by using the process under the PWA or the process under the LGA. The procedures that are required to be followed by the Council when using the LGA process are set out in the Tenth Schedule to the LGA, and include the public notification of the proposed road stopping and for the hearing of any objections received. Conversely, the PWA process does not require public notification, however the Council and any adjoining landowner(s) must consent to the proposal.
15. The relevant sections of each Act are summarised below.

8. Cont'd

Local Government Act 1974

16. *Section 319 (h) – General powers of councils in respect of roads-*
This Section gives local authorities the general power to stop any road or part thereof in accordance with the Act.
17. *Section 342 (1) (a) – Stopping of roads-*
Confers on the Council the ability to declare a road to be formally stopped.
18. *Section 345 – Disposal of land not required for road-*
In relation to stopped road that is no longer required by the local authority, this Section provides that the Council may sell or lease that part of the stopped road to the owner(s) of any adjoining land.
19. This Section goes on further to provide that the price or rent for the stopped road is to be fixed by a competent valuer appointed by the Council. If the owner(s) is not prepared to pay the fixed price or rent, the Council may sell the land by public auction or private tender.
20. *Section 345 (2) – Amalgamation of stopped road with adjoining land-*
This Section enables the Council to require the amalgamation of stopped road with adjoining land if deemed appropriate.
21. *Section 345 (3) – Stopped road to vest as Esplanade Reserve*
Where any road along the mark of a mean high water springs of the sea, or along the bank of any river within an average width of 3 meters or more, or the margin of any lake with an area of 8 hectares or more is stopped, this Section requires an area of road to vest in the Council as an esplanade reserve for the purposes specified in Section 229 of the Resource Management Act 1991.
22. *Tenth Schedule – Conditions as to Stopping of Roads*
Outlines the procedure to be undertaken in order to stop a road. The following table summarises the various steps:

1.	The Council prepares: (a) a survey plan of the road proposed to be stopped; and (b) an explanation as to why the road is to be stopped and the purpose or purposes to which the stopped road will be put. And lodges the plan at LINZ for approval.
2.	Once LINZ has approved the plan, the plan is made available to the public with a view to receiving objections to the proposal(s). The Council must: (a) at least twice, at intervals of not less than seven days, give public notice of the proposal(s); (b) serve the same notice on the occupiers of all land adjoining the road; The Plan is open for public objection for a minimum period of 40 days from the date of the first publication of the public notice.
3.	A notice of the proposed stopping is fixed in a conspicuous place at each end of the road proposed to be stopped for the duration of the public notification period.
4.	If no objections are received, the Council may by public notice declare that the road is stopped.
5.	If objections are received, the Council shall, unless it decides to allow the objections, send the objections together with the plans and a full description of the proposed alterations to the Environment Court.
6.	The Environment Court will make a final and conclusive decision.

8. Cont'd

7.	If the Environment Court reverses the decision of the Council, no proceedings shall be entered by the Court for stopping the road for two years thereafter.
8.	If the Environment Court confirms the decision of the Council, the Council may declare by public notice that the road is stopped.
9.	The notice and survey plan will be lodged with LINZ for record.

Public Works Act 1981

23. *Section 116 – Stopping Roads-*
This Section provides that, subject to the consent of the territorial authority and the owner(s) of the land adjoining the road in writing to the stopping, then the road can be declared formally stopped by notice in the Gazette.
24. *Section 117 – Dealing with stopped roads-*
This Section enables the Council to deal with the stopped road in the same manner as if the road had been stopped pursuant to the Local Government Act 1974.
25. *Section 118 – Application of other Acts to stopped roads-*
Where any road or any portion of a road along the mark of a mean high water springs of the sea, or along the bank of any river, or the margin of any lake (as the case may be) is stopped under Section 116 of this Act, then Section 345(3) of the Local Government Act 1974 (relating to esplanade reserves) shall apply to the stopped road.
26. *Section 120 – Registration-*
This Section provides for the road stopping to be noted by the District Land Registrar and if deemed appropriate by the Council for it to be amalgamated with the adjoining land.
27. The road stopping procedure pursuant to this Act is summarised in the table below:

1.	The owners of any land adjoining the road to be stopped must consent in writing to the stopping.
2.	The Council must consent to the road stopping proposal.
3.	The Council prepares a survey plan of the road proposed to be stopped and lodges the plan at LINZ for approval.
4.	The land is declared stopped by proclamation and publication of that proclamation in the New Zealand Gazette. A copy of the entry in the Gazette is then registered at LINZ.

Determining which statutory process to follow

28. Neither the LGA nor the PWA gives specific guidance as to which statutory procedure should be used. Currently, Council staff make this assessment on a case by case basis having due regard to the effect of the road-stopping on the public and parties other than the applicant and the likelihood of the proposal succeeding. Council staff have operated on the basis that best practice has dictated that if in doubt, the LGA procedure should apply. Guidelines about which Act to follow are set out in the proposed Road Stopping Policy document below.

