

**Extraordinary Meeting of Kaipara District Council in Maungaturoto Country Club,
 Bickerstaffe Road, Maungaturoto
 On Monday 29 April 2013, commencing at 4pm**

Unconfirmed Minutes

Contents

		Page
1	Opening	2
1.1	Present	
1.2	In Attendance	
1.3	Apologies	
2	Confirmation of Agenda	2
3	Conflict of Interest Declaration	2
4	General	
4.1	Kaipara District Council (Validation of Rates and Other Matters) Bill	2
	Closure	5

Extraordinary Meeting Of Kaipara District Council, Maungaturoto, 29 April 2013

1 Opening

1.1 Present

Commissioners J Robertson (Chair), C Dale, P Winder

1.2 In Attendance

Chief Executive, Acting Corporate Services Manager, Governance Support Officer
(minute-taker)

1.3 Apologies

An apology was received from Commissioner R Booth.

Moved: Robertson / Winder

That the apology from Commissioner R Booth be accepted.

Carried

2 Confirmation of Agenda

The Agenda was confirmed.

3 Conflict of Interest Declaration

Nil

4 General

4.1 Kaipara District Council (Validation of Rates and Other Matters) Bill

Chief Executive **2306.27**

The report "Kaipara District Council (Validation of Rates and Other Matters) Bill" dated 22 April was presented by the Chief Executive.

Summary: The Commissioners had agreed in December 2012 to pursue a Local Bill for the validation of past irregular rates and other matters. In February 2013, Commissioners had agreed to a draft Bill delegating final approval of the wording to two Commissioners. The drafting of the final Bill had taken longer than anticipated, allowing time for full Council to approve the latest version prior to commencement of the public notification process. The wording of the Bill had been discussed with, and largely agreed with, the Department of Internal Affairs officials, the Clerk of the House and the Parliamentary Counsel Office.

A number of changes had been made to the wording of the Bill as a result of the feedback that had been received to date. These included the addition of an additional purpose provision to give the Local Government and Environment Select Committee the ability to address any other issues that arose through the public consultation process. This change had been made following discussion with the Clerk of the House. A clause had also been added which made it clear that nothing in the Bill prevents Council initiating proceedings against third parties arising out of actions or omissions validated in the Bill.

There was some ongoing dialogue with the Parliamentary Counsel Office but this was not expected to lead to further significant change. The Mangawhai Residents and Ratepayers Association had also been given a draft of the Bill and provided their feedback. This feedback focused on advancing arguments as to why Council should not proceed with a Local Bill at this stage. A number of the issues raised were known at the time that the Commissioners made a decision to proceed with development of a Local Bill in December 2012. The Commissioners needed to assess this feedback and determine whether they wish to revisit the December 2012 decision.

As stated in earlier reports, the procedural and substantive irregularities in setting rates and associated documentation occurred over the period 2006/2007 to 2012/2013:

- The setting of rates in rating resolutions of Council inconsistent with the Financial Impact Statement (FIS) of that year in the Long Term Plan and/or Annual Plan.
- The setting of rates in rating resolutions of Council unauthorised by the Rating Act
- The failure to provide sufficient information on Rating Assessment Notices.

The local Member of Parliament, Hon Mike Sabin had agreed to introduce the Bill to Parliament that validates the irregularities of the past.

The Bill had:

- A preamble - all matters of irregularity or doubt are documented by date
- Title - Kaipara District Council (Validation of Rates and other Matters) Act 2013
- Commencement - on the day it receives the Royal Assent
- Purposes - validation of rates, making all payments lawful and authorising the Council to recover these rates and any penalties, and validation of past rates assessment notices
- Interpretation - definition of terms
- Validation and recovery of rates
- Validation of Long Term Plan, Annual Plan and rate assessments

Once the Commissioners had approved the wording of the Bill, the process involved:

- Council issuing written notice to the public of the intention to introduce the Bill by way of two public notices in a daily newspaper covering the locality in two consecutive weeks
- The public notice and a copy of the Bill placed on the Council website for 15 working days
- Separate notice to all those who have a direct interest

- Separate notice to the appropriate Members of Parliament whose electorate may be affected by the Bill
- The Bill needed to be made available for public inspection for 15 working days at service centres
- At the end of the notice period, a certificate needed to be completed by the Council, Chief Executive, Solicitor or agent to the effect that proper public notice had been undertaken
- Council then must forward all the above documentation to the Office of the Clerk who would then examine the Bill and the other documents to ensure that Standing Orders have been complied with.
- If all documentation complies, the Bill would then be ready for Introduction.
- The next step was for the Council to resolve to pursue the Bill, as circulated, and commence public notification procedures.

Nothing intended to be included in the Bill limited Council's ability to respond to the findings of the Auditor General Inquiry and pursue redress from companies or individuals should this avenue be considered desirable and practical.

Moved: Robertson / Winder

That Kaipara District Council:

- 1 *Receives the Chief Executive's report 'Kaipara District Council (Validation of rates and other matters) Bill' dated 22 April 2013; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provisions of Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of the costs and benefits of different options prior to making a decision on this matter; and*
- 3 *Notes that:*
 - a. *The Local Bill seeks to validate irregular rates and other matters of the past*
 - b. *That irregular rates collected have paid for services received*
 - c. *That for each of these irregularly set rates, there was a simple way of achieving it legally*
- 4 *Confirms that the Council will pursue the Kaipara District Council (Validation of Rates and other Matters) Bill, as circulated with the Chief Executive's report (Attachment A), to validate rates and other matters; and*
- 5 *Notes that Mike Sabin as the local Member of Parliament will present the Local Bill to Parliament; and*
- 6 *Orders that the Chief Executive commences public notification procedures regarding the intent to pursue the Kaipara District Council (Validation of Rates and Other Matters) Bill; and*

- 7 *Notes the feedback on the draft Local Bill that has been provided by the Mangawhai Ratepayers and Residents Association; and*
- 8 *Determines that no further changes are required to the Bill as a result of the feedback that has been received from the Mangawhai Ratepayers and Residents Association; and*
- 9 *Delegates final approval of the wording and content of the Bill to Commissioners Robertson and Winder should the Bill need to be changed as part of the process of finalising it with the Parliamentary Counsel Office.*

Carried

Reason for the Recommendation

The Commissioners through their Terms of Reference have the task of addressing the irregularities identified in relation to the processes that Council had followed to set rates in the past. The use of a Local Bill to assist with this process was seen as an appropriate method by which this could be achieved. The Bill, now drafted, was ready for adoption so that the process of notification can proceed.

Closure

The meeting closed at 4.25pm

Confirmed

Chair

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