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**REPORT 5**

(1215/52/IM) (1225/05/04/01/2006)

## **FILLING OF VACANCY ON MAKARA/OHARIU COMMUNITY BOARD**

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### **1. Purpose of Report**

To provide relevant information in relation to filling the vacancy that now exists on the Makara/Ohariu Community Board and, in the event a by-election is required to fill that vacancy, to seek approval:

- to allow the progressive processing of returned voting documents during the one week voting period prior to election day; and
- for the names of the candidates standing for election to be listed on the voting document in random order of surname.

### **2. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that a by-election will be required to fill the vacancy on the Makara/Ohariu Community Board if more than one nomination is received.*
3. *Note that the cost of running the by-election, estimated to be approximately \$12,000, is not budgeted for and that the cost will therefore be met from the Democratic Process budget.*
4. *Recommend that the Council agree that if a by-election is required:*
  - (i) *the returned voting documents be processed during the one week period prior to 12 noon on election day (i.e. Monday 5 June to Saturday 10 June 2006), such early processing to be undertaken by the Electoral Officer in strict accordance with section 79 of the Local Electoral Act 2001, the Local Electoral Regulations 2001 and the Society of Local Government Managers' Code of Best Practice.*
  - (ii) *the names of the candidates for the by-election be listed on the voting document in random order of surname.*

### 3. Background

The Chief Executive has received the written resignation of David Jennings as a member of the Makara/Ohariu Community Board.

Prior to the introduction of the Local Electoral Act 2001 (LEA) community boards had the ability to appoint a person to fill a vacancy. However, the legislation now requires that vacancy, if it occurs more than 12 months before the next triennial election, to be filled by way of a by-election.

Notice of the by-election has therefore been given in accordance with the legislative requirements and nominations for the vacancy close at 12 noon on Friday 21 April 2006. The by-election will be held by postal vote on Saturday 10 June 2006 and, because of the requirement for Council to conduct all its elections under the STV electoral system until at least the 2007 triennial elections, the by-election will be held using the STV system.

If only one nomination is received that person will automatically be appointed to the vacant position and a by-election will therefore not be required.

Although not mandatory, the local electoral legislation allows local authorities to consider and adopt other voting options when conducting elections. These options relate to:

- early processing of voting documents
- order of candidate names on the voting documents.

### 4. Discussion

#### 4.1 Funding for the by-election

There is no provision in the budget to meet the cost of running this by-election; the cost of which is estimated to be \$12,000. Because the Council is required to hold a by-election to fill the vacancy, there is no option other than to incur these costs.

It is therefore proposed to meet the cost from the Democratic Process budget.

#### 4.2 By-election timetable

Assuming a by-election is required (i.e. more than one nomination is received) the following timetable will apply:

Friday 24 March	Nominations open/Electoral Roll opens for inspection
Friday 21 April	Nominations close (at 12 noon)
Friday 21 April	Electoral roll closes (at close of business)
Friday 19 May to Wednesday	Voting documents delivered

24 May	
Friday 19 May to Saturday 10 June	Progressive scrutiny of the Roll Special voting available
Monday 5 June to Saturday 10 June	Progressive processing of votes *
Saturday 10 June	Election day
Wednesday 14 June	Public notification of result
Thursday 15 June	New member sworn into office.

\* Subject to Council approval.

### **4.3 Progressive processing of voting documents**

Section 79 of the LEA permits a local authority to process (but not count) returned voting documents over some, or all, of the three week voting period. To do so, however, requires a specific resolution of the Council.

The ability to progressively process voting documents was first introduced in 1998 and most, if not all local authorities, now avail themselves of this option.

The immediate benefit of adopting early processing is that much, if not all, of the cumbersome and time-consuming task of opening the envelopes and extracting and checking the voting documents can be undertaken over the three week voting period (under strict security and the constant supervision of a Justice of the Peace). This means that less staff have to be employed on the election overall which not only achieves a cost saving but significantly improves the security aspect of the process.

There have been no reported breaches of the procedures by any of the (over sixty) authorities that have used this option during the last three local authority elections.

The procedures that must be followed if early processing is adopted are clearly set out in the legislation and must be strictly adhered to by the Electoral Officer.

