

**COUNCIL
EXTRAORDINARY MEETING**



MINUTES

THURSDAY 4 APRIL 2013

1.03pm – 2.56pm

**Council Chamber
First Floor, Town Hall
Wakefield St
Wellington**

PRESENT:

Mayor Wade-Brown (1.03pm – 2.56pm)
Councillor Best (1.05pm – 2.56pm)
Councillor Cook (1.03pm – 2.45pm, 2.47pm - 2.56pm)
Councillor Coughlan (1.03pm – 2.56pm)
Councillor Eagle (1.03pm – 2.56pm)
Councillor Foster (1.03pm – 2.56pm)
Councillor Gill (1.03pm – 2.56pm)
Councillor Lester (1.03pm – 2.56pm)
Councillor McKinnon (1.03pm – 2.56pm)
Councillor Marsh (1.03pm – 2.56pm)
Councillor Morrison (1.03pm – 2.56pm)
Councillor Pannett (1.03pm – 2.56pm)
Councillor Pepperell (1.03pm – 2.56pm)
Councillor Ritchie (1.03pm – 2.56pm)

APOLOGIES:

Councillor Ahipene-Mercer

016/13C **ANNOUNCEMENTS BY THE MAYOR**
(1215/11/IM)

NOTED:

Mayor Wade-Brown welcomed Dr Kevin Lavery to his first Council meeting at Wellington City.

017/13C **PETITIONS**
(1215/11/IM)

NOTED:

There were no petitions

018/13C **CONFLICT OF INTEREST DECLARATIONS**
(1215/11/IM)

NOTED:

There were no conflicts of interest declared.

(Councillor Best joined the meeting at 1.05pm.)

019/13C **APOLOGIES**
(1215/11/IM)

Moved Councillor McKinnon, seconded Councillor Best, the motion that apologies for absence be accepted from Councillor Ahipene-Mercer.

The motion was put and declared CARRIED on voices.

RESOLVED:

THAT Council:

1. *Accept apologies for absence from Councillor Ahipene-Mercer.*

020/13C **PUBLIC PARTICIPATION**
(1215/11/IM)

NOTED:

1. Peter Harris addressed the meeting in relation to Report 1 - Requisition for Extraordinary Meeting – Citioperations.

TABLED INFORMATION: Speaking notes reference 020/13C(a).

2. Martin Gregory addressed the meeting in relation to Report 1 - Requisition for Extraordinary Meeting – Citioperations.

TABLED INFORMATION: Handout reference 020/13C(b).

3. Nick Kelly representing the PSA addressed the meeting in relation to Report 1 - Requisition for Extraordinary Meeting – Citioperations.

021/13C **REQUISITION FOR EXTRAORDINARY MEETING - CITIOPERATIONS**

Requisition of Councillor Eagle.
(1215/11/IM)

(REPORT 1)

NOTED:

Kevin Lavery – Chief Executive Officer and Anthony Wilson – Chief Assets Officer addressed the meeting in relation to the matter before the meeting. Mr Wilson highlighted the paper that had been circulated to Councillors which advised of the timing and financial implications of any proposal to place on hold, current proposals to include suburban street cleaning and road vegetation control in externally provided comprehensive road corridor maintenance contracts. This paper is attached to the minutes as appendix 1.

Moved Mayor Wade-Brown, seconded Councillor Eagle, the substantive motion as follows which differs to the motion in the requisition:

THAT Council:

1. Receive the information tabled at the meeting in the report from Chief Assets Officer.
2. Note that Road and Traffic Maintenance Request for Tenders (comprehensive corridor contracts which include suburban street cleaning and vegetation control previously provided under a separate contract with CitiOperations and Parks staff) is currently out to tender (closing 8 April 2013).

