



Kawhia Community Board

AGENDA

29 October 2010

Members of the Kawhia Community Board

Mrs J Bennett
Mr G Good
Mr C Jeffries
Mr H Ormsby
Mrs DM Pilkington
Mr LH Sherman

Meeting Secretary: Mr CA Tutty (Governance Supervisor)

KAWHIA COMMUNITY BOARD

29 October 2010

Notice is hereby given that an ordinary meeting of the Kawhia Community Board will be held in the Community Meeting Room, Jervois St, Kawhia on Friday 29 October 2010 commencing at 1.00pm.

22 October 2010

DC Clibbery
CHIEF EXECUTIVE

AGENDA

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PRESENT

IN ATTENDANCE

APOLOGIES

ITEMS TO BE CONSIDERED IN GENERAL BUSINESS

CONFIRMATION OF MINUTES - 24 SEPTEMBER 2010

REPORTS

Item1 DECLARATION BY MEMBERS

**To: Chairperson and Members
 Kawhia Community Board**

From: Chief Executive

Date: 29 October 2010

Report Discussion

Oral and written declarations to be made by each Member, pursuant to Clause 14 of Schedule 7 of the Local Government Act 2002.

Declarations will take the form below:

Declaration by mayor or chairperson or member

"I, AB, 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 [*region or district*], the powers, authorities, and duties vested in, or imposed upon, me as [*mayor or chairperson or member*] of the [*local authority*] by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act

Dated at [*place*] this [*number*] day of [*month*] [*year*]

Signature:

Signed in the presence of:

CD, [*mayor or chairperson or member or chief executive of local authority*]"

DC Clibbery
CHIEF EXECUTIVE

Item2 ELECTED MEMBERS GENERAL EXPLANATION

**To: Chairperson and Members
 Kawhia Community Board**

From: Chief Executive

Date: 29 October 2010

Report Discussion

A general explanation to be given of the:

- a. Local Government Official Information and Meetings Act 1987;
- b. Local Authorities (Members Interests) Act 1968;
- c. Crimes Act 1961, Sections 99, 105 and 105A;
- d. Secret Commissions Act 1910;
- e. Securities Act 1978;
- f. The Otorohanga District Council Code of Conduct; and
- g. The role and employment of the Chief Executive.
- h. Standing Orders adopted by Council NZS9202.2003
- i. Key documents and processes of Council

DC Clibbery
CHIEF EXECUTIVE

Attachments

- a. General Explanation to Elected Members
- b. Code of Conduct
- c. Role and employment of Chief Executive
- d. Standing Orders and meeting process issues
- e. Key Documents and Processes of Council

GENERAL EXPLANATION TO ELECTED MEMBERS OF CERTAIN STATUTES

Local Government Official Information and Meetings Act 1987

This Act was passed in 1987 to provide for the availability to the public of official information held by local authorities to promote the open and public transaction of business at meetings of local authorities, to provide access to such information, and to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

The general principle is that information held by local authorities is to be made available unless there is a good reason for withholding it. Good reason for withholding such information exists where the giving of the information would be likely to prejudice the maintenance of the law, and the right to a fair trial, or to endanger the safety of any person, or where it is necessary to:

- protect privacy of natural persons;
- protect trade secrets or the commercial position of the person who supplied or is the subject of the information;
- avoid serious offence to tikanga Maori, or to avoid disclosure of the location of waahi tapu, in the case of various applications under the Resource Management Act 1991;
- protect information which is the subject of an obligation of confidence;
- avoid prejudice to measures protecting the health or safety of members of the public;
- maintain the effective conduct of public affairs through the free and frank expression of opinions, or through the protection of members, officers, and employees of any local authority from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations;
- prevent the disclosure or use of official information for improper gain or improper advantage.

Any person may request information to be made available, and the decision must generally be made within twenty working days. A refusal to provide information may be appealed against to the Ombudsman. The Ombudsman's recommendation becomes binding unless the local authority decides otherwise.

It is also the duty of every local authority to publish and annually update a list of information about itself, its committees, its management structure, functions, meetings, documents, policy manuals and bylaws.

Meetings are to be publicly notified, and are to be open to the public unless there is a good reason for withholding information. Agendas are to be made available. The minutes of any meeting (not being a meeting or part of a meeting from which the public was excluded) are to be available for inspection by the public.

The Act also prescribes a procedure for obtaining detailed information about land (a Land Information Memorandum).

Local Authorities (Members Interests) Act 1968

Any member of a local authority is not to vote on or take part in the discussion of any matter where that person has a direct or indirect pecuniary interest.

