
MINUTES

THURSDAY 29 JULY 2010

9.17AM – 10.31AM
11.01AM – 12.08PM
12.11PM – 12.32PM
1.06PM – 3.07PM
3.17PM – 3.45PM

**Committee Room 1,
Ground Floor, Council Offices,
101 Wakefield Street
Wellington**

PRESENT:

Mayor Prendergast	(9.17am – 10.09am, 10.18am – 10.31am, 11.01am – 11.57am, 1.15pm – 2.58pm, 3.02pm – 3.07pm)
Councillor Best	(9.17am – 10.31am, 11.03am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.45pm)
Councillor Cook	(9.28am – 9.59am, 10.01am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm- 2.53pm, 2.54pm – 3.03pm, 3.17pm – 3.24pm, 3.25pm – 3.45pm)
Councillor Coughlan	(11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 2.21pm)
Councillor Foster (Chair)	(9.17am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.45pm)
Councillor Gill	(9.17am – 10.31am, 11.01am – 12.08pm, 12.13pm – 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.27pm, 3.30pm – 3.45pm)
Councillor Goulden	(9.17am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.15pm – 3.07pm, 3.17pm – 3.45pm)
Councillor McKinnon (Deputy Chair)	(9.17am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.45pm)
Councillor Morrison	(9.17am – 10.31am, 11.01am – 11.38am, 11.45am – 12.08pm, 12.11pm – 12.23pm, 2.24pm – 3.07pm, 3.17pm – 3.45pm)
Councillor Pannett	(9.17am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.45pm)
Councillor Pepperell	(9.17am – 10.31am, 11.05am – 12.08pm, 12.12pm – 12.32pm, 1.06pm – 1.41pm, 1.43pm – 2.21pm, 2.23pm - 3.04pm, 3.22pm – 3.27pm, 3.29pm - 3.45pm)

Councillor Ritchie	(9.17am – 10.31am, 11.03am – 12.08pm, 12.14pm – 12.32pm, 1.06pm – 3.07pm, 3.19pm – 3.45pm)
Councillor Wade-Brown	(9.17am – 10.31am, 11.01am – 12.08pm, 12.11pm – 12.32pm, 1.06pm – 2.34pm)
Councillor Wain	(9.17am – 10.31am, 11.02am – 12.02pm, 12.04pm – 12.08pm, 12.11pm - 12.32pm, 1.06pm – 3.07pm, 3.17pm – 3.45pm)

APOLOGIES:

Mayor Prendergast (early departure)
 Councillor Ahipene-Mercer
 Councillor Gill (early departure)
 Councillor Morrison (early departure)

DEMOCRATIC SERVICES OFFICERS IN ATTENDANCE:

Svea Cunliffe-Steel – City Secretary
 Fiona Dunlop – Committee Adviser

172/10P **APOLOGIES**
 (1215/52/IM)

Moved Councillor Foster, seconded Mayor Prendergast, the motion that apologies for absence be accepted from Councillor Ahipene-Mercer and apologies for an early departure from Mayor Prendergast and Councillors Gill and Morrison be accepted,.

The motion was put and declared CARRIED.

RESOLVED:

THAT the Strategy and Policy Committee:

1. *Accept apologies for absence from Councillor Ahipene-Mercer.*
2. *Accept apologies for an early departure from Mayor Prendergast and Councillors Gill and Morrison.*

173/10P **CONFLICT OF INTEREST DECLARATIONS**
 (1215/52/IM)

NOTED:

Councillor McKinnon advised the meeting that he had a conflict of interest in relation to submission 88. He advised that he would not take part in discussion on the matter.

174/10P **PUBLIC PARTICIPATION**
(1215/52/IM)

NOTED:

There was no public participation.

175/10P **ORAL HEARINGS – ROAD ENCROACHMENT AND SALE
POLICY**
(1215/52/IM) (REPORT 1)

NOTED:

1. Doug Buchanan (submission number 65) addressed the meeting in support of his submission. Mr Buchanan advised that he has no issue with paying an encroachment fee for the small area which contains his carport.

(Councillor Cook joined the meeting at 9.28am.)

