

**Chairperson and Community Board Members**  
ŌTAKI COMMUNITY BOARD

26 APRIL 2016

Meeting Status: **Public**

Purpose of Report: For Decision

**FILLING OF EXTRAORDINARY VACANCY ON THE ŌTAKI COMMUNITY BOARD**

**PURPOSE OF REPORT**

- 1 Further to the Chief Executive's letter to the Ōtaki Community Board, this report asks the Board to make a decision about how to deal with an extraordinary vacancy on the Board, pursuant to the provisions of the Local Electoral Act 2001.

**DELEGATION**

- 2 The Board has the delegation to consider this matter under the provisions of the Local Electoral Act 2001 (see Appendix 1).

**BACKGROUND**

- 3 On 8 March 2016 Community Board member Colin Pearce passed away. This creates an extraordinary vacancy on the Board. Because the vacancy has occurred less than 12 months before the date of the next triennial election (8 October 2016) a by-election is not required to fill the vacancy. Instead the Board must resolve to either leave the vacancy unfilled, or appoint a suitably qualified person from the community to fill the vacancy until the October 2016 election. Relevant legislative extracts are at Appendix 1.

**ISSUES AND OPTIONS**

Issues

- 4 If the Board wishes to appoint a suitable person from the community that person must be named in a resolution to be passed at this meeting (see recommendations at the end of this report). Following the meeting the resolution and reasons or criteria used for the appointment must be publicly advertised and this could occur in the Kapiti Observer on Thursday 28 April. Within 30 days of the public notification (i.e. by Saturday 28 May 2016) the Board would be required to meet again and by resolution, confirm the appointment of the person, who is then declared as 'elected' to the Board from this date. They would then receive appropriate training for their new role.
- 5 If the Board decides to leave the vacancy unfilled the resolution to this effect must also be publicly advertised pursuant to clause 117(3)(b).

**CONSIDERATIONS**

Policy considerations

- 6 There are no policy considerations.

## Legal considerations

7 There are no additional legal considerations.

## Financial considerations

8 There are no financial considerations.

## Tāngata whenua considerations

9 There are no tāngata whenua considerations.

## **SIGNIFICANCE AND ENGAGEMENT**

### Degree of significance

10 As the handling of this matter is mandated through legislation it is considered to have a low level of significance under the Council policy.

### Engagement planning

11 An engagement plan is not needed to implement this decision.

### Publicity

12 If the Board chooses to make an appointment that resolution must be publicly notified, and the Board must meet again not later than 30 days after the notification to confirm the appointment.

## **RECOMMENDATIONS**

13 That the Ōtaki Community Board notes that an extraordinary vacancy has been created pursuant to clause 5 Schedule 7 of the Local Government Act 2002, through the death of Board member Colin Pearce.

14 That the Ōtaki Community Board resolves that:

(a) The extraordinary vacancy should be left vacant for the remainder of the 2013-2016 Triennium, as per clause 117(3)(b) of the Local Electoral Act 2001;

**OR**

(b) That [name], being a suitably qualified person in the Ōtaki Community, be appointed to the vacancy, pursuant to provision 117(3)(a) of the Local Electoral Act 2001, and that this decision of the Board be publicly notified.

<b>Report prepared by</b>	<b>Approved for submission</b>	<b>Approved for submission</b>
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## **ATTACHMENT**

### **Appendix 1 Extracts from Legislation**

## APPENDIX 1

### EXTRACTS FROM LEGISLATION

#### Local Government Act 2002

##### *Schedule 7, Clause 5 – Extraordinary vacancies*

(1) The office of a member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the member-...]

(a) dies;

#### Local Electoral Act 2001

##### *Clause 117 – Extraordinary vacancy in local authority or local board or community board*

[...]

(2) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a local board or community board 12 months or less than 12 months before the next triennial general election, the chief executive of the local authority concerned must notify the local authority or local board or community board of the vacancy immediately.

(3) On receiving notice under subsection (2), the local authority or local board or community board must, at its next meeting (other than an extraordinary meeting) or, if that is not practicable, at its next subsequent meeting (other than an extraordinary meeting), determine by resolution-

(a) that the vacancy will be filled by the appointment by the local authority or local board or community board of a person named in the resolution who is qualified to be elected as a member; or

(b) that the vacancy is not to be filled.

(4) If for any reason the person specified in the resolution is unavailable, or otherwise unable to be notified of the appointment, a further vacancy occurs in that office.

[...]

##### *Clause 118 – Notice of intention to fill vacancy by appointment*

(1) If, under section 117(3)(a) or section 117A, a local authority or local board or community board resolves that a vacancy will be filled by the appointment of a person by the local authority or local board or community board, it must immediately, unless the vacancy is for the office of mayor, give public notice of-

(a) the resolution; and

(b) the process or criteria by which the person named in the resolution was selected for appointment.

(2) The local authority or local board or community board must, at a meeting held not later than the expiry of the prescribed period, by resolution confirm the appointment described in the resolution under subsection (1); and the person appointed is for all purposes to be treated as having been elected to fill the vacancy on the date on which that resolution is made.

(3) for the purposes of subsection (2), the **expiry of the prescribed period** is 30 days after the date of notification of the resolution under subsection (1).

(4) If for any reason the person specified in the resolution is unavailable or otherwise unable to be confirmed in the appointment, a further vacancy occurs in that office.

*Clause 119 – Notice of intention to leave vacancy unfilled*

If, under section 117(3)(b), a local authority or local board or community board resolves not to fill a vacancy, it must immediately give public notice of its decision.