



AGENDA

Ordinary meeting of the

Governance Committee

**Tuesday 3 March 2015
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Ian Barker (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Luke Acland (Deputy Chairperson), Eric Davy, Kate Fulton, Brian McGurk, Paul Matheson (Deputy Mayor), Gaile Noonan, Pete Rainey, John Murray and John Peters

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

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- 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 (SO 3.14.1)
- 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 table for discussion and voting on any of these items.

Apologies

1. Confirmation of Order of Business

2. Interests

- 2.1 Updates to the Interests Register
- 2.2 Identify any conflicts of interest in the agenda

3. Public Forum

4. Confirmation of Minutes – 4 December 2014 7-19

Document number A1285209

Recommendation

THAT the minutes of the meeting of the Governance Committee, held on 4 December 2014, be confirmed as a true and correct record.

5. Status Report – Governance Committee 3 March 2015

There is no status report.

6. Chairperson's Report

GOVERNANCE

7. Endorsement of Sister City Trip to China 20-21

Document number A1312069

Recommendation

THAT the report Sister City Trip to China (A1312069) be received;

AND THAT Her Worship the Mayor and Chief Executive, Clare Hadley's, travel to China in April 2015 be endorsed.

8. Subcommittee Chairpersons and Delegations

22-27

Document number A1314259

Recommendation

THAT the report Subcommittee Chairpersons and Delegations (A1314259) and its attachments (A1297307 and A1312225) be received;

AND THAT Mr John Peters be appointed as Chairperson of the Audit, Risk and Finance Subcommittee;

AND THAT Mr John Murray be appointed as Chairperson of the Commercial Subcommittee;

AND THAT the draft delegations for the Audit, Risk and Finance Subcommittee and the Commercial Subcommittee as shown in Attachment 1 (A1297307) and Attachment 2 (A1312225) be approved and incorporated into the Delegations Register.

9. Draft Development Contributions Policy

This item will be distributed separately.

10. LGNZ Discussion Paper on the Local Government Funding Review

28-30

Document number A1309396

Recommendation

THAT the report Local Government Funding Review (A1309396) and its attachment (A1311529) be received;

EITHER

AND THAT the Committee does not provide feedback on the Local Government New Zealand Discussion Paper on the Local Government Funding Review.

OR

AND THAT Councillors _____ and _____ work with Council officers to provide feedback to Local Government New Zealand (LGNZ) on its Local Government Funding Review Discussion Paper, to be signed off by the Governance Committee Chairperson and Her Worship the Mayor before being sent to LGNZ by 27 March 2015.

FINANCE

11. Everyman Records Limited Debt

31-59

Document number A1303283

Recommendation

THAT the report Everyman Records Limited Debt (A1303283) and its attachments (A1250000, A1306795, A1306797, and A1306234) be received.

PUBLIC EXCLUDED BUSINESS

12. Exclusion of the Public

Recommendation

THAT the public be excluded 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 – Public Excluded Minutes – 4 December 2014	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 carry out negotiations

13. Re-admittance of the public

Recommendation

THAT the public be re-admitted to the meeting.

Note:

- **Lunch will be provided at 12.30pm.**
- **Youth Councillors Abbey Paterson and Paige Byers will be in attendance at this meeting.**

Minutes of a meeting of the Governance Committee

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

On 4 December 2014, commencing at 1.02pm

Present: Councillor I Barker (Chairperson), Her Worship the Mayor (R Reese), Councillors L Acland (Deputy Chairperson), E Davy, K Fulton, P Matheson, B McGurk, G Noonan, P Rainey, John Peters, and John Murray

In Attendance: Chief Executive (C Hadley), Group Manager Corporate Services (N Harrison), Senior Strategic Advisor (N McDonald), Group Manager Infrastructure (A Louverdis), Group Manager Community Services (C Ward), Manager Administration (P Langley), and Administration Adviser (S McLean)

Apologies: Councillor E Davy for lateness, Councillors G Noonan and P Rainey for early departure

1. Apologies

Resolved

THAT apologies be received and accepted from Councillor Davy for lateness, and Councillors Noonan and Rainey for early departure.

Acland/Rainey

Carried

2. Confirmation of Order of Business

Attendance: Councillor Fulton joined the meeting at 1.03pm

The Chair provided an update to the order of business, being that Graeme O'Brien no longer wished to speak the public forum.

2.1 Chairperson's Report

Resolved

THAT the item regarding Chairperson's Report be considered at this meeting as a major item not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable a

timely response to the request received regarding the naming of the walkway.

Barker/Noonan

Carried

2.2 Reappointment of Trustees to the City of Nelson Civic Trust

Resolved

THAT the item regarding Reappointment of Trustees to the City of Nelson Civic Trust be considered at this meeting as a major item not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable the timely election of officers to the City of Nelson Civic Trust.

McGurk/Rainey

Carried

3. Interests

There were no updates to the Interests Register, and no interests with agenda items were declared.

4. Annual Friendship Forum Update

Carla Lindley of the Nelson Youth Council spoke about her recent visit to China to attend the Annual Friendship Forum.

Attendance: Councillors Matheson and Reese joined the meeting at 1.05 pm

Ms Lindley spoke about cultural differences, diversity, architecture and standards of living. She expressed her gratitude to Council for sponsorship.

Ms Lindley agreed to provide the Mayor with ideas on opportunities for Council to strengthen relationships with China.

5. Public Forum

There was no public forum presentation due to an apology from Graeme O'Brien for the item 'Letter to NZLG regarding the TPP agreement'.

6. Confirmation of Minutes – 6 November 2014

Document number A1272971, agenda pages 8-17 refer.

It was agreed that an amendment be made in the first paragraph on page 6 of the minutes. Instead of 'that Saxton Stadium not be developed in exchange for Bank Lane Canopy', it would be 'that the funding assigned to Bank Lane Canopy not be used for the development of buildings at Saxton Field'.

Resolved

THAT the amended minutes of the meeting of the Governance Committee, held on 6 November 2014, be confirmed as a true and correct record.

Barker/Her Worship the Mayor

Carried

7. Status Report – Governance Committee 4 December 2014

There was no status report.

There was discussion on the content of status reports and their purpose, with some concern raised that items were being missed. It was clarified that the purpose of a status report was to track resolutions which contained items that should be reported back to the Committee, with no other means of doing so. The Chairperson agreed to look into this process.

8. Chairperson's Report

Document number A1283907, late item A1284025 refers.

The Chairperson summarised the report and pointed out that it focussed on the first suggestion in Mr Ramsay's letter. He added that the second suggestion regarding secondary schools would be taken to the WW100 Committee, with the view to bring the request back to Council for inclusion in the Long Term Plan 2015-2025.

Resolved

THAT the Chairperson's Report (A1283907) and its attachment (A1284543) be received.

Barker/Noonan

Carried

The Recommendation to Council in the Chairperson's Report was moved by the Chairperson and seconded by Councillor Noonan.

There was discussion on the procedure for naming an area. It was clarified that only street naming went to a Hearings Panel. Group Manager Community Services, Chris Ward, said that further information on reserves naming could be provided by officers if required.

In accordance with Standing Order 3.9.2 the Recommendation to Council was withdrawn.

It was suggested that Live Nelson be used as a medium to notify the community about the potential name change. It was also noted that there could be confusion as the walkway was near ANZAC Park.

The Committee agreed to the idea in principle, but asked that Council officers look into reserve matters, significance, consultation requirements, and engagement with iwi and private land holders.

A new motion to call for an officer report was proposed.

Resolved

THAT the request to name the new Maitai Walkway adjacent to Rutherford Park "the ANZAC Walkway", to take effect from 25 April 2015, be supported in principle and a report from staff on the matter be brought back to Council in early 2015.

McGurk/Matheson

Carried

GOVERNANCE

9. Reappointment of Trustees to the City of Nelson Civic Trust

Document number A1284239, late item A1284025 refers.

There was discussion on Council's involvement in appointing trustees, and receiving financial results.

There was discussion on trust deeds, risks to trustees and the original formation of the City of Nelson Civic Trust.

In response to concerns about why the matter of appointing trustees to the City of Nelson Civic Trust had come to the Governance Committee, it was indicated that this could be raised during the review of external appointments to be undertaken in 2015.

Resolved

THAT the report Reappointment of Trustees to the City of Nelson Civic Trust (A1284239) be received;

AND THAT the matter of reappointment of trustees to the City of Nelson Civic Trust be referred to Council to be considered at its meeting on 11 December 2014.

Noonan/Murray

Carried

10. Appointment of Trustee to the Nelson Municipal Band Trust

Document number A1271779, agenda pages 18-19 refer.

Attendance: Her Worship the Mayor declared an interest in the matter and left the meeting from 1.55pm to 1.56pm.

Resolved

THAT the report Appointment of Trustee to the Nelson Municipal Band Trust (A1271779) be received.

Recommendation to Council

THAT pursuant to the terms of the Trust Deed dated 14th July 2008, the Council hereby appoints Fiona Webster, Manager Westpac Bank Nelson to act as a Trustee for the administration of the Fund in accordance with the terms of the Deed.

Matheson/Noonan

Carried

11. Sister Cities Conference 2016

Document number A1265372, agenda pages 20-22 refer.

Group Manager Community Services, Chris Ward, presented the report.

