



## Christchurch City Council

# AKAROA/WAIREWA COMMUNITY BOARD AGENDA

WEDNESDAY 23 MAY 2007

9.30 AM

### LITTLE RIVER SERVICE CENTRE

**Community Board:** Stephen Lowndes, Stewart Miller, Bryan Morgan, Bob Parker, Eric Ryder

**Akaroa Service Centre Manager**

Liz Carter

Telephone: (03) 304-7701

Fax: (03) 304-7731

Email: [liz.carter@ccc.govt.nz](mailto:liz.carter@ccc.govt.nz)

**Secretary**

Wendy Graham

Telephone: (03) 304-7701

Fax: (03) 304-7731

Email: [wendy.graham@ccc.govt.nz](mailto:wendy.graham@ccc.govt.nz)

**PART A - MATTERS REQUIRING A COUNCIL DECISION**

**PART B - REPORTS FOR INFORMATION**

**PART C - DELEGATED DECISIONS**

### INDEX

- PART C 1. APOLOGIES**
- PART C 2. CONFIRMATION OF REPORT – 24 APRIL 2007**
- PART C 3. CONFIRMATION OF REPORT - 2 MAY 2007**
- PART B 4. PETITIONS**
- PART B 5. CORRESPONDENCE**
  - 5.1 The Armstrong Family - Sandy Bay Toilet**
- PART B 6. DEPUTATIONS BY APPOINTMENT**
  - 6.1 Ms Shirley Hayward - Environment Canterbury**
  - 6.2 Bi-Monthly Police Report**
- PART C 7. EXTRAORDINARY VACANCY**
- PART C 8. APPOINTMENT OF COMMUNITY BOARD REPRESENTATIVE TO BYLAW REVIEWS SUB-COMMITTEE**
- PART B 9. SERVICE CENTRE MANAGER'S UPDATE**
- PART B 10. NOTICES OF MOTION**
- PART B 11. QUESTIONS**
- PART B 12. BOARD MEMBERS' INFORMATION EXCHANGE**

## **2. CONFIRMATION OF REPORT**

The report