Where an incorporated company has a pecuniary interest in any matter before a local authority, a member of the local authority is deemed to have a pecuniary interest if:

- that person or his or her spouse own 10% or more of the capital of the company; or
- the member or his or her spouse is a member of the company, and either of them is the general manager (similar positions in a controlling company have the same effect);

There are various exceptions to this rule, including the following matters:

- any payment to a member where it is legally payable and the amount has already been fixed;
- any contract of insurance insuring members against personal accident;
- an election or appointment of a member to any office;
- a formal resolution to seal or complete a contract in accordance with a resolution already adopted;
- matters relating to a district scheme under the Resource Management Act;
- schemes under the Soil Conservation and Rivers Act;
- matters under the Public Works Act;

Any breach of the rule is an offence, which may be punished, a fine not exceeding \$100.00.

This Act also provides that no person is to be elected as a member of a local authority or appointed to be a committee if he or she has contracts with the local authority exceeding \$25,000.00 per annum.

Crimes Act 1961

It is a crime for any official to accept, or offer to accept any bribe for himself or herself or any other person in respect of any Act done or omitted by that person in an official capacity.

It is also a crime for any official to corruptly use information acquired in his official capacity to obtain, directly or indirectly, any pecuniary advantage.

These crimes carry a maximum sentence of seven years imprisonment, and so are seriously regarded.

A bribe is defined as meaning “any money, valuable consideration, office, or employment, or any benefit, whether direct or indirect:.

It is also a crime for any one to offer a bribe with intent to influence any official. The maximum sentence for this crime is three years imprisonment.

Secret Commissions Act 1910

It is also a criminal offence to give or receive, or solicit any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything on behalf of a principal.

For the purposes of this Act, a member of a local authority is its agent. This Act applies equally to officers and members of local authorities. The maximum penalty is two years imprisonment or a fine not exceeding \$1,000.00.

Securities Act 1978

This statute regulates the offering of any securities (which includes a wide range of investments) to the public. Offers to the public must generally be in the form of a prospectus with prescribed information.



ELECTED MEMBERS

CODE OF CONDUCT

PART ONE: INTRODUCTION

Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a Code of Conduct. Once adopted, all elected members are required to comply with the code.

This Code of Conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Otorohanga District Council. The code applies to elected members in their dealings with:

- each other;
- the Chief Executive;
- all staff employed by the Chief Executive on behalf of the Council;
- the media; and
- the general public.

This code also applies to members of the Otorohanga and Kawhia Community Boards.

The objective of the code is to enhance:

- the effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good local government of the Otorohanga District;
- the credibility and accountability of the Council within its community; and
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

This Code of Conduct seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities (recorded in Part Two of this code);
- agreed general principles of conduct (recorded in Part Three of this code); and
- specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of this code).

Elected members are primarily accountable to the electors of the district through the democratic process. However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

The Code of Conduct that follows is based on the following general principles of good governance:

- ✓ Public Interest: Members should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.
- ✓ Honesty and Integrity: Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- ✓ Objectivity: Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire district, not the ward that elected them.
- ✓ Accountability: Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.
- ✓ Openness: Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- ✓ Personal Judgement: Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- ✓ Respect for Others: Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender,

sexual orientation or any disability. They should respect the impartiality and integrity of Council staff.

- ✓ Duty to Uphold the Law: Members should uphold the law, and on all occasions act in accordance with the trust the public places in them.
- ✓ Stewardship: Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.
- ✓ Leadership: Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

PART TWO: ROLES AND RESPONSIBILITIES

This part of the code describes the roles and responsibilities of elected members, the additional roles of the Mayor and Deputy Mayor, and the role of the Chief Executive.

Elected Members

Elected members, acting as the Council, are responsible for:

- the development and adoption of Council policy;
- monitoring the performance of the Council against its stated objectives and policies;
- prudent stewardship of Council resources;
- employment of the Chief Executive;
- representing the interests of the residents and ratepayers of the Otorohanga District Council.

Unless otherwise provided in the Local Government Act 2002 or in standing orders, the Council can only act by majority decisions at meetings. Each member has one vote. No individual member (including the Mayor) has authority to act on behalf of the Council, unless the Council has expressly delegated such authority.

Mayor

The Mayor is elected by the district as a whole and as one of the elected members shares the same responsibilities as other members of Council. The Mayor also has the following roles:

- a presiding member at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders);
- an advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- ceremonial head of Council;
- providing leadership and feedback to other elected members; and
- as a Justice of the Peace (while the Mayor holds office).

The Mayor must follow the same rules as other elected members regarding making public statements and committing the Council to particular courses of action, unless acting in accordance with the rules for media contact on behalf of the Council under a delegation of authority from the Council.