In response to a question, Mr Ward advised that the fixed costs were based on an appropriate venue and appropriate level of catering. He added that higher delegate numbers were expected due to the nature of Nelson as a destination. Mr Ward provided details on the standard return to the local economy for domestic visitors and conference delegates.

Resolved

THAT the report Sister Cities Conference 2016 (A1265372) be received.

Recommendation to Council

THAT provision of \$20,000 is made in the draft Long Term Plan 2015-2025 for hosting the 2016 Sister Cities Conference.

Matheson/Noonan

Carried

12. Council Risk Register

Document number A1276686, agenda pages 23-31 refer.

Group Manager Corporate Services, Nikki Harrison presented the report.

It was noted that several columns in the Risk Register did not have details in the Responsibility column. It was also pointed out that several risks in the draft Long Term Plan criteria were not included in the Risk Register.

It was agreed that the Risk Register signalled a starting point in terms of risk management and that it was a living document.

A suggestion was made for work to be done on establishing a risk management framework. Committee Member John Peters agreed to distribute a one page document on risk management framework to the Committee.

Attendance: Councillor Fulton left the meeting at 2.04pm

There was discussion on several mitigation strategies and the likelihood of risks. It was agreed that the focus should be on risks that would cause the most harm to Council.

Attendance: Councillor Rainey left the meeting 2.13pm

There was agreement that the definition of reputational damage was broader than that in the Risk Register, and could be changed to 'reputational damage to Council'. It was noted that the mitigation strategies acted as a trigger, and that an action column would be a useful addition.

Attendance: Councillors Davy and Rainey joined the meeting at 2.18pm

It was suggested that reverse sensitivities with regards to iwi relationships should be added to the Risk Register.

The Chief Executive highlighted the potential confusion between the Risk Register and Compliance Register. She added that the current intention was to phase out the Compliance Register. Mrs Hadley suggested the Risk Register could benefit from a high/medium/low scoring system and the use of a coloured matrix.

A motion was moved by Committee Member John Peters and seconded by Councillor McGurk.

THAT the report Council Risk register (A1276686) and its attachments (A1241121) be received;

AND THAT the attached Risk Register be endorsed in principle, including the implementation of the highlighted controls;

AND THAT a plan for the development of a full risk management framework incorporating this Risk Register be brought to this Committee by early 2015.

AND THAT the Committee agree the focus is to be on mitigation strategies, noting internal audit and other internal controls will be the priority.

The Chief Executive highlighted the need to focus on the draft Long Term Plan 2015-2025 (LTP) in early 2015. She said that the officers involved in the LTP were also involved in the Risk Register, so there would be minimal resource for further work on a risk management framework in early 2015.

The mover and seconder of the motion agreed to remove 'early 2015' and substitute 'the end of this financial year' in clause three of the motion.

Resolved

THAT the report Council Risk register (A1276686) and its attachments (A1241121) be received;

AND THAT the attached Risk Register be endorsed in principle, including the implementation of the highlighted controls;

AND THAT a plan for the development of a full risk management framework incorporating this Risk Register be brought to this Committee by the end of this financial year.

AND THAT the Committee agree the focus is to be on mitigation strategies, noting internal audit and other internal controls will be the priority.

Peters/McGurk

Carried

13. Long Term Plan 2015-25: Draft Assumptions

Document number A1274616, agenda pages 32-40 refer.

Policy Adviser, Susan Moore-Lavo, presented the report.

It was noted that an amendment was required to the assumptions as New Zealand Transport Agency has confirmed that funding assistance rates will rise by 1% per annum to reach 51%.

It was noted that the Affordability section (page 2) of the assumptions should have 'those entitled to superannuation' instead of 'those over 65 year olds'.

Resolved

THAT the report Long Term Plan 2015-25: Draft Assumptions (A1274616) and its attachment (A1238431) be received.

Recommendation to Council

THAT Council approves the draft assumptions outlined in Attachment 1 (A1238431) to be included in the Long Term Plan 2015-2025.

Davy/Rainey

Carried

FINANCE

14. Finance Report for the Period Ending 31 October 2014

Document number A1276802, agenda pages 41-55 refer.

Group Manager Corporate Services, Nikki Harrison, presented the report.

In response to a question, Ms Harrison agreed to look into data on the performance of the new parking system. She added that there had not yet been a response from the liquidator for the Everyman Records debt.

Her Worship the Mayor said that no response from the Auditor General had been received to date on the Everyman Records matter.

Ms Harrison said that debts appeared higher in some months due to the timing of the levying of rates.

In response to a question, Group Manager Infrastructure, Alec Louverdis advised that work on Haven Road had cost approximately \$90k. He added that there would be a period of time during the Cricket World Cup 2015 where roading work could not be undertaken.

In response to questions and discussion, Group Manager Community Services, Chris Ward provided further detail on funding of the business incubator and facilities marketing. It was noted that the reference to the EDA economic development fund in the report (item 5.7.2), should have been the 'economic development fund'.

Ms Harrison clarified that the current discipline was to use ordinary dividends for the rating take and special dividends to repay debts. She said that updated projections would be ready for the next finance report to the Committee.

Attendance: Councillor Noonan left the meeting from 2.51pm to 2.54pm, Councillor Rainey left the meeting at 2.56pm

The recommendation in the officers report was moved by Councillor Davy and seconded by Councillor Noonan.

Concerns were raised about debtor management systems. Ms Harrison provided a summary of the current process and agreed to provide further details in the next finance report to the Committee.

In response to a question, it was clarified that any rental debt for Council-owned facilities was managed through individual lease agreements.

The mover and seconder of the motion agreed to an additional clause to formally request that information on debt management be brought to the Committee.

Resolved

THAT the report Finance Report for the Period ending 31 October 2014 (A1276802) and its attachments (A1276805, A1277030, A1268999 and A793514) be received and the variations noted.

AND THAT information on debt management be included in an upcoming Finance Report.

Recommendation to Council

THAT the special dividend of \$500,000 from Port Nelson Ltd be used to repay debt.

Davy/Noonan

Carried

15. Progress of Draft Development Contributions Policy

Document number A1275129, agenda pages 56-60 refer.

Policy Adviser, Susan Moore-Lavo, presented the report and provided further clarity on the one-catchment approach.

In response to a question, Ms Moore-Lavo said that at the workshop with representatives of the development community there had not been a consensus as to the type of catchment, and that comments focussed on other issues they regarded as more important, such as timing of payments.

There was discussion on intensification, affordable housing and greenfield development. It was noted that these areas could be looked at in more detail at future workshops.

In response to a question, Ms Moore-Lavo confirmed that the draft Development Contributions Policy would be consulted on through the Long Term Plan 2015-2025 process. She added that a resolution was required today due to the timing of the next Committee meeting.

Senior Strategic Adviser, Nicky McDonald, clarified that the purpose of the workshops held with the development community representatives

had been to hear their thoughts on how the current policy worked and what the main concerns of developers were.

Attendance: Councillor Noonan left the meeting at 3.19pm

There was discussion on maximising infrastructure capacity and the application of incentives.

Resolved

THAT the report Draft Development Contributions Policy (A1275129) be received;

AND THAT a one-catchment approach for the calculation of the level of development contributions charged is approved as the preferred approach;

AND THAT inclusion of incentives to support Council's strategic objectives including for affordable housing and intensification is approved.

Davy/Barker

Carried

16. Revenue and Financing Policy

Document number A1276610, agenda pages 61-100 refer.

Group Manager Corporate Services, Nikki Harrison, presented the report and summarised the updates to the Policy. She tabled documents (A1285965) that compared stormwater and flood protection rates based on capital value.

Ms Harrison summarised feedback received from rating review workshops. She said that Council needed to provide direction on the method of charging for stormwater and flood protection to inform work on the Long Term Plan 2015-2025.

Concern was raised that disruption from the change in charging would outweigh the benefits from conforming to best practice.

In response to a question, Ms Harrison advised that the stormwater and flood protection rate could not be calculated on the basis of risk associated with a particular area.

There was discussion on targeted rates and their methods. It was suggested that a minimum fixed charge be put in place if the capital value basis was to be used.

There was some agreement that the capital value basis would reduce risk to Council. There was also agreement that the change in charges, as per tabled document (A1285965), would cause some hardship in the community.

Resolved

THAT the report A1276610 Revenue and Financing Policy and its attachment (Revenue and Financing Policy (A1272405) be received.

McGurk/Matheson

Carried

The Chairperson moved, seconded by Councillor Davy:

Recommendation to Council

THAT following further modelling, the Council determine targeted rates for stormwater and flood protection to remain as a fixed charge.

After further discussion, there was favour to keep the capital value basis option and to include the possibility of a fixed charge. It was agreed that further information on the capital value option would allow for improved decision making.

The mover and seconder of the motion agreed to withdraw the motion in accordance with Standing Order 3.9.2.

Recommendation to Council

THAT following further modelling the Council determine either:

- a) Targeted rates for stormwater and flood protection be based on capital value including consideration of incorporation of a fixed charge in the Long Term Plan 2015-25; or***
- b) Targeted rates for stormwater and flood protection to remain as a fixed charge;***

Barker/Davy

Carried

AND THAT the updated Revenue and Financing Policy be adopted for inclusion in the Long Term Plan 2015-25.

