

MINUTES OF THE FOXTON CODE OF CONDUCT SUBCOMMITTEE MEETING HELD IN THE CHAMBERS, FOXTON SERVICE CENTRE, MAIN STREET, FOXTON, ON THURSDAY 25 MARCH 2010 AT 5.30 PM

PRESENT

Mr S Cull (Chair)
Mr N G Gimblett
Mrs S M Paddison

IN ATTENDANCE

Mr D G Ward (Chief Executive Officer)
Mrs K J Corkill (Meeting Secretary)

ALSO IN ATTENDANCE

Cr D A Allan
Cr A M Hunt
Mr B Vertongen

PUBLIC IN ATTENDANCE

There were thirteen members of the public in attendance at the commencement of the meeting.

ANNOUNCEMENTS

Permission had been requested by Mr Bryan Ten Have to record the meeting. Under Standing Orders 3.3.8 (c), permission to record the meeting had been granted.

The Chair declared the meeting open.

1. APOLOGIES

There were no apologies recorded.

2. CONFIRMATION OF MINUTES - 3 MARCH 2010

Resolved

(Gimblett / Paddison)

"THAT the minutes of the Foxton Code of Conduct Subcommittee meeting held on 3 March 2010 be confirmed as a true and correct record."

3. REPORT 4144 - REQUESTED CORRESPONDENCE
REPORT 4145 - RESPONSE TO REQUESTS FOR EVIDENCE

Resolved

(Gimblett / Paddison)

"THAT Reports 4144 and 4145 be received."

Mr Ward noted, in respect of Report 4145 (page 15), that the Subcommittee had requested at its meeting of 3 March 2010 that written evidence be requested from Crs Allan and Hunt, which evidence was attached to the body of the report. Both Cr Allan and Cr Hunt had been made aware that the information would be addressed in a public forum. Additionally Mr Vertongen had been advised that information would be received in public, unless he requested otherwise.

Mr Ward then outlined the following process for the conduct of tonight's meeting:

- Subcommittee members would consider the written evidence, with the opportunity to direct questions to the respective parties who provided that evidence.
- Mr Vertongen would then be given the opportunity to make comments, but could not direct questions to those who provided evidence;
- The Subcommittee could then decide whether further evidence was required;
- If further evidence was requested in writing, that would be considered at a subsequent meeting;
- If no further evidence was required, the Subcommittee would then deliberate and make a determination.

Cr Allan joined the table to respond to Committee Members' questions, with it being agreed that his written statement would be taken as read.

Mr Gimblett requested Cr Allan to clarify, since he had not been at the official opening, how he had gained information as to what had occurred on the evening in question.

Cr Allan responded:

- there were two sources – the media, and from discussions with a number of people, both in the community and elected representatives.
- in the media items (shown on pages 27 & 28) there appeared to be a consistent version of what took place;
- that was the reason in writing his submission he said he believed it was a statement of fact, which would be further clarified by tonight's discussion;
- the reference to the burning of a photo of two people in the course of the ceremony in the media articles had not been challenged and on that basis he drew conclusions and started to worry about the implications.

Mrs Paddison said Cr Allan's comments had addressed a question she had had.

Focussing on the actual complaint, Mr Gimblett suggested there appeared to be two issues – one was to do with the relationship with the community and the other relationships within the Community Board.

Cr Allan said that at the heart of his concern was what the actions may have done to the credibility of the Foxton Community Board and he worried about the message sent by those actions and what it said about the way the Community Board responded to dissent. Whilst he underlined he was in no way judging the intent of the Chair, he felt it was clearly a perception that could be taken by the public.

Mr Cull said he had read through Cr Allan's submission many times and had some difficulty with the fact that, except for what was written in the newspaper articles, Cr Allan's response was based on hearsay. If the matter was as severe as Cr Allan believed, surely someone who was actually at the event should have promoted this action.