Deputy Mayor

The Deputy Mayor must be elected by the members of Council, at the first meeting of the Council. The Deputy Mayor exercises the same roles as other elected members, but if the Mayor is absent or incapacitated the Deputy Mayor must assume all of the Mayor's responsibilities and duties, and may exercise the powers of the Mayor (as summarised above). The Deputy Mayor may be removed from office by resolution of Council.

Chief Executive

The Chief Executive is appointed by the Council in accordance with Section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are:

- Implementing the decisions of the Council;
- Providing advice to the Council and community boards;
- Ensuring that all of the responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised;
- Managing the activities of the local authority effectively and efficiently;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- Providing leadership for the staff of the local authority; and
- Employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority).

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the local authority.

PART THREE: RELATIONSHIPS AND BEHAVIOURS

This part of the code sets out the Council's agreed standards of behaviour. Some of the matters described in this part of the Code reflect other Legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the Code is material that the Council has decided to include of its own initiative.

Relationships with Other Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that:

- maintain public confidence in the office to which they have been elected;
- are open and honest;
- focus on issues rather than personalities; and
- avoid aggressive, offensive or abusive conduct.

Relationships with Staff

The effective performance of Council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will:

- recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees, and as such only the Chief Executive may hire, dismiss, instruct or censure an employee;
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times;
- treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees);
- observe any guidelines that the Chief Executive puts in place regarding contact with employees;
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee; and
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or the Chief Executive Performance Review Committee.

Elected members should be aware that failure to observe this portion of the Code of Conduct could compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanctions.

Relationships with the Community

Effective Council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act

Members should act in a manner that encourages and values community involvement in local democracy.

Contact with the Media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of Council. From time to time individual members will be approached to comment on a particular issue either on behalf of Council, or as an elected member in their own right. This part of the code deals with the rights and duties of Councillors when speaking to the media on behalf of Council, or in their own right.

The following rules apply for media contact on *behalf of Council*:

- The Mayor is the first point of contact for the official view on any issue. Where the Mayor is absent, any matters will be referred to the Deputy Mayor. The Chief Executive Officer may be the first point of contact for general information.
- The Mayor may refer any matter to the Chief Executive for their comment.
- No other member may comment *on behalf of Council* without having first obtained the approval of the Mayor.

Elected members are free to express a *personal* view in the media, at any time, provided the following rules are observed:

- Media comments must not state or imply that they represent the views of Council.
- Where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view.
- Media comments must observe the other requirements of the Code of Conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.

Confidential Information

In the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Elected members should be aware that failure to observe these provisions could impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation.

Conflicts of Interest

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

Members shall annually make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- any employment, trade or profession carried on by the member or the member's spouse for profit or gain;
- any company, trust, partnership etc for which the member or their spouse is a director, partner, trustee or beneficiary;
- the address of any land in which the member has a beneficial interest and which is in the Otorohanga District;
- the address of any land where the landlord is the Otorohanga District Council and:
 - the member or their spouse is a tenant, or
 - the land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary;
- any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

Standing Orders

Elected members must adhere to any standing orders adopted by Council under the Local Government Act 2002. These standing orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

Ethics

Otorohanga District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:

- Claim only for legitimate expenses as laid down by any determination of the Remuneration. Authority then in force, and any lawful policy of Council developed in accordance with that determination.
- Not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests.
- Not use Council resources for personal business (including campaigning).
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position.
- Notify the Chief Executive if any gifts are accepted.
- Where a gift to the value of **\$500** or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, if they cease to lose their status as an elector or if they have been found to have breached certain sections of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a Code of Conduct, must consider whether or not they will require members to declare whether they are an undischarged bankrupt. This Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgment in general. The Council therefore requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

PART FOUR: COMPLIANCE AND REVIEW

This part deals with ensuring that elected members adhere to the Code of Conduct and mechanisms for the review of the Code of Conduct.

Compliance

Elected members are bound to comply with the provisions of this Code of Conduct (Local Government Act 2002, Schedule 7, section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these has with respect to conduct of elected members is attached in the Appendix to this code.

Compliance will be monitored by a Conduct Review Committee, comprising of the Mayor, Deputy Mayor and Councillor. This committee will be constituted at the first meeting after the triennial elections.

All alleged breaches of the code will be reported to the above committee. Any allegation of a breach of a Code of Conduct must be in writing, make a specific allegation of a breach of the Code of Conduct, and provide corroborating evidence.

The committee will investigate the alleged breach and prepare a report for the consideration of Council. Before beginning any investigation, the committee will notify the elected member(s) in writing of the complaint and explain when and how they will get the opportunity to put their version of events.

