
REPORT 4
(1215/12/IM & 1225/05/03)

VACANCY: TAWA COMMUNITY BOARD

1. Purpose of Report

To:

- advise the Board of Malcolm Sparrow's resignation as an elected member of the Tawa Community Board
- outline the options available to the Board in either filling or leaving the position vacant
- notify the process that must be followed in notifying the Board's decision.

2. Executive Summary

Malcolm Sparrow, an elected member of the Tawa Community Board, has tendered his resignation from the Board effective from 10 May 2007, thereby creating a vacancy on the Board.

Because the vacancy has occurred less than 12 months before the next triennial election, the Local Electoral Act 2001 requires the Board to make a decision on whether to appoint someone to fill that vacancy or to leave the position vacant.

3. Recommendations

It is recommended that the Board:

1. *Receive the information.*
2. *Agree that, in view of the impending local authority elections in October 2007, the vacancy on the Tawa Community Board not be filled and that the required public notice of this decision be given.*

4. Background

The Chief Executive has received the written resignation of Malcolm Sparrow as an elected member of the Tawa Community Board. His resignation took effect from 10 May 2007, the date on which his resignation was received.

5. Discussion

5.1 *Legislative requirements*

The Local Electoral Act 2001 (clause 117) requires any vacancy that occurs in the office of an elected member of a community board more than 12 months before the next triennial election to be filled by way of an election.

However, because the resignation has occurred less than 12 months before the next local authority elections, the legislation provides the Board with two options insofar as the vacancy is concerned.

The Board is now required at its next ordinary meeting or, if that is not practicable, at its next subsequent ordinary meeting, to determine (by resolution) whether:

- (a) the vacancy is to be filled by the appointment (by the Board) of a person named in the resolution who is qualified to be elected as a member of the Board; or
- (b) the vacancy is not to be filled.

The legislation does not specify who can or should be appointed to the vacancy other than to require that the person appointed to the position must be “qualified to be elected as a member” (i.e. the person must be a parliamentary elector, living anywhere in New Zealand, and must be a New Zealand citizen).

Members will recall that the vacancy created by the resignation of Penny Devine in January 2007 was filled by the appointment of Vicki Beachen on the basis that she had been the highest polling unsuccessful candidate at the by-election held on 9 April 2005 (to fill the vacancy created by the resignation of David Barnard).

The local authority elections are now less than 4 months away with nominations, for all positions, opening on 27 July 2007. Any person appointed to the Board could not (for reasons outlined in clause 5.2 below) take office until at least 12 July 2007. Because of the short timeframes it is recommended that the vacancy not be filled at this time.

5.2 *Notification of appointment*

If the Board decides that the vacancy is to be filled by the appointment of a person qualified to be elected to the position it must immediately give public notice of:

- the resolution; and
- the process or criteria by which the person named in the resolution was selected for appointment.

Having given public notice of its decision the Board must, at a meeting held not later than 30 days after the date of its public notification, confirm by resolution the appointment of the person specified in the resolution. The person appointed to the vacancy is, for all purposes, to be treated as having been elected to fill the vacancy on the date on which that second resolution is made. The term of office of the member appointed to the vacancy will expire at the end of the current triennium.

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 the office.

5.3 *Notification of decision to carry the vacancy*

If the Board decides not to fill the vacancy it is also required to give public notice of its decision.

6. Conclusion

The Local Electoral Act 2001 requires the Board to decide, at its meeting on 14 June 2007, whether it will fill or carry the vacancy created by the resignation of Malcolm Sparrow.

Contact Officer: *Ross Bly, Special Projects and Electoral Officer*

Supporting Information

1) Strategic Fit / Strategic Outcome

This project supports Outcome 7.2.B – More actively engaged: Wellington will operate an open and honest decision making process that generates confidence and trust in the Democratic system

2) LTCCP/Annual Plan reference and long term financial impact

Relates to C534: Elections, Governance and Democratic Process

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications

4) Decision-Making

This is not a significant decision

5) Consultation

a) General Consultation

Not required

b) Consultation with Maori

Not required

6) Legal Implications

Nil

7) Consistency with existing policy

This report is consistent with existing Wellington City Council policy