Matheson/McGurk

Carried

17. Exclusion of the Public

Resolved

THAT the public be excluded 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 Minutes – Public Excluded – 6 November 2014	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
2	Procedure for Setting Remuneration for Directors of Council Controlled Trading Organisations This report contains information regarding: <ul style="list-style-type: none"> Setting remuneration for Directors of CCTO's 	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 carry out negotiations

Davy/Barker

Carried

Attendance: Councillor Matheson left the meeting at 4.04pm.

The meeting went into public excluded session at 4.04pm and resumed in public session at 4.10pm, during which time Councillor Matheson rejoined the meeting.

18. Re-admittance of the Public

Resolved

THAT the public be re-admitted to the meeting.

Matheson/Davy

Carried

There being no further business the meeting ended at 4.11pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Endorsement of Sister City Trip to China

1. Purpose of Report

- 1.1 To endorse the Mayor and Chief Executive's travel to our sister cities Huangshi and Yangjiang in April 2015.

2. Delegations

- 2.1 Sister City relationships and issues are within the areas of responsibility of the Governance Committee.

3. Recommendation

THAT the report Sister City Trip to China (A1312069) be received;

AND THAT Her Worship the Mayor and Chief Executive, Clare Hadley's, travel to China in April 2015 be endorsed.

4. Background

- 4.1 The city of Huangshi has contacted Her Worship the Mayor and extended an invitation for her and her associates to make a visit to our Sister City, Huangshi in China to commemorate the 20th anniversary of incorporation of Huangshi as a city. Her Worship the Mayor has accepted this invitation. During this trip she will also visit another Sister City Yangjiang, and some additional cities. The visit is scheduled to take place from 11-20 April 2015.
- 4.2 The Chief Executive's advice is that when an elected member travels internationally on Council business it is best practice for that member to be supported by a Council Officer and for such travel to be endorsed by the appropriate committee or Council.
- 4.3 Funds are available within the Sister City Budget to cover travel in relation to maintaining our Sister City relationships.

5. Discussion

- 5.1 It is considered prudent and transparent for the Committee to endorse the covering of costs incurred for the Mayor and an officer, in this case the Chief Executive, to travel internationally to celebrate the anniversary

of one of our sister cities. Visits to additional cities will have a business/trade/economic focus.

6. Options

6.1 Council may choose to endorse this decision.

6.2 Council may choose not to endorse this decision.

7. Assessment of Significance against the Council's Significance Policy

7.1 This decision is not a significant decision in terms of the Council's Significance Policy.

8. Consultation

8.1 No consultation is required with regard to this decision. The costs associated are within the allocated budget for this activity.

9. Alignment with relevant Council Policy

9.1 This decision supports the maintenance of our Sister City relationship and costs are within existing budgets.

10. Inclusion of Māori in the decision making process

10.1 There is no requirement to include Māori in this decision making process.

11. Conclusion

11.1 In order to ensure transparency, the Committee is asked to endorse the decision for Her Worship the Mayor to travel to China in April 2015 and for the Chief Executive to travel in support of her.

Penny Langley
Manager Administration

Attachments

None.

Subcommittee Chairpersons and Delegations

1. Purpose of Report

- 1.1 To confirm the chairpersons and delegations for the Audit, Risk and Finance Subcommittee and the Commercial Subcommittee.

2. Delegations

- 2.1 As the Audit, Risk and Finance Subcommittee and Commercial Subcommittee are subcommittees of the Governance Committee, it is appropriate that the Governance Committee decides the chairpersons and confirms the delegations.

3. Recommendation

THAT the report Subcommittee Chairpersons and Delegations (A1314259) and its attachments (A1297307 and A1312225) be received;

AND THAT Mr John Peters be appointed as Chairperson of the Audit, Risk and Finance Subcommittee;

AND THAT Mr John Murray be appointed as Chairperson of the Commercial Subcommittee;

AND THAT the draft delegations for the Audit, Risk and Finance Subcommittee and the Commercial Subcommittee as shown in Attachment 1 (A1297307) and Attachment 2 (A1312225) be approved and incorporated into the Delegations Register.

4. Background

- 4.1 At the Council meeting on 12 February 2015, it was resolved:

THAT the Mayor's Report (A1309854) and its attachment (A1297307) be received;

AND THAT an invitation be extended to Mr John Peters and Mr John Murray to be appointed to the Audit, Risk

and Finance Subcommittee of the Governance Committee;

AND THAT Mr John Peters and Mr John Murray, and Councillors Barker and McGurk, be appointed to the Audit, Risk and Finance Subcommittee of the Governance Committee;

AND THAT an invitation be extended to Mr John Murray and Mr John Peters to be appointed to the Commercial Subcommittee of the Governance Committee;

AND THAT Mr John Murray and Mr John Peters and Councillors Acland and Noonan, be appointed to the Commercial Subcommittee of the Governance Committee;

AND THAT chairpersons of the Audit, Risk and Finance Subcommittee and the Commercial Subcommittee be confirmed at the 3 March Governance Committee meeting;

AND THAT the draft delegations for the Audit, Risk and Finance Subcommittee and Commercial Subcommittee as shown in Attachment 1 (A1297307) and Attachment 2 (A1312225) be confirmed at the 3 March Governance Committee meeting and incorporated into the Delegations Register along with the addition to the Governance Committee Delegations of the power to delegate to the subcommittees;

- 4.2 The draft delegations referred to in the above recommendation are attached to this report as Attachment 1 and Attachment 2.
- 4.3 In accordance with LGNZ advice, it is proposed to appoint the external appointee as chairperson of the subcommittee.
- 4.4 Please see Mayor's report (A1309854) for the rationale for setting up these subcommittees.

5. Discussion

- 5.1 Invitations to be members of these subcommittees were extended to Mr Peters and Mr Murray.
- 5.2 In line with the advice from LGNZ it is recommended that Mr John Peters be appointed Chairperson of the Audit, Risk and Finance Subcommittee. Mr Peters has indicated his willingness to accept this position.
- 5.3 In line with the advice from LGNZ it is recommended that Mr John Murray be appointed Chairperson of the Commercial Subcommittee. Mr Murray has indicated his willingness to accept this position.

- 5.4 It is also recommended that the draft delegations provided as Attachments 1 and 2 be confirmed.
- 5.5 Please note that an additional area of responsibility has been added to the Audit, Risk and Finance Subcommittee delegations to more clearly indicate the financial responsibility of the Subcommittee.
- 5.6 The recommendation in this report does not contain the final part of the seventh clause of the resolution made by Council on 12 February: *'along with the addition to the Governance Committee Delegations of the power to delegate to the subcommittees'*. This is because changes to the delegations register can only be made by Council.
- 5.7 The first meeting of the Audit, Risk and Finance Subcommittee is anticipated to be held on 10 March 2015 provided the details are confirmed. The Mayor's Report indicated that this Subcommittee would meet quarterly. Given further consideration it is suggested that the Subcommittee meet six-weekly. The timing of these meetings will be aligned with the Governance Committee meeting dates.
- 5.8 It was indicated in the Mayor's Report that the first meeting of the Commercial Subcommittee meeting would be 10 March 2015. This date is now to be determined based on the timing of the property asset review and some work in forestry.

6. Options

- 6.1 Council has resolved that these subcommittees be established. The Governance Committee should now confirm the chairpersons and the amended delegations. Should the committee elect not to do this, the subcommittees would not be able to operate.

7. Assessment of Significance against the Council's Significance Policy

- 7.1 This matter is not significant in terms of Council's Significance and Engagement Policy.

8. Alignment with relevant Council Policy

- 8.1 This matter is not in contradiction to any Council policy or strategic document.

9. Consultation

- 9.1 The public have not been consulted on this matter.

10. Inclusion of Māori in the decision making process

- 10.1 Maori have not been consulted on this matter.

11. Conclusion

- 11.1 The Committee should confirm the chairpersons and amended delegations for the newly formed Audit, Risk and Finance Subcommittee and the Commercial Subcommittee.

Penny Langley

Manager Administration

Attachments

Attachment 1: Draft Delegations for Audit, Risk and Finance Subcommittee [A1297307](#)

Attachment 2: Draft Delegations for Commercial Subcommittee [A1312225](#)

Audit, Risk and Finance Subcommittee Delegations

(A Subcommittee of the Governance Committee)

Areas of Responsibility

To recommend to the Governance Committee on the following areas:

- Council's Treasury policies
- Audit of Council's Annual Report and annual accounts
- Oversight of audit process and management of financial risk
- Risk management and internal control
- Monitoring of Council's financial and service performance
- Monitoring of health and safety in the organisation
- Oversight of Council's Health and Safety obligations
- Business Continuity
- Statutory Compliance
- Internal audit

Powers to Decide

- This subcommittee has no delegated powers to decide

Powers to Recommend to the Governance Committee:

- Any matters within the areas of responsibility or such other matters referred to it by the Council or Governance Committee

Commercial Subcommittee Delegations

(A Subcommittee of the Governance Committee)

Areas of Responsibility

- Providing strategic governance, advice and direction to ensure the maximisation of Council's property portfolio (i.e. property not held to support core functions) and forestry
- Ensuring that operation strategies and the capital works programme within the property portfolio support the return on investment targets
- Identifying and mitigating financial and operational risk for the portfolio
- Developing, implementing and monitoring Council Policy in relation to the portfolio
- Budget establishment, forecasting and proactive management of tenants

Powers to Decide

- This subcommittee has no delegated powers to decide

Powers to Recommend to the Governance Committee

Any matters within the areas of responsibility or such other matters referred to it by the Council or Governance Committee

LGNZ Discussion Paper on the Local Government Funding Review

1. Purpose of Report

- 1.1 To consider whether the Committee wishes to provide feedback to Local Government New Zealand (LGNZ) on its Local Government Funding Review Discussion Paper.

