



Waitakere City Council

FIRST MEETING OF THE 2007-2010 COUNCIL

**Wednesday, 31 October 2007
Meeting commences 7.00 pm**

**AGENDA FOR THE FIRST MEETING OF THE 2007-2010 COUNCIL TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON WEDNESDAY, 31 OCTOBER 2007
COMMENCING AT 7.00 PM**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
<u>PART A - STATUTORY ISSUES</u>		1
1	OPENING	1
2	APOLOGIES	1
3	DECLARATION BY HIS WORSHIP THE MAYOR	1
4	INVESTITURE OF HIS WORSHIP THE MAYOR	1
5	DECLARATION BY COUNCILLORS	2
6	ELECTION OF DEPUTY MAYOR	2
7	STATUTORY BRIEFING	4
8	LOCAL GOVERNANCE STATEMENT	11
9	ADOPTION OF STANDING ORDERS	11
10	ADOPTION OF ORDER OF BUSINESS	12
<u>PART B - APPOINTMENTS, DELEGATIONS AND ESTABLISHMENT</u>		12
11	ESTABLISHMENT OF COMMITTEES, THEIR FIELDS OF ACTIVITIES AND DELEGATIONS THERETO	12
12	APPOINTMENTS TO COMMITTEES AND APPOINTMENTS OF CHAIRPERSONS AND DEPUTY CHAIRPERSONS THEREOF	13
13	ADOPTION OF THE MEETING SCHEDULE	15
14	APPOINTMENT OF WARD COUNCILLORS TO COMMUNITY BOARDS	15
15	ADOPTION OF POLICY FOR APPOINTMENT OF COMMISSIONERS	16
16	APPOINTMENT OF COUNCILLORS TO EXTERNAL AND OTHER ORGANISATIONS	16
<u>PART C - OTHER BUSINESS</u>		20
17	ELECTED MEMBERS REMUNERATION AND TRAVEL ALLOWANCES	20
18	LOCAL GOVERNMENT NEW ZEALAND NOMINATIONS	20

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WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, WEDNESDAY, 31 OCTOBER 2007
COMMENCING AT 7.00 PM**

In accordance with Clause 21(4) of Schedule 7 of the Local Government Act 2002, the meeting shall be chaired by the Chief Executive Officer until the Mayor has made and attested the Statutory Declaration required under Clause 14 of Schedule 7 of that Act.

PART A - STATUTORY ISSUES

1 OPENING

The Chief Executive Officer will open the meeting and the Council will be welcomed.



2 APOLOGIES



3 DECLARATION BY HIS WORSHIP THE MAYOR

In accordance with the provisions under Clause 14 of Schedule 7 of the Local Government Act 2002, His Worship the Mayor will make and sign before the Chief Executive Officer the Declaration in the form prescribed, which reads as follows:

“I, Robert Anster Harvey, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the City of Waitakere, the powers, authorities, and duties vested in, or imposed upon, me as Mayor of the Waitakere City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.”



4 INVESTITURE OF HIS WORSHIP THE MAYOR

His Worship the Mayor having completed the above Declaration will be formally invested as Mayor.



5 DECLARATION BY COUNCILLORS

In accordance with the provisions under Clause 14 of Schedule 7 of the Local Government Act 2002, Councillors will be required to come before His Worship the Mayor to make and sign the Declaration in the form prescribed, which reads as follows:

“I,, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the City of Waitakere, the powers, authorities, and duties vested in, or imposed upon, me as a member of the Waitakere City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, and any other act.”

Declarations will be made in alphabetical order as follows:

Councillors	Derek Quentin	Battersby, JP
	Brenda Ann	Brady
	Man-Fai Peter	Chan, JP
	Janet Mary	Clews, QSO, JP
	Ross Ian	Clow
	Linda Ann	Cooper, JP
	Assid Khaleel	Corban, OBE, JP
	Ross Philip	Dallow, QPM, JP
	Warren William	Flaunty, QSM, JP
	Penelope Anne	Hulse
	Michael Marshall	Jolley
	Judy Patricia	Lawley, JP
	Paul Gordon	Mitchell
	Vanessa Shay	Neeson, JP



6 ELECTION OF DEPUTY MAYOR

Clause 17 of Schedule 7 of the Local Government Act 2002 requires the election of the Deputy Mayor to be conducted, in accordance with Clause 17 of Schedule 7, at the first meeting of the Council following the Triennial General Election of Members.

Clause 17 of Schedule 7 of the Local Government Act 2002 relating to the election of Deputy Mayor reads as follows:

- *“A territorial authority must elect 1 of its members to be its deputy mayor in accordance with clause 25.*
- *The deputy mayor or deputy chairperson must perform all the responsibilities and duties, and may exercise all the powers, of the mayor or chairperson,—*
 - (a) with the consent of the mayor or chairperson, at any time during the temporary absence of the mayor or chairperson:*
 - (b) without that consent, at any time while the mayor or chairperson is prevented by illness or other cause from performing the responsibilities and duties, or exercising the powers, of his or her office:*

- (c) *while there is a vacancy in the office of the mayor or chairperson.*
- *in the absence of proof to the contrary, a deputy mayor or deputy chairperson acting as mayor or chairperson is presumed to have the authority to do so.*
 - *a deputy mayor or deputy chairperson continues to hold his or her office as deputy mayor or deputy chairperson, so long as he or she continues to be a member of the territorial authority or regional council, until the election of his or her successor."*

The election must be done by open voting as required by Clause 24 of schedule 7 of the Local Government Act 2002 Amendment Act 2004.

Clause 25 of Schedule 7 of this Amendment Act 2004 requires that the Council must determine by resolution that a person be elected or appointed by using one of the following systems of voting:

- "(a) *the voting system in sub clause (3) (system A)*
(b) *the voting system in sub clause (4) (system B)"*

described as follows:

- "(3) *System A –*
- (a) *requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and*
 - (b) *has the following characteristics:*
 - (i) *there is a first round of voting for all candidates;*
and
 - (ii) *if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and*
 - (iii) *if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, at each time, the candidate with the fewest votes in the previous round is excluded; and*
 - (iv) *in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot".*
- "(4) *System B –*
- (a) *requires that a person is elected or appointed if he or she receives more votes than any other candidate; and*
 - (b) *has the following characteristics:*
 - (i) *there is only 1 round of voting; and*
 - (ii) *if 2 or more candidates tie for the most votes, the tie is resolved by lot."*

His Worship the Mayor will call for nominations for the position of Deputy Mayor. In the event that more than one nomination is received the Council will be asked to determine the basis of voting (i.e. as provided by either System A in Sub Clause (3) or System B in Sub Clause (4) above) and preferred method of lot:

Preferred Method (one of):

- Dice - Highest score determines successful candidate;
- Cards - Ace of Hearts, Ace of Diamonds, Ace of Clubs, Ace of Spades;
- Ace of Hearts determines successful candidate;
- Coin - Call heads or tails. Heads determines the successful candidate.

