

Extra-ordinary Whangarei District Council

Notice of Meeting

A extra-ordinary meeting of the Whangarei District Council will be held in the Council Chamber, Forum North, Whangarei on:

**Wednesday
14 August 2013
11.30am**

Committee

His Worship the Mayor (Chairperson)
Cr C B Christie
Cr S J Deeming
Cr A J Edwards
Cr S M Glen
Cr P R Halse
Cr J S Jongejans
Cr G M Martin
Cr B L McLachlan
Cr S L Morgan
Cr K J Sutherland
Cr W L Syers
Cr M R Williams
Cr J D T Williamson

OPEN MEETING

APOLOGIES

CONFLICTS OF INTEREST

Members are reminded to indicate any items in which they might have a conflict of interest.

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Local Government Act 2002 Amendment Act 2012

Full consideration has been given to the provisions of the Local Government Act 2002 Amendment Act 2012 in relation to decision making and in particular the current and future needs of communities for good quality local infrastructure, local public services and performance of regulatory functions in a way that is most cost effective for households and businesses. Consideration has also been given to social, economic and cultural interests and the need to maintain and enhance the quality of the environment in taking a sustainable development approach.

**Recommendations contained in the Council agenda are NOT Council decisions.
Please refer to Council minutes for resolutions.**

1. Leave of Absence

Reporting officer Dominic Kula (Governance Manager)

Date of meeting 14 August 2013

Vision, mission and values

This item is in accord with Council's vision, mission and values statement.

Background

Mayor Morris Cutforth has received surgery to relieve the pain associated with a longstanding back complaint and has applied in writing for leave of absence. This Agenda Item outlines that request for consideration by Council.

Application for Leave of Absence

Clause 5, Schedule 7, of the Local Government Act 2002 (the Act) states that the office of a member becomes vacant if the member *"is absent without the leave of the local authority from 4 consecutive meetings (other than extraordinary meetings) of the local authority"*.

The Standing Orders state *"the Council may grant leave of absence to a member from an ordinary meeting or other meetings of the Council or its committees upon application by the member in writing."*

Furthermore Standing Order 3.6.2 clarifies that *"if a member has not obtained leave of absence an apology may be accepted or declined by the local authority [and] acceptance of the apology shall be deemed to be a granting of leave of absence for that meeting"*.

The definition of a 'meeting of the local authority/council' from these two sources is slightly unclear i.e. do these provisions relate to meetings of the full council only, or are other meetings (such as those of standing committees) included as well. For the avoidance of doubt, we have obtained legal advice that states:

"The standing orders reflect the provisions of the LGA 2002, but in relation to creating an extraordinary vacancy, the Act must prevail over standing orders. Clause 5 of Schedule 7 of the LGA provides for the vacancy to occur if the member misses 4 consecutive meetings (other than extraordinary meetings) of the local authority. Unlike LGOIMA which has an extended definition of meeting to include meetings of committees, LGA doesn't. So logically, meetings of the local authority should be interpreted as meetings of the Council itself. This means the vacancy would only be created if 4 consecutive Council meetings were missed without apology."

Where required for medical reasons, the absence of the Mayor from a meeting has to date been approved by way of apology on a case by case basis. However, recovery from the Mayor's recent operation will result in an absence from successive meetings and as a result he has applied for leave of absence for the period from and including Wednesday 14 August 2013 to Wednesday 18 September 2013.

This period will enable the Mayor to return for the final meetings of Council and Standing Committees. Should further leave be required in order to enable the Mayor to recover this will be sought by way of an apology at the appropriate meeting.

Arrangements during the absence of Mayor

Regardless of whether or not leave of absence is granted, Clause 17 (3), Schedule 7 of the Act clearly states that the Deputy Mayor must perform all the responsibilities and duties, and may exercise all the powers, of the Mayor:

- 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.*

As a result of this it is noted that the Deputy Mayor will be Acting Mayor while the Mayor recovers from surgery. It is also noted that in the event that both the Mayor and Deputy Mayor are absent when a Council meeting is held, the Act requires those present at the meeting to elect a chairperson to preside at the meeting.

Recommendation

That pursuant to Standing Order 3.6.1, leave of absence be granted to His Worship the Mayor M C A Cutforth for the period Wednesday 14 August 2013 to Wednesday 18 September 2013.

2. Interim Arrangements for Mayoral Remuneration

Reporting officer Dominic Kula (Governance Manager)

Date of meeting 14 August 2013

Vision, mission and values

This item is in accord with Council's vision, mission and values statement.

Background

Mayor Morris Cutforth has received surgery to relieve the pain associated with a longstanding back complaint. The Mayor has applied for a leave of absence for the period immediately following the operation to allow for his recovery. Further, he recognises that he will have reduced capacity for some weeks following the operation and that this will place additional responsibilities and workload on councillors, particularly the Deputy Mayor.

In recognition of this the Mayor has requested a reduction in salary for the remainder of this term of Council. In addition the Mayor has requested that the Deputy Mayor be remunerated for additional responsibilities that he will be required to undertake during his absence and recovery and that the Mayoral Vehicle be returned to Council.

It is important to note that the Mayor is not required to seek a reduction in salary or to recommend that the Deputy Mayor be remunerated for additional responsibilities. Similarly while this proposal has been brought to Council for consideration any decision regarding the Mayoral Salary and Vehicle ultimately rests with the Remuneration Authority.

The approach outlined in this Item has therefore been discussed with the Remuneration Authority which advised that it can make these changes provided:

- It receives advice in writing of a majority decision of Council prior to the end of August; and
- The reduced remuneration arrangements remain in place until the election.

These conditions are necessary in order to enable the Remuneration Authority to process any determination prior to a replacement determination coming into play on 13 October 2013.

Adjustment to Mayoral Salary

As outlined above the Mayor has requested a reduction in remuneration during his leave of absence and recovery. Furthermore he has requested that the Deputy Mayor be remunerated for additional responsibilities that he will be required to undertake during this period.

In requesting this the Mayor has sought the same arrangements to those that were in place when he was recovering from a stroke in 2011. In that instance 40% of the gross Mayoral Salary was allocated to the Deputy Mayor with the Mayoral Vehicle being stored securely on Council premises.

Council now has an opportunity to consider this proposal and, if in support, make a recommendation to the Remuneration Authority. If Council is not in support of this proposal the existing Mayoral Salary and Vehicle arrangements will remain in place until the election.

Recommendation

1. That Council recommends to the Remuneration Authority that during the period 14 August 2013 to 12 October 2013 40% of the gross Mayoral Salary be allocated to the Deputy Mayor.
2. That the Mayoral Vehicle be stored securely on Council premises until the end of this term of Council.