Mr Buchanan stated that he currently pays rates and an encroachment fee and Council needs to be careful that it is not being exploitative and raising fees. He said if fees are increased, an owner may relinquish their licence resulting in a loss in revenue to Council. Furthermore, Council will incur additional costs related to maintenance of the previously encroached upon area, and the appearance of the area will worsen.

Mr Buchanan stated that there should be more roading stopping and land sales for land that will never be used for road, and should be offered for sale at a fair valuation.

TABLED INFORMATION: Speaking notes reference 175/10P(A).

2. Con Flinkenberg (submission number 135) addressed the meeting in support of his submission. Mr Flinkenberg criticised the policy saying that little thought had been given to the ramifications of the proposal relating to the full range of encroachments that it covers. Mr Flinkenberg said that the policy assumes that all encroachments are the same and can therefore be treated the same.

Mr Flinkenberg believes that the Policy will lead to scenarios that are unjust and once the full impact of the policy is felt by licence holders there will be many complaints.

TABLED INFORMATION: Speaking notes reference 175/10P(B).

3. Derek Bullen (submission number 141) addressed the meeting in support of his submission. Mr Bullen concerns with the policy relate to the method of setting rental rates and bases for determination. He said further consultation should be undertaken independent from the Annual Plan process. This will enable more work to be carried out on the implications of a preferred fee approach that will be just and fair and not seen as a further source of income for the Council.

Mr Bullen stated that an encroachment licence should be for the life of the property rather than the length of time a person owns the property.

(Councillor Cook left the meeting at 9.59am.)

4. Bernie Harris (submission number 70) addressed the meeting in support of his submission. Mr Harris advised the meeting that he has had an encroachment licence since the 1950's. He advised that he has had many discussions with Mayors regarding his encroachment as the area he has a licence for will never be used for roading.

Mr Harris believes that any amendments to a licence should include consultation with the licence holder. He said that fees should only change if the owner defaults or if there is a transfer to a new licence holder after suitable negotiation.

(Mayor Prendergast left the meeting at 10.09am.)

5. David Underwood (submission number 134) addressed the meeting in support of his submission. Mr Underwood advised the meeting that most land that people have encroachments on is steep, therefore has limited use. There are usually garages on stilts in those areas and as a result the property owner maintains the area encroached over. He stated that the review needs to consider uses other than garages and charges should be left as they currently are, as proposed changes will lead to disputes between Council and property owners.

Mr Underwood advised that he maintains some adjoining road reserve to his encroachment at no cost to Council. He has previously indicated an interest in purchasing the land he has a licence for, however, the process will take two years to complete and cost \$10,000 in fees without a guarantee of approval.

(Mayor Prendergast returned to the meeting at 10.18am.)

6. Jennifer Lewis (submission number 109) addressed the meeting in support of her submission. Ms Lewis advised the meeting that she has had an encroachment licence since the late 1980's for a garage. This

licence allows her to park her car in a secure garage off the road. Ms Lewis pays a fee for her licence and commented that people who park on the road reserve in her street pay no fee.

Ms Lewis believed that encroachment licences for garages provide a “public good” regardless of land value and she supported a flat rate fee charge. She feels that an increase in an encroachment licence should be made when a new licence is issued.

Ms Lewis advised the meeting of numerous public access tracks on Tinakori Hill. She queried whether Council is able to negotiate with the owners of a driveway in the vicinity of 173-175 Cecil Road to allow public access to a track in this area by giving the public access over road reserve.

TABLED INFORMATION: Speaking notes reference 175/10P(C).

(The meeting adjourned at 10.30am for morning tea and reconvened at 11.01am.)

(Mayor Prendergast, Councillors Cook, Coughlan, Foster, Gill, Goulden, McKinnon, Morrison, Pannett, Pepperell and Wade-Brown were present when the meeting reconvened.)

7. Brett McKay (submission number 60) did not appear before the Committee in support of his submission.

(Councillor McKinnon withdrew from the table due to a conflict of interest.)

8. Antony Paltridge representing Herbert Gardens Limited (submission number 88) addressed the meeting in support of the Herbert Gardens Limited submission. Mr Paltridge advised the meeting that there is no detail in the policy document regarding implications for a body corporate such as Herbert Gardens.