DELEGATIONS

29. Pursuant to paragraph 32 of the 7th Schedule of the Local Government Act 2002 the Council has the legal ability to delegate its road-stopping powers under both the LGA and the PWA

8. Cont'd

30. Currently, the only road-stopping power that the Council has delegated is a delegation to Community Boards to stop "access ways". Section 315(1) of the Local Government Act 1974 defines "access way" as:
- "any passage way, laid out or constructed by the authority of the council or the Minister of Works and Development [or, on or after the 1st day of April 1988, the Minister of Lands] for the purposes of providing the public with a convenient route for pedestrians from any road, service lane, or reserve to another, or to any public place or to any railway station, or from one public place to another public place, or from one part of any road, service lane, or reserve to another part of that same road, service lane, or reserve".*
31. It is proposed not to alter this delegation.
32. The Council has delegated the power to hear objections to road stopping procedures pursuant to the Tenth Schedule of the Local Government Act 1974 to Council Hearings Panels. It is not proposed to alter this.
33. The Council has not delegated any other part of its road-stopping powers. The practical effect of this is that all road-stopping applications, whether from Council staff, implementing Council agreed policies and strategies, or from third parties, require a formal Council resolution.
34. When the Council initially considered this report on 25 September 2008, Councillors raised concerns in the debate about unformed legal (paper) roads (particularly in relation to Banks Peninsula) and issues around scale and size of road-stoppings. With respect to Banks Peninsula, the retention of appropriate legal but unformed roads will be considered and evaluated as part of the development of the open space strategy being prepared by Strategy and Planning. The intention being to provide and retain appropriate access to reserves, bays and foreshores and to provide linkages and connections throughout the Peninsula. Before any action was taken to stop a road these matters would first have to be considered before any decision to proceed was recommended.
35. The Council may delegate authority to proceed with a road stopping application to either Council staff or to community boards. In addressing these two issues, whilst endeavouring to maintain the necessary balance to enable the delivery of an efficient and effective service, the following is proposed:
- (a) Staff are delegated the authority to process and make decisions, in accordance with the attached policy, on applications relating to non complying lots / strips of land adjacent to properties which are required to be amalgamated into the adjoining neighbouring title.
 - (b) That decisions on applications for complying lots in their own right and the stopping of unformed legal (paper) roads or other significant parcels be delegated to the relevant community board.
36. There are compelling reasons why the Council may consider delegating to Council staff the power to deal with minor road-stopping applications, as follows:
- On the adoption of a formal Road Stopping Policy, the Council will have established, in its governance role, the rules or guidelines to be implemented when road stopping decisions are considered. It would therefore be logical that the 'management' decision of implementing the Policy be delegated to Staff
 - In financial terms road-stopping issues are often relatively insignificant.
 - There are generally no associated significant strategic issues.
 - Consistency in decision-making across the city.
 - Both the LGA and the PWA provide for consultation according to the statutory process used.

8. Cont'd

Have you considered the legal implications of the issue under consideration?

37. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

38. Not applicable.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

39. Not applicable.

ALIGNMENT WITH STRATEGIES

40. Not applicable.

Do the recommendations align with the Council's strategies?

41. Not applicable.

CONSULTATION FULFILMENT

42. There is no mandatory obligation on the Council to consult before it makes a decision on the proposed Road Stopping Policy.

43. The proposal is not significant in terms of the Council's Significance Policy.

44. The Policy is intended to establish a transparent and consistent platform on which future decisions can be based. This is for the benefit of both Council staff and people who intend entering into negotiations for the purchase of land previously vested in the Council as legal road. It is expected that they will prefer this approach to the ad hoc manner in which road-stopping has been undertaken to date. It is also fair that prospective purchasers meet the Council's reasonable costs (including Council staff time) of carrying out the process required to enable transactions to be concluded.

45. This report is being presented at each Community Board for a formal recommendation to the Council. Recommendations made by individual boards will be compiled by staff into a final report which staff will present to the Council.

STAFF RECOMMENDATION

It is recommended that the Board recommend that the Council resolves:

- (a) That the Council adopts the 'Christchurch City Council Road Stopping Policy' in the form **attached** to this report.
- (b) That the Council's power to accept or decline an application from either a Council Business Unit or from any other person to stop legal road be delegated to the Corporate Support Unit Manager provided that such application shall meet the following criteria:
 - The area of road to be stopped will not constitute a complying lot under the City Plan on its own account; and .
 - It will be necessary for the stopped road to be amalgamated with the certificate of title to the adjoining property; and
 - The owner of the adjoining property is the logical purchaser of the stopped road; and
 - That the proposed road-stopping complies with the Council's Road Stopping Policy.

