



AGENDA

Ordinary meeting of the

Governance Committee

Thursday 26 October 2017

Commencing at 9.00am

Council Chamber

Civic House

110 Trafalgar Street, Nelson

Membership: Councillor Ian Barker (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Mel Courtney, Bill Dahlberg (Deputy Chairperson), Paul Matheson, Gaile Noonan, Mike Rutledge and Tim Skinner

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Order 12.1:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee

It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the room for discussion and voting on any of these items.

1. Apologies

An apology has been received from Councillor Rutledge.

2. Confirmation of Order of Business

3. Interests

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

4. Public Forum

5. Confirmation of Minutes

5.1 7 September 2017

6 - 11

Document number M2887

Recommendation

That the Governance Committee

Confirms the minutes of the meeting of the Governance Committee, held on 7 September 2017, as a true and correct record.

6. Status Report - Governance - 26 October 2017

12 - 13

Document number R8595

Recommendation

That the Governance Committee

Receives the Status Report Governance Committee 26 October 2017 (R8595) and its attachment (A1160658).

7. Chairperson's Report

8. Nelson Municipal Band Trust - Council Controlled Organisation Exemption

14 - 18

Document number R8287

Recommendation

That the Governance Committee

Receives the report Nelson Municipal Band Trust - Council Controlled Organisation Exemption (R8287) and its attachment (A1801559).

Recommendation to Council

That the Council

Approves an exemption to the Nelson Municipal Band Trust for the purposes of Section 6(4)(i) of the Local Government Act 2002, in accordance with Sections 7(3) and 7(6) of the Act and after considering the matters in Section 7(5) of the Act.

PUBLIC EXCLUDED BUSINESS

9. Exclusion of the Public

Recommendation

That the Governance Committee

Excludes the public 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:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Governance Committee Meeting - Public Excluded Minutes - 7 September 2017	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	The withholding of the information is necessary: Section 7(2)(a) <ul style="list-style-type: none"> • To protect the privacy of natural persons, including that of a deceased person. Section 7(2)(i) <ul style="list-style-type: none"> • To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

10. Re-admittance of the public

Recommendation

That the Governance Committee

Re-admits the public to the meeting.

Minutes of a meeting of the Governance Committee

**Held in the Council Chamber, Civic House, 110 Trafalgar Street,
Nelson**

On Thursday 7 September 2017, commencing at 9.01am

Present: Councillor I Barker (Chairperson), Her Worship the Mayor R Reese, Councillors M Courtney, B Dahlberg (Deputy Chairperson), G Noonan, M Rutledge and T Skinner

In Attendance: Councillor S Walker, Acting Chief Executive (D Hammond), Senior Strategic Adviser (N McDonald), Group Manager Community Services (C Ward), Group Manager Corporate Services (N Harrison), and Governance Advisers (EJ Ruthven and E Stephenson)

Apology: Councillor P Matheson

1. Apologies

Resolved GOV/2017/055

That the Committee

Receives and accepts the apology from Councillor Matheson.

Noonan/Dahlberg

Carried

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

There were no updates to the Interests Register.

Councillor Noonan indicated she may have an interest with an item on the public excluded agenda. No further interests with items on the agenda were declared.

4. **Public Forum**

There was no public forum.

5. **Confirmation of Minutes**

5.1 27 July 2017

Document number M2775, agenda pages 7 - 11 refer.

Resolved GOV/2017/056

That the Committee

Confirms the minutes of the meeting of the Governance Committee, held on 27 July 2017, as a true and correct record.

Courtney/Rutledge

Carried

6. **Status Report - Governance - 7 September 2017**

Document number R8288, agenda pages 11 - 13 refer.

Group Manager Community Services, Chris Ward, presented the report and noted an update on prospective third party funding was anticipated by the end of the year.

Resolved GOV/2017/057

That the Committee

Receives the Status Report Governance Committee 7 September 2017 (R8288) and its attachment (A1160658).

Rutledge/Noonan

Carried

7. **Chairperson's Report**

There was no Chairperson's Report.

GOVERNANCE

8. **Uniquely Nelson Memorandum of Understanding 2017/18**

Document number R6488, agenda pages 14 - 36 refer.

Attendance: Her Worship the Mayor joined the meeting at 9.08am.

Simon Duffy, Justine Kennard and Steve Moody, of Uniquely Nelson, joined the meeting. They gave a demonstration of a new website in

development, and spoke about Uniquely Nelson activities. They noted the importance of retailers having an online presence, and answered questions.