(Councillor Wain returned to the meeting at 11.02am.)

(Councillor Ritchie returned to the meeting at 11.03am.)

(Councillor Best returned to the meeting at 11.03am.)

(Councillor Pepperell returned to the meeting at 11.05am.)

Mr Paltridge advised the meeting that the Herbert Gardens Body Corporate was concerned with how the consultation has been undertaken. He advised that Herbert Gardens has an encroachment as a result of Wellington City Council acquiring a strip of land for future widening of The Terrace. The land was improved by the Body Corporate to increase the amount of parking for the residents.

TABLED INFORMATION: Photos of Herbert Gardens Encroachments reference 175/10P(D).

(Councillor McKinnon returned to the table.)

9. Grant Stevens (submission number 146) addressed the meeting in support of his submission. He feels that the changes to the Policy are insufficient and that any encroachment licence should only be granted if neighbours give written consent when the encroachment is in front of their property.

Mr Stevens stated that the Policy gives Council absolute discretion to approve an encroachment without consulting affected neighbours and he believes this to be unfair.

TABLED INFORMATION: Speaking notes reference 175/10P(E).

10. Gail Irwin (submission number 149) addressed the meeting in support of her submission. Mrs Irwin advised the meeting that she has a historical encroachment licence and now feels entrapped by it.

(Councillor Morrison left the meeting at 11.38am.)

Mrs Irwin believes that public liability insurance for overhead balconies is essential and annual monitoring should include encroachments on LIMs so there are no surprises for future purchasers of properties with licences. She stated that Council needs to be proactive with licence holders who are adversely affected by the process.

11. Carolyn Small (submission number 163) did not appear before the meeting for her oral hearing.

12. Paul Wilson (submission number 136) addressed the meeting in support of his submission. Mr Wilson advised that the policy does not take into account encroachment use. He expressed injustice because he pays for a carpark which amounts to the same fee that his neighbours pay and whose house is partly on road reserve.

(Mayor Prendergast left the meeting at 11.57am.)

Mr Wilson commented that the flat rate or the differentiated fee options in the Policy should take into account the use of the encroachment and this should be considered when setting the rental rates fairly.

13. Janice Swanwick (submission number 142) addressed the meeting in support of her submission. Mrs Swanwick stated Council needs a consistent policy on encroachments and a fair return. The return needs to be fair to both the property owner and Council.

(Councillor Wain left the meeting at 12.02pm.)

Mrs Swanwick advised that her property is a distance from the road and they have had to put up fencing to stop people from falling off their path. She suggested that this type of encroachment should not incur a fee.

(Councillor Wain returned to the meeting at 12.04pm.)

Mrs Swanwick feels that the new policy needs to be more equitable for property owners and should not charge for paths or steps particularly ones with safety features which cross Council land when that is the only means of access to a property. She is supportive of consultation with neighbours about potential implications to property amenities.

(The meeting adjourned at 12.08pm and reconvened at 12.11pm.)
(Councillors Best, Cook, Coughlan, Foster, Goulden, McKinnon, Morrison, Pannett, Wade-Brown and Wain were present when the meeting reconvened.)

14. Jason Holland (submission number 143) addressed the meeting in support of his submission. He advised the meeting he has an encroachment licence for an area of 45m². This licence was “rolled over” from the previous owner. He stated that his licence enables him to keep the existing fence located to protect his young children from the road.

(Councillor Pepperell returned to the meeting at 12.12pm.)

(Councillor Gill returned to the meeting at 12.13pm.)

(Councillor Ritchie returned to the meeting at 12.14pm.)

Mr Holland believes that the proposed policy will make him pay an annual charge. He will probably forfeit the encroachment licence and will then be required to build a new fence on the property boundary.

(Councillor Morrison left the meeting at 12.23pm.)

Mr Holland suggested that the Council should approach the Government to request removing the red tape that property owners have to endure for the road stopping process.

15. Bernard O'Shaughnessy (submission number 56) did not appear before the Committee for his oral hearing.

(The meeting adjourned at 12.32pm for lunch and reconvened at 1.06pm.)

(Councillors Best, Cook, Coughlan, Foster, Gill, McKinnon, Pannett, Pepperell, Ritchie, Wade-Brown and Wain were present when the meeting reconvened.)