2. Delegations

- 2.1 The Governance Committee is delegated matters relating to rating systems, financial risks and financial performance. The Governance Committee has the power to lodge submissions to external bodies on policies and legislation relevant to this area of responsibility.

3. Recommendation

THAT the report Local Government Funding Review (A1309396) and its attachment (A1311529) be received;

EITHER

AND THAT the Committee does not provide feedback on the Local Government New Zealand Discussion Paper on the Local Government Funding Review.

OR

AND THAT Councillors _____ and _____ work with Council officers to provide feedback to Local Government New Zealand (LGNZ) on its Local Government Funding Review Discussion Paper, to be signed off by the Governance Committee Chairperson and Her Worship the Mayor before being sent to LGNZ by 27 March 2015.

4. Background

- 4.1 In 2014 Local Government New Zealand (LGNZ) began a major review to examine challenges facing local government in terms of funding and to consider alternative options to fund an increasing demand for services and infrastructure.
- 4.2 LGNZ's Discussion Paper on the Local Government Funding Review is available to Councillors via Google Drive and in hard copy by request. For members of the public the Paper can be viewed online at www.lgnz.co.nz using the search phrase 'Local Government Funding Review'. It outlines the findings and potential options for addressing current and likely future funding shortfalls in local government.
- 4.3 Feedback on the Discussion Paper is welcomed by LGNZ and is due by 27 March 2015. Once feedback is received, LGNZ will collate ideas and responses into a final paper proposing a long-term strategy and sustainable funding model for local government in New Zealand.

5. Discussion

- 5.1 The Discussion Paper is about the way local government is funded. Options can be found below and are not discussed here as officers feel it inappropriate to comment on a political document.
- 5.2 Council may wish to consider providing feedback on the Paper as it was commissioned by local government and was not a centrally imposed study.

6. Options

- 6.1 The Committee should consider whether or not to provide feedback to LGNZ on its Local Government Funding Review Discussion Paper.

7. Assessment of Significance against the Council's Significance Policy

- 7.1 This matter is not significant in terms of Council's Significance and Engagement Policy.

8. Alignment with relevant Council Policy

- 8.1 This matter is not in contradiction to any Council policy or strategic document.

9. Consultation

- 9.1 The public have not been consulted on this matter.

10. Inclusion of Māori in the decision making process

- 10.1 Maori have not been consulted on this matter.

11. Conclusion

- 11.1 The Committee should consider whether to provide feedback to LGNZ on its Local Government Funding Review Discussion Paper.

Penny Langley

Manager Administration

Attachments

None

REPORT A1303283

Everyman Records Limited Debt

1. Purpose of Report

- 1.1 To report back to the Governance Committee on the bad debt incurred through Everyman Records Limited and actions taken to avoid similar situations occurring in the future.

2. Delegations

- 2.1 Matters relating to the management of financial risk have been delegated to the Governance Committee.

3. Recommendation

THAT the report Everyman Records Limited Debt (A1303283) and its attachments (A1250000, A1306795, A1306797, and A1306234) be received.

4. Background

- 4.1 At the Governance Committee meeting on 14 August 2014 the committee resolved:

THAT the report Bad Debt write-off year ending 30 June 2014 (A1209224) be received;

AND THAT the Chief Executive is directed to report back to this Committee on the review of Council's arrangements with Everyman Records specifically and festival contractors generally;

AND THAT the Chief Executive report on the actions taken to recover the Everyman Records debt;

AND THAT the Chief Executive report on any changes in Council's policies and procedures to avoid similar situations occurring in the future.

- 4.2 Everyman Records Limited (Everyman) provided ticketing services for the Nelson City Council Arts Festival and other events for a number of years. Everyman received the payment for each ticket sold and these payments were meant to be paid by Everyman to the Council (less

commission) after the conclusion of the event for which the payments had been collected. Payments were accounted for on a cash basis rather than being accrued through finance.

- 4.3 In 2012/13, Everyman again managed the ticketing for the Arts Festival. Payment was due by 25 January 2013, in line with previous years' practice.
- 4.4 Mr Shaw had had health issues in January 2013, and he had told staff he was behind on his book keeping. Both the Buskers event and Opera in the Park were taking place, and Everyman was also providing ticketing services for these. In February 2013 senior Council officers became aware that payments had not been met by the deadlines set.
- 4.5 Senior Council officers and Council's Senior Legal Adviser communicated with Everyman Records' legal representative to try and retrieve the payments through a series of discussions and written letters, with no success. In response to a letter from the Acting Executive Manager Community Services to Greg Shaw, dated 24 April 2013, his solicitor responded by letter dated 24 April 2013 that Everyman Records was working with its accountant to finalise its financial accounts, and that upon completion of those accounts would be arranging finance from its bank for the upcoming year to allow immediate payment of all monies owing. Council was advised that that would be completed by the end of May, 2013.
- 4.6 Subsequent to that, in June 2013, Council was advised by Everyman's legal representative that it was unable to refinance.
- 4.7 On 18 June 2013 a report was presented to Council under public excluded business advising of a large debt owed to Council (Report 1534138). Council resolved:
- THAT officers report back to Council with an update after meeting with the debtor and his legal representative;*
- THAT Council consider the issue of the debtor continuing to trade while owing such a large debt, but that Council delay any determination on this issue until after receiving a further report from officers.*
- 4.8 After negotiations between Senior Council officers and Everyman Records legal representative, it was arranged for Everyman Records to make weekly repayments of \$700 until the debt, including interest, was paid off.
- 4.9 Because of the concerns raised by Council's Senior Legal Adviser as to Council being treated as a preferential creditor, confirmation was sought from Everyman's legal representative that Everyman Records Limited was solvent – this was confirmed by Everyman's legal representative (Mr Jeremy Glasgow) by letter dated 26 June 2013, which stated:

"I am instructed by my client that the business run by Everyman Records Limited is solvent with the exception of the debt presently owing to the Nelson City Council of approximately \$282,000. If a practical repayment arrangement is put in place the Everyman Records Limited is, I am instructed, solvent."

- 4.10 In September 2013 an informal verbal update about the Everyman Records payment arrangements in place was provided to Councillors after a Council meeting. It was confirmed that the payments schedule was being met. A total of \$19,773 (excluding GST) had been repaid by June 2014. No formal reporting of the arrangement took place.
- 4.11 Council received the notice that Everyman Records Limited had placed itself into voluntary liquidation (30 June 2014) and of the appointment of a liquidator for Everyman Records Limited on 10 July 2014. An unsecured creditors claim was lodged with the liquidator on 15 July 2014 for the sum of \$230,875 (excluding GST).
- 4.12 Officers asked the liquidator to investigate what had happened to the money received, and in particular raised the question of misappropriation of funds by Greg Shaw as it had been understood that this should have been held in trust. No correspondence has been received from the liquidator on this matter.
- 4.13 On 4 July 2014 Council received a request for information relating to the Everyman Debt from the Nelson Mail. A copy of the information sent was circulated to Councillors on 10 July 2014 (attachment 1). Whilst these include reports marked public excluded, there was no reason to withhold them at the time of the request. Redactions that were relevant at the time have now been removed.
- 4.14 Officers prepared a report on these matters, which was tabled as a late item to the Governance meeting of 25 September 2014. The Chairperson told the Committee that Her Worship the Mayor had referred the matter to the Office of the Auditor General (see attachment 2) and as a result the matter would not be considered.
- 4.15 The Mayor received a letter from the Office of the Auditor General on 8 December 2014 (attachment 3). In the letter the Auditor General identifies two matters where there are some questions. In relation to the matter of why Everyman Records did not repay the debt, she was of the view that she could not inquire into the actions of a private individual. In relation to the matter of why Council staff chose to enter into a repayment agreement with Everyman Records without reporting back to Council, she felt this was an employment matter not suited to an external and publicly reported enquiry.