Whilst believing that was a fair challenge as he had not been present at the time, Cr Allan suggested that when hearsay was to the extent that it was on this occasion and when the comments seemed to be consistent around key matters of fact, then as a member of the Community Board he had to reflect on the actions of the Chair and any damage done to the reputation of the Board. Sometimes hearsay had to be challenged. All he had done was start a process whereby that hearsay may be found wanting or may be found to be factual. He believed, in considering the media articles, there were two journalists and two streams of investigation, which tended to support what happened was a matter of fact.

Mr Cull expressed his confusion that Cr Allan had laid this complaint against the Board Chair and not other members of the Community Board.

Cr Allan said he had not considered taking action against other Board members. His actions had been based on Mr Vertongen's role as Chair of the Community Board, rather than the actions of individual Board Members.

For clarity, Mr Gimblett suggested that Cr Allan's complaint was based on actions rather than comments, and the impact of those actions on the people concerned and the wider message those actions sent to the community.

Mr Vertongen declined to raise any questions through the Chair at this juncture.

Cr Hunt, in speaking to the information she had provided, advised a correction in her affidavit. Mr Gimblett's name needed to be removed as he had not been present on the evening in question.

Following on from the questions directed at Cr Allan, Mr Gimblett queried if it was correct that Cr Hunt found the comments made by Mr Vertongen to the media on the event more serious than the events at the seawall opening.

Cr Hunt said she thought the media comments compounded the problem. There were also comments made on national radio that referred to Mrs Paton and the councillor seeking an apology. She never demand an apology from anyone as an apology had to be genuinely made.

Mr Gimblett also queried whether the media comments should be considered in relation to the Code of Conduct enquiry as the Code clearly allowed individual Board Members to comment to the media from a personal viewpoint. He would have though Mr Vertongen's comments came under that category.

Cr Hunt felt in this instance Mr Vertongen was identified as the Chair of the Board.

There were also issues when it came to comments that involved the RMA. Cr Allan was Chair of the Hearing Committee and there was a concern, with the current District Plan Review be undertaken, that any adverse comments could discourage people putting in submissions into that process.

In response to a query as to the point at which the seawall opening ended, Cr Hunt said she was not sure as she left because she had been shocked. She did not think it was appropriate to challenge the actions. She phoned Mr Rabone first and he was equally offended and asked if anything else had happened when the effigy was burned.

Mrs Paddison queried if Cr Hunt considered the newspaper cutting an effigy.

Cr Hunt responded that the word 'effigy' was used and when she checked the legal definition, it was used in the correct context.

In response to another query re Mr Vertongen's comments and whether the official function ended when the wall had been opened and Mr Vertongen had said a few words, Cr Hunt said she had not recorded what was said but it was one or two sentences on the seawall, which led into comments on the newspaper clipping. She left after the ceremony.

Mr Cull queried the fact that Cr Hunt seconded Cr Allan's motion pro forma. He could certainly see that she had some passion about what she had seen, but he was puzzled that she had voted against the motion.

Cr Hunt said she voted against the motion because of the way it was worded. It basically said that Mr Vertongen had breached the Code of Conduct, whereas, at that stage, that had not been established. Whilst she believed it was in issue that was festering and needed to be discussed, at that stage no breach had been established. She had seconded the motion to allow debate to occur. She believed that Mr Vertongen was entitled to a fair hearing and she did not believe that Board Members were in a position to provide that. Cr Allan had moved the motion, she and Ms Ellwood had commented publically on the matter, and Messrs Roache and Murdoch were also involved. She argued strongly that the matter be dealt with by an independent group of people.