3. Agree to the inclusion of suburban street cleaning and vegetation control in these contracts, recognising that this work will now be contracted out.
4. Note that in-house council delivery of this service in the future is possible if it meets NZTA procurement requirements including quality of service delivery, pricing competitiveness, and transparency including in relation to capital and overhead costs.
5. For the May 2013 Council meeting, present a review of all work undertaken by CitiOperations since 2001 that details the:
 - (a) Timing and changes of scope and quantum of works undertaken by CitiOperations, together with the reasons (including health and safety considerations) for these changes;
 - (b) The advice given to the Council of these changes;
 - (c) The number of Council staff reductions that have resulted from changes to external provider, together with transition employment arrangements when existing staff were transferred to the new external providers;
 - (d) Council branding used by current external providers.
6. Agree to have workshop/s and a subsequent report to the Strategy and Policy Committee on future possibilities for service delivery options for Council services, including consideration of:
 - (a) Advantages and disadvantages of various service delivery options including in-house units, external providers (i.e. contractors) partnering, shared services and Council trading entities;
 - (b) Health and safety considerations for the various options;
 - (c) Legal (e.g. Local Government Act 2002 requirements regarding "most cost-effective"), policy and financial implications of the various options;
 - (d) Consideration of the maturity of the in-house and external provider market and optimal contract terms (if new service delivery options are to be considered);
 - (e) Council branding to be used by in-house, existing external providers and any other service delivery agents that may be considered;
 - (f) Service delivery options used by a range of other Councils.
7. Until a decision on the matters in recommendation 6 above is determined, no further outsourcing of Council infrastructure services currently delivered in-house is to be undertaken (other than that covered in recommendations 2 and 3 above) without a Council decision.
8. Note that decision-making on outsourcing or in-house provision of services will be included in the review of the Chief Executive's delegations.

(Councillor Cook left the meeting at 2.45pm.)
(Councillor Cook returned to the meeting at 2.47pm.)

The substantive motion recommendations 1 - 2 and 4 – 8 were put.

Voting for: Mayor Wade-Brown, Councillors Best, Cook, Coughlan, Eagle, Foster, Gill, Lester, McKinnon, Marsh, Morrison, Pannett, Pepperell and Ritchie.

Voting against: Nil.

Majority Vote: 14:0

The substantive motion recommendations 1 - 2 and 4 – 8 were declared CARRIED.

The substantive motion recommendation 3 was put:

Voting for: Mayor Wade-Brown, Councillors Best, Coughlan, Foster, Lester, McKinnon and Marsh.

Voting against: Councillors Cook, Eagle, Gill, Morrison, Pannett, Pepperell and Ritchie.

Majority Vote: 7:7

The substantive motion recommendation 3 was declared CARRIED on the Mayor's CASTING VOTE.

RESOLVED:

THAT Council:

1. *Receive the information tabled at the meeting in the report from Chief Assets Officer (attached to the minutes as appendix 1).*
2. *Note that Road and Traffic Maintenance Request for Tenders (comprehensive corridor contracts which include suburban street cleaning and vegetation control previously provided under a separate contract with CitiOperations and Parks staff) is currently out to tender (closing 8 April 2013).*
3. *Agree to the inclusion of suburban street cleaning and vegetation control in these contracts, recognising that this work will now be contracted out.*
4. *Note that in-house council delivery of this service in the future is possible if it meets NZTA procurement requirements including quality*

of service delivery, pricing competitiveness, and transparency including in relation to capital and overhead costs.

5. *For the May 2013 Council meeting, present a review of all work undertaken by CitiOperations since 2001 that details the:*
 - (a) *Timing and changes of scope and quantum of works undertaken by CitiOperations, together with the reasons (including health and safety considerations) for these changes;*
 - (b) *The advice given to the Council of these changes;*
 - (c) *The number of Council staff reductions that have resulted from changes to external provider, together with transition employment arrangements when existing staff were transferred to the new external providers;*
 - (d) *Council branding used by current external providers.*