The Council will consider the report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

Responses to Breaches of the Code

The exact nature of the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968.
- breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage.
- breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

Where there are no statutory provisions, the Council may take the following action:

- censure;
- removal of the elected member from Council committees and/or other representative bodies;

- dismissal of the elected member from the position as Deputy Mayor.

A decision to apply one or more of these actions requires a Council resolution to that effect.

Review

Once adopted, a Code of Conduct continues in force until amended by the Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent or more of the members of the Council present.

Council will formally review the code as soon as practicable after the beginning of each triennium.

APPENDIX TO THE CODE: LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS

This is a summary of the legislation requirements that have some bearing on the duties and conduct of elected members.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where a members' personal interests impinge, or could be seen as impinging, on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow them to participate or vote on a particular issue. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meeting procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- create a disturbance or a distraction while another elected member is speaking;
- be disrespectful when they refer to each other or other people; or
- use offensive language about the Council, other elected members, any employee of the Council or any member of the public.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fined up to \$1000, or both. A conviction would trigger the ouster provisions of the Local Government Act 2002.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; or
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

The Securities Act 1978 essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

ROLE OF CHIEF EXECUTIVE OFFICER

The position of Chief Executive Officer is appointed by the Council in accordance with Section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of Section 42 of the Act, the responsibilities of the Chief Executive are -

- i. "implementing the decisions of Council
- ii. providing advice to the Council and Community Boards
- iii. ensuring that all of the responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or Bylaw are properly performed or exercised.
- iv. managing the activities of the Local Authority effectively and efficiently.
- v. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Local Authority.
- vi. providing leadership for the staff of the Local Authority and,
- vii. employing staff on behalf of the Local Authority (including the negotiation of the Terms of Employment for the staff of the Local Authority)."

Members, should they have any queries, are requested to approach himself or the divisional Managers.

EMPLOYMENT OF CHIEF EXECUTIVE OFFICER

The Current Chief Executive is subject to an employment agreement which has an initial three year term expiring on 30 June 2011. The Local Government Act 2002 does however permit Council to appoint the incumbent for a second term not exceeding two years on the expiry of the first term of appointment.

The Council will need to resolve - prior to 30 June 2011, and following a review of the incumbent Chief Executive's performance not less than 6 months before that date. - whether to appoint the incumbent Chief Executive to a second term, or to advertise the position.

Should Council wish to advertise, it would be prudent for the relevant process to commence in February 2011, to ensure that the new appointee can be in place by 30 June 2011.

STANDING ORDERS AND MEETING PROCESS ISSUES

Council's Standing Orders describe the rules for how meetings of Council, Community Boards, Committees and Sub-Committees are conducted. At the meeting of Council on 29 January 2008, Council resolved as follows:

That the New Zealand Standard Model Standing Orders NZS 9202:2003 as amended at 1 March 2006 are adopted as the Council's Standing Orders, as from 1 March 2008, and shall apply to all meetings of the Council, its committees and sub-committees, and Community Boards subject to Cl. 2.5.1 (2) (b) and 3.14.2 (b) of the model being amended as follows –

"in the case of equality of votes the Chairperson has the casting vote"

Whilst the Standing Orders provide a formal structure that can be called upon where necessary, in practice, and in the interests of effective decision making, meetings of Council and the other elected bodies are typically conducted in a less formal, but nevertheless well controlled manner.

In recent times the following key guidelines have also been adopted by Council and the Boards in relation to meeting issues:

- Agendas for meetings will be sent out to members no earlier than 7 days prior to the meeting. Should the preparation of the agenda be late (which will be avoided if at all possible) then a copy of the agenda will be emailed to members where possible.
- Members are to read the meeting agenda prior to the meeting and should they have any significant issues or questions regarding the content of the report, then these should be raised with the relevant staff member(s) prior to the meeting.
- The existing standing orders set a time limit of 6 hours for the duration of all formal meetings, but a limit of 2 hours is proposed for Community Board meetings though the Chairman or Mayor may extend the time beyond this by means of a formal resolution.
- No time limit is placed on speakers at a meeting however the Chair is to be aware of the discussion and to ensure members stay with the topic being discussed, and that the discussion is effectively managed towards reaching a decision or other appropriate conclusion.
- A guideline time limit for staff presentations of reports at formal meetings shall be 5 minutes (based on the assumption that members have read the report) but presentations of around 10 minutes may be satisfactory where the issue under discussion is complex. Presentations in excess of 15 minutes are generally unacceptable, and matters requiring such extended staff presentations should instead be presented in workshop or committee situations.
- A resolution during the public part of a formal meeting shall be required to introduce any major items to be dealt with by resolution, if they are not on the agenda. The presiding member must give reason why the item is not on the agenda and why discussion cannot be delayed until the next meeting.
- A request for a deputation or presentation at a meeting must be lodged with the Chief Executive at least two working days before a meeting, and be approved by the presiding member. Not more than two members of a deputation may address the meeting - limit of 10 minutes in total.
- There is an expectation that matters brought up by members in general business are appropriate in that they do not relate to personal matters, or matters that might otherwise have been better resolved with staff outside of the meeting.
- A detailed minute taking style, which records the discussion underlying decisions, will be maintained.