5. Discussion

- 5.1 Council's relationship with Everyman evolved over a number of years. It appears to have started as a casual arrangement and was then contractually formalised for the Arts Festival in 2007/08. Some

- agreements for the provision of ticketing services for other events were not formalised.
- 5.2 There have been weaknesses in the efficacy of Council systems and processes in the past. In the case of the debt incurred by Everyman, the contract for the Arts Festival did not secure Council as a creditor and did not specify that a trust account should be used to hold funds received. The wording of the contract had not been reviewed regularly; instead it had just been carried over for numerous years, and had been overseen by the Festivals team rather than by Finance officers or Council's Senior Legal Advisor. There was a mutual trust relationship built over many years and the events team had not considered whether there was any risk attached in relation to the ability of Everyman to meet the payments, as it had done so in previous years.
 - 5.3 However in relation to the 2012/2013 festivals and events a combination of these factors meant that Council's interests were not sufficiently protected, resulting in the bad debt of \$230,875.
 - 5.4 Several actions have been undertaken to avoid similar situations occurring in future. Firstly, the contracting of ticketing services now goes through a public tender process – this year there is a contract in place with Ticket Direct. The contract for this service is now vetted by and approved by Council's Senior Legal Adviser and officers from the Finance department. Compliance with the terms of agreements entered into is regularly monitored.
 - 5.5 Furthermore, a contract for the overall management of the Arts Festival Bar has been put in place so that there is a single contract for bar requirements including all staff, rather than separate contracts for individual bar staff as well as specific reconciliation requirements for bar income. This is the only other area of Festivals where income is dealt with outside of Council. This contract went through a tender process with input from Council's Senior Legal Adviser on the content for the Request for Proposals. The contract was prepared by Council officers with input from the Finance department around income procedures and approved by Council's Senior Legal Adviser.
 - 5.6 Contracts for Community Events Coordination (including the Masked Parade, Buskers Festival), New Years Eve event coordination and other events as required on an as needs basis (such as Rugby World Cup event coordination) also go through a tender process.
 - 5.7 All other festival contractors (crew etc.) are contracted by Nelson City Council Festivals using contract templates provided by Council's Senior Legal Adviser. Any high risk contracts are signed off by the Senior Legal Adviser before entering into any agreement.
 - 5.8 Along with having stronger festivals contracts in place, Council officers closely manage these contractor relationships to ensure outcomes are being met throughout the contract period, and that any payments due to Council are made immediately or as soon as is practicable.

- 5.9 The finance department is involved with the development and monitoring of contracts involving income on an ongoing basis throughout the duration of those contracts and financial controls have been tightened, including reconciliation and deadlines. The finance department are aware of anticipated Festivals income amounts and deadlines through contracts. Expected income is flagged by the due date and officers monitor these deadlines closely and are able to follow up immediately on unpaid amounts due to Council if necessary.
- 5.10 Officers continue to look for opportunities to further improve systems and process. The level of internal controls has increased and there is higher awareness of the need to consider and manage risks. The recent case of a sports ground booking has highlighted the need to ensure clarity of communication internally and to signal clear expectations to users of Council facilities that timely payments are required. In the case of groups with little or no assets this may include having to pay in part or in full for bookings prior to use.
- 5.11 Officers have recently received the first six monthly report of the liquidator of Everyman Records Limited (attachment 4). This indicates that the liquidation will be completed by 31 March 2015, and that the Everyman bank balance currently sits at \$5,983.

6. Assessment of Significance against the Council's Significance Policy

- 6.1 This is not a significant decision in terms of Council's Significance Policy.

7. Alignment with relevant Council Policy

- 7.1 The changes in processes made are in line with current policy.

8. Consultation

- 8.1 No particular consultation has been undertaken for the writing of this report.

9. Inclusion of Māori in the decision making process

- 9.1 No particular consultation has been undertaken with Maori in writing this report.

10. Conclusion

- 10.1 The Governance Committee requested a report detailing the arrangements with Everyman Records and subsequent changes in policies and procedures. Since this occurrence, Council systems and processes have been tightened to avoid the potential for a future occurrence of this nature.

Chris Ward
Group Manager Community Services

Attachments

- Attachment 1: Copy of correspondence previously circulated to Councillors
([A1250000](#))
- Attachment 2: Letter from the Mayor to the Office of the Auditor General
([A1306795](#))
- Attachment 3: Letter from the Office of the Auditor General to the Mayor
([A1306797](#))
- Attachment 4: First six monthly report of the liquidator of Everyman Records
Ltd. ([A1306234](#))

10 April 2013

Roger Ball
546 0241
roger.ball@ncc.govt.nz
www.nelsoncitycouncil.co.nzGreg Shaw
Everyman Records
249 Hardy Street
Nelson 7010

Dear Greg

TICKETING PAYMENT FOR NELSON CITY COUNCIL

I am writing to follow up on our phone conversation of 4 April 2012 regarding the Nelson Arts Festival ticket revenue that Everyman Records owes to Nelson City Council.

The outstanding amount is \$204,014.50 and should have been paid in full by 25 January 2013 according to the contract between Nelson City Council and yourself.

I ask that you take urgent steps to pay these funds to Nelson City Council as soon as possible. Council reserves the right to take further steps to recover unpaid funds.

I would appreciate your urgent written confirmation of how and when these funds will be paid.

Yours sincerely


Roger Ball
Acting Executive Manager Community Services



16 April 2013

Roger Ball
546 0241
roger.ball@ncc.govt.nz
www.nelsoncitycouncil.co.nz

Greg Shaw
Everyman Records
249 Hardy Street
Nelson 7010

Dear Greg

RE TICKETING PAYMENT FOR NELSON CITY COUNCIL

I refer to my letter of 10 April 2013.

When we spoke by phone yesterday, 15 April, you said you would reply to my letter later this week or perhaps next week, and that you are intending to repay your outstanding debt to Nelson City Council by the end of May. This is not acceptable to us, given the substantial amount owed to Nelson City Council, and the fact that the first payment is overdue now by 118 days and the second and final payment due is overdue by 81 days.

The debt owed by Everyman Records to Nelson City Council is \$204,014.50.

Your failure to pay is not in accordance with the contract between Everyman Records and Nelson City Council which states that:

"2.5 Everyman Records will make 1st payment to Council no later than 19 December for 50% of net sales with a 2nd (final) payment of 50% to be paid on 25 January 2013."

You hold these funds as agent of Nelson City Council and Council requires payment to be made urgently and in any event, not later than **30 April 2013**. I look forward to your immediate written confirmation by the end of this week of your intention to pay the amount outstanding by this date. Please call me to discuss this on 546 0241 or 027 246 8857.

Yours sincerely


Roger Ball
Acting Executive Manager Community Services

BARRISTERS SOLICITORS
NOTARY PUBLIC
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CLIFFORD HOUSE
38 HALIFAX STREET
PO BOX 138 NELSON 7040
NEW ZEALAND
DX WC 70010
PHONE 03 548 7129
FAX 03 546 9355
enquiries@glasgow-harley.co.nz

24 April 2013

RECEIVED

26 APR 2013

NELSON CITY COUNCIL
Records

The Acting Executive Manager
Community Services
Nelson City Council
PO Box 645
NELSON 7040

By Email: roger.ball@ncc.govt.nz

We have been instructed by Greg Shaw the principal of Everyman Records Limited to write to you in respect of monies owing by Everyman Records.

Everyman Records is in the process of providing information to its accountant, David Beatson of Milnes Beatson, Motueka, for the year ending 31 March 2013 to enable the preparation of its financial accounts. David Beatson has agreed to fast track this process.

Upon completion of the accounts, Everyman Records will arrange finance from its bank for the upcoming year to allow the immediate payment of all monies owing.

It is anticipated that all of the above should be completed before or by the end of May 2013. We would be grateful if you would direct any correspondence in respect of this matter to us and if this process is not acceptable, please contact us as soon as possible.

Yours faithfully
GLASGOW HARLEY

A handwritten signature in black ink, appearing to be "J Glasgow", written over a horizontal line.

Jeremy Glasgow

Email: jeremy.glasgow@glasgow-harley.co.nz
137004\130424AJJG

PARTNERS

BRIAN JAMES MAURICE NELSON, LL.B.(Hons)
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SUSAN RITCHIE, LL.B.

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JONATHAN GEORGE RUTHERFORD TIDSWELL, LL.B.
TIMOTHY BASKIVILLE HARLEY, LL.B.

ASSOCIATE

SARA ELIZABETH GRACIA, LL.B.

Service Request:n/a
Incoming correspondence:n/a
PO Box 645 Nelson 7040
P 03 546 0200
F 03 546 0239

24 April 2013

Roger Ball
546 0241
roger.ball@ncc.govt.nz
www.nelsoncitycouncil.co.nz

Greg Shaw
Everyman Records
249 Hardy Street
Nelson 7010

Dear Greg,

OUTSTANDING TICKETING PAYMENTS

I refer to my letters dated 10 April and 17 April 2013.

I note that I have not received any reply to my letters nor confirmation of your plans to repay funds owed to Nelson City Council.

It has come to my attention that the following ticketing payments are also currently held by Everyman Records:

- Opera in the Park - \$71,205 including GST
- Buskers in Nelson - \$7,416 including GST

This, together with the \$204,014.50 (including GST) outstanding payment from the Nelson Arts Festival ticketing, makes a total of \$282,635.50 including GST owing.

You hold these funds as agent of Nelson City Council and Council requires payment to be made urgently and in any event, not later than **30 April 2013**. I look forward to your immediate written confirmation of your intention to pay the amount outstanding by this date. Please call me on 027 246 8857 if you wish to discuss this further.