6. *Agree to have workshop/s and a subsequent report to the Strategy and Policy Committee on future possibilities for service delivery options for Council services, including consideration of:*
 - (a) *Advantages and disadvantages of various service delivery options including in-house units, external providers (i.e. contractors) partnering, shared services and Council trading entities;*
 - (b) *Health and safety considerations for the various options;*
 - (c) *Legal (e.g. Local Government Act 2002 requirements regarding "most cost-effective"), policy and financial implications of the various options;*
 - (d) *Consideration of the maturity of the in-house and external provider market and optimal contract terms (if new service delivery options are to be considered);*
 - (e) *Council branding to be used by in-house, existing external providers and any other service delivery agents that may be considered;*
 - (f) *Service delivery options used by a range of other Councils.*

7. *Until a decision on the matters in recommendation 6 above is determined, no further outsourcing of Council infrastructure services currently delivered in-house is to be undertaken (other than that covered in recommendations 2 and 3 above) without a Council decision.*

8. *Note that decision-making on outsourcing or in-house provision of services will be included in the review of the Chief Executive's delegations.*

EXTRAORDINARY COUNCIL MEETING

4 April 2013



CA INSERT REPORT NO
CA INSERT FILE NO

REQUISITION OF EXTRAORDINARY COUNCIL MEETING – CITIOPERATIONS – ROAD AND TRAFFIC MAINTENANCE CONTRACTS

1. Purpose of report

The purpose of this report is to advise the Council of the timing and financial implications of any proposal to place on hold, current proposals to include suburban street cleaning and road vegetation control in externally provided comprehensive road corridor maintenance contracts.

2. Executive summary

Any proposal to place on hold, pending a review, the current proposal to include suburban street cleaning and road vegetation control in new comprehensive road and traffic maintenance contracts, exposes the Council to considerable risk, both financially and reputationally.

3. Recommendations

Officers recommend that the Council:

- 1. Receive the information.*

4. Background

There are currently four contracts which are due for renewal with effect 30 June 2013. These are:

- The road maintenance contracts (two) currently held by Downer New Zealand Ltd and Transfield Services Ltd.
- The CBD cleaning contract currently held by Transpacific Ltd. This contract originally expired on 30 June 2012, but was extended (with NZTA approval) to align with the end dates of the other contracts.
- The suburban street cleaning and vegetation control contract held by a combination of CitiOperations and the Parks and Gardens. The contract includes the subcontracting of weed spraying to an external contractor.

All these contracts are eligible for NZTA subsidy provided that they comply with NZTA requirements.

In developing new contracts, consideration has been given to the recent Road Maintenance Task Force instigated by the Minister of Transport in 2011. This Task Force included representatives and input from Road Controlling Authorities (both local authorities and the New Zealand Transport Agency (NZTA)), industry representatives (both consultants and contractors) and Ministry of Transport officials. The project was led by NZTA.

One of the recommendations of the Task Force, to improve both service delivery standards and cost effectiveness, was for comprehensive corridor management contracts led by a single lead contractor.

In line with this best practice recommendation, the replacement contracts are planned to be such comprehensive corridor maintenance contracts. In developing the new contracts, staff have held workshops over the last nine months with service providers, and the resultant contract documentation is in line with the NZTA approved procurement strategy, a requirement for subsidy.

Tender documents have been prepared and the Request for Tenders (RFT) has been invited. The RFT closes on the 8 April 2013 with a tender evaluation and award to be completed by mid May, allowing 4 to 6 weeks for transition/mobilisation should different contractors from the incumbents be awarded the contract/s. By industry standards this transition is tight.

The annual value of the contract services is approximately \$35 million, of which \$2.4M and \$1.4M are the estimated values of the street cleaning and vegetation control respectively.

The street cleaning and vegetation control activities are classified as Minor Ancillary Works and some elements are eligible for subsidy at a financial assistance rate of up to 44% (estimated value up to \$0.9M p.a.).

5. Discussion

To be eligible for NZTA subsidy, works must be competitively tendered and undertaken by either external contractors or internal business units structured in accordance with NZTA requirements.