The Council will then be requested to elect a Councillor to be Deputy Mayor.



7 **STATUTORY BRIEFING**

PURPOSE OF THE REPORT

The purpose of this report is to provide Councillors with the statutory briefing required by Clause 21(5)(c) of Schedule 7 of the Local Government Act 2002.

BACKGROUND

At the first meeting of a local authority following the triennial general election the Chief Executive Officer of the local authority is required to give, or arrange to be given, to Members a general explanation of:

- the Local Government Official Information and Meetings Act 1987;
- the appropriate provisions of the Local Authorities (Members' Interests) Act 1968;
- sections 99, 105, and 105A of the Crimes Act 1961;
- the Secret Commissions Act 1910;
- the Securities Act 1978; and
- any other laws affecting Members.

Compliance with that requirement will be achieved by the inclusion of this item on the agenda for this meeting, the circulation to Members of a handbook containing materials relating to this issue and attendance by Members at a workshop held before the date of this meeting and arranged by the Chief Executive Officer for, among other things, discussion of this agenda item and related issues.

LOCAL GOVERNMENT OFFICIAL INFORMATION & MEETINGS ACT 1987 (LGOIMA)

As the title to the Act makes clear this statute is concerned with the availability of official information to the public and the conduct of meetings of the local authority.

Information held by a local authority includes information held by its Members and extends to include written information, electronic information and knowledge known to Members. If a request for information is received it must be made available on request unless good reasons exist for withholding disclosure of the information. Sections 6 and 7 of the Act set out the grounds for withholding disclosure of information which include:

- The maintenance of law and order, the protection of people's safety and the prevention of crime;
- The protection of individual privacy, information given in confidence, the avoidance of prejudice or loss to members of the public and maintaining the effective conduct of public affairs through free and frank expressions of opinion;

- Maintaining legal professional privilege;
- The protection of sensitive commercial information or the Council's ability to carry out negotiations.

Where a request for disclosure of information is made, there are statutory time limits within which the request must be dealt with. If disclosure is refused, that decision can be reviewed by the Ombudsman.

The grounds for excluding the public from a meeting under Section 48 of the Act also turn on the provisions of Section 7. Where the public is excluded, the resolution must state the general nature of the matter being discussed, the reasons for excluding the public and identify those persons who may remain at the meeting (other than Members or Council officers) and state the nature of the knowledge which they possess which may be of assistance in relation to the matter under discussion

Where a matter is the subject of a resolution excluding the public, or information is otherwise protected from disclosure under the Act, Members are obliged to respect the decision to withhold that information from disclosure. It may be a breach of the Member's duties to the Council, and to any person with whom the Council may have been dealing, to make an unauthorised disclosure. In the case of a Councillor, and a Community Board Member who is a member of a community board which has agreed to adopt a code of conduct, unauthorised disclosure of information may also amount to a breach of the code of conduct.

Sections 52 and 53 of the Act set out the circumstances of qualified privilege that attach to statements contained in an agenda or minutes of an open meeting of the Council or made in an oral statement of a local authority meeting. Anything that might be defamatory is protected unless the nature of the statement was predominately motivated by ill will or took improper advantage of the occasion of publication. Oral statements made at a Council meeting will only be protected if made in accordance with Council's Standing Orders (meeting rules).

THE LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968 - PECUNIARY INTERESTS AND OTHER CONFLICTS OF INTEREST

This Act is concerned with the pecuniary interests of Members arising out of contracts entered into between the Council and a Member, (Section 3) or in respect of matters for discussion before the Council in respect of which a Member may have a direct or indirect pecuniary interest and which is not an interest which the Member holds in common with members of the public (Section 6). Interests held by a Member are extended by deeming provisions to include interests held by the Member's spouse or partner (the reference to "or partner" being added to the statute with effect from 13 October 2007) and any company or trust in which the Member has an interest.

Payments to a Member under contracts may not exceed \$25,000 including GST in any financial year. A breach of this requirement results in automatic loss of office and a member who continues to act as a Member while disqualified can be liable on conviction to a fine not exceeding \$200 (ss.4 & 5).

A Member taking part in a discussion, including the decision making process related to that matter, in respect of which the Councillor has a direct or indirect pecuniary interest commits an offence and is liable on conviction to a fine not exceeding \$100 and is automatically disqualified from office on the entry of that conviction (Section 7).

When a pecuniary interest arises it is not sufficient for a Member merely to declare his or her interest. The Member must not participate in the discussion. If the Member is present when the matter arises, the interest must be disclosed and the minutes should record that the Member took no further part in the discussion and voting, for the protection of both the Councillor's and the Council's position.

The Auditor-General has the power under the Act, on limited grounds, to grant an exemption from the requirements of Sections 3 or 6. An application must usually be made and granted before the Member participates in any discussion or voting on a matter.

Having declared an interest the Member should withdraw. Best practice is for the Member to leave his or her seat and to take a seat in the public gallery. The Member may leave the Council Chamber or meeting room, and if this occurs that action should be recorded in the minutes, but leaving the Council Chamber or meeting room may affect the quorum of the meeting. A Member is counted in the quorum while he or she is present, notwithstanding that he or she may not be entitled to vote (Clause 23(1) Schedule 7 of the Local Government Act 2002).

Once the Member has withdrawn, his or her speaking rights are the same as any other Member of the public. In any case where speaking rights are requested by a Member who has declared an interest and withdrawn, and are granted (which will be rare), care must be taken not to exercise influence on decision-making because of the Member's position. If the matter under discussion occurs at the meeting from which the public has been excluded, it also follows that the Member must leave the Council Chamber or meeting room.