Group Manager Community Services, Chris Ward, presented the report and answered questions about the Memorandum of Understanding and Uniquely Nelson’s relationship with the Nelson Regional Development Agency.

Resolved GOV/2017/058

That the Committee

Receives the report Uniquely Nelson Memorandum of Understanding 2017/18 (R6488) and its attachments (A1818573 and A1730720).

Courtney/Skinner

Carried

Recommendation to Council GOV/2017/059

That the Council

Approves the Uniquely Nelson Memorandum of Understanding 2017-18 (A1818573).

Her Worship the Mayor/Noonan

Carried

9. Significance and Engagement Policy

Document number R8100, agenda pages 37 - 49 refer.

Attendance: Her Worship the Mayor left the meeting from 10.14am to 10.15am.

Policy Coordinator, Jane Loughnan, presented the report and answered questions.

Resolved GOV/2017/060

That the Committee

Receives the report Significance and Engagement Policy (R8100) and its attachments (A1766622 and A1810631);

Rutledge/Dahlberg

Carried

Recommendation to Council GOV/2017/061

That the Council

Adopts the amended Significance and Engagement Policy (A1766622); and

Approves the summary of the Significance and Engagement Policy (A1810631)

Rutledge/Dahlberg

Carried

10. International Relationships Policy

Document number R8047, agenda pages 50 - 67 refer.

Group Manager Community Services, Chris Ward, presented the report and answered questions.

During discussion, the following changes to the policy were agreed:

- Appendix 3, to include an additional point "As necessary, to accompany the Mayor and other delegates when making visits to Sister Cities"; and
- Appendix 4, clause 4(3) to be re-worded to state "The Whakatu Marae could also potentially offer a cultural experience for official visits".

Resolved GOV/2017/062

That the Committee

Receives the report International Relationships Policy (R8047) and its attachment (A1496780); and

Approves the Draft International Relationships Policy (A1496780) for consultation, as amended.

Dahlberg/Courtney

Carried

FINANCE

11. Rates remissions for the year ending 30 June 2017

Document number R8215, agenda pages 68 - 81 refer.

Group Manager Corporate Services, Nikki Harrison, and Rates Officer, Theo Aitken, presented the report and answered questions.

Attendance: Councillor Noonan left the meeting from 10.50am to 10.54am.

Resolved GOV/2017/063

That the Committee

Receives the report Error! No document variable supplied. (R8215) and its attachments (A1793175, A1383906 and A1483852).

Rutledge/Noonan

Carried

12. Exclusion of the Public

Resolved GOV/2017/064

That the Committee

Excludes the public 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:

Rutledge/Noonan

Carried

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Governance Committee Meeting - Public Excluded Minutes - 27 July 2017	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person.
2	Bishop Suter Trust - Appointment of Trustee	Section 48(1)(a) The public conduct of this matter would be likely to result in	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(a) To protect the privacy of natural persons,

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
		disclosure of information for which good reason exists under section 7	including that of a deceased person
3	Nelmac Limited Director reappointments	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person
4	Nelmac Limited Directors remuneration - 2017/18	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

The meeting went into public excluded session at 10.58am and resumed in public session at 12.13pm.

13. Re-admittance of the Public

Resolved GOV/2017/065

That the Committee

Re-admits the public to the meeting.

Barker/Rutledge

Carried

There being no further business the meeting ended at 12.13pm

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Status Report - Governance - 26 October 2017

1. Purpose of Report

- 1.1 To provide an update on the status of actions requested and pending.

2. Recommendation

That the Committee

Receives the Status Report Governance Committee 26 October 2017 (R8595) and its attachment (A1160658).

Attachments

- Attachment 1: A1160658 - Governance Committee Status Report - 26 October 2017 ↓

Status Report - Governance Committee – 26 October 2017

MEETING DATE	SUBJECT	MOTION	RESPONSIBLE OFFICER	COMMENTS
11 May 2016	Mountain Biking and Gondola	<p><u>AND THAT</u> Council acknowledges the importance of also developing a good network of walking tracks and notes these will be identified concurrently with other off-road tracks and trails;</p> <p><u>AND THAT</u> provision of \$100,000 be made in the Annual Plan 2016/17, being</p> <ul style="list-style-type: none"> \$50,000 to cover both the employment of a project manager by the Nelson Cycle Lift Society (or its successor) and for advice on the economic contribution of a gondola to mountain biking and the city, contingent on the Governance Committee approving a project plan at its meeting in July 2016, and \$50,000 match/partnership funding to be made available once Nelson Cycle Lift Society (or its successor) has raised at least \$50,000, contingent upon the Governance Committee receiving advice of the positive economic impact of the gondola, <p><u>AND THAT</u> the Governance Committee be delegated the authority to consider this matter and make recommendations to Council.</p> <p><i>Note: This item was moved from the Council Status Report to the Governance Committee Status Report in December 2016.</i></p>	Chris Ward	<p>The \$50,000 grant has now been released to allow the initial assessment of financial assumptions to take place. The Society presented to the Governance Committee meeting of 27 July 2017 to outline the progress made. It has started identifying prospective third party funding for the next stage.</p> <p>Ongoing</p>

