

20. 12. 2005

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

**A meeting of the Public Enclosures Policy 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 ENCLOSURES POLICY AND FEES

INTRODUCTION

At its meeting on Thursday 15 September 2005 the Council considered the attached staff report outlining the results of consultation with business owners and the wider community in relation to:

- (a) The Council's Public Streets Enclosures Policy; and
- (b) The way fees are calculated for occupation of legal road for outdoor dining areas.

This earlier report recommended that the Council retain the current policy, and the current fee charging methodology.

As a result of submissions made to the 15 September Council meeting by Mr Antony Gough, Mr Clive Weston and Mr Peter Morrison, the Council deferred the report, to allow further submissions to be made by the affected parties to a subcommittee comprising Councillors David Cox, Bob Shearing and Gail Sheriff. The Subcommittee met on 20 September, 5 October, 6 October, 28 October and 15 December 2005.

HEARING OF SUBMISSIONS

Following the 15 September Council meeting, the Subcommittee decided to invite fresh submissions from directly affected parties and from members of the public. This resulted in the receipt of 10 identical submissions, primarily from operators along the Oxford Terrace strip.

The Subcommittee heard these submissions at its meeting on 28 October, when the following persons appeared before the Subcommittee:

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

In summary, the submitters were of the view that:

- The present requirements relating to the design and placement of tables, chairs, canopies, umbrellas and other shelters were too prescriptive.

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- The rentals payable were excessive, bearing in mind the limited number of days on which the outdoor dining facilities could be used, and taking into account rentals charged in other cities.

VALUATION

Following the hearing of the submissions, the Subcommittee requested staff to obtain an updated valuation from Mr Richard Chapman of FordBaker Valuation. This valuation has since been received and considered by the Subcommittee.

CONCLUSION

The Subcommittee concluded after considering the submissions and the updated valuation that while the Council's present rental policy was reasonable, the associated policies regarding the design and placement of the street furniture was unduly restrictive, and should be replaced by a more flexible policy which took into account some of the concerns expressed by the submitters. As the review is now complete, the Subcommittee therefore submits the recommendations shown below.

RECOMMENDATIONS

The Subcommittee therefore recommends:

- (a) That the Council retain the current fee charging methodology, as set out in the attached report previously submitted to the Council on 15 September 2005.
- (b) That the current prescriptive Public Street Enclosures Policy be revoked, and replaced with the revised policy attached, to allow staff more flexibility in issuing and monitoring licences for the occupation of public streets and other public spaces for such purposes.
- (c) That all tenants occupying public streets and other public spaces be required to pay the full rental due in accordance with the Council's charging policy (including any arrears) by no later than 28 February 2006.
- (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 licence for the occupancy of the affected spaces by no later than 28 February 2006.
- (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.

The meeting concluded at 9.15am

CONSIDERED THIS 21ST DAY OF DECEMBER 2005

MAYOR