The rules relating to pecuniary interests are complex and difficult to apply in practice. Members have been provided with a copy of the current version of the booklet "*Guidance for members of local authorities about the laws on conflicts of interest*" published by the Auditor-General which is an excellent reference material for Members to fully inform themselves as to the issues which arise in relation to not only pecuniary interests but also conflicts of interest generally. The booklet explains the exemption powers of the Auditor-General, the process for seeking an exemption, and also sets out some frequently asked questions and relevant case law.

That booklet also discusses the broader issue of conflict of interest where no pecuniary interest exists. A common example is the circumstances where one of the Members has a personal relationship with a third party who has an interest in the matter before the Council and that interest gives rise to a perception that the Member might in some way be biased in his or her decision making on that matter. Another common example is where the Member has commented on an issue in a way which gives rise to a perception that the member already has a fixed view.

The common law deals with these issues as part of the rules of natural justice. Those rules require that decision makers, whether acting in an administrative or quasi-judicial or judicial context, should independently and impartially exercise decision making powers free from any complications of matters which might be perceived to have an effect on their judgment. The matter is to be judged from the perspective of the public perception of the lack of independence and impartiality rather than the actual position. The fact that somebody may bend over backwards to appear impartial, and to vote against their personal interests, may be morally correct but it will not be legally correct.

As noted above the law relating to pecuniary interests is complex and difficult to apply in practice. That statement is even more true in relation to other, non pecuniary, conflicts of interest. Members have been provided with a copy of another publication by the Auditor-General "*Managing conflicts of interest: Guidance for public entities*" which contains more useful information and examples in relation to this matter. There has also been considerable discussion of these issues at the workshop referred to above.

THE CRIMES ACT 1961

Members of a local authority fall within the definition of an "official" under Section 99 of the Crimes Act 1961. Section 105 of the Act provides that every official is liable to imprisonment for a term not exceeding seven years to, whether within New Zealand or elsewhere, corruptly accepts or obtains or agrees or offers to accept, or attempts to obtain, any bribe for himself, herself or any other person in respect of any act done or omitted, or to be done or omitted, by him or her in an official capacity.

Putting this simply, it is an offence under the Act to seek or to obtain a reward for performing one's official duties as a Member of a local authority.

Section 105A then goes on to make it an offence, again carrying a term of imprisonment of up to seven years, for an official to use any information acquired by him or her in an official capacity to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself, or any other person.

A simple example of an offence under this section would be the circumstances where a Member, knowing that Council was contemplating a decision to rezone land in a particular locality, takes steps to invest in the purchase of that land before the proposal has been publicly notified.

THE SECRET COMMISSIONS ACT 1910

This Act applies where a Member uses his or her position in return for some gift or other consideration to influence the Council's actions or decisions so as to benefit any person. The Act applies to any Member or officer of any local authority and deems that person to be the agent of the local authority.

Section 3 of the Act makes it an offence to corruptly give or offer anything to the agent as an inducement or reward for acting in a particular way. It is also an offence for the agent to accept a gift or other consideration (Section 4).

Section 5 requires an agent making a contract on behalf of a principal to disclose to the principal any pecuniary interest which the agent has and which is not already known to the principal. Section 8 makes it an offence to obtain a secret commission for procuring the award of a contract.

The penalties for breach of the provisions of the Secret Commissions Act 1910 can be fine up to \$1,000 and imprisonment for two years. A conviction for an offence under the Secret Commissions Act 1910 would result in disqualification from office under Clause 1 of Schedule 7 of the Local Government Act 2002.

SECURITIES ACT 1978

Clause 21 of Schedule 7 of the Local Government Act 2002 refers to this Act but the circumstances where the provisions of the Act may be relevant to Members of Waitakere City Council are not particularly common. The Act deals with issues surrounding the accuracy of statements made in formal documentation accompanying an issue of share securities or debt securities to the public.

The circumstances where a local authority is involved in a public share issue are rare.

In recent years it has not been common for a local authority to issue debt securities to the public but there is presently a Bill before Parliament to amend the Act so that it will be less onerous for local authorities to do so and recourse to the market for loan raising may therefore become increasingly more common in the future.

In circumstances where a public issue of share or debt securities is made a prospectus and an investment statement complying with the requirements of the Act, and any relevant regulations, must be prepared. The Act makes provision for civil liability and criminal offences where a member of the public relies on untrue statements made in any advertisement, a registered prospectus or investment statement. In addition there are general offences where there is a failure to otherwise comply with the requirements of the Act in respect of the public issue of shares or debt securities.

Since the Act deems Members of a local authority to be 'directors' for its purposes, Members are, therefore, potentially personally liable to investors if an advertisement, a registered prospectus or investment statement contains an untrue statement. Members may also be liable for conviction of criminal offences if statutory requirements are not met. Where the information published is wrong or misleading a civil claim may also lie. If an offence is committed the penalties are severe (up to five years imprisonment and a fine up to \$300,000 and if the offence is a continuing offence, a fine not exceeding \$10,000 for every day). Again, conviction of an offence of this magnitude will result in disqualification from office.

If the Council is involved in a public issue of shares in a company in which the Council is a shareholder then there is the potential for Members to fall foul of the prohibitions against tipping and insider trading contained in the Securities Markets Act 1988, through passing on sensitive information which is not otherwise available to members of the public or other shareholders. If the rules are broken the insider trader or tipster can be liable for financial penalties.

PROTECTED DISCLOSURES ACT 2000

This Act is perhaps better known as the 'whistleblowers' Act. It is the legislation which protects a whistleblower from name disclosure, and from civil and criminal proceedings, when making a disclosure of information alleging serious wrongdoing in any organisation, including a public sector organisation such as a local authority.

To obtain the benefit of the protection provided by the Act in relation to information disclosed each of the matters below must be satisfied. These requirements are cumulative, if any one of these requirements is not satisfied then the Act will not apply:

- the information must relate to 'serious wrongdoing' in or about the organisation. The phrase 'serious wrongdoing' is extensively defined in the Act and is primarily concerned with unlawful, corrupt or unsafe practices and matters which are either an offence under a statute or grossly negligent. An informant seeking the protection of the act must be careful to ensure that the information relates to something which falls within this definition;
- the informant must believe on reasonable grounds that the information is true or likely to be true;
- the disclosure must be made for the purpose of enabling investigation of the alleged serious wrongdoing. If the informant wishes to make an allegation of serious wrongdoing but does not wish that allegation to be investigated then the protection of the Act will not be available;
- the informant, at the time of making the disclosure, makes it clear that he or she wishes the disclosure to be protected.