8. Cont'd

- (c) That where the Corporate Support Manager's delegated authority under paragraph (b) of this resolution shall apply:
 - (i) that the Council's powers under sections 116, 117 and 120 of the Public Works Act 1981 and Sections 319(h), 342(1)(a) and 345 of the Local Government Act 1974 (excluding the power to hear objections and recommend to the Council whether the Council should allow or otherwise any objections received to road stopping procedures pursuant to the Tenth Schedule of the Local Government Act 1974 and the Council's powers under paragraph 5 of the Tenth Schedule) in relation to road stopping and the disposal of land that was previously stopped road be delegated to the Corporate Support Unit Manager.
 - (ii) that the power to determine (in compliance with the Council's Road Stopping Policy) which statutory procedure should be employed to undertake a particular road stopping (either under the Local Government Act 1974 or under the Public Works Act 1981) be delegated to the Corporate Support Unit Manager.
- (d) That the Council's power to accept or decline an application from either by a Council Business Unit or from any other person to stop legal road which does not fall within the delegation given to the Corporate Support Unit Manager under paragraph (b) of this resolution shall be delegated to the Community Board for the Ward within which the legal road proposed to be stopped is situated.
- (e) That where the Community Board's delegated authority under paragraph (d) of this resolution shall apply:
 - (i) that the Council's powers under sections 116, 117 and 120 of the Public Works Act 1981 and Sections 319(h), 342(1)(a) and 345 of the Local Government Act 1974 (excluding the power to hear objections and recommend to the Council whether the Council should allow or otherwise any objections received to road stopping procedures pursuant to the Tenth Schedule of the Local Government Act 1974 and the Council's powers under paragraph 5 of the Tenth Schedule) in relation to road stopping and the disposal of land that was previously stopped road be delegated to the Community Board for the Ward within which the proposed legal road is situated and to be exercised in accordance with the Council's Road Stopping Policy..
 - (ii) that the power to determine (in compliance with the Council's Road Stopping Policy) which statutory procedure should be employed to undertake a particular road stopping (either under the Local Government Act 1974 or under the Public Works Act 1981) be delegated to the Community Board for the Ward within which the proposed legal road is situated and to be exercised in accordance with the Council's Road Stopping Policy.

PROPOSED CHRISTCHURCH CITY COUNCIL ROAD STOPPING POLICY 2009**NAME OF POLICY**

1. This policy shall be known as the Christchurch City Council Road Stopping Policy 2009

APPLICATION OF POLICY

2. This policy shall apply to all road stoppings undertaken or proposed to be undertaken by the Council following the date of adoption by the Council of this Policy.

INTERPRETATION

3. For the purposes of this Policy the following meanings shall apply:
 - (a) "Council" means the Christchurch City Council and shall include any delegate acting under delegated authority of the Christchurch City Council.
 - (b) "road" means that part of a legal road the subject of a road stopping application to the Council.

EVALUATION CRITERIA

4. In considering an application for road stopping the Council must firstly consider whether the stopping should be initiated or not. The rules to govern this decision are outlined in the chart below.

City Plan	Is the road shown to be stopped in the operative City Plan or does the stopping have any adverse impact on adjoining properties under the City Plan i.e. set backs/site coverage or the neighbourhood in general.
Current Level of Use	Is the road the sole or most convenient means of access to any existing lots or amenity features e.g. a river or coast.
	Is the road used by members of the public.
Future Use	Will the road be needed to service future residential, commercial, industrial or agricultural developments.
	Will the road be needed in the future to connect existing roads.
	Will the road be needed to provide a future or alternative inter-district link.
Alternative Uses	Does the road have potential to be utilised by the Council for any other public work either now or potentially in the future.
	Does the road have current or potential value for amenity or conservation functions e.g. walkway, utilities corridor, esplanade strip, protected trees etc.
Road adjoining any water body	If so, there is a need to consider Section 345 LGA, which requires that after road stopping, such land becomes vested in Council as an esplanade reserve.
Encumbrances	Is the road encumbered by any services and infrastructure and can they be protected by easements
Traffic Safety	Does access and egress of motor vehicles on the section of the road constitute a danger or hazard to the road users.
Infrastructure	Does the road currently contain infrastructure, or will it in the future, that is better protected and managed through ownership.

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5. An application for road stopping will not proceed if the Council shall in its discretion determine that:
- (a) the road has been identified as providing a future road corridor; or
 - (b) the road has the potential to provide a future or alternative inter-district link; or
 - (c) the road is required, or may be required at any time in the future, for any roading or associated purpose.
 - (d) the road is required, or may be required at any time in the future, for any public work by the Council or any other agency.
 - (e) the stopping of the road will result in any land becoming landlocked; or
 - (f) the road provides access from a public road or reserve to a watercourse or coastal marine area, unless there are sound management or ecological reasons for doing otherwise; or
 - (g) the road provides primary access to an esplanade reserve, reserve or park, unless there are sound management or ecological reasons for doing otherwise; or
 - (h) the stopping of the road will adversely affect the viability of any commercial activity or operation; or
 - (i) objections are received from any electricity or telecommunications service provider and those objections are not able to be resolved by agreement between the Council and that provider; or
 - (j) any infrastructure or utilities situated on the road would be better protected and managed through continued Council ownership; or
 - (k) the road stopping could injuriously affect or have a negative or adverse impact on any other property; or
 - (l) the road stopping could have an impact on a public work to be undertaken by any other agency including the Crown
 - (m) any other relevant circumstances apply.