Yours sincerely

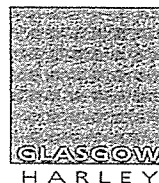
Roger Ball
Acting Executive Manager Community Services

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RECEIVED

02 MAY 2013

NELSON CITY COUNCIL
Records



CLIFFORD HOUSE
38 HALIFAX STREET
PO BOX 138 NELSON 7040
NEW ZEALAND
DX WC 70010
PHONE 03 546 7129
FAX 03 546 9355
enquiries@glasgow-harley.co.nz

29 April 2013

The Acting Executive Manager
Community Services
Nelson City Council
P O Box 645
NELSON 7040

By Email: roger.ball@ncc.govt.nz

Dear Roger

Re Everyman Records Limited

You should by now have received our letter of the 24th April which refers not only to the matters that have previously been raised with Greg but also to the matters raised in your letter of the 24th in respect of Opera in the Park and Buskers in the Park. If the content of our letter of the 24th April is not satisfactory please contact the writer.

Yours faithfully
GLASGOW HARLEY

A handwritten signature in black ink, appearing to be "J Glasgow", written over a horizontal line.

Jeremy Glasgow

Email: jeremy.glasgow@glasgow-harley.co.nz
1370014L130429AJJG

PARTNERS

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ASSOCIATE

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2 May 2013

Roger Ball
546 0241
roger.ball@ncc.govt.nz
www.nelsoncitycouncil.co.nz

Jeremy Glasgow
Glasgow Harley
Barristers Solicitors Notary Public
PO Box 138
Nelson 7040

Dear Jeremy

OUTSTANDING TICKET REVENUE REPAYMENT BY EVERYMAN RECORDS LIMITED

I refer to your letters of 24 April and 29 April 2013. As you will appreciate, the amount outstanding of \$282,635.50 is significant, and also well overdue for payment. Before we agree to any proposal to delay recovery of this amount, we would like the following assurance from either yourselves or Mr Shaw's accountants:

- 1.) That Mr Shaw has no other significant debts or claims he has been given notice of or under any form of demand or action at this point in time.
- 2.) Confirmation from yourselves or Mr Shaw's bankers that the bank will provide the funds required by Mr Shaw to clear this debt, and that he has adequate security to enable this amount to be borrowed.
- 3.) If payment of the outstanding amount is not made in full by 31 May, 2013, then he agrees to pay interest at Westpac's overdraft rates applicable as at 31 May, 2013 (as may be varied from time to time) to Council on the amount outstanding as at that date until such time as payment is made to Council in full.

Council asks that this information be provided no later than 5.00 p.m. Tuesday, 7 May, 2013.

For your records, I enclose a copy of an invoice for the sum owed, \$282,635.50, the original of which has been sent to Mr. Shaw.

Yours sincerely


Roger Ball
Acting Executive Manager Community Services

EVERYMAN RECORDS

249 HARDY STREET NELSON

Phone: 03 548 3083 ~ Fax: 03 548 3086 ~ E-mail: everyman@ts.co.nz

23 June 2013

Attention: Jeremy Glasgow

Repayment of Ticketing funds

As discussed:

I propose that Everyman Records repay the funds owing to the Nelson City Council using the following repayment schedule:

Amount owing: \$282635.50.

An arrangement be put in place, as suggested by David Beatson, that would allow Everyman Records Limited to claim back the full GST owing to repay the Nelson City Council:

\$36851.51

Everyman Records Limited would pay back \$32032.00 per annum from 1 July 2013 over the next 3 Years:

\$96096.00

The amount owing after 3 years but paid back in one lump sum:

\$149687.99

Everyman Records Limited would also pay any Interest applicable on the up to date outstanding amount owing over this time.

I would suggest due to Everyman Records Limited present financial situation Interest only will be paid from 1 July 2013 until 30 September 2013 then \$616.00 per week from that time.

From 1 October 2013 \$616.00 will be paid weekly.

Weekly repayments not made from 1 July 2013 to 30 September 2013, \$8008.00, will be topped up over the upcoming summer trading period to make up the first \$32032.00 yearly payment.

Any significant lump sums that may become available to Everyman Records Limited over the 3 year period would be used to pay towards the monies outstanding.

As I have already mentioned, over the past 3 years Everyman Records Limited has purchased and developed the Patronbase Booking system to operate as an Agency Ticketing System to accommodate the Theatre Royal, the Nelson Arts Festival and any other Promoter undertaking events within the country at a cost of approximately \$35000.00.

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FAX 03 546 9355
enquiries@glasgow-harley.co.nz

26 June 2013

The Chief Executive
Nelson City Council
NELSON

DELIVER BY HAND

Dear Madam

Re: Everyman Records

I am instructed by my client that the business run by Everyman Records Limited is solvent with the exception of the debt presently owing to the Nelson City Council of approximately \$282,000. If a practical repayment arrangement is put in place then Everyman Records Limited is, I am instructed, solvent.

The Company's annual accounts can be provided to the Council for perusal as soon as they are prepared. All information for that has been provided to the Accountant but unfortunately he is presently on vacation and will not return for at least 2 to 3 weeks so the accounts will take at least a month to deliver.

If you require any further information please request that of myself.

Yours faithfully
GLASGOW HARLEY

Jeremy Glasgow

Email: jeremy.glasgow@glasgow-harley.co.nz
137004\130626A\JG

c.c. Viesturs Altiments

PARTNERS

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ALEXANDER JAMES JEREMY GLASGOW, LL.B.
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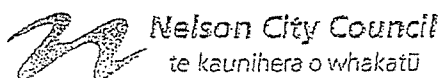
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TIMOTHY BASKVILLE HARLEY, LL.B.

ASSOCIATE

SARA ELIZABETH GRACIA, LL.B.

PUBLIC EXCLUDED



File Ref:

1536022

When calling
please ask for:
Direct Dial Phone:
Email:

Administration Adviser
03 546 0364
admin.advisors@ncc.govt.nz

17 June 2013

Memo To: Mayor and Councillors
Memo From: Administration Advisers
Subject: **COUNCIL - TO APPROVE THE ANNUAL PLAN 2013/14
18 JUNE 2013 – PUBLIC EXCLUDED LATE ITEM**

A public excluded report is attached to be considered as a major late item at this meeting, as referred to in the public memo regarding Council – To Approve the Annual Plan 2013/14 – 18 June 2013 – Late Item (1536020).

1. Potential Debtor Issue

Document number 1534138

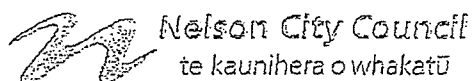
Recommendation

THAT Council receive this report on a potential debtor issue;

AND THAT officers report back to Council with an update after meeting with the debtor and his legal representative;

AND THAT Council consider the issue of the debtor continuing to trade while owing such a large debt, but that Council delay any determination on this issue until after receiving a further report from officers

PUBLIC EXCLUDED



Council – Governance

17 June 2013

REPORT 1534138

Potential Debtor Issue

1. Purpose of Report

- 1.1 To advise Councillors of a large debt owed to Council.

2. Exclusion of the Public

- 2.1 This report has been placed in the public excluded part of the agenda in accordance with section 48(1)(a) and section 7 of the Local Government Official Information and Meetings Act 1987. The reason for withholding information in this report under this Act is to:

- protect the privacy of natural persons;
- protect information that may disclose a trade secret or the commercial position of a person;
- carry out commercial activities.

3. Recommendation

THAT Council receive this report on a potential debtor issue;

AND THAT officers report back to Council with an update after meeting with the debtor and his legal representative;

AND THAT Council consider the issue of the debtor continuing to trade while owing such a large debt, but that Council delay any determination on this issue until after receiving a further report from officers.

4. Introduction

- 4.1 Everyman Records Limited is a Company registered under the Companies Act with its registered office in Motueka and an outlet in Nelson. Its sole director and shareholder is Mr Greg Shaw.
- 4.2 In 2012/13, Everyman Records provided ticketing services for the Nelson City Council Arts Festival and other events, as it has done for a number of years. Everyman Records receives the payments for each ticket sold

PUBLIC EXCLUDED

and those payments are meant to be paid by Everyman Records to Nelson City Council (less commission) at the conclusion of the event for which the payments were collected.

- 4.3 As at the time of writing this report Everyman Records has failed to pay money owed to Council for these events by the deadlines set. Everyman Records presently owes Council \$250,648.26 excl GST as follows:

Nelson Arts Festival	\$177,403.91 excl GST
Opera in the Park	\$61,917.39 excl GST
Buskers 2013	\$6,448.70 excl GST
Buskers 2012	\$4,878.26 excl GST
Total	\$250,648.26 excl GST

- 4.4 It has come to light that, in spite of assurances to officers that the arts festival income would be secure in Everyman Record's trust account, there has been no specific trust account established to deal with these payments separate from the rest of Everyman Records business. It is known that Greg Shaw has been in ill health following a heart attack in January. This has been suggested by Mr Shaw as a contributing factor. It is noted however that Mr Shaw has a history with Council of late payments over some years and that the bulk of the payments currently due pre-date his ill health.
- 4.5 It is noted that Everyman Records continues to operate and to offer its ticketing services to the public. According to its website, tickets can be purchased from Everyman Records for the Warratahs (12 July), Yulia (13 July) and Happy Mid Winter Rave (20 July).
- 4.6 This debt represents a serious financial risk for Council. Council takes the position that Everyman Records holds these funds in trust for Nelson City Council and has required payment to be made urgently.
- 4.7 Council's Senior Legal Advisor has been in communication with Mr Shaw's legal representative, Mr Jeremy Glasgow. Everyman Records previously advised that it was attempting to secure a loan from its bank to cover the debt. However, late last week Mr Glasgow advised that Everyman Records is unable to refinance and at this point the options are to put Everyman Records into receivership, or to come up with a solution for repayment of funds. Officers are seeking to meet with Mr Shaw and Mr Glasgow this week to explore these options further. It is proposed that officers report back to Council with a further update following the meeting. This meeting will be important in determining whether there is any realistic chance of Council recovering its debt.
- 4.8 For financial projections this year, the income has been accrued and officers are working on the assumption that the debt will be pursued. That may take some time and it is proposed that officers will keep Council appraised. If the debt is not recovered (eg, if Everyman Records were to be put into liquidation) the debt would need to be written off. This would most likely become known in the next financial year, and would be reported to the Audit Risk and Finance Committee.