16. Paul Franken (submission number 5) appeared before the Committee for his oral hearing. Mr Franken advised the meeting citizens who have encroachments and beautify the road reserve should be rewarded not penalised.

(Councillor Goulden returned to the meeting at 1.15pm.)
(Mayor Prendergast returned to the meeting at 1.15pm.)

Mr Franken maintains a path on an encroachment independently and at his own cost that is frequently utilised by the public. He stated that he will be insulted if he is required to register his encroachment in addition to paying for the "privilege" of maintaining the path.

17. Clare Owen (submission number 97) addressed the meeting in support of her submission. Mrs Owen advised the meeting that she has a car pad and has been incurring encroachment fees ever since it was installed. She stated that the Policy says "no structure no fee". Mrs Owen advised that she objects each year when the rental is reviewed because she has a car pad not a carport. She believes that she is providing a public safety service by taking her car off the road.

TABLED INFORMATION: Aerial photo reference 175/10P(F).

18. Jim Shaw (submission number 130) addressed the meeting in support of his submission. Mr Shaw believes that changes to the fee should be made when new licences are issued as this will allow for changes to be made more easily and accommodated by residents on low or fixed incomes.

Mr Shaw suggested that the Council consider market rents for encroachments against the improved value of properties rather than land values as this may better reflect the value of the encroachment.

Mr Shaw believes that Council should recognise some of the advantages from the maintenance of public land by encroachment licences.

TABLED INFORMATION: Photos reference 175/10P(G).

(Councillor Pepperell left the meeting at 1.41pm.)

19. Bernhard Lokum (submission number 175) addressed the meeting in support of his submission. Mr Lokum advised the meeting that he opposed the proposal to change the Policy to charge for an encroachment over a fenced area. He believes that the continual increase in the fees is devaluing his property.

(Councillor Pepperell returned to the meeting at 1.43pm.)

Mr Lokum showed the meeting a series of photos of properties in his street with encroachments indicating the areas that will be charged if the proposed policy is adopted by Council.

TABLED INFORMATION: Photos reference 175/10P(H).

20. Stephen Underwood (submission number 165) addressed the meeting in support of his submission. Mr Underwood commented that the Council has adopted a crude proposal to address the issue of private benefit of public land. The circumstances for each property need to be investigated before any determination of a fee is made. He believes that there are many licence holders who are not aware of the potentially significant and additional cost that will be incurred from the proposed changes.

Mr Underwood stated that if the fees increase it will be cheaper for him to get rid of his car pad and just pay for a residents parking permit.

21. Jane Hellendoorn (submission number 106) addressed the meeting in support of her submission. Mrs Hellendoorn advised the meeting that Council should keep the status quo for the square metre current structure fee. She feels that Council should approach the Government to seek a change to the Road Stopping provisions in the Local Government Act to cut out the red tape that property owners have to deal with if they want to purchase their encroachment. She had investigated the purchasing of her encroachment and the cost was too prohibitive.

Mrs Hellendoorn stressed that she has experienced previous changes in encroachment fees and would like Council to finally resolve this matter.

(Councillor Coughlan left the meeting at 2.21pm.)

(Councillor Pepperell left the meeting at 2.21pm.)

22. Derek Spencer (submission number 67) did not appear before the meeting for his oral hearing.
23. Maureen O’Meeghan (submission number 104) addressed the meeting in support of her submission. Ms O’Meeghan advised that she agrees that Council should control the use of road reserve land and that a reasonable encroachment rental be charged for its use.

(Councillor Pepperell returned to the meeting at 2.23pm.)

Ms O’Meeghan believes that the status quo of “a flat rental rate per square metre” should be maintained for setting annual rental fees allowing each property owner to rent Council land for uses such as a car pad, which provides a public good by taking vehicles off the road particularly in areas where parking congestion is high.

(Councillor Wade-Brown left the meeting at 2.34pm.)

Ms O’Meeghan hopes that Council will introduce the fee changes when an encroachment is changed or a property is sold.