MARKET VALUATIONS TO BE USED

6. All dealings with stopped road will be at the current market value as determined by an independent registered valuer commissioned by the Council and in accordance with the relevant legislation.

AGREEMENT FOR SALE AND PURCHASE TO BE ENTERED INTO

7. Where a road stopping has been initiated by a third party and the application is accepted by the Council then it will only be processed subject to the following requirements first being accepted by the applicant:
- (a) That the proposed terms of sale of the road once stopped be recorded in a formal Agreement for Sale and Purchase prepared by the Council's solicitors and signed by both the applicant as purchaser and the Council as vendor prior to the Council taking any further steps. Such agreement to be conditional to the approval of the Minister of Lands to the stopping, if applicable, and compliance with the all relevant statutes.

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- (b) That the Agreement require the purchaser to meet all the costs incurred by Council in relation to the proposed road stopping, including but not limited to the following costs: staff time, hearing costs, consent costs, LINZ costs relative to any proclamation required to be made and published in the NZ Gazette, LINZ registration fees, professional fees (valuers, accredited agents), court costs, advertising, legal and survey costs.
- (c) That the purchaser will pay a deposit on execution of the Agreement sufficient to cover the Council's estimate of all the Council's costs. The Agreement will provide that in the event of the road stopping being discontinued for any reason the deposit will be refundable to the applicant less the actual costs incurred by the Council in processing the application to that point, as determined by the Council.
- (d) That when a road stopping is initiated by an adjoining landowner to the road proposed to be stopped, and the process determined to be used shall be the Local Government Act 1974 process, the Agreement will provide as appropriate that:
 - (i) if any objection is received and is allowed by the Council, the Agreement will be automatically deemed to be cancelled and the deposit paid (if any) refunded to the applicant less any costs incurred by the Council to that date; and
 - (ii) if any objection is received and is not allowed by Council, and the objector wishes the matter to be referred to the Environment Court, the applicant may at that point elect to cancel the Agreement Provided that all costs incurred in relation to the application by the council to that date shall be deducted from the deposit; or
 - (iii) if the applicant does not elect to cancel the agreement in the circumstances described in paragraph (ii) and the objection is referred to the Environment Court for determination, the applicant shall pay on demand to the Council all costs incurred by the Council in referring the matter to the Environment Court and in relation to the hearing by that Court.
- (e) That if the Agreement for Sale and Purchase is cancelled for any reason the applicant will meet all costs incurred by the Council.

WHICH STATUTORY PROCESS TO USE

- 8. The following criteria have been established to ensure that the appropriate statutory procedure is consistently adopted by the Council, and to avoid, as much as practicable, such decisions being successfully contested by any party.
- 9. The Local Government Act 1974 road-stopping procedure shall be adopted if one or more of the following circumstances shall apply:
 - (a) Where any public right of access to any public space could be removed or materially limited or extinguished as a result of the road being stopped; or
 - (b) The road stopping could injuriously affect or have a negative or adverse impact on any other property; or
 - (c) The road stopping is, in the judgment of the Council, likely to be controversial; or
 - (d) If there is any doubt or uncertainty as to which procedure should be used to stop the road.
- 10. The Public Works Act 1981 road stopping procedure may be adopted if **all** of the following circumstances shall apply:
 - (a) Where there is only one property adjoining the road proposed to be stopped; and

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- (b) Where the written consent to the proposed road stopping of all landowners affected by proposed road-stopping is obtained; and
- (c) Where the use of the Public Works Act 1981 procedure is approved (where necessary) by the relevant Government department or Minister; and
- (d) Where no other persons, including the public generally, are considered by the Council in its judgment to be adversely affected by the proposed road stopping; and
- (e) Where the road is to be amalgamated with the adjoining property; and
- (f) Where other reasonable access exists or will be provided to replace the access previously provided by the stopped road (i.e. by the construction of a new road).

PROVIDED THAT If any one of the above circumstances shall not apply, then the Local Government Act 1974 procedure shall be used.

PROPOSED ROAD STOPPING COSTS AND FEES (Subject to adoption by the Council in its Annual Plan)

- 11. Where a road stopping is initiated by the Council, the costs and expenses associated with such road stopping (including Council staff time) are to be funded from the Business Unit initiating the road stopping.
- 12. Where any other person applies to stop a road, then that person shall be responsible for meeting all costs and expenses associated with the road stopping process as determined by the Council (including Council staff time) PROVIDED THAT where it is determined by the Council, in its discretion, that there is an element of public benefit to the proposed road stopping, the Council may agree that the costs associated with the road stopping should be shared between the applicant and the Council in such proportions as the Council shall in its discretion determine.
- 13. The Council shall not commence any road stopping procedure unless it obtains a written agreement in advance from the applicant to pay such costs and expenses.
- 14. The costs and expenses associated with the road stopping process will include:
 - (a) **Application Fee**
An application fee of \$500 (GST inclusive) shall accompany a road stopping application to the Council (unless the application is made by a Council Business Unit). The purpose of this fee is cover the administration and staff costs incurred by the Council as a result of evaluating the application in accordance with this Policy. This fee is already included in the Council's Annual Plan.
 - (b) **Processing Fee**
If the applicant wishes to proceed with the road stopping application after evaluation by Council staff of the application and the preparation and presentation of the first report to the relevant Community Board or the Corporate Support Manager (as applicable), then a further non-refundable fee of \$1,000 (GST inclusive) will become due and payable to the Council to cover the staff time in processing the application from that point.
 - (c) **Other Costs**
Other costs and expenses that an applicant will be liable to meet should a road stopping application proceed, include (but are not limited to):
 - Survey Costs*
Includes identification and investigations of the site and professional fees associated with the compilation of a survey office plan.