PUBLIC EXCLUDED

- 4.9 A further consideration is public interest. It is believed that Everyman Records, notwithstanding the significant debt owed to Council, and its inability to repay that debt at this point in time, is currently still trading and selling tickets for other events (not related to Council). If that is so, then Everyman Records may well be trading while insolvent. This is potentially a matter of public interest. However, Council will need to proceed cautiously, since any public comment regarding the financial situation of Everyman Records would very likely jeopardise the chances of Council recovering any part of its debt.
- 4.10 The circumstances leading to the build up of such a significant debt are being investigated by senior Council officers and will be reported to the Chief Executive. This investigation includes the adequacy and enforcement of contracts with Everyman Records, the efficacy of Council systems and processes, and the actions of staff.
- 4.11 It is noted that Council has very recently undertaken a Request for Proposal process for ticketing services for the 2013 Nelson Arts Festival and aspects of the 2014 Buskers Festival. At the time of preparing this report the successful tender had yet to be selected, but it can be stated that it will not be Everyman Records.

5. Conclusion

- 5.1 This matter has been brought to Council's attention given the risk it represents to Council's projected income and because there is the question of potential public interest.
- 5.2 The worst case scenario is that Council will have to write off this bad debt. However, it is too early to come to that conclusion, and it is hoped to get a clearer understanding of Everyman Records likelihood of being able to pay this debt following the meeting with Mr Shaw and Mr Glasgow this week.
- 5.3 There is also the issue of public interest. That is, whether this matter should be publicly disclosed at this point in time if in fact Everyman Records continues trading including selling tickets for other events. However that needs to be balanced against the need to avoid actions in public that could undermine the reputation of Everyman Records and also destroy its chances of repaying Council's debt, until there is greater certainty as to whether Council will recover its debt. It is recommended that Council not make a determination on this issue for the time being, until after officers have met with Mr Shaw's lawyer and reported back to Council.

Roger Ball
Acting Executive Manager Community Services

Attachments

None.

No supporting information follows.

9 July 2013

Hugh Kettlewell
546 0231
hugh.kettlewell@ncc.govt.nz
www.nelsoncitycouncil.co.nz

Jeremy Glasgow
Glasgow Harley
Barristers Solicitors and Notary Public
PO Box 138
Nelson 7040

RECEIVED
22 JUL 2013
NELSON CITY COUNCIL
Records

Dear Jeremy

REPAYMENT PROPOSAL EVERYMAN DEBT

In response to your proposal for repayment of debt owed to Council for ticketing we advise as follows:

1. The proposed arrangement, suggested by David Beatson about treatment of the GST is not acceptable to Council. Council have issued a GST invoice to Everyman Records and returned the GST to the IRD and will continue to treat Everyman as an outstanding debtor.
2. The Council has no interest in purchasing the Patronbase Booking system from Everyman at this time.
3. We have considered Mr Shaw's proposal to make weekly repayments. Council is willing to agree to giving Mr Shaw and Everyman Records time to repay the debt owing to Council, but only on the following terms and conditions:
 - 3.1. That Mr Shaw agrees to a repayment plan which includes both debt repayments and interest payments on the outstanding balance. That repayment plan would be as follows:

To assist Mr Shaw in repaying the debt Council will accept interest at Council's current rate of borrowing for 90 days of 3.90% rather than our overdraft rate of 8.45%. This will increase if interest rates increase.

The repayments are set at \$700 per week per the attached spreadsheet.

The proposal not to make repayments until 30 September 2013 is not acceptable to us, and repayments must commence on the signing of this agreement and in any event not later than 26 July 2013 and be made weekly no later than 4.00 p.m. on the Friday of each week deposited to this bank account: 03 0703 0325055-00 and including the reference Everyman.

Mr Shaw agrees that significant lump sums or funds that become available to Everyman Records Limited are paid to Council in reduction of the debt.


- 3.2. Payments must be made as agreed, and if for any reason payments are not made as agreed above, Council reserves the right to take all steps necessary

to recover the outstanding debt owing to Council, and Council's agreement as part of this proposal to withhold any further action to recover its debt is totally without prejudice to any of Council's rights in respect of the debt owing to it which Council may exercise in the event that the terms of this agreement are not complied with.

Council believes that this is very generous and is designed to offer Everyman the greatest opportunity to make good with its intentions to repay the debt owing to it, and Council agrees without prejudice to defer taking further steps to recover its debt so long as the terms of this agreement are complied with, and the payments agreed to be made are made until the debt is repaid in full.

If your client is willing to agree to this proposal, then we would ask for your confirmation of that and that your client signs the attached copy of this letter.

Yours sincerely



Hugh Kettlewell

Executive Manager Support Services

I, Gregory Shaw of *Nelson* *Company Director*,acknowledge and agree as follows:

1.) That the debt outstanding to Council by Everyman Records Limited as at the 23rd June, 2013 is \$288,246.00

2.) I confirm that except for the debt to Council both I and Everyman Records Limited are solvent, and have no other outstanding *unsecured* debts of any kind.

3.) I agree that, in consideration of Council deferring any further steps it is entitled to take in respect of that debt, to repay that debt together with interest in accordance with the terms and conditions in this letter.

Signed : *Gregory Shaw*

Dated at Nelson 16-7-2013

BARRISTERS SOLICITORS
NOTARY PUBLIC
Established 1858



CLIFFORD HOUSE
38 HALIFAX STREET
PO BOX 138 NELSON 7040
NEW ZEALAND
DX WC 70010
PHONE 03 548 7129
FAX 03 546 9355
enquiries@glasgow-harley.co.nz

17 July 2013

Hugh Kettlewell
Executive Manager Support Services
Nelson City Council
P O Box 645
NELSON 7040

RECEIVED

22 JUL 2013

NELSON CITY COUNCIL
Records

Dear Hugh

Re: Everyman Records Limited

Thank you for your letter of the 9th July. We return one copy of the letter duly signed by Greg Shaw.

Yours faithfully
GLASGOW HARLEY

A handwritten signature in black ink, appearing to be "J Glasgow".

Jeremy Glasgow

Email: jeremy.glasgow@glasgow-harley.co.nz
13700\4\130717AJJG

Enc

PARTNERS

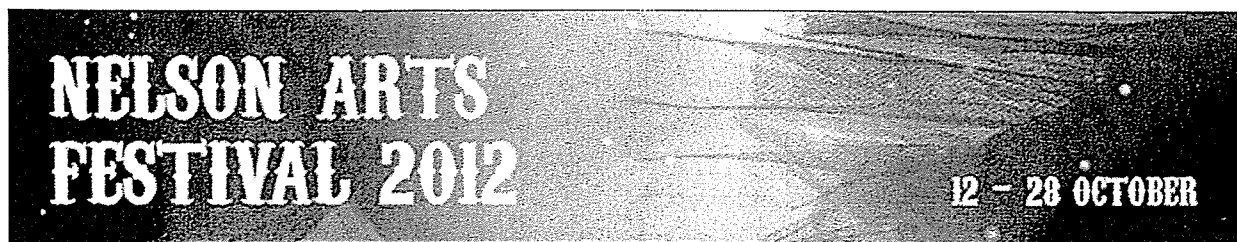
BRIAN JAMES MAURICE NELSON, LL.B.(Hons)
DAVID ANTONY EARLE, LL.B.
ALEXANDER JAMES JEREMY GLASGOW, LL.B.
SUSAN RITCHIE, LL.B.

CONSULTANTS

CHARLES JOHN HARLEY, LL.B., (NOTARY PUBLIC)
JONATHAN GEORGE RUTHERFORD TIDSWELL, LL.B.
TIMOTHY BASKIVILLE HARLEY, LL.B.

ASSOCIATE

SARA ELIZABETH GRACIA, LL.B.



T

Ticket Sales Agreement

1. PARTIES:

1.1 NELSON CITY COUNCIL on behalf of **NELSON ARTS FESTIVAL**

1.2 Greg Shaw on behalf of **EVERYMAN RECORDS**

2. TERMS:

2.1 **Everyman Records** is to provide a sales service for the **Nelson Arts Festival** for the sale of show tickets. The sales period is from **Saturday 3 August until Monday 27 October 2012.**

2.2 Everyman Records will ensure that a weekly report on sales is available to the festival office with a log in supplied for the Patron Base ticket sales reporting system.

2.3 Everyman Records will charge a set commission rate of \$1 per ticket on all ticket sales plus the following agreed inside charges.