24. Caryl Woodbridge representing the Roseneath Residents Association (submission number 140) addressed the meeting in support of the Associations submission. The Association believes that Council is being well compensated for by the large investments made by owners of properties with a driveway, car pad, carport or garage. This is by way of a very substantial increase in the value of their property. Property owners are also responsible for the maintenance and therefore there is an increase in the properties rates.

Ms Woodbridge advised that the Association is concerned that if Council proceeds with charging for fenced land on road reserve this will create a safety issue in the Roseneath area. They also believe that if hedges are put in the charging category then property owners will remove the hedges and fences and this will leave steep and dangerous areas close to Council paths in an unsafe manner. A change in this part of the policy will show a cost benefit deficit to Council.

25. Jayne Cooper-Woodhouse (submission number 25) did not appear before the Committee for her oral hearing.

26. Torsten Baker (submission number 182) addressed the meeting in support of his submission. Mr Baker advised the meeting that he opposed the policy in its entirety and that the consultation process is flawed. He believes that by splitting the policy and fee change process, Council is making it difficult for the public to have sufficient input.

(Councillor Cook left the meeting at 2.53pm.)

(Councillor Cook returned to the meeting at 2.54pm.)

Mr Baker stated that the policy does not deal with public good discounting other encroachments such as utilities. There is no mention of utilities using road reserve.

(Mayor Prendergast left the meeting at 2.58pm.)

Mr Baker also stated that Council has a vested interest in passing this policy change and making later fee adjustments as he considered there is a likely fee increase of \$11 million.

TABLED INFORMATION: Photos reference 175/10P(I).

27. Dennis Sharman representing the Tawa Community Board (submission number 168) addressed the meeting in support of the Board's submission. Mr Sharman advised that the Tawa Community Board believes that it is important for the Road Encroachment and Sale Policy to be amended to make the policy clearer and allow better alignment with other Council policies.

(Mayor Prendergast returned to the meeting at 3.02pm.)

(Councillor Cook left the meeting at 3.03pm.)

(Councillor Pepperell left the meeting at 3.04pm.)

Mr Sharman advised that the Board are supportive of the new sections that include consultation with affected parties and a section dealing with Town Belt encroachments and many of the other aspects of the policy.

(The meeting adjourned at 3.07pm for afternoon tea and reconvened at 3.17pm.)

(Councillors Best, Cook, Foster, Gill, Goulden, McKinnon, Morrison, Pannett and Wain were present when the meeting reconvened.)

28. Dennis Hunt (submission number 99) addressed the meeting in support of his submission. Mr Hunt is concerned that a person who has approval to construct a garage on road reserve can have their licence revoked at a later date.

(Councillor Ritchie returned to the meeting at 3.19pm.)

Mr Hunt does not believe that the ability to revoke a licence should be included in the policy except if the person is using the land inappropriately or by leaving it derelict.

(Councillor Pepperell returned to the meeting at 3.22pm.)

(Councillor Cook returned to the meeting at 3.24pm.)

(Councillor Cook left the meeting at 3.25pm.)

(Councillor Pepperell left the meeting at 3.27pm.)

(Councillor Gill left the meeting at 3.27pm.)

Mr Hunt feels that all the road reserve land should be assessed and a possible outcome could be that long term leases issued.

29. Maria Grigg (submission number 122) addressed the meeting in support of her submission. Ms Grigg believes that the flat rate for a licence is a consistent and fair way of charging for an encroachment.

(Councillor Pepperell returned to the meeting at 3.29pm.)

(Councillor Gill returned to the meeting at 3.30pm.)

Ms Grigg advised that Council needs to remember that encroachments improve public safety by providing off street parking in narrow streets. Mr Griggs said that, on her street buses have difficulty manoeuvring because of parked cars. She commented that generally, encroached areas are tidy.

TABLED INFORMATION: Photo reference 175/10P(J).

30. Harry Ricketts (submission number 75) addressed the meeting in support of his submission. Mr Ricketts advised that he has a car pad and that parking is at a premium. He believes that with the proposed fees for his car pad it is going to be cheaper for him to cancel his encroachment licence and just have a residents parking permit to park his car. This course of action will have a negative effect as it will put one more car on the street.

The meeting concluded at 3.45pm.

Confirmed: _____

Chair

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