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Chairman's Supplementary Report

5. Regional Stadium Trust Status – Declaratory Judgement

Concerning questions asked by Councillor Gibson (copy attached – **Attachment 4**), joint action was taken on behalf of the WRC, WCC and Stadium Trust to seek a Declaratory Judgement from the High Court clarifying, once and for all, whether or not the Stadium Trust was LATE, was reported to the Policy and Finance Committee on 7 December 2000 (Report 00.879, dated 30 November 2000 – copy attached – **Attachment 5**)

The Committee resolved (Moved by Cr Gibson and seconded by Cr Werry) “*that the Report be received and the contents noted*”. The Council meeting that followed dealt with the Policy and Finance Committee deliberations that same day in the usual way. There is no record of any member present at either meeting objecting to the action being taken to seek the Declaratory Judgement.

The action taken was again reported to the Policy and Finance Committee on 6 March in the half year report of the Stadium Trust (Report 01.117 – copy attached – **Attachment 6**).

In addition, the joint action has been reported in such public documents as Council's Annual Plan, which of course was formally adopted by Council at the proposed stage (on 22 March) and when finally approved (on 28 June).

Clearly, Council has been supportive of the actions taken which were fully documented and reported (in open meetings). It could be argued that this implies approval.

Councillor Gibson's concern would seem to be that there is no discrete resolution of Council to that effect. In this respect, he would seem to be referring to Section 114Q of the Local Government Act, which does not allow a local authority to delegate “the power to institute any proceedings in the High Court that are not injunctive proceedings”? (Copy attached – **Attachment 7**).

If there is a problem, there appears to be little difficulty in correcting the position, by way of a resolution of Council confirming the WRC as being a party to the action, albeit retrospectively.

A further communication from Councillor Gibson dated 6 July 2001 is also attached – **Attachment 8**).

At this stage, we do not have a firm date for the High Court Hearing.

Recommendation

That Council confirm the joint action being taken, with the Wellington City Council and Wellington Regional Stadium Trust, to seek a Declaratory Judgement from the High Court, clarifying whether or not the Stadium Trust is a LATE.

STUART MACASKILL
Chairman