Key Documents and Processes of Council

The following is a summary of existing Council documents or processes with which Councillors are likely to be engaged:

Long Term Council Community Plan (LTCCP)

This is the most significant document of Council. The LTCCP (now increasingly referred to as the Long Term Plan 'LTP') covers at least 10 years and identifies desired community outcomes - the things the community considers are important for its well-being describes Council's intended contribution to those outcomes - the activities the local authority will engage in (and why) and how those activities will be funded. The LTCCP is reviewed and prepared every three years.

The LTCCP is subject to public consultation and an extensive (and expensive) audit process. The LTCCP must meet a broad range of requirements imposed by the Local Government Act and auditor interpretation of that Act, that are intended to promote effectiveness, accountability and transparency in local government. It also includes a number of technically detailed policies that Council is required to adopt.

Unfortunately the extent and prescriptive nature of these requirements makes the LTCCP a substantial - for ODC more than 300 page - document that is very difficult for the casual reader to digest. Councils are also required to produce a summary of the full LTCCP document, which is intended to be more accessible for the general public.

The current LTCCP is in effect from the Period between July 2009 and June 2012. The process to review the LTCCP is ongoing, but is likely to substantially accelerate during the 12 to 15 months before July 2012.

Annual Plan

The Annual Plan is a document which is prepared in each of the years between LTCCPs. It sets out the budget for the year, and the sources of funding for the year. It would normally be expected that the annual plan follows the relevant year in the LTCCP relatively closely.

Issues in respect of the 'reader friendliness' of this document are similar to those for the LTCCP. The annual plan is completed in the last quarter of the financial year.

Annual Report

The annual report is an annual statement to the community of what was spent and the progress that was made over the year toward the outcomes identified in the Long-Term Council Community Plan and Annual Plan. The annual report is typically completed in September.

District Plan

The District Plan provides objectives, policies and methods to achieve management of the effects cause by the use and development of natural and physical resources, in order to carry out the purpose of the Resource Management Act 1991 (RMA), which is to ensure sustainable management of natural and physical resources while avoiding, remedying or mitigating adverse environmental effects and providing for the well being of communities.

District plans are required to be reviewed every 10 years. The associated review process is a substantial exercise requiring extensive information gathering and consultation with potentially affected parties.

Council's first District Plan under the RMA was made operative in 1999, and a process to review the Plan commenced in late 2006. A new Proposed District Plan was released in September 2010, and submissions on this proposed plan are currently being received. It is envisaged that a new plan will become operative in 2012.

Asset Management Plans (AMPs)

Technical documents which underpin the LTCCP by identifying the physical assets required by the LTCCP activities, and indicating how these assets will be provided, renewed, maintained, managed and funded to provide the target levels of service, taking account of potential changes in demand for these activities and level of service expectations.

ODC currently has AMPs for its Rooding, Water Services (water supply, wastewater, stormwater and flood protection) and Park, Reserves and Properties activities. These documents are updated as required, but with particular emphasis on updating prior to LTCCP review.

Solid Waste Management Plan

Outlines how Council will conduct activities to manage solid waste within the District, including waste disposal, recycling and re-use activities. Updating requirements are as for the Asset Management Plans.

Governance Statement

Outlines how Council makes decisions and promotes local democracy. Describes how Council communicates, cooperates and consults with the District's residents.

Is required to be updated within 6 months after each triennial election. An updated document will therefore be presented to Council in the near future.

Policy and Delegations Manual

This document has two purposes, these being:

1. To list and provide some description of the policies the policies adopted by Council.
2. To outline how responsibilities, duties or powers are delegated by Council to specific staff or committees on its behalf. For practical reasons it is appropriate for Council to delegate its authority to act in relation to many matters to the staff of Council.

The Policy and Delegations manual is revised from time to time to reflect changes in policy, organisational structure and associated procedures. All changes to the manual require the formal approval of Council.

Bylaws

Bylaws are locally applicable regulations that are made by Council for the following purposes.

- Protecting the public from nuisance
- Protecting, promoting and maintaining public health and safety
- Minimising the potential for offensive behaviour in public places

Otorohanga District Council has a small number of Bylaws, which include:

- Trade Waste Bylaw 2000
- Traffic Bylaw 2005
- Dog Control Bylaw 2004
- Stock Movement Bylaw 2006
- Liquor Bylaw 2007
- Water Services Bylaw 2007
- Stock Keeping Bylaw 2009

Bylaws must be periodically reviewed to assess if they are still appropriate. Council's bylaws are now subject to a 10 year review cycle. No bylaws are due for review in the near future.

