
Hearings Committee

OPEN MINUTES

Minutes of a meeting of the Hearings Committee held in the Council Chambers, 126-148 Oxford Street, Levin, on Tuesday 28 November 2017 at 3.00 pm.

PRESENT

Chairperson Cr J F G Mason
Members Cr R J Brannigan
Cr B F Judd

IN ATTENDANCE

Reporting Officer Mr M E Lepper (Customer & Regulatory Services Manager)
Ms M J Leyland (Compliance Lead)
Mrs N Brady (Group Manager – Customer & Regulatory Services)
Mrs K J Corkill (Meeting Secretary)

ALSO IN ATTENDANCE

Submitters Mr B Wanden
Mrs S Freebairn Waitarere Beach Progressive & Ratepayers' Assn
Rev I Boddy Levin Uniting Church
Mr A Little Levin Uniting Church

Cr Mason welcomed everyone to the meeting convened to hear submissions on the Draft Local Easter Sunday Shop Trading Policy 2017 acknowledging the two recently appointed Hearing Committee Members, Crs Brannigan and Judd. She also acknowledged the Officers in attendance, particularly Mr Lepper as this would be his last meeting prior to retiring from Council.

1 Apologies

There were no apologies.

2 Declarations of Interest

There were no declarations of interest.

3 Confirmation of Minutes – 18 June and 27 October 2017

MOVED by Cr Judd, seconded Cr Brannigan:

THAT the Open and In Committee Minutes of the meetings of the Hearings Committee held on Wednesday 28 June 2017 and Friday, 27 October 2017, be confirmed as a true and correct record.

CARRIED

4 Announcements

There were no announcements.

5 Reports

5.1 Draft Local Easter Sunday Shop Trading Policy 2017 - Hearing of Submissions

Purpose

To provide the platform for the Hearings Committee (Committee) to hear and consider submissions received on the Draft Local Easter Sunday Shop Trading Policy 2017 and make a subsequent recommendation to Council in respect of the policy.

MOVED by Cr Judd, seconded Cr Brannigan:

THAT Report 17/581 Draft Local Easter Sunday Shop Trading Policy 2017 - Hearing of Submissions be received.

THAT this decision is recognised as not significant in terms of S76 of the Local Government Act.

THAT late submissions be received and included in the consultation.

CARRIED

Submission 2 – Mr Bernie Wanden

Mr Wanden introduced himself and gave a background to his 33 years as a retailer in Levin, noting the various changes that had taken place over that time in terms of how and where people shopped.

With employees not able to be compelled to work should they choose not to, Mr Wanden said it should be up to a business owner to decide whether or not they wished to open, concluding that common sense told him that the local economy should be encouraged, not have barriers put in the way and it would be helpful to have consistency across the district.

Mr Wanden responded to queries from Hearings Members in relation to the recourse open to workers should they choose not to work, with there being the possibility of tension in the case of small business with few staff.

The very formal and specific process required to be undertaken by both parties (employer and employee) under the Shop Trading Hours legislation was referenced, with the law being clear that an employee could be asked to work but could not be compelled, and the process had to be done in writing and within a specific timeframe. Mr Wanden commented that for a small business owner like himself, it would be more likely, if he chose to open, to be him and his family working.

A copy of Mr Wanden's further submission is attached to the official minutes.

Submission 19 – Sharon Freebairn, Waitarere Progressive Association

Mrs Freebairn commenced her comments (copy provided) by saying the Association felt it was important to support the Policy and to qualify its submissions verbally. As a small community dependant on visitor numbers to boost its economy and also to make Waitarere Beach a tourist destination, it was important for the local businesses to have the opportunity to play their role in ensuring visitors enjoyed their time at the beach.

Saying that many of the existing exemptions for shop trading on Easter Sunday were outdated and created an unfair advantage for certain businesses and regions, Mrs Freebairn concluded her comments by saying that retailers needed to be able to have their businesses open if they so wished.

Responding to a query, Mr Lepper confirmed that the Sale of Liquor Act would still apply to liquor outlets.

Referring to a comment by Mr Wanden that shopping was an important recreational activity which people undertook as an outing, and referring to what she had described as outdated retail laws, Mrs Freebairn was asked if it was important for preferential areas to have retail availability. She said she had been on line and looked at Auckland which had voted against Sunday trading. She said she thought it was an individual situation and each TLA or City Council should be able to make their own decision as to what was best for their area.

In terms of people being asked to work, Mrs Freebairn said that most of the businesses in Waitarere were owner operated. Also for businesses like the Four Square and Café, there were young people who were more than willing to work so she did not think it would be an issue.

Submission 14 – Levin Uniting Parish / Rev Ian Boddy & Mr Allan Little

Mr Little introduced himself and also Rev Boddy. He particularly noted that Rev Boddy, prior to undertaking theological training, been a successful business operator in Palmerston North so, besides being a member of the clergy, he had a good knowledge of business activities.