The Act requires the Council to adopt internal procedures for receiving and dealing with information about serious wrongdoing. The Council's internal procedures can be found on the Intranet at [HR/personnel policies/use of information/Protected Disclosures](#). The internal procedure must be followed, or the disclosure must be made to the "head of the organisation" if the informant wishes to claim the protection of the Act.

A protected disclosure can also be made to:

- an 'appropriate authority', which includes the Commissioner of Police or an Ombudsman, if the person making the disclosure believes on reasonable grounds that the "head of the organisation" may be involved in the wrongdoing or that action is justified by reason of urgency;
- a Minister of the Crown or an Ombudsman, if the disclosure has already been made to the organisation in accordance with the internal procedures but no progress has been made in relation to investigation of the matter and the informant still believes on reasonable grounds that the information disclosed is true or likely to be true.

At the date of the preparation of this report a Member making a disclosure of information relating to serious wrongdoing is not entitled to the benefit of the Act since a Member is not an 'employee' of the Council. However, the Protected Disclosures Amendment Bill is presently before Parliament. This Bill will amend the definition of 'employee' to include 'a person who is a member of the board or governing body of the organisation'. This language appears to be broad enough to ensure that Councillors would fall within the definition of 'employee' but there is doubt whether the language would extend far enough to include the member of the community board. There is also concern over use of the phrase 'head of the organisation' for a member of staff that is clearly the Chief Executive Officer but the position is not so clear for a councillor where it might refer to the Mayor.

The Council will be making a submission to the Bill seeking further clarification of these points.

LIABILITY OF COUNCILLORS

Section 43 of the Local Government Act 2002 provides that "*a member of a local authority (or a committee, community board, or other subordinate decision-making body of that local authority)*" is not personally liable for the debts or liabilities incurred by the Council except as set out in Sections 46 and 47. However, any Member (or officer) who incorrectly represents that he or she has Council authority to enter into a commitment on Council's behalf may face a claim for breach of warranty of authority if the Council does not subsequently ratify the unauthorised Act. The claim for breach of warranty of authority will be for the losses suffered by the other party as a consequence of that party's inability to enforce its contractual obligations against the Council.

Sections 46 and 47 of the Local Government Act 2002 are commonly referred to as the 'surcharge' provisions. In the circumstances set out in those sections, Councillors will personally liable for losses incurred where:

- money is unlawfully expended;
- an asset is unlawfully sold;
- a liability is unlawfully incurred; or
- there is a failure to enforce the collection of money lawfully owing to the Council.

Defences are available where the Councillor has relied upon professional expert advice or a senior employee of the local authority or where the actions which have caused the loss occur:

- without the Councillor's knowledge;
- with the Councillor's knowledge but against the councillor's protests;
- contrary to the manner in which the Councillor voted when the matter came before the local authority.

The liability of Councillors who are the subject of a surcharge is joint and several. A Councillor who is required to make full payment of the surcharge is entitled to contribution from the other liable Councillors, to the extent (if any) of the financial ability of the others to make that contribution.

A Councillor who is concerned that a decision of the Council may give rise to the potential for a surcharge and who has voted against the matter should ensure that his or her vote is recorded in the minutes of the meeting in relation to that matter.

GENERAL DUTIES

The Council's powers and obligations are contained in a large number of statutes, but principally the Local Government Act 2002 and the remnants of the Local Government Act 1974. These Acts set out the purposes and structure of local government and the range of activities which local authorities are authorised to undertake.

A decision of a local authority may be struck down if it is outside the powers of a local authority (*ultra vires*), if relevant considerations were ignored or irrelevant considerations were taken into account or the decision reached was 'irrational', in the public law sense of that word (i.e. that no other public body properly informed and acting properly could have reached that decision).

A Council delegates most of its decision-making to Committees, Community Boards, the Chief Executive Officer and, through the Chief Executive Officer, to other employees. Individual Councillors or Community Board Members do not have the power to make decisions or otherwise bind the Council. Your oath of office requires that you place the interests of the community ahead of your personal interests, beliefs, opinions and party politics. You may not blindly follow one point of view and disregard other factors.

Members are expected to hold views on issues and may express those views in appropriate circumstances. However, the oath of office may mean that on occasion your obligation to the community will require you to exercise circumspection, or at times to keep your views to yourself. In particular, you should be careful always to ensure that you take a position on a matter which may not later be used to show bias or predetermination on your part. You must always retain an open mind and be prepared to consider other points of view.

RECOMMENDATION

That the Statutory Briefing report be received.

Report prepared by: Denis Sheard, Manager: Legal Services.



8 LOCAL GOVERNANCE STATEMENT

Section 40 of the Local Government Act 2002 provides as follows:

- “(1) A local authority must prepare and make publicly available following the triennial general election of members, a local governance statement.*
- (2) A local Authority must comply with subsection (1) within 6 months after each triennial general election of members of the local authority.*
- (3) A local authority must update is governance statement as it considers appropriate.”*

A1-A38

At its meeting held on 24 September 2003, Council adopted the First Local Governance Statement, requiring the Chief Executive Officer to update the information contained in the Local Governance Statement on an ongoing basis. Updates were approved on 28 October 2004, 26 April 2006 and 1 August 2006. A Further update has been completed and this updated version is attached at pages A1 to A38. This document also meets the requirements on Council under Section 19 of the Local Government Official Information and Meetings Act 1987.

RECOMMENDATION

That the Council approve the current updated Local Governance Statement and note that this document will be updated as information comes to hand.



9 ADOPTION OF STANDING ORDERS

A39-A102

Clause 27 of Schedule 7 of the Local Government Act 2002 requires that the Council adopts a set of Standing Orders for the conduct of its meetings and those of its committees. The Standing Orders updated to incorporate the amendments required by changes to the Local Government Act 2002 and its Amendment Act 2004, were adopted by Council at its meeting held on 28 October 2004 and is attached at pages A39 to A102 Clause 16 of Schedule 7 requires that Members abide by the Standing Orders.

The Standing Orders which have been circulated to Members have been further revised to accommodate changes to the Local Government Official Information and Meetings Amendment Act 2004.