Budget Estimates

A budget estimates process is conducted each year (with Council involvement typically in February or March) to set budgets for the forthcoming financial year, and to revise (where appropriate) budgets for the following 9 years, to create a 10 year set of budget estimates that will align with the LTCCP and Annual Plan.

The budget estimates process will establish rates levels for the following year.

Management Accounts

Management accounts indicate the current financial position of Council, its year to date expenditure on its various activities, and associated revenues. Management accounts are prepared on a quarterly basis.

Funding Policy Review

This is a process to identify the most appropriate means by which each of the activities (or services) of Council will be funded. Within this process questions asked include:

- How are the benefits of the activity distributed between particular 'private' service users and the general public ?
- How directly should costs be attributed ?
- To what extent should costs be met by a particular community ?
- Will a funding model based on the assessed distribution of benefits create unacceptable unfairness or inequity ?
- To what extent should general rates, targeted rates or uniform annual charges be incorporated in a funding 'mix' ?

This process is carried out three yearly in conjunction with the LTCCP.

Council's current practice is to conduct such reviews in accordance with a three step process that was originally (but is no longer) a statutory requirement.

In the first step of this process a set of economic principles are established that link funding mechanisms to the groups or individuals that benefit from a service. In the second stage Council has the opportunity to apply a number of considerations to this process to ensure the decisions that are made are fair and equitable. The final stage of the process selects the funding tool that most efficiently and effectively achieves the desired allocation

Representation Review

The form of elected representation within the District (including definitions of wards and communities and any subdivisions thereof and associated levels of representation) must be reviewed for every second triennial election.

This process is conducted by Council but is subject to public consultation. The Representation Review Process was last conducted in August 2006, prior to the 2007 triennial elections. It is suggested that it would be appropriate to carry out this process again during mid or late 2012.

Item3 DELEGATIONS FROM OTOROHANGA DISTRICT COUNCIL

**To: Chairperson and Members
Kawhia Community Board**

From Chief Executive

Date: 29 October 2010

Executive Summary

The delegations to the Board are outlined below.

Staff Recommendation

It is recommended that:

The report be received.

Report Discussion

Introduction

The role of Community Boards is stated in Section 52 of the Local Government Act 2002, as follows:

- a. Represent, and act as an advocate for the interests of its Community; and
- b. Consider and report on all matters referred to it by the Territorial Authority, or any matter of interest or concern to the Community Board; and
- c. Maintain an overview of services provided by the Territorial Authority within the Community; and
- d. Prepare an annual submission to the Territorial Authority for expenditure within the Community; and
- e. Communicate with Community organisations and special interest groups within the Community; and
- f. Undertake any other responsibilities that are delegated to it by the Territorial Authority.

A Community Board is not a Committee of Council, but only has the powers that are delegated to it by the Council. A Community Board may not acquire, hold, or dispose of property; appoint, suspend, or remove staff; make a rate; make a bylaw; borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Council Community Plan; adopt a Long Term Council Community Plan, Annual Plan, or Annual Report; appoint a Chief Executive; or adopt policies required to be adopted and consulted on under this Act in association with the Long Term Council Community Plan or developed for the purpose of the local Governance Statement.

Functions and Duties of Community Boards

Pursuant to Clause 32 of Schedule Seven to the Local Government Act 2002 the Otorohanga District Council hereby delegates to the Otorohanga and Kawhia Community Boards, in respect of their community, all of Council's functions, duties and powers relating to:

- Refuse collection and disposal; and
- Water supply operation and maintenance; and
- Sewerage treatment and reticulation; and
- Flood protection; and

- Storm water drainage; and
- Swimming Pools; and
- Security patrols; and
- Housing for the elderly; and
- Community property; and
- Medical centres.

The above delegations are subject to the following conditions:

1. The respective Community Account not going into a financial deficit situation without the prior approval of Council.
2. Full allowance having been made for any proposed expenditure in the estimates approved by Council.
3. Any relevant policies or directions specified by Council.

DC Clibbery
CHIEF EXECUTIVE

Item4 ELECTION & DECLARATION OF CHAIRPERSON

To: **Chairperson and Members
Kawhia Community Board**

From: **Chief Executive**

Date: **29 October 2010**

Executive Summary

Clause 37 of Schedule 7 to the Local Government Act 2002 requires every Community Board to elect one member to be Chairperson.