Cost of Consents

Any costs associated with obtaining consent to the proposal including, but not necessarily limited to, the Minister of Lands.

Public Advertising

Includes the cost of public notification required under the Local Government Act 1974...

Accredited Agent Fees

Includes professional and other fees incurred as a result of any gazettal actions required.

Land Information New Zealand (LINZ) Fees

Includes lodgement fees associated with survey office plan approval, registration of gazette notice, easement instrument or any other dealing, and raising of new certificate(s) of title.

Legal Fees

The applicant will be responsible to meet their own legal costs, as well as those incurred by the Council including, but not limited to, the preparation of an Agreement for Sale and Purchase and the settlement of the transaction.

Valuation Costs

The costs to obtain an independent registered valuation of the proposed stopped road, including any additional costs that may be incurred by any ensuing discussions with the valuer as a result of the applicant querying the valuation.

Cost of Court and Hearing Proceedings

Pursuant to the Tenth Schedule LGA, if any objections is received to a road stopping application, and the application is referred to the Environment Court for a decision, then the applicant shall meet all of the Council's legal and other costs associated with the conduct of the legal proceedings in that Court.

Market Value of the Road

In addition to the administrative and staff costs associated with a road stopping costs the applicant shall pay to the Council the current market value of the stopped road as determined by a registered valuer appointed by the Council, or if the land is to be leased a rent as determined by a registered valuer appointed by the Council .

9. PAPANUI ROAD – PROPOSED NO STOPPING RESTRICTION

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Transport and Greenspace Manager
Author:	Lorraine Wilmshurst/George Kuek – Network Operations

PURPOSE OF REPORT

1. The purpose of this report is to seek the Board's approval that the stopping of vehicles be prohibited at any time on the north east side of Papanui Road.

EXECUTIVE SUMMARY

2. The Council staff have received a request to increase the no stopping restriction at the intersection of Papanui Road and Clare Road to increase visibility for vehicles exiting Clare Road.
3. Papanui Road is a minor arterial road that links the city to the Papanui shopping area via Merivale. Clare Road and Derby Street are the only local roads on the north east side of Papanui Road that have right turn access onto Papanui Road between Bealey Avenue and the Merivale shopping area.
4. At present there is one parking space to the north west of Clare Road between the present no stopping restriction and the bus stop. When a vehicle is parked in this space visibility of oncoming traffic from the right is limited.
5. By removing the car parking space and lengthening the no stopping restriction, the visibility at the intersection will be increased and allow safer access onto Papanui Road.
6. Management at Strathern Motorlodge have been approached about the removal of the parking space and are quite happy for it to be removed. Merivale Precinct Society have been informed of this proposal.

FINANCIAL IMPLICATIONS

7. The estimated cost of this proposal is approximately \$100.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

8. The installation of road markings and signs is within the LTCCP Streets and Transport Operational Budgets.

LEGAL CONSIDERATIONS

9. Part 1, Clause 5 of the Christchurch City Council Traffic and Parking Bylaw 2008 provides Council with the authority to install parking restrictions by resolution.
10. The Community Boards have delegated authority from the Council to exercise the delegations as set out in the Register of Delegations dated April 2008. The list of delegations for the Community Boards includes the resolution of parking restrictions.
11. The installation of any parking restriction signs and/or markings must comply with the Land Transport Rule: Traffic Control Devices 2004.

Have you considered the legal implications of the issue under consideration?

12. As above.

9. Cont'd

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

13. Aligns with the Streets and Transport activities by contributing to the Council's Community Outcomes-Safety and Community.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

14. As above.

ALIGNMENT WITH STRATEGIES

15. The recommendations align with the Council Strategies including the Parking Strategy 2003, Pedestrian Strategy 2001, Road Safety Strategy 2004 and the Safer Christchurch Strategy 2005.

Do the recommendations align with the Council's Strategies?

16. As above.

CONSULTATION FULFILMENT

17. Management at Strathern Motorlodge have been approached about the removal of the parking space and are quite happy for it to be removed. Merivale Precinct Society have been informed of this proposal.
18. The Officer in Charge - Parking Enforcement agrees with this recommendation.