RECOMMENDATION

A39-A102

That the Standing Orders for the conduct of the Council Meetings and those of its Committees, as attached at pages A39 to A102, be adopted.



10 ADOPTION OF ORDER OF BUSINESS

Standing Orders require that the Council determines an order of business for its meetings (Standing Order 25.1).

RECOMMENDATION

That the Council confirm the Order of Business for its full Council meetings as follows:

5.00 pm - 5.30 pm Informal Public Forum
5.30 pm Formal meeting commences:

ORDER OF BUSINESS

Opening Prayer
Apologies
Confirmation of Minutes
Urgent Business
Conflict of Interest
Deputations/Petitions
Report of the Mayor
Reports from the Community Boards, Te Taumata Runanga and
the Youth Council
Report of the Chief Executive Officer
Reports from the Standing Committees
Presentations
Questions
Notices of Motion
Closing Prayer



PART B - APPOINTMENTS, DELEGATIONS AND ESTABLISHMENT

11 ESTABLISHMENT OF COMMITTEES, THEIR FIELDS OF ACTIVITIES AND DELEGATIONS THERETO

Pursuant to Section Clause 30 of Schedule 7 of the Local Government Act 2002, the Council may appoint such committees, as it considers appropriate for the efficient conduct of its business.

The Council has also in the past delegated matters of a local nature to Community Boards for determination.

A103-A140

A document "*Delegation to Committees and Community Boards Register*" incorporating suggested committees and draft Fields of Activity and delegations for each has been developed in consultation with the Mayor and a copy of this document is attached at pages A103 to A140.

RECOMMENDATION

That the Committees be established and the Delegations to Committees and Community Boards be adopted as specified in the document "*Committees and Community Boards Delegation Register*".



12 APPOINTMENTS TO COMMITTEES AND APPOINTMENTS OF CHAIRPERSONS AND DEPUTY CHAIRPERSONS THEREOF

Provision is made here for the Council to appoint the Members of the Committees which the Council has established in Item 13, and Chairpersons and Deputy Chairpersons thereof.

The Council may by resolution appoint the Mayor and the Deputy Mayor as ex officio Members of all Committees of Council.

RECOMMENDATIONS

1. That the Council determines the Membership of the Committees as established.
2. That the Council determines the membership of Committees and appoints the Chairpersons and Deputy Chairpersons as follows:

Policy and Strategy Committee	Infrastructure and Works Committee
Chairman: PA Hulse	Chairman: DQ Battersby, JP
Deputy Chairman: L A Cooper, JP	Deputy Chairman: RP Dallow, QPM, JP
DQ Battersby, JP	BA Brady
BA Brady	JM Clews, QSO, JP
MFP Chan, JP	RI Clow
JM Clews, QSO, JP	LA Cooper, JP
RI Clow	AK Corban, OBE, JP
AK Corban, OBE, JP	MM Jolley
RP Dallow, QPM, JP	PG Mitchell
WW Flaunty, QSM, JP	Mayor RA Harvey, QSO, JP (ex officio)
MM Jolley	Deputy Mayor (ex officio)
JP Lawley, JP	
PG Mitchell	
VS Neeson, JP	
Mayor RA Harvey, QSO, JP (ex officio)	

Culture and Community Committee	Planning and Regulatory Committee
Chairman: JP Lawley, JP	Chairman: VS Neeson, JP
Deputy Chairman: AK Corban, OBE, JP	Deputy Chairman: WW Flaunty, QSM, JP
DQ Battersby, JP	DQ Battersby, JP
BA Brady	MFP Chan, JP
MFP Chan, JP	LA Cooper, JP
JM Clews, QSO, JP	AK Corban, OBE, JP
RI Clow	MM Jolley
LA Cooper, JP	JP Lawley, JP
RP Dallow, QPM, JP	PG Mitchell
WW Flaunty, QSM, JP	Mayor RA Harvey, QSO, JP (ex officio)
PA Hulse	Deputy Mayor (ex officio)
MM Jolley	
PG Mitchell	
VS Neeson, JP	
Mayor RA Harvey, QSO, JP (ex officio)	

Finance and Operational Performance Committee	Emergency Services Committee
Chairman: RI Clow	Chairman: DQ Battersby, JP
Deputy Chairman: JM Clews, QSO, JP	Deputy Chairman: RP Dallow, QPM, JP
DQ Battersby, JP	WW Flaunty, QSM, JP
BA Brady	PG Mitchell
MFP Chan, JP	Mayor RA Harvey, QSO, JP (ex officio)
LA Cooper, JP	Deputy Mayor (ex officio)
AK Corban, OBE, JP	
RP Dallow, QPM, JP	
WW Flaunty, QSM, JP	
PA Hulse	
MM Jolley	
JP Lawley, JP	
PG Mitchell	
VS Neeson, JP	
Mayor RA Harvey, QSO, JP (ex officio)	

Long Term Council Community Plan Committee	Performance Review Committee
Chairman: J M Clews, QSO, JP	Chairman: JM Clews, QSO, JP
Deputy Chairman: RI Clow	Deputy Chairman: RA Harvey, QSO, JP
DQ Battersby, JP	DQ Battersby, JP
BA Brady	RI Clow
MFP Chan, JP	LA Cooper, JP
LA Cooper, JP	PA Hulse
AK Corban, OBE, JP	JP Lawley, JP
RP Dallow, QPM, JP	VS Neeson, JP
WW Flaunty, QSM, JP	
PA Hulse	
MM Jolley	
JP Lawley, JP	
PG Mitchell	
VS Neeson, JP	
Mayor RA Harvey, QSO, JP (ex officio)	

Tenders Subcommittee	Te Taumata Runanga
Chairman: RI Clow	LA Cooper, JP
Deputy Chairman: J M Clews, QSO, JP	RI Clow
WW Flaunty, QSM, JP	Mayor RA Harvey, QSO, JP (ex officio)
Mayor RA Harvey, QSO, JP (ex officio)	Deputy Mayor (ex officio)
Deputy Mayor (ex officio)	