Staff Recommendation

It is recommended that:

The voting system to be used for the election of Chairperson and for the election or appointment of any other representative of the Kawhia Community Board shall be System A, as described below.

Report Discussion

Clause 37 of Schedule 7 to the Local Government Act 2002 requires that every Community Board shall elect a Chairperson. The Schedule also specifies two alternative systems of voting, one of which must be adopted by resolution of the Board prior to any appointment (including the appointment of Board representatives) being made. The systems are as follows:

System A

- a. Requires that a person is elected or appointed if he or she receives the votes of a majority of the members 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, 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.

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.
-

It is recommended that System A be used, as the determination of an appointment by lot should be a last resort.

DC Clibbery
CHIEF EXECUTIVE

Item5 ELECTION OF DEPUTY CHAIRPERSON

To: **Chairperson and Members
Kawhia Community Board**

From: **Chief Executive**

Date: **29 October 2010**

Executive Summary

Clause 37 of Schedule 7 to the Local Government Act 2002 requires every Community Board to elect one member to be Deputy-Chairperson.

Staff Recommendation

It is recommended that:

The voting system to be used for the election of Deputy-Chairperson and for the election or appointment of any other representative of the Kawhia Community Board shall be System A, as described below.

Report Discussion

Clause 37 of Schedule 7 to the Local Government Act 2002 requires that every Community Board shall elect a Deputy-Chairperson. The Schedule also specifies two alternative systems of voting, one of which must be adopted by resolution of the Board prior to any appointment (including the appointment of Board representatives) being made. The systems are as follows:

System A

- a. Requires that a person is elected or appointed if he or she receives the votes of a majority of the members 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, 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.

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.
-

It is recommended that System A be used, as the determination of an appointment by lot should be a last resort.

DC Clibbery
CHIEF EXECUTIVE

Item6 APPOINTMENT TO COMMITTEES

**To: Chairperson and Members
 Kawhia Community Board**

From: Chief Executive

Date: 29 October 2010

Executive Summary

Clause 30 of Schedule 7 to the Local Government Act 2002 allows Community Boards to appoint such committees, sub-committees, joint committees or other subordinate decision-making bodies as it considers appropriate.

Report Discussion

Historically the Kawhia Community Board has had no Committees.

DC Clibbery
CHIEF EXECUTIVE

Item7 APPOINTMENT OF REPRESENTATIVES TO ORGANISATIONS & COMMITTEES

**To: Chairperson and Members
 Kawhia Community Board**

From: Chief Executive

Date: 29 October 2010

Executive Summary

Clause 30 of Schedule 7 to the Local Government Act 2002 allows Community Boards to appoint such committees, sub-committees, joint committees or other subordinate decision-making bodies as it considers appropriate.

Report Discussion

I have identified 3 Committees that the Community could consider appointing representatives to. The Creative Arts and Rural Travel Fund Committee appointments would be new and would reflect the level of applications from organisations in the Kawhia Area. These would be nominations to the District Council if the Board considers it appropriate.

- | | |
|---|----------------------|
| 1. Housing for the Elderly Committee | 1 Member 1 Alternate |
| 2. Creative Arts Committee | To Consider |
| 3. SPARC Rural Travel Fund | To Consider |

DC Clibbery
CHIEF EXECUTIVE

**Item8 KCB PROPOSED SCHEDULE OF ORDINARY MEETINGS DATES
DECEMBER 2010 - DECEMBER 2011**

**To: Chairperson and Members
Kawhia Community Board**

From: Governance Supervisor

Date: 29 October 2010

Executive Summary

The proposed schedule of meeting dates for the period December 2010 - December 2011 to be considered and adopted.

Suggested Recommendation

It is recommended that:

The proposed schedule of ordinary meeting dates for the period December 2010 - December 2011 be adopted.

Report Discussion

Pursuant to Clause 19 of the Seventh Schedule to the Local Government Act 2002, I hereby give notice of the time and date for the ordinary meetings of the Kawhia Community Board for the period December 2010 - December 2011.

Friday	17 December 2010
	28 January 2011
	25 March 2011
	27 May 2011
	29 July 2011
	30 September 2011
	25 November 2011

TIME: Board meeting commence at **1.00pm** unless otherwise indicated on the Agenda.

VENUE: Kawhia Community Boardroom, Kawhia.

**DC Clibbery
CHIEF EXECUTIVE**

Item9 MEMBERS REMUNERATION

**To: Chairperson and Members
Kawhia Community Board**

From: Chief Executive

Date: 29 October 2010

Executive Summary

Results of a recent determination in respect of elected member remuneration are presented.

Staff Recommendation

It is recommended that:

Remuneration for Board members (including the Chair and Deputy Chair) remains at current levels up to 30 June 2011.