STAFF RECOMMENDATION

It is recommended that the Board approve:

- (a) That the existing no stopping restriction on the north east side of Papanui Road commencing at its intersection with Clare Road and extending in a north westerly direction for 5 metres, be revoked.
- (b) That the existing no stopping restriction on the north west side of Clare Road commencing at its intersection with Papanui Road and extending in a north easterly direction for 8 metres, be revoked.
- (c) That the stopping of vehicles be prohibited at any time on the north east side of Papanui Road commencing at its intersection with Clare Road and extending in a north westerly direction for 18 metres.
- (d) That the stopping of vehicles be prohibited at any time on the north west side of Clare Road commencing at its intersection with Papanui Road and extending in a north easterly direction for 8 metres.



Original Plan Size: A4
 ISSUE: 1 01.09
 RAH

PAPANUI ROAD
 Proposed No Stopping Restriction
 For Board Approval



MapSource file location - R:\PROJECTS\001 TO 200\001 TO 025\01 USE CONTRACT\WAPS\PAPANUI ROAD - P10\PAPANUI ROAD-01 AIR ROAD.DWG

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10. WORKS, TRAFFIC AND ENVIRONMENT COMMITTEE – REPORT OF 25 FEBRUARY 2009 MEETING

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941 8462
Officer responsible:	Democracy Services Manager
Author:	Graham Sutherland, Community Board Adviser

PURPOSE OF REPORT

The purpose of this report is to submit the following outcomes of the Works, Traffic and Environment Committee meeting held on Wednesday 25 February 2009 at 8.00am.

The meeting was attended by Cheryl Colley (Chairperson), Sally Buck, Faimeh Burke, Val Carter, Jamie Gough, Mike Wall and Andrew Yoon.

1. DEPUTATIONS BY APPOINTMENT

1.1 Murray Connor, Glandovey Road Gum Tree

Mr Murray Connor was in attendance to talk to the Committee in regards to the request for a gum tree removal in Glandovey Road, Fendalton. Mr Connor tabled photographs and explained his concerns to the Committee. He said that he was willing to pay for the removal and replacement of the tree if the Board was to approve the request.

The Chairperson thanked Mr Connor for his presentation. The decision regarding this matter is set out in clause 5 of this report.

2. CORRESPONDENCE

2.1 Kevin Brown, Derby Street Renewal Project

Correspondence was received from Kevin Brown, a resident of Derby Street, identifying concerns regarding the Derby Street renewal project.

The Committee requested that a response be sent to Mr Brown thanking him for alerting the Board to the problems arising from the street renewal project in Derby Street, noting that staff are addressing the issues raised and requesting that he inform the Board if any further problems arise from the project.

3. BRIEFINGS

3.1 Ilam Stream

Lorraine Correia, Greenspace Consultation Leader, updated the Committee on Ilam Stream and issues raised at the 10 February 2009 Board meeting with respect to upgrading the stream in Crosbie Park. The Greenspace Consultation Leader tabled supporting written information.

Committee Recommendation

The Committee **decided** to recommend that the Board allocate up to \$8,000 from its 2008/09 Discretionary Response Fund towards work on the Ilam Stream project in relation to Crosbie Park.

(Note: The Committee was advised that a decision to allocate funding to this project should be based on a staff report. However, the Committee noted timing constraints in relation to this project and it was satisfied that it had sufficient information to make a recommendation to the Board. The Committee requested that the written information provided by the Greenspace Consultation Leader be included in the Committee report to the Board – see **attachment 1**.)

10. Cont'd

3.2 Cherry Tree Replacement Strategy – Stage 3

Jonathan Hansen, Arborist, provided a brief update to the Committee regarding stage 3 of the Cherry Tree Replacement Strategy.

Mr Hansen informed the Committee that the trees would be removed in the near future and would be replaced during the Autumn planting season. A list of the affected streets would be circulated to all Board members for their information.

The Chairperson thanked Mr Hansen for his update.

4. HARAKEKE STREET HEAVY VEHICLE MANAGEMENT

The Committee's recommendation for Board approval was sought to modify the Harakeke/Rochdale Street pedestrian island in order to allow limited legitimate heavy vehicle access from Straven Road via Rochdale Street into Harakeke Street, in particular bus access to Christchurch Boys' High School hostel Adams House.

Committee Recommendation

The Committee **decided** to recommend that the Board approve the modification of the Rochdale/Harakeke Streets pedestrian island, as detailed in the report to the Committee, to allow limited legitimate heavy vehicle access along Harakeke Street from Straven Road via Rochdale Street.

5. 76 GLANDOVEY ROAD FENDALTON – TREE REMOVAL REQUEST

The Committee's recommendation to the Board was sought regarding the removal or retention of one large Gum tree (*Eucalyptus* sp) outside the address at 76 Glandovey Road, Fendalton.

The Arborist advised that the tree is healthy and that there are no arboriculture reasons to remove the tree, hence the staff recommendation in the report.