Nelson Municipal Band Trust - Council Controlled Organisation Exemption

Purpose of Report

- 1.1 To recommend an exemption for the Nelson Municipal Band Trust (the Trust) from the obligations that the Local Government Act 2002 imposes on Council Controlled Organisations (CCOs).

2. Recommendation

That the Committee

Receives the report Nelson Municipal Band Trust - Council Controlled Organisation Exemption (R8287) and its attachment (A1801559).

Recommendation to Council

That the Council

Approves an exemption to the Nelson Municipal Band Trust for the purposes of Section 6(4)(i) of the Local Government Act 2002, in accordance with Sections 7(3) and 7(6) of the Act and after considering the matters in Section 7(5) of the Act.

3. Background

- 3.1 The Nelson Municipal Band's Trust deed (Attachment 1 - A1801559) allows for three Trustees to be appointed to administer the Trust Fund.
- 3.2 Historically, the three trustees appointed to the Trust have been the Mayor, the President of the Band and the manager of the Council's bank.

Item 8: Nelson Municipal Band Trust – Council Controlled Organisation Exemption

The Trust Deed did not require the holders of those particular offices to be appointed as trustees.

- 3.3 Due to relatively frequent changes in the manager of Council's bank, resulting in the third trustee position being left vacant for lengthy periods of time, the Trust indicated its preference for the appointment of a trustee not linked with any particular office, to avoid the position being left vacant.
- 3.4 At its 10 August 2017 meeting, Council appointed Gail Collingwood to the Trust Board, for a term finishing in October 2019. This appointment changed the Trust's obligations under the Local Government Act 2002, to those of a CCO (in which one or more local authorities control 50% or more of the voting rights or rights to appoint directors).
- 3.5 Unless specifically exempted by Council resolution, a CCO is required to:
- Prepare a statement of intent in accordance with Schedule 8 of the Act;
 - Prepare a half yearly report and an annual report;
 - Comply with Parts I to VI of LGOIMA.
- 3.6 While these are quite appropriate in relation to what could be termed Council businesses, they would place an unreasonable burden on the smaller, less commercially oriented organisations in which the Council has an interest, such as the Trust.
- 3.7 Sections 6(4)(i) and Section 7(3) of the Local Government Act (2002, the 'Act') provide that the Council may grant small organisations an exemption from the requirements of a CCO after considering:
- The nature and scope of the activities provided by the organisation; and
 - The costs and benefits, if an exemption is granted, to the Council, the Council Controlled Organisation, and the community.
- 3.8 Section 7(6) of the Act requires that a Local Authority must review an exemption within three years after it is granted and thereafter at intervals of not more than three years.

4. Conclusion

- 4.1 The Trust can reasonably be considered a small organisation. The Trust qualifies for differential reporting exemptions as the operation is not publicly accountable, and the operation is not considered large when applying the test contained within the Framework for Differential Reporting (New Zealand Accounting Standards Framework).
- 4.2 The change in the Trust's obligations under the Act has come about simply as a result of Council's appointment of the third trustee position,

Item 8: Nelson Municipal Band Trust – Council Controlled Organisation Exemption

made at the 10 August 2017 Council meeting to avoid the trustee position being left vacant for long periods.

- 4.3 It is therefore recommended that the Trust be granted an exemption from the obligations imposed on it by the Local Government Act 2002.

5. Options

Option 1: Grant an exemption to the Nelson Municipal Band Trust	
Advantages	<ul style="list-style-type: none">• Recognition that the Trust is a small organisation, resulting in removal of the burden and financial cost to the Trust of complying with the obligations imposed on CCOs by the Act.
Risks and Disadvantages	<ul style="list-style-type: none">• This will result in reduced transparency in relation to the Trust's activities, compared to a CCO.
Option 2: Do not grant an exemption to the Nelson Municipal Band Trust	
Advantages	<ul style="list-style-type: none">• No reduction in the transparency of the Trust's Activities.
Risks and Disadvantages	<ul style="list-style-type: none">• The Trust will bear the burden of complying with the relevant schedules in the Act. This will come at a financial cost to the Trust.