NorSGA Urban Development Committee	Town Centres Subcommittee
Chairman: LA Cooper, JP	Chairman: DQ Battersby, JP
Deputy Chairman: P A Hulse	Deputy Chairman: RP Dallow, QPM, JP
DQ Battersby, JP	BA Brady
MFP Chan, JP	JM Clews, QSO, JP
RP Dallow, QPM, JP	RI Clow
WW Flaunty, QSM, JP	LA Cooper, JP
VS Neeson, JP	AK Corban, OBE, JP
Mayor RA Harvey, QSO, JP (ex officio)	MM Jolley
	PG Mitchell
	Mayor RA Harvey, QSO, JP (ex officio)
	Deputy Mayor (ex officio)

Kay Road Balefill Site Management Subcommittee	Creative Communities Scheme Allocation Subcommittee
PA Hulse	Chairman: AK Corban, OBE, JP
PG Mitchell	Alternate (Deputy Chairman): BA Brady

Community Sport Fund Allocation Subcommittee
Chairman: AK Corban, OBE, JP
Alternate (Deputy Chairman): BA Brady

3. The appointment of Mihi Te Huia to the Strategy and Policy Committee as a representative of the Te Taumata Runanga be confirmed and the consideration of appointments of representations of Te Taumata Runanga Members to Council Committees be carried out in conjunction with the consideration of the review of Te Taumata Runanga.



13 ADOPTION OF THE MEETING SCHEDULE

Clause 21(5)(d) of Schedule 7 of the Local Government Act 2002 provides that the Council at this meeting adopt a schedule of meetings.

A141-A182 A schedule of meetings for the balance of 2007 and for the years 2008, 2009 and 2010 are attached at pages A141 to A182 for the Council's approval.

RECOMMENDATIONS

- A141-A182*
1. That the schedule of meetings of the Waitakere City Council for the remainder of 2007 and for the years 2008, 2009 and 2010 until October as attached at pages A141 to A182 be adopted.
 2. That the Chairpersons of the Community Boards and Te Taumata Runanga or their designated alternatives be required to attend all meetings of the Long Term Council Community Plan and Annual Plan Committee held to consider, progress and approve the Long Term Council Community Plans and Annual Plans and further that they be accorded speaking rights at those meetings.



14 APPOINTMENT OF WARD COUNCILLORS TO COMMUNITY BOARDS

Pursuant to Section 50 of the Local Government Act 2002, every Community Board is to consist of not fewer than four Members nor more than 12 members, and is to include at least 4 elected members. The Council may appoint members provided that the number of appointed members does not exceed half the total number of members.

All four Community Boards consist of 5 elected members. Therefore, the Council may appoint up to 2 members to each of the Boards. The appointed member must be an elected member representing the Ward of the Board to which she/he would be appointed.

The matter of appointments is presented for the Council's consideration.

RECOMMENDATION

That Council determine appointments to the Henderson, Massey, New Lynn and Waitakere Community Boards as follows:

COMMUNITY BOARDS

Henderson Community Board
Massey Community Board
New Lynn Community Board
Waitakere Community Board

MEMBERS TO BE APPOINTED

BA Brady and MM Jolley
MFP Chan, JP and LA Cooper, JP
JM Clews, QSO, JP and JP Lawley, JP
PA Hulse and PG Mitchell



15 ADOPTION OF POLICY FOR APPOINTMENT OF COMMISSIONERS

A183-A185

During the establishment of the Committee Structure for the 2007-2010 Council, it was proposed that Hearings be conducted by Commissioners rather than by a Hearings Committee. A policy (attached at pages A183 to A185) proposed for adoption provides guidance for those circumstances where a decision for the appointment of a Commissioner is made



16 APPOINTMENT OF COUNCILLORS TO EXTERNAL AND OTHER ORGANISATIONS

PURPOSE

The purpose of this report is to enable Council to consider a number of appointments to external organisations where there is a requirement for representatives to be in place as quickly as possible after the election.

BACKGROUND

The appointments made by the previous Council to other organisations were generally categorised into the following groups:

- Appointments that Council has a statutory obligation to make;
- Appointments made pursuant to a deed establishing the organisation, or some other management or shareholders agreement entered into with the Council;
- Appointments that Council has made out of tradition, desire, or request.

The Council has a number of appointments to consider for the current term.

Appointments to be made to External Organisations:

Appointments are required to be made to the following organisations:

(A) COUNCILLOR STATUTORY APPOINTMENTS

Organisation	Aim/Purpose/Role	Meetings	Number to be appointed	Proposed Appointments 2007-2010
Aotea Centre Board of Management	The Aotea Centre is a statutory body operating under the Auckland Aotea Centre Empowering Act 1985. Its Board of Management is to control, manage and maintain the Centre, and to promote its use for permitted purposes. The appointment is usually the Mayor.	Monthly (with other meetings occasionally) Next meeting on 27 November 2007	1	Mayor Bob Harvey
Auckland Civil Defence Emergency Management Group	The Joint Regional Committee is responsible for approval of local civil defence plans, and recommending approval of regional civil defence plans; Oversees development of the proposed Emergency Management Strategy and supporting plans, for the Auckland region; and Puts in place the structures necessary to implement new emergency management arrangements in the region.	Quarterly (approximately) Next meeting on 30 November 2007	1 (plus 1 Alternate)	Cr Battersby Cr Dallow (alternate)
Auckland War Memorial Museum and Museum of Transport and Technology (MOTAT) - Territorial Local Authority Electoral College	To make appointments to the Auckland Museum Trust Board and the Museum of Transport and Technology Trust Board and comment on Annual Plans and Funding.	6-8 meetings a year	2 Councillors	Cr Neeson Cr Chan
Hauraki Gulf Forum	To integrate the management and, where appropriate, to promote the conservation and management in a sustainable manner, of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, for the benefit and enjoyment of the people and communities of the Gulf and New Zealand; To facilitate communication, co-operation, and co-ordination on matters relating to the statutory functions of the constituent parties in relation to the Hauraki Gulf, its islands, and catchments and the Forum.	Quarterly Next meeting on 12 December 2007 (Tentative)	1 (plus 1 alternate)	Cr Chan Cr Cooper (alternate)

(B) COUNCIL APPOINTMENTS PURSUANT TO DEED OF TRUST, OR MANAGEMENT OR SHAREHOLDERS AGREEMENT, OR EQUIVALENT DOCUMENT OR AGREEMENT