Committee Recommendation

The Committee **decided** to recommend that the Board:

- (a) Approve the removal of the gum tree outside 76 Glandovey Road, its replacement with another species and to charge the applicant the cost of the removal and replacement.
- (b) Request that staff investigate, within the Fendalton/Waimairi ward, issues surrounding the appropriateness of gum trees as a street tree and determine if there should be a ward-based policy on this matter.

The meeting concluded at 8.50am.

STAFF RECOMMENDATION

That the report be received and the recommendations therein be adopted.

24 February 2009

Crosbie Park - Ilam Stream

After several discussions with the Land Drainage Team I have obtained the following information:

The 90m area being looked at for widening the swale is from the footbridge and going down stream (South East). The quote received from City Care is to excavate the swale, shape banks and remove spoil. Base the invert with compacted ballast (levelling with laser). Restore damage from excavation, provide traffic management. The value of this work is \$5,775.15 excluding GST. This part would need to be done professionally and there would be some surveying/leveling required as well as machinery required for the compacting to allow for proper flow of the water.

The only area we see we could get the community involved would be by way of planting alongside the verge and the areas beside the footbridge. Planting would need to be supervised by either a Contractor or a Park Ranger to enable them give a health and safety briefing as well as a planting demonstration.

The Park Rangers have confirmed that they would be happy to assist us with planting on the day and would therefore also conduct the safety briefing and planting demonstration. The preferred day to enable them to provide us with additional staff would be on Saturdays between 1pm and 3pm. The number of community volunteers they suspect would be needed to complete the planting within two hours would be 20 – 30 people.

The Park Rangers can also provide the community with a few spades and we could also organise a barbeque at the end of the planting day.

The approximate cost for the plants are \$3,000 (roughly around 1000 plants).

The area upstream (North West) does not require a swale but should the Board decide that this area needs to be looked at, the Land Drainage Team would need to investigate this area further.

If the Board decides to get community support for the planting day I am happy to coordinate this with the Neighbours of the Ilam Stream.

In addition to the above information, Bill Swallows would once again like for me to re-iterate the need for regular checks in the stream to ensure that there are no drains present.

Kind regards,

Lorraine Correia
Consultation Leader – Greenspace

11. **COMMUNITY SERVICES COMMITTEE – REPORT OF 4 MARCH 2009 MEETING**

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941 8462
Officer responsible:	Democracy Services Manager
Author:	Graham Sutherland, Community Board Adviser

PURPOSE OF REPORT

The purpose of this report is to submit the following outcomes of the Community Services Committee meeting held on Wednesday 4 March 2009 at 8.00am.

The meeting was attended by Faimah Burke (Chairperson), Sally Buck, Val Carter, Cheryl Colley, Jamie Gough, Mike Wall and Andrew Yoon.

1. APPLICATION TO THE FENDALTON/WAIMAIRI COMMUNITY BOARD'S YOUTH DEVELOPMENT SCHEME – MATT HALL

The Committee's recommendation was sought for an application for funding from the Community Board's 2008/09 Youth Development Scheme.

Committee Recommendation

The Committee **decided** to recommend that the Board allocate \$450 from its 2008/09 Youth Development Scheme to Matt Hall to compete in the International Trampoline Championships in Germany in 2009.

2. APPLICATION TO THE FENDALTON/WAIMAIRI COMMUNITY BOARD'S YOUTH DEVELOPMENT SCHEME – NICKI MCFADZIEN

The Committee's recommendation was sought for an application for funding from the Community Board's 2008/09 Youth Development Scheme.

Committee Recommendation

The Committee **decided** to recommend that the Board allocate up to \$450 from its 2008/09 Youth Development Scheme to Nicki McFadzien to compete in the World Cross Championships in Jordan in 2009, conditional to other pending funding applications being unsuccessful.

3. APPLICATION TO THE FENDALTON/WAIMAIRI COMMUNITY BOARD'S YOUTH DEVELOPMENT SCHEME – REGAN SWEENEY AND TAYLOR KENNEDY

The Committee's recommendation was sought for an application for funding from the Community Board's 2008/09 Youth Development Scheme.

Committee Recommendation

The Committee **decided** to recommend that the Board decline the applications on the grounds that the team in question is not a representative team and there was no formal selection process involved.

(Sally Buck requested that her vote against the above recommendation be recorded.)

4. STAFF BRIEFINGS

4.1 Youth Development Fund Criteria

The Community Development Adviser and Community Recreation Adviser were in attendance and discussed possible revised criteria for the Youth Development Scheme for 2009/10.

The Committee requested that staff produce draft revised criteria and an application form to be presented to the Board for sign-off, incorporating the changes discussed regarding age, selection criteria in sports applications and change of wording in the introduction to make it clear regarding the focus of the fund.

(Revised criteria will be circulated to Board members for comment and tabled for approval at the 17 March 2009 Board meeting.)

4.2 Update On Local Events

The Community Recreation Adviser updated the Committee on the following community events supported by the Board.