- o The commission charge includes all fees for printing of tickets, internet sales and venue seating plan set up for all festival venues.
- o An additional charge of 0.50 cents will be charged for printing of complimentary tickets required by the festival.
- o A separate external booking fee of \$2 per ticket will be charged to the ticket purchaser.
- o Courier fees \$4 urban and \$8 rural delivery. No charge for credit card fees based on these commissions as they will be paid for by the ticket purchaser.

2.4 Everyman Records will provide a statement of accounts by Monday 28 October 2012 showing total sales and commissions with a further final statement by 20 December 2012 showing any adjustments or additions to the income or commissions.

2.5 Everyman Records will make 1st payment to Council no later than 19 December for 50% of net sales with a 2nd (final) payment of 50% to be paid on 25 January 2013.

3. DETAILS OF THE CLIENT:

Name: Sophie Kelly - Nelson Arts Festival
Address: PO Box 645, Nelson
Phone: 03 546 0212
Email: sophie.kelly@ncc.govt.nz

4. DETAILS OF TICKETING AGENT:

Name: Greg Shaw
Everyman Records
Address: 249 Hardy Street
Nelson
Phone: 03 548 3083
Email: everyman@ts.co.nz

5. ARRANGEMENT DETAILS:

It is agreed between both parties that Everyman Records will be promoted as the TICKETING AGENT in all printed marketing material distributed by the Nelson Arts Festival.

The Nelson Arts Festival will provide Everyman Records with a record of all tickets received. This will be adjusted electronically whenever the festival office withdraws or included additional tickets. The final ticket allocation should balance with the final ticket sales report. If there are any large discrepancies an audit will be required.

Everyman Records will display posters, fliers and any other promotional material in their premises to assist in promoting shows as part of the Nelson Arts Festival. Everyman Records will also use their marketing opportunities to promote the sale of Nelson Arts Festival tickets at their premises.

Everyman Records will endeavour to collect and record all relevant data from ticket purchasers and provide this information free of charge to the Nelson Arts Festival. The information should include purchasers name, physical address, email address, home telephone and mobile telephone number.

The Nelson Arts Festival will provide Everyman Records management and staff with 10 complimentary tickets to shows on request, based on availability. Where tickets are in strong demand we will offer discounted tickets.

6. DATE:

This contract is dated and takes effect from **Friday 8 July 2012.**

7. SIGNATURES

Signed for on behalf of _____
(Ticketing Agent)

By:

_____ Signature

_____ Name

_____ Capacity

Signed for and on behalf of THE NELSON ARTS FESTIVAL

By:

_____ Signature

_____ Name

_____ Capacity

Please sign and return to the festival office.



Office of the Mayor

24 September 2014

Phillippa Smith
Deputy Controller and Auditor-General
Office of the Auditor-General

BY EMAIL:

phillippa.smith@oag.govt.nz

Dear Phillippa

REQUEST FOR INVESTIGATION – SIGNIFICANT LOSS OF FESTIVAL REVENUE

Further to our phone conversation of Thursday 18 September 2014 I wish to formally request the assistance of your office in investigating the circumstances that led to a significant loss of festival revenue due to Nelson City Council.

I will not set out the detail of the matter in this letter as we have already discussed the timing, loss, agreement to enter into a repayment plan, and the fact that Everyman Records is now in liquidation.

Members of the public have raised concerns via my office, and in the media, in relation to poor decision-making at both officer and governance level that resulted in these losses. I am not in a position to fully respond to the concerns. In order to do so I require greater clarity with regard to the governance and management controls at the time that led to the financial losses.

It is in establishing that clarity that I seek your assistance. I believe a robust and independent review is an appropriate response in the circumstances.

There has been a call from some elected members and members of the public to refer the matter to the police. Earlier this week I met with a Detective Senior Sergeant to discuss the possibility of a formal complaint of theft. I am advised that the threshold is high and that establishing clear intent to steal is critical. While the police would receive a complaint if one was made, they would also need to consider what priority assessment of such a complaint would receive in the context of their other work.

At this point in time, and on the basis of the information that I am privy to, which is not complete information, I do not believe the appropriate course of action is to refer the matter to the police. However, should in the course of an investigation

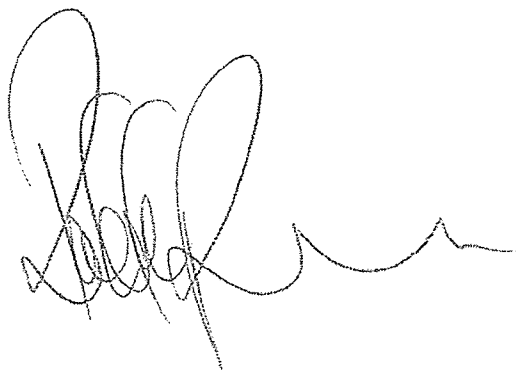


you identify a trigger or reason that means we should consider taking such an action then we will act accordingly.

During our conversation last week you indicated a willingness to commence an investigation. Our point of contact is Acting Chief Executive Nicky Harrison who will assist with provision of documents or other assistance as requested.

Despite the less than desirable circumstances that have led to me writing this letter, it is of considerable reassurance to me that the Office of the Auditor General is available to provide independent investigation and review services. I'm sure that feeling will be shared by the public of Nelson.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rachel Reese JP', with a long horizontal flourish extending to the right.

Rachel Reese JP
Mayor of Nelson



8 December 2014

File ref: EN/LCA/4-0008

Confidential

Rachel Reese JP
Mayor of Nelson
Nelson City Council
PO Box 645
Nelson 7040

Dear Mayor Reese

We refer to your letter dated 24 September 2014, in which you asked the Auditor-General to investigate the circumstances that led to the loss of revenue from Council arts events, that had been held by Everyman Records Limited (in liquidation). You sent us further information in October 2014. Those documents included a report prepared for the Council's Governance Committee in September 2014 about the circumstances that led to the debt being incurred by Everyman Records, and steps that the Council was taking to avoid similar situations occurring again.

We have reviewed the information that you gave us and have decided not to carry out a formal inquiry into these matters.

Any inquiry we carried out would focus on the Council's contracting systems and processes. Council staff have already reported to the Council on the weaknesses that they have identified and the changes they are proposing to introduce. We do not consider that it is likely that our inquiry would add significant value on these issues.

From the information we have seen, it appears that the reasons why Everyman Records owed a debt to Council is now reasonably clear and public. We note two matters where there are some questions:

- Why Everyman Records did not re-pay the debt; and
- Why Council staff chose to enter into a repayment agreement with Everyman Records without reporting back to the Council.

In our view, neither of these matters would be greatly advanced by our inquiring into them. In relation to the first matter, we cannot inquire into the actions of a private individual. If you remain concerned about this matter it may be worth considering another discussion with the Police.

It appears to us that the second matter is one which is, in substance, an employment matter, which is not something suited to an external and publicly reported inquiry.

We will ask our auditor to review progress on the changes being made during the annual audit.

Yours sincerely

Phillippa Smith
Deputy Controller and Auditor-General

A1306797

FIRST SIX MONTHLY REPORT OF THE LIQUIDATOR

(Companies Act 1993, Section 255 (2)(d))

Name of Company: Everyman Records Limited [In Liquidation]

Number of Company: 506245

INTRODUCTION

Geoff Falloon, Chartered Accountant of Biz Rescue Limited, was appointed Liquidator of the above company on the 30th June 2014.

This is the first 6-monthly report of the Liquidator as required by Section 255(2)(d) of the Companies Act 1993 ("the Act").

SUMMARY OF RECEIPTS AND PAYMENTS

A Summary of Receipts and Payments of the company for the 6 month period 1st July 2014 to 31st December 2014 ("Summary") is attached.

ACCOUNTANT'S DISCLAIMER

We have completed the Summary as attached. The compilation is limited to the collation, classification, summarisation of financial information supplied by the company. A compilation does not include verification of that information.

We have not carried out an audit or a review assignment on the Summary, and therefore neither we nor our employees accept any responsibility for the accuracy of the information from which the Summary has been prepared. Furthermore, the Summary has been prepared for the purpose of this Report only and neither we nor our employees accept any responsibility on any grounds whatsoever, including liability in negligence, to any other person.

PROGRESS OF LIQUIDATION

1. The Company had a successful closing down sale after which the shop was cleared and vacated. However there are still 4,000 CDs and vinyl remaining to be sold. Attempts have been made to sell these but without success. Ongoing storage costs mean a decision will soon need to be made as to how to dispose of these so the liquidation can be concluded. Any creditor wishing to put in a bid for this stock should contact the liquidator forthwith.
2. Claim forms have been collected from creditors.
3. I estimate the liquidation will be concluded by 31st March 2015.



G FALLOON
Liquidator
22nd January 2015

A1306234

EVERYMAN RECORDS LIMITED (IN LIQUIDATION)

**Statement of Receipts and Payments
From 1st July 2014 to 31st December 2014**

	GST Exclusive	
	\$	\$
Receipts		
Sale of Inventory	18,649	
Sale of Shop Fittings/Equipment	720	
Subtotal		19,369
Payments		
Sale Costs	1,794	
Shop Clearance Costs	2,981	
Liquidator	5,219	
Storage	719	
Advertising and miscellaneous	311	
Rent and alarm	2,362	
Subtotal		13,386
Balance per Bank Account		<u>\$5,983</u>