Organisation	Aim/Purpose	Meetings	Number to be appointed	Proposed Appointments 2007-2010
Auckland Regional Council Land Transport Committee	Prepares a Regional Land Transport Strategy and Regional Programme.	Monthly	1 Councillor (plus 1 alternate)	
Auckland Regional Transport Authority - Appointment Panel	The panel's aim is to decide on the appointment and removal of directors of ARTA.	As and when required	1 Councillor	
Auckland Regional Physical Activity and Sports Strategy (ARPASS) Regional Facilities Working Party	Regional collaboration of sports and recreation.	Quarterly	1 Councillor	Cr Cooper
Auckland Transport Strategic Alignment Project Political Engagement Group	The aims of the ATSAP PEG are to: - act as the political champions, in Auckland, of the ATSAP Project, - to approve certain reports and documents; - to provide consistent advice to their respective organisations; - to resolve issues referred to them by the official's steering group; and - to ensure that broader political engagement is achieved.	As and when required	1 (Mayor)	Mayor Bob Harvey
Watercare Services Limited Shareholders' Representative Group	The Councils that own Watercare Services Limited appoint their representatives on the Shareholders Representative Group. The SRG appoints the Board of Watercare, provides input to Watercare's Statement of Corporate Intent, and monitors the performance of the Board against the Statement of Corporate Intent.	Quarterly plus two special meetings per year. Other meetings may be called if required.	2 Councillors (and 1 Support Officer to be appointed by the Chief Executive)	Cr Clow Cr Clews Cr Hulse (alternate)
Waitakere Ethnic Board	To provide a forum for ethnic communities to get together and advise/liaise with local and central government re: policies/services that affect their communities.	Monthly	1 Councillor	Cr Chan

Organisation	Aim/Purpose	Meetings	Number to be appointed	Proposed Appointments 2007-2010
Waitakere Pacific Board	To represent interests and advance development needs of Pacific peoples in Waitakere, Auckland, Aotearoa, and international.	Bi-monthly	1 Councillor	Cr Chan

(C) APPOINTMENTS THAT COUNCIL HAS MADE OUT OF TRADITION, DESIRE, OR REQUEST

Organisation	Aim/Purpose	Meetings	Number to be appointed	Proposed Appointments 2007-2010
Child & Youth Advocates	Promote rights needs and best interests of children and youth in the city	No regular meetings	1 or 2 Councillors	Cr Cooper Cr Brady
Mayoral Task Force on Family Violence	To reduce family violence in Waitakere by supporting the people and agencies working to reduce family violence and promote peaceful strong and supported families in which family violence is not tolerated.	Bi-monthly	2 Councillors	Mayor Bob Harvey Cr Hulse

CONCLUSION

Council is requested to make the above appointments at this meeting, which need to be made with some urgency.

A list of a wide range of other external or ad hoc organisations/bodies has been distributed to Councillors earlier. It is proposed that these other organisations will be referred to the appropriate Committees for consideration, or to Council for subsequent appointments as deemed necessary.

In addition, it is proposed that appointments to organisations of a local nature will be referred to Community Boards for appointment.

RECOMMENDATIONS

1. That the Appointment of Councillors to External and Other Organisations report be received.
2. That Council determine appointments to the organisations set out above, with the tenure of office being effective within Council's current term.
3. That appointments to the other external organisation or ad hoc organisations/ad hoc bodies be referred to the appropriate Committees or to subsequent Council meetings for consideration.
4. That appointments to external organisations or ad hoc bodies of a local nature be referred to the appropriate Community Board for consideration.
5. That except where specifically provided in the terms of a Trust, Council appointees are not permitted to vote in a manner contrary to Council's policy or directive.

Report prepared by: Darryl Griffin, Group Manager: Democracy and Support Services.



PART C - OTHER BUSINESS

17 ELECTED MEMBERS REMUNERATION AND TRAVEL ALLOWANCES

Remuneration and travel allowances are recommended by the Council to the Remuneration Authority after that body has determined the size of the pool (the total sum determined by the Remuneration Authority for Waitakere City Council). Information from the Council's Annual Report for the year ended 30 June 2007 has been sent to the Authority and it is expected that their revision of the pool will be concluded and the result available during November 2007. A schedule of salaries has been suggested by the Council and will be considered at the next meeting of the Council following consultation with the Community Boards at their November meetings and then forwarded to the Remuneration Authority for resolution.

In the interim, remuneration (annual salary) will be paid in accordance with the Local Government Elected Members (Interim) Determination 2007 as follows (for Waitakere City Council):

- Mayor \$132,995
- Councillor \$ 41,000
- Community Board Member \$ 11,100

Travel Allowances and expenses will continue to be paid in accordance with the approved schedule.

The Council has informally determined how the remuneration pool will be apportioned and its committee structure and Chairmanships. This determination will be forwarded to the Community Boards for their consideration and a final decision will be made by the Council at its November 2007 meeting. This will include the allowances and expenses schedule.

Application will be made forthwith for the Council to provide cell phones to the Mayor, Councillors and Community Board Chairs and when approval is given and the cell phones provided, the current allowance will cease to be paid.

RECOMMENDATION

That the Elected Members Remuneration and Travel Allowances report be received.

Report prepared by: Darryl Griffin, Group Manager: Democracy and Support Services.



18 LOCAL GOVERNMENT NEW ZEALAND NOMINATIONS

GLOSSARY

Local Government New Zealand (LGNZ)

PURPOSE OF THE REPORT

Council has received a call for nominations for representation from Zone One and the Metropolitan Sector on the Local Government New Zealand (LGNZ) National Council. This report is to provide Council with an opportunity to consider whether to make any nominations.

Nominations close at 5.00 pm on Tuesday, 30 October 2007. The Council at its Governance Workshop on 24 October 2007 considered both of these nomination requests and the recommendations are included in this report.

BACKGROUND

Council is a member of Local Government New Zealand, the national group that exists to promote the interests of local government. Under the constitution of Local Government New Zealand a range of appointments need to be made within eight weeks of the triennial local government elections. The details of the appointments to be made are set out below.

Zone One

By virtue of its geographical location Waitakere City Council is a member of Zone One (this encompasses all the councils within the geographic area of the Northland and Auckland Regional Councils).

Zone One Council's representatives meet together on a regular basis to bring issues to the attention of Local Government New Zealand and to share information. Zone One elect its own Chairman.

Zone One also appoints two members to the Local Government New Zealand National Council.

Every person who holds office as an elected member of a council within Zone One is qualified to be appointed to these positions.