In their submission, Mr Little said they had endeavoured to reflect on New Zealand's, as well as the district's, diversity when it came to considering this issue. Not everyone would have religious objections to trading on Easter Sunday, but there was a concern for the wellbeing of workers, the maintenance of family, and for improving the opportunities for leisure and a cohesive coming together of society. In expressing their views about Easter Sunday trading, their concerns could be summed up in one word "Why?" with the issues from a worker's viewpoint covered in the submissions from staff at the New World supermarket.

In adding to Mr Little's comments, Rev Boddy said that whilst the proposed policy permitted shops to open if they chose, it was believed there would be pressure for businesses to keep up with the competition. The proposed opening also went against Council's own March 2017 research in which 56% of respondents said 'No' to shops in the Horowhenua District opening on Easter Sunday. Also the small number of respondents (169) showed a general apathy for the subject and there was no great pressure or interest from the retail sector to change the status quo.

Rev Boddy further commented that retailers in New Zealand faced fierce competition from internet shopping but one more day would not gain retailers any advantage

against the internet. Only a change in GST laws would give any relief in that regard. Also the word holiday came from 'Holy Day' with 'holiday' having a religious connotation. There were only three Christian holy days remaining and Easter Sunday was when they celebrated life, new life out of death, meaningful life beyond the concern for money so they did have a religious objection to a change in the policy. He requested that Recommendation 3.4 be changed to "that shop trading **not** be permitted on Easter Sundays throughout the Horowhenua District".

Mr Little reiterated his opening comments that the Levin Uniting Parish wanted to make sure that everybody understood the responsibilities they had as a Church for the care and wellbeing of the citizens of the community. Should this day be done away with, what would be next? There were excellent retail opportunities that people could avail themselves of before and after Easter Sunday and he requested the Committee to reflect on the silence in the community on the issue.

Cr Mason commented that one thing the Government had not done was make a decision about leave entitlements, noting that while there were already 12 statutory holidays, retail workers were not necessarily able to avail themselves of these, but did get compensated and did get a paid day off later. Legislation also provided for four week's annual leave per year so employees could have an extended period to time to rest and recreate.

Responding to Cr Mason's comments, Rev Body said that as a Minister he was entitled to five weeks leave a year so did appreciate that the balance was on the side of the person who was working. However, looking back when shops were open for five days, it had been a pleasure to go shopping on Friday night and he thought that there was a balance that needed to be restored and it was about stopping the erosion of compulsory closing days. When asked, he said he did not think that many members of the Levin Uniting Church would be affected by any change.

The submitters left the meeting and there was a brief adjournment (4.05 – 4.10 pm).

Speaking to her report, Ms Leyland said what had been presented by the submitters today was reflective of the submissions received generally and did show there was a real division in terms of people's opinions which had made it difficult for her when making a recommendation. She said she thought it was important that Council made a decision either way and her decision to recommend adopting the Policy was to enable people to have a choice. Also, Easter Sunday was a restricted trading day but it was not a public holiday so statutory holiday provisions did not apply and employees did not get additional rates of pay unless it was provided for in individual contracts.

Deliberations

The Hearing Committee considered the submissions received and also:

- In relation to the individual submissions, it was noted that those from religious groups had been split, despite the holiday initially being on religious grounds;
- There was inconsistency in the current environment and the legislation was not clear with regard to who could and could not trade;
- There was an opportunity now for TLAs to make a policy and make a decision that suited their communities;
- The protection provided in legislation for employees should comfort those who had concerns;
- The Policy clearly offered choice and, referencing the submission from Matthew Rollinson, clearly some retailers had already made their decision;
- The Policy provided consistency which was helpful and took away the threat of

- being fined;
- The make-up of the Horowhenua District also needed to be considered.
- The fact that Easter Sunday was not a public holiday but was a restricted trading day was again noted;
- What was proposed did not erode workers' rights but it did provide business owners with the choice and provided clarity under the Act and good employers would look after their staff;
- Looking at the district's beach areas and the influx of visitors over Christmas/New Year and other long weekends, it would give business owners the opportunity to capitalise on that activity.

Having taken all the above into account, the consensus of the Hearings Committee was to recommend to Council that the Draft Local Easter Shop Trading Policy 2017 be adopted.

MOVED by Cr Brannigan, seconded Cr Judd:

THAT after the consideration of submissions the Hearings Committee recommends to the Horowhenua District Council that the Draft Local Easter Sunday Shop Trading Policy 2017 be adopted as an operative policy of Council.

CARRIED

4.43 pm

There being no further business, the Chairperson declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD
AT A MEETING OF THE HEARINGS COMMITTEE
HELD ON

DATE:.....

CHAIRPERSON:.....