Elaine Stephenson
Governance Adviser

Attachments

Attachment 1: A1801559 - Nelson Municipal Band Trust Deed [↓](#)

Item 8: Nelson Municipal Band Trust – Council Controlled Organisation
Exemption

Important considerations for decision making
<p>1. Fit with Purpose of Local Government</p> <p>This is a statutory compliance matter. This decision would save the Trust, as a small community group, unnecessary compliance costs and supports the cost-effective provision of services and assets to households and businesses.</p>
<p>2. Consistency with Community Outcomes and Council Policy</p> <p>The recommendation is not inconsistent with any Council policy or strategic document. It supports the Community Outcome: Our communities have access to a range of social, educational and recreational facilities and activities.</p>
<p>3. Risk</p> <p>This matter is of very low risk as the recommendation is addressing a statutory compliance issue.</p>
<p>4. Financial impact</p> <p>If Council decides that the Municipal Band Trust is not exempt, the financial costs of compliance will have to be borne by the Trust.</p>
<p>5. Degree of significance and level of engagement</p> <p>This matter is of low significance and therefore no community consultation has been undertaken.</p>
<p>6. Inclusion of Māori in the decision making process</p> <p>Māori have not been specifically consulted on this matter.</p>
<p>7. Delegations</p> <p>The Governance Committee has the responsibility for considering matters in relation to Nelson City Council Controlled Organisations and Nelson City Council Controlled Trading Organisations. The Governance Committee has the power to make a recommendation to Council on this matter.</p>

Item 8: Nelson Municipal Band Trust – Council Controlled Organisation
Exemption: Attachment 1

Updated Deed

TO ALL TO WHOM THESE PRESENTS SHALL COME, THE NELSON CITY COUNCIL (hereinafter called "The Trustee") send greetings:

WHEREAS the Trustee has endorsed the raising of a capital sum to provide an annual income for the benefit of the Nelson Municipal Band (Incorporated) upon representations that public subscriptions would be forthcoming to assist with the raising of such capital sum

AND WHEREAS to assist the trustee in organising the raising by public subscription of such capital sum certain members of the public have voluntarily banded together as an Appeal Committee to carry out the necessary fund raising activities

AND WHEREAS to assist their endeavours the said Appeal Committee has requested the Trustee to set up a special Trust Fund to be known as the Nelson Municipal Band (Incorporated) Trust Fund and apply to the Commissioner of Inland Revenue under Sections 56A, 61 (25), 104 and 147 of the Income Tax Act 1976 for declarations that any subscriptions made to such fund shall be entitled to a deduction by way of Special Exemption from the Donor's assessable income; that the trust fund itself shall be exempt from income tax and an exemption in respect of advertising

NOW THESE PRESENTS WITNESSETH as follows:

1. **THE** Trustee hereby establishes a special Trust fund to be called the Nelson Municipal Band (Incorporated) Trust Fund into which all subscriptions received from the public towards the said capital sum shall be paid.
2. **OUT** of such fund shall be paid only the following items and for no other purpose than:
 - a) The actual and reasonable expenses of the fund raising activities hereinbefore referred to
 - b) The cost of employing a conductor and such other operating expenses as the Trustee authorises.
3. **THE** Trustee shall retain and invest the said Trust Fund and shall use only the annual income therefrom and then only for the benefit of the Nelson Municipal Band (Incorporated) provided that if the Trustee considers it desirable to do so the Trustee may have recourse to the capital in the said fund for the benefit of the said Nelson Municipal Band (Incorporated).
4. **THE** Trustee doth hereby declare that henceforth it shall stand possessed of the said Trust Fund in trust for the Nelson Municipal Band (Incorporated) and in the event of the Nelson Municipal Band (Incorporated) being wound up then such of the said Trust Fund then remaining shall be vested in the Nelson City Council to be applied to the purpose of re-establishing a band where the activities of such band are charitable.
5. **THE** Trustee may for such period as it thinks fit appoint three Trustees to administer the said fund and such Trustees shall administer the said fund in accordance with the terms herein contained.

IN WITNESS WHEREOF these presents have been executed this 14th day of July 2008.

THE COMMON SEAL OF THE NELSON CITY COUNCIL was hereto affixed in the presence of:



[Signature]
Mayor

[Signature]
Chief Executive