The legislation aims to protect the secrecy of voting during the polling period in the following ways:

- (a) Through the appointment of a Justice of the Peace to oversee the processing of voting documents at all times prior to the close of voting.
- (b) The requirement that votes that are either manually or electronically processed are not counted before the close of voting. The total is not accessible to any individual, including the Electoral Officer, before the close of voting.

- (c) The presence of scrutineers during the processing of voting documents prior to the close of voting is not permitted.
- (d) The imposition of substantially higher fines on electoral officials and others who disclose for whom an elector has voted, or give or pretend to give information which may disclose the state of the election.

The Society of Local Government Managers has developed a *Code of Practice* for use by Electoral Officers for those local authorities that choose the early processing option. The purpose of the Code of Practice is to set out practices and procedures which, as far as practicable, will be observed by the Electoral Officers concerned. These provisions have always been, and will continue to be, strictly adhered to by the Electoral Officer.

It is therefore recommended that Council approval be given to allow for the returned voting documents to be processed during the voting period leading up to election day. Because of the small number of papers involved, it is proposed that this early processing only take place during the period 5-10 June 2006 rather than the permitted three week period.

#### **4.4 Counting of the votes**

Because the number of votes to be counted will be relatively small the total counting process will be undertaken in-house and under the total control of the Electoral Officer. The reduced complexity of the task, even under STV, will mean that the count can be done without using the scanning method that was used for the 2004 elections.

#### **4.5 Order of candidates names on voting documents**

Prior to the enactment of the Local Electoral Regulations 2001 (LER) candidates' names had to be listed on the voting document in alphabetical order, by surname.

Clause 31(1) of the LER now allows the Council to decide whether the candidates' names are to be listed in alphabetical order of surname, pseudo-random order or random order. In the absence of any Council resolution in this regard, the candidates' names must be arranged in alphabetical order of surname.

The features of each arrangement are described as follows:

##### **Option 1 Alphabetical order of surname**

This is the order which has been required to be used at previous local authority elections, and is self explanatory.

##### **Option 2 Pseudo-random order**

The candidates' names are drawn out of a hat, with the names being placed on all voting documents in the order in which they are drawn.

If a local authority decides to use pseudo-random order, the Electoral Officer must publicly notify the date, time and place at which the order of the candidates' names will be drawn. Any person is then entitled to attend while the draw is made.

### **Option 3 Random order**

The names of the candidates are shown in a different order on each and every voting document, utilising software which permits the names of the candidates to be laser printed in a different order on each paper.

### **Comparative cost of each option**

The cost of printing the voting documents using either the alphabetical or pseudo random options will be identical. If random order is the preferred option some minimal additional costs will be incurred (i.e. less than \$100).

The Council listed its candidates in alphabetic order for the 2004 elections but resolved to use the random order option for the Tawa Community Board by-election held on 9 April 2005. This decision resulted in some positive feedback from a number of electors and no complaints. The random order caused no problems for electoral staff either and so it is recommended that this option be used again for the Makara/Ohariu Community Board by-election, if one is necessary.

## **5. Conclusion**

If more than one nomination is received the Council will be required to hold a by-election to fill the vacancy that now exists on the Makara/Ohariu Community Board.

In the event a by-election is held the report seeks the Council's approval to enable the Electoral Officer to progressively process completed voting documents during the week prior to election day.

A decision is also required on the order in which the candidates' names are to be listed on the voting document (i.e. alphabetical, random or pseudo-random). If no decision is made in this regard, the candidates' names will be arranged in alphabetical order.

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

## **Supporting Information**

### **1) Strategic Fit / Strategic Outcome**

*This supports the objective 9.2 City decision-making:  
People are encouraged to participate in the decision making of the city.*

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

*Relates to C534: Committee and Council process. No budget has been provided for the by-election and the estimated cost (of approximately \$12,000) will be met from the Democratic Process budget.*

### **3) Treaty of Waitangi considerations**

*There are no Treaty implications.*

### **4) Decision-Making**

*This is not a significant decision. The Local Electoral Act requires a by-election to be held to fill the vacancy.*

### **5) Consultation**

#### **a) General Consultation**

#### **b) Consultation with Maori**

*No consultation is required. The Act sets out the procedures and timeframes that must be adhered to.*

### **6) Legal Implications**

*There are no legal implications.*

### **7) Consistency with existing policy**

*The report is consistent with existing policy and complies with the requirements of the Local Electoral Act 2001.*