In response to queries from Mrs Paddison and Mr Gimblett, Cr Hunt said:

- Mr Vertongen held the newspaper clipping;
- there had been some difficulty getting the clipping alight and she could not quite recall who was holding it at that stage;
- it may have been possible that Mr Vertongen was not holding the lighter;
- it was a ceremony of three people, with the roles being intermingled;
- in relation to what was said, Mr & Mrs Paton were not mentioned directly by name;
- in the comments afterwards it was quite clear that there was an allegation against Mr & Mrs Paton and everyone present knew the whole ceremony was directed at them;
- in relation to the allegation, she had not taken notes and never quoted anyone unless she had taken a record of the conversation;
- she was reluctant to say, but was clear in her own mind, that the comments were directed at Mr & Mrs Paton, even though they were not referred to by name;
- she went away with that strong impression, even though she had not recorded any words;
- she could not swear on oath who made the comments.

Mr Ward directed the Subcommittee's attention back to Report 4145 (page 15). Having sought clarification from Crs Allan and Hunt on points in their evidence, the next step in the process was to provide an opportunity for Mr Vertongen to comment, either in writing or orally, about the statements that had been made. Mr Vertongen should also be asked if he intended to respond to the original request of the Meeting of 3 March 2010 to provide further evidence in writing.

The Subcommittee could then determine whether there was sufficient information to allow deliberation and a decision on the Notice of Motion or whether additional information should be sought and what source that should come from.

Mr Cull invited Mr Vertongen now to provide his comments.

Mr Vertongen joined the table and commented as follows:

- with regard to Cr Allan's comments, he was not responsible for the content of the newspaper articles;
- only one had come close to what he told them;
- the first he had heard of a problem in relation to the seawall opening was when he received phone calls from reporters stating that Cr Hunt had made a sworn affidavit;
- the phone calls kept coming; talk back radio kept coming; even his son overseas read about it in the overseas news;
- it had been blown way out of proportion - the simple reason being Cr Hunt;
- in relation to the completion of the building of the seawall:
 - this was a simple contract - a simple job made ridiculously complicated by a few people;
 - Horizons put three people together to have a hearing, which it said would be an unbiased hearing;
 - in his view that was not correct, it was a fiasco from the word go;
- dealing with the sworn affidavit by Cr Hunt:
 - point 5 - it is the Foxton Surf Life Saving Club, not the Foxton Beach Surf building;
 - point 6 - "Mr Vertongen whistled to catch the attention of those present.." He cannot whistle as he has a tooth missing; he just called out;
 - point 7 - "Mr Vertongen said a few words..." Cr Hunt was not in a position to say who said what. He did give a shortened version of what he was going to say because the conditions were atrocious;
 - he did allude to himself and Messrs Story and Roache who had travelled to Japan; had found a sea wall doing an admirable job; on seeing how well it worked they brought the idea back and Mr Roache designed something very similar and had it drawn up and, in turn, an engineer from HDC at that time approached Horizons and asked for permission to put in a trial wall;
 - the engineer assured us he was given the verbal okay to put a trial wall in;
 - the trial wall worked a treat;
 - it was meant to be there for 12 months, but remained longer;
 - it took some of the highest seas;
- that was a background to that was said and it was more than a few sentences;
- he had also acknowledged Graham Lamond, a Council worker present;
- Council workers really got stuck in and helped get the project through ;
- point 8 – "He then produced a newspaper clipping which I understand had been pinned to the wall of his office"; it was actually pinned to the wall of the smoko room;
- point 9 – the conditions were windy, Mr Roache could hardly operate the cigarette lighter, so it was put in the bucket;
- he had no qualms about admitting he had lit the newspaper article;
- when it was out, he threw it on the seawall and declared the sea wall open;
- there were no photographs;
- of course he was laughing, the one time he wanted to get a cigarette lighter to work and it would not;
- point 14 - any issue with Kerry Rabone was based on misinformation. Cr Hunt had told Mr Rabone that Mr Vertongen was against getting the Beach Wardens going; he was not against it; all he questioned was whether it could be done so quickly. When the Beach Wardens were up and running, he made a public announcement congratulating them on a job well done;
- point 16 - To claim Cr Hunt nominated him for a Queen's Honour was not correct; if it was anyone it was Harley and Lillian Fearon. Cr Hunt wrote the nomination letter on behalf of the Surf Lifesaving Club. He was President at the time and did know what was going on;
- he freely admitted burning the newspaper article and if it did happen to have a photograph, so what? The crux of matter and what nobody has been willing to print is the article was really saying 18 people won over 6,000;