Under the existing arrangements the street cleaning is undertaken by external contractors in the CBD and the suburban street cleaning and vegetation control by a combined team from CitiOperations and the Parks unit, who in turn subcontract weed spraying to an external contractor. These units jointly successfully tendered for the current work, but this contract now ends on 30 June 2013.

NZTA has, in previous audits over the last decade, raised concerns about whether or not both CitiOps and the Parks unit meet their 'Business Unit' transparency and accounting requirements, including matters such as the rate of return on capital.

In this particular case the contract is effectively held by a joint venture of the two 'business units' creating even more uncertainty.

These concerns, together with the Maintenance Task Force's findings in respect of best practice comprehensive corridor maintenance contracts, industry feedback for an optimal bundling package to minimise cost, and the need for capital reinvestment to renew/upgrade road sweepers, trucks and miscellaneous equipment estimated to cost up to \$3.0M are the basis for the current RFT.

If there are to be any delays in awarding this contract, the Council may be exposed to the following risks:

- If the contract cannot be awarded in sufficient time for transition/mobilisation by 30 June 2013 it will be necessary to get a dispensation from NZTA for a further extension of the existing contracts. This is likely to be problematic but achievable. It would also require negotiation of an extension with the incumbent contractors with the Council in a weak negotiating position. This could result in increased costs.
- It may be possible to award a contract for a reduced scope of work (i.e. excluding suburban street cleaning and vegetation control), however this would require post tender negotiations involving the value of contractor overheads. Both staff and NZTA would consider this poor procurement practice and with the potential to expose the Council to increased cost.
- There is likely to be an adverse industry reaction and reputational risk. Tenderers will have incurred considerable cost in preparing their tenders and negotiation with potential subcontractors.
- Even if the suburban street cleaning and vegetation control is to be removed from the contract resulting from the current RFT, it would not be able to be undertaken by the in-house units without an openly contestable process and without significant effort to bring them up to the status of NZTA compliant Business Units. This puts the NZTA subsidy for these activities at considerable risk.
- These are likely to be missed opportunity costs (diseconomies of scale due to lack of bundling, competitive market offers etc.) estimated at 5% (\$200,000).
- A capital investment requirement (unbudgeted) estimated at \$2.0 to \$3.0M, and an annual cost of up to \$500,000 depending on the finance costs and equipment service lives (and consequent annual depreciation) of the new assets.

The total financial risk could be the total of the about items (\$1,600,000) plus any increased contract or tendering costs as noted above.

5.1 Consultation and Engagement

Extensive consultation with NZTA and industry service providers has occurred over the last 9 months resulting in the current optimal bundling in the Request for Tender.

5.2 Financial considerations

Delays in awarding the contract or a change in the scope of work both represent a financial risk to the Council. A worst case scenario is for increased costs to exceed \$1,600,000 p.a.

5.3 Climate change impacts and considerations

There are no climate change impacts or considerations

5.4 Long-term plan considerations

As noted above, if NZTA subsidy is placed at risk this has both levels of service and financial implications. The Draft Annual Plan has been prepared assuming that NZTA subsidy is maximised and the full opportunity savings are achieved.

6. Conclusion

Delaying or modifying the scope of the Road and Traffic Maintenance Contracts represent considerable risk to the Council, both financially and reputationally with the Council's funding partner and service providers.

Contact Officer: Anthony Wilson, Chief Asset Officer

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

This is an information paper and does not relate to the Council's strategic priorities.

2) LTP/Annual Plan reference and long term financial impact

The financial impact is set out in the paper.

3) Treaty of Waitangi considerations

There are no specific Treaty of Waitangi implications with this report.

4) Decision-making

This is an information paper.

5) Consultation

Extensive consultation with NZTA and industry service providers has occurred over the last 9 months resulting in the current optimal bundling in the Request for Tender.

6) Legal implications

Council's lawyers have been consulted during the development of the RFT.

7) Consistency with existing policy

This RFT has been developed in accordance with the Council's current procurement policies.