

Report 16.287
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File CCAB-8-639

Committee Council
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Extraordinary vacancy

1. Purpose

To outline the options available to the Council in respect of the extraordinary vacancy arising from the recent death of Gary McPhee, councillor for the Wairarapa Constituency of the Wellington Regional Council.

2. Background

On 14 June 2016 Councillor Gary McPhee died. Gary McPhee's death creates an extraordinary vacancy on the Council.

The vacancy has occurred less than 12 months before the date of the next triennial election (8 October 2016). Accordingly, the Local Electoral Act 2001 (the Act) provides that the Council has the option 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 attached as **Attachment 1** to this report.

3. Comment

3.1 Vacancy left unfilled

If the Council decides to leave the extraordinary vacancy unfilled it must immediately give public notice of its decision.

It should be noted that Schedule 7 of the Local Government Act 2002 provides that an act or proceeding of the Council or of a committee is not invalidated by a vacancy in the membership of the Council at the time of that act or proceeding.

3.2 Vacancy filled by appointment

If the Council determines that the vacancy is to be filled by appointment, the Council must give public notice of its resolution and the process or criteria by which the person named in the resolution was selected for appointment.

Please note that as set out in section 117(4) of the Act 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.

3.2.1 Qualified to be an elected member

The Council is only entitled to appoint a person who is qualified to be an elected member. Section 25 of the Local Electoral Act 2001 provides that:

“every parliamentary elector is qualified to be a candidate at every election held under this Act, if that person is a New Zealand citizen unless they are prohibited in terms of section 58 of the Act”

Section 58 prohibits a person from being both a regional councillor and a councillor or community board member for another council within the region covered by Wellington Regional Council.

This means that the Council can appoint any New Zealand citizen who is a parliamentary elector, unless they are already a district/city councillor or community board member of a territorial authority in the Wellington Region.

3.2.2 Public notification of resolution and confirmation of candidate

Following this meeting, the resolution and reasons for the appointment must be publicly notified (this could occur in the Dominion Post and Wairarapa Times Age on Saturday 2 July 2016). No later than 30 days after the date of the public notification (i.e. by Monday 1 August) the Council would be required to meet and by resolution, confirm the appointment of the person, who is then declared as ‘elected’ to the Council from this date.

The new member would then receive appropriate training for their role.

4. Communication

The Council’s decision will be publicly notified.

5. The decision-making process and significance

The matter requiring decision in this report has been considered by officers against the requirements of Part 6 of the Local Government Act 2002.

5.1 Significance of the decision

Officers have considered the significance of the matter, taking into account the Council's significance and engagement policy and decision-making guidelines. Due to the procedural nature of this decision officers recommend that the matter be considered to have low significance.

Officers do not consider that a formal record outlining consideration of the decision-making process is required in this instance.

5.2 Engagement

Due to its procedural nature and low significance, no engagement on this matter is necessary.

6. Recommendations

That the Council:

1. **Receives** the report.
2. **Notes** the content of the report.
3. **Notes** that an extraordinary vacancy has been created through the death of Cr Gary McPhee.
4. **Resolves** that:

Either:

*The extraordinary vacancy should be left **unfilled** for the remainder of the 2013-2016 triennium.*

Or:

*That the vacancy be **filled** by the appointment of, and*

The process and criteria by whichwas selected for appointment are that

5. **Notes** that the decision of the Council will be publicly notified in accordance with the requirements of the Local Electoral Act 2001.

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Attachment 1: Legislative extracts