- his burning of the article was to acknowledge the fiasco that had taken place in getting a sea terrace (which is what it was) built. The sea terrace was able to dissipate the power of the waves and worked a treat, except for the part where the engineers, who thought they knew more and decided to do other things, had made changes, which had since failed;
- his words were to the effect of acknowledging the fiasco and protesting the way that it had been handled by everyone involved. As a protest he burnt the article and finally put the ghost to rest and that was going to be the end of it;
- Cr Hunt, in her wisdom, rushed around and got nation-wide coverage. It should have ended there and then.
- he was elected to represent the wider community and that is what he had done as a protest to the whole farcical situation;
- he did wish to apologise to the Mayor, the CEO and Council staff and all but one of the Councillors;
- in relation to the response from the 20 odd people when the ceremony had concluded, the general response was loud applause;
- only one person dissented, and that was not an argument; the incorrect information he had been given was replaced by correct information;
- he believed the official part of the evening finished when he threw the bucket of water over the wall and said "I now declare the sea wall open";
- he would not be providing any information in writing; he had been served by the Paton's lawyer, wanting this and wanting that, and was not going to give them any more material.

Mr Ten Have offered to provide the Chair with a copy of his recording of the meeting if that would assist with the Subcommittee's deliberations.

In terms of the process, Mr Ward said the Subcommittee now had to consider whether there had been a breach of the Code of Conduct by Mr Vertongen, particularly in relation to those issues raised by Cr Allan and highlighted further on page 17 of the Agenda. The evidence requested had been received and Mr Vertongen had had the opportunity to respond and also to ask questions.

After discussion, the Subcommittee felt more time was needed for consideration and it would be helpful to listen again to the tape of Mr Vertongen's comments.

Mr Ward suggested, if the Subcommittee wished to seek additional evidence they should identify from whom that should be sought. Mr Ward, as the Subcommittee's administrator, should be directed to obtain that evidence. Following receipt of that evidence, a further meeting would be convened (during either the week of 12 April 2010 or 19 April 2010).

It was agreed that information should be requested from the following:

- Kerry Rabone
- David Roache
- John Story
- Tony Murdoch;

with the Chair noting that those who were asked to give evidence did have the right to decline.

Mr Ward also noted that it was not appropriate to seek comment from Council staff present (Colette Bennie and Graham Lamond).

Mr Cull, having heard all the evidence, pondered on the following:

- Mr Vertongen's evidence and the light in which he saw the evening's proceedings;

- the relationship of the Chair with the Community in light of the Code of Conduct;
- how to view and weigh the different actions, particularly in light of the contrary views;
- also with Mr & Mrs Paton not being present on that evening, and how to view their position.

Mrs Paddison noted that the Subcommittee was hearing two different versions of the same event and the challenge was how, as individuals, they regarded what took place.

Mr Gimblett said he would withhold comment until the other statements requested had been received.

Resolved

(Cull / Gimblett)

“THAT the Foxton Code of Conduct Subcommittee requested Kerry Rabone, David Roache, John Story and Tony Murdoch to provide written statements on the Foxton Beach Seawall Opening event on 20 November 2009 to be provided within fourteen (14) days of receipt of a written request.”

Mr Ward said he would now write letter to the identified people asking them to provide the requested information. He would then contact Subcommittee members to ascertain their availability for a further meeting, confirming that 5.30 pm was a suitable time. The venue would be the Foxton Service Centre.

MEETING CLOSURE

There being no further business the meeting concluded at 6.30 pm..

CONFIRMED this day of

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Chairperson