Should an election be necessary for any of the Zone positions, Council is entitled to five votes under the constitution of Local Government New Zealand.

The 2001-2004 Chairman of Zone One was Councillor Robert Northey of Auckland City Council. The Zone One representatives on National Council for 2001-2004 were Councillor Dianne Hale (previous Deputy Mayor) of North Shore City Council and Mayor Yvonne Sharp of the Far North District Council. Councillor Hale has been re-elected to the North Shore City Council but Mayor Yvonne Sharp was defeated for the far North District council mayoralty.

The first meeting of Zone One after the election is scheduled for Monday, 12 November 2007 and is to be hosted by the Whangarei District Council. The primary business of that meeting is to elect a:

- Zone Chairman;
- Zone Committee (Zone One has a four-person committee);
- Zone Representatives on National Council.

If an election is necessary for any of these positions it will take place at the meeting on 12 November 2007.

The Council's 2004-2007 representative to Zone One was Councillor Derek Battersby. Attendance at Zone 1 meetings is open to Councillors and Community Boards attendance is one Member of each Board by rotation.

Metropolitan Sector

By virtue of its size Council is also a member of the Metropolitan Sector. This sector consists of all metropolitan councils exceeding 90,000 in population and any others that have interests in common with that group. Currently this includes but is not limited to Auckland, Christchurch, Dunedin, Hamilton, Hutt, Manukau, North Shore, Porirua, Tauranga, Waitakere, Wellington City Councils, and Rodney District Council.

The metropolitan sector appoints three members to the Local Government New Zealand National Council.

Every person who holds office as an Elected Member of a Council within the Metropolitan Sector is qualified to be appointed to these positions.

The 2004-2007 National Council included Mayor Bob Harvey of Waitakere City, who was Chair of the Metro Sector, Dr Bruce Hucker of Auckland City Council, and Mayor Kerry Prendergast of Wellington City Council as the Metro Sector representatives.

Should an election be necessary for any of the Sector positions, Council is entitled to one vote under the constitution of Local Government New Zealand. Any such election will be held by postal vote.

National Council

National Council is the entity through which the majority of decisions relating to Local Government New Zealand are made. It is only subject to limitations contained in the constitution and by directions given by the Annual General Meeting or any Special General Meeting of Local Government New Zealand. As such the President of Local Government New Zealand and the 14 National Council members have considerable influence and discretion as to the position that Local Government New Zealand adopts with respect to a range of issues that may affect Waitakere City.

There are a wide range of issues where the views of a large Auckland metropolitan authority may be at considerable variance from those of a small rural authority and it is accordingly considered important that Council takes steps to ensure that its interests are given due weight in the position adopted by Local Government New Zealand on any issue.

STRATEGIC CONTEXT

Membership of Local Government New Zealand has the potential to be of assistance to Council as it pursues a wide range of strategic and advocacy aims. Local Government New Zealand provides a vehicle through which Council's voice can be heard on the national stage as Local Government New Zealand undertakes its activities on behalf of its members.

Conversely concern has been expressed in the past that Local Government New Zealand is less than effective on behalf of Council as earlier constitutions and the interests of many members throughout New Zealand meant that policy positions were adopted by Local Government New Zealand that represented the interests of the majority of Local Government New Zealand members, but which did not adequately present the views of the Auckland area or metropolitan authorities such as Waitakere.

ISSUES

The forthcoming elections for Zone One and the Metropolitan Sector provide an opportunity for Council to take an active part in LGNZ and help ensure that the organisation gives adequate weight to the interests of Waitakere City as both part of Zone One and the Metropolitan Sector.

The Mayor has indicated that Mayor Len Brown of Manukau City Council is prepared to accept a nomination as one of the Metropolitan Sector representatives on the National Council. Under the Local Government New Zealand constitution it will be necessary for any nominations by Council to be seconded by another Council. Council may also wish to consider putting forward a candidate as a Zone One representative or for any of the other Zone One positions that nominations have been called for.

In the event that an election is required for any of the positions for which nominations have been sought it would also be prudent for Council to ensure that it has authorised one elected member to cast Council's vote(s) for both the Metropolitan Sector and the Zone One positions.

While the National Council takes the majority of decisions relating to Local Government New Zealand there are issues that are reviewed and discussed at Zone One and the Metropolitan Sector meetings. On occasions such meetings may vote on particular issues, e.g. remits to the Annual General Meeting. It may be prudent to continue with the set up of a mechanism whereby one Elected Member has the delegated authority to cast Council's vote(s) in accordance with pre-existing Council policy, or where no policy exists in accordance with the member's judgement of where Council's interests lie. This elected member should also have the ability to delegate the responsibility to another elected member, or if no elected member is available to represent Council, to an appropriate officer.

A186-A194 The Local Government New Zealand request for nominations for the Metropolitan Sector and Zone One are attached at pages A186 to A194.

CONCLUSION

The requirement to consider both Zone One and Metropolitan Sector representation within eight weeks of the triennial local government election provided under Local Government New Zealand's constitution provides an early opportunity for the new Council to consider its role in the national local government organisation. Active support of Local Government New Zealand will provide the greatest likelihood that Local Government New Zealand's interactions with Government will complement this Council's aims and objectives.

RECOMMENDATIONS

1. That the Local Government New Zealand Nominations report be received
2. That Council consider whether to make any nominations for the Zone One four-person committee and Zone One Chair.
3. That Council consider whether to make any nominations for the Zone One representatives on the National Council of Local Government New Zealand.
4. That Council authorise the Mayor to exercise the votes of Waitakere City Council in respect of the Metropolitan Sector representatives on the National Council of Local Government New Zealand, and to second any nominations for these positions.
5. That Council authorise an Elected Member to attend the Zone One meeting and to exercise the Council's votes in respect of Zone One Chairman, Zone One Committee membership and Zone One representatives on the National Council of Local Government New Zealand, and to second any nominations to those positions.
6. That Council authorise an elected member to cast Council's vote(s) at any future Zone One meeting in accordance with the Council's policy direction, and that this Elected Member be able to delegate this authority to an alternative representative (including an officer) if necessary.
7. That Council authorise the Mayor, or his nominee, or in their absence the Chief Executive or his nominee to exercise Council's vote at any future Metropolitan Sector meeting in accordance with Council's policy direction.

Report prepared by: Darryl Griffin, Group Manager: Democracy and Support Services.



