

Chairperson and Community Board Members
PAEKĀKĀRIKI COMMUNITY BOARD

16 JULY 2013

Meeting Status: **Public**

Purpose of Report: For Decision

EXTRAORDINARY VACANCY ON BOARD

PURPOSE OF REPORT

- 1 This report asks the Board to consider the options under the Local Electoral Act 2001 for filling an extraordinary vacancy following the death of Board member Rosemary Barrington. The Board must decide whether to appoint someone to the vacancy or leave it unfilled until the end of the Triennium.

SIGNIFICANCE OF DECISION

- 2 This report does not trigger the Council's Significance Policy.

BACKGROUND

- 3 Under Section 5(1)(a) Schedule 7 of the Local Government Act (LGA) 2002 an extraordinary vacancy is created if a member dies. The Local Electoral Act (LEA) 2001 is the legislation which provides for options to deal with that vacancy. Relevant extracts from the LGA and the LEA are at Appendix 1.

CONSIDERATIONS

Issues

- 4 Because the vacancy has occurred less than 12 months before a triennial election a byelection does not need to be called.
- 5 However, under LEA section 117(3) the Board must determine by resolution if the vacancy will be filled or not. Filling the vacancy is achieved by the Board appointing someone qualified¹ to it. If the Board decides to leave the vacancy unfilled it must pass a resolution to that effect and publicly advertise its decision.
- 6 If the Board decides to appoint someone to the vacancy there are a number of specific steps to be undertaken:
 - The Board passes a resolution at this meeting, naming the qualified person in its resolution.
 - A public advertisement is placed in local newspapers (24th and 25th of July) stating the Board's decision and the criteria for making the appointment.
 - Within 30 days of the public advertisement the Board must hold an additional meeting (30th July at the earliest) confirming the appointment through another

¹ 'qualified' here means a person would be a New Zealand citizen (over 18 years of age) and enrolled on the Parliamentary roll as an elector. The Board may consider other factors as appropriate.

resolution. At this meeting the appointee could make their declaration of office and proceed to act as a full member of the Board.

- 7 If for any reason the appointee cannot be confirmed in the position then a further vacancy occurs (section 118(4)).
- 8 After the 16 July meeting the Board has only two further scheduled meetings – on 29 August and 1 October. Given the short space of time before the end of the Triennium it is recommended that the Board leave the position vacant.

Financial Considerations

- 9 There are no financial considerations.

Legal Considerations

- 10 There are no additional legal considerations.

Delegation

- 11 The Board is empowered to make this decision under clause 117 of the LER 2001.

Consultation

- 12 The Board's decision will be publicly advertised.

Policy and Tāngata Whenua Considerations

- 13 There are no policy or tāngata whenua considerations.

Publicity Considerations

- 14 There will be public interest in the Board's decision and a media release will be issued.

RECOMMENDATIONS

- 15 That the Paekākāriki Community Board:
 - (a) Approves the filling of the extraordinary vacancy and appoints.....to the position of Board member for the remainder of the 2010-2013 Triennium; OR
 - (b) declines to fill the extraordinary vacancy on the Board.

Report prepared by:

Approved for submission by:

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ATTACHMENTS:

APPENDIX 1 – EXTRACTS FROM LOCAL GOVERNMENT ACT 2002 AND LOCAL ELECTORAL ACT 2001 RELATING TO EXTRAORDINARY VACANCIES.

Appendix 1

Extracts from Local Government Act 2002 and Local Electoral Act 2001 relating to extraordinary vacancies

LOCAL GOVERNMENT ACT 2002

Schedule 7, Part 1

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; or
- (b) becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988; or
- (c) is disqualified from, or is ousted from, office; or
- (d) is absent without leave of the local authority from 4 consecutive [meetings (other than extraordinary meetings)] of the local authority; or
- (e) resigns under clause 4.

(2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies.

LOCAL ELECTORAL ACT 2001

117 Extraordinary vacancy in local authority or community board

(1) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a community board more than 12 months before the next triennial general election, the vacancy must be filled by an election under this Act.

(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 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 community board of the vacancy immediately.

(3) On receiving notice under subsection (2), the local authority 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 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.

118 Notice of intention to fill vacancy by appointment

(1) If, under section 117(3)(a) [...] a local authority or community board resolves that a vacancy will be filled by the appointment of a person by the local authority 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 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

119 Notice of intention to leave vacancy unfilled

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