Report Discussion

The Remuneration Authority reviews the remuneration of elected members annually, with any resultant changes having effect from 1 July of each year.

In early 2010 the Remuneration Authority issued a determination in respect of the elected member remuneration pools for the period from July 1 2010 up to the election day for the 2010 local body elections. This determination was that there should be no change to the pool or mayoral remuneration relative to that set for the 2009/10 financial year.

The Remuneration Authority has recently issued a further determination in respect of the level of the remuneration pool and mayoral remuneration for remainder of the current (2010/11) financial year. This latest determination reflects a major review of mayoral remuneration, but does not reflect a major review of council and community board remuneration, which is currently underway, but not yet complete.

For this reason the Remuneration Authority has made no changes to the indicative remuneration pools (excluding mayoral positions) for the period to 30 June 2011.

With the level of the indicative pool for non-mayoral remuneration unchanged, the 'default' response would be to leave the remuneration of the Kawhia Community Board members unchanged, at the current levels shown below.

Elected Position	Current Annual Remuneration
Kawhia Community Board Chair	\$2,514
Kawhia Community Board Deputy Chair	\$2,011
Kawhia Community Board Member	\$1,508

Whilst there may be no change in the general remuneration pool at this time, in the most recent determination the Remuneration Authority did however indicate that it will shortly be advising Councils of new provisions for transport and communication allowances for elected members, which will hopefully positively address some of the issues that have been previously raised. A requirement of such new provisions will however be that Council has a well defined policy in

respect to the expenses and allowances that are payable to elected members, and staff are currently preparing such a policy for presentation to Council in the near future.

DC Clibbery
CHIEF EXECUTIVE

Item10 AOTEA MOWING CONTRACT

**To: Chairperson and Members
 Kawhia Community Board**

From: Community Facilities Officer

Date: 29 October 2010

Executive Summary

The Aotea Mowing Contract (ODC Contract 870) expires on 30 November 2010 and hence a decision is required regarding whether it should be extended or re-tendered.

Staff Recommendation

It is recommended that:

1. The Aotea Mowing Contract of Merv Lane be extended for a further three year term (through to 30 November 2013) in accordance with the Board's previous policy of extending existing Contracts when the work has been done to a high standard by a local Contractor.
2. Terms of the existing contract will remain unchanged, except that the existing contract price shall not be adjusted for Cost fluctuations until 30 November 2011.

Report Discussion

Merv Lane has been mowing the public areas of Aotea for the last four years, through a two year Contract that has had two one year Rights of Renewal. The standard of mowing has been very high, there have been no complaints and no occasions recorded where the mowing was outside the Contract specifications.

There are two other local mowing Contractors that could be interested in mowing at Aotea. In the most recent public tendering of the Kawhia Mowing Contracts Mr Lane was however the lowest priced tenderer, and with a proven satisfactory record.

The Board has a policy of extending existing Contracts where the Contractor was a local person and where the work was completed to a satisfactory standard.

It is proposed that the current price paid for the contract, which is \$481.25 per month (GST inclusive) remains unchanged, and that the next adjustment for Cost Fluctuations, in accordance with the current practice of indexing against the Statistics New Zealand PPIQ SN8 cost index, shall not occur until 30 November 2011. Thereafter Cost Fluctuation Adjustments will be at six monthly intervals.

Dave Williams
COMMUNITY FACILITIES OFFICER

Item11 KCB MATTERS REFERRED FROM 24 SEPTEMBER 2010

**To: Chairperson and Members
 Otorohanga District Council**

From: Governance Supervisor

Date: 29 October 2010

Report Discussion

1. BOARD

24 September 2010

- i. To hold a public meeting in the near future on the matter of raw water availability.

2. MR JEFFRIES

30 July 2010

- i. To come back to the Board with alternatives on the upgrading of rubbish bins.

3. MR ORMSBY

24 September 2010

- i. To take back to Onepu Trust their application for the Kawhia Cemetery Reserve restoration as part of their Community Max programme.

4. ENGINEERING MANAGER

28 May 2010

- i. To liaise with the Onepu Charitable Trust regarding the Karewa Beach 20km signage.

30 July 2010

- ii. To contact EnviroWaste regarding the side issues which have developed in the collection of refuse at Kawhia and Aotea.

5. ENVIRONMENTAL SERVICES MANAGER

24 September 2010

- i. To place a reminder regarding the control of dogs in Kawhia in Council's next Newsletter and any other appropriate publications.

6. DISTRICT BUILDING CONTROL OFFICER

24 September 2010

- i. To follow up from a building point of view, on the matter of a transportable unit being placed on Road Reserve.

CA Tutty
GOVERNANCE SUPERVISOR

GENERAL