- Avice Hill Arts and Craft – a continued success.
- Dancing Under the Stars – it has rained for three years in a row now, but this year it was moved to an indoor venue. There has been discussion regarding the likelihood of incorporating this event in the Body Festival which will still be held within the ward.
- Football Festival – Fantastic. Good overall community spirit and generally good behaviour during the festival. Sixteen teams participated and there was an increase in prizes eg. golden boot, fair play award and minor trophies which made the last day of the festival more inclusive.
- Culture Galore – coming up in March.
- Skate Party – more information to be circulated soon.

The Committee thanked the Community Recreation Adviser for his great work on all the recent events within the ward area and noted his outstanding efforts with the Football Festival and the contribution this makes to ethnic affairs in the city.

5. HERITAGE IN THE FENDALTON/WAIMAIRI WARD – A SCOPING STUDY

The Board's approval was sought for a Scoping Study to be undertaken as a lead-in to the establishment of the Fendalton/Waimairi Heritage Awards. Staff tabled an amended timeline for this project, to reflect minor changes required due to the committee meeting schedule.

Committee Recommendation

The Committee **decided** to recommend that the Board:

- (a) Approve the Draft Research Brief, as attached to the report to the Committee.
- (b) Approve the establishment of a Project Advisory Group to oversee the Study.
- (c) Appoint Jamie Gough to the Project Advisory Group.
- (d) Approve the delegation of authority to the Project Advisory Group to select the successful researcher and to approve expenditure up to the value of \$3,750 for this purpose.

The meeting concluded at 8.50am.

STAFF RECOMMENDATION

That the report be received and the recommendations therein be adopted.

12. COMMUNITY BOARD ADVISER'S UPDATE

12.1 CURRENT ISSUES

12.2 2008/09 BOARD FUNDING UPDATE

Attached.

12.3 CSR REPORT FOR FEBRUARY 2009

Attached

13. ELECTED MEMBERS' INFORMATION EXCHANGE

14. QUESTIONS UNDER STANDING ORDERS

Processed by AMA to Accounts	Project/Service/Description/Group	Allocation 2008/2009
As at 10 Mar	Fendalton/Waimairi Discretionary Response Fund	
	Budget	60,000
	<i>Allocations made</i>	
	Youth Development Fund - Opening Balance allocation	10,000
	<i>Allocations made</i>	
21-Aug	Ashleigh Smith (NZ Secondary High Schools Hockey Tournament)	250
21-Aug	Michaela Smith (NZ Secondary High Schools Hockey Tournament)	250
21-Aug	Tara Moore (Oceania Karate Championships)	300
21-Aug	Hannah Bayard (Commonwealth World Youth Games India)	400
21-Aug	Zarif Turkmani (NZ Secondary Schools Premier Football Tournament)	300
22-Sep	Hannah Goslin (Spirit of Adventure Voyage)	200
22-Sep	Selena Metherell (Orienteering Championships Australia)	400
4-Sep	Paul Winter (Futsal Championships Australia)	300
26-Sep	Annalise Fletcher (World Forum Lillie conference France)	300
29-Sep	Benjamin Lyttle (2008 Indo Pacific Trampoline & Tumbling Championships)	300
29-Sep	Nicholas Rennie (ITU World Duathlon Championships)	200
24-Nov	Rosy Hogben (NZ Rep Junior Pan Pacific Games)	350
24-Nov	Amaka Gessler (NZ Rep Junior Pan Pacific Games)	450
24-Nov	Margot Gibson (NZ Rep Junior Pan Pacific Games)	350
24-Nov	Thomas Martin (NZ Rep Junior Pan Pacific Games)	350
24-Nov	Ezra Christensen (CIVS Camp - Guatemala)	450
	Molly Probert (Pacific School Games)	350
	Andrew Kelly (2009 Welsh International Bowls Open)	500
	Youth Development Fund Balance - Available for allocation	4,000
	Burnside Transformation Trust (Community Carols event)	2,000
19-Nov	Fendalton Bowling Club (Greens Spraying Unit)	1,966
19-Nov	Yaldhurst Tennis Club (Tennis Court Fencing)	4,000
24-Nov	Royal NZ Plunket Nth West Branch (Building Upgrade Fendalton Rooms)	15,000
22-Dec	Rahman I Trust	500
	TOTAL: Fendalton/Waimairi Discretionary Response Fund Unallocated	26,534

**STREETS MAINTENANCE CSR - BY COMMUNITY BOARD
FROM 1 - 28 FEBRUARY 2009**

As at 2 March 2009

Call Types

Month	Dec	Jan	Feb
GRA	95	138	94
PAG	1	0	0
PAM	72	139	107
PKE	17	10	9
SER	7	4	15
SET	0	0	0
STA	6	15	8
STB	6	3	3
STE	59	59	62
STF	22	29	26
STL	9	7	11
STM	32	36	30
STQ	9	7	12
STS	52	40	23
STW	1	0	1
STX	19	7	9
STY	12	17	10
TSA	10	18	22
TSS	58	111	74
WAQ	3	4	1
WAR	94	111	98
WWE	8	13	7
WWG		0	1
WVU	3	6	6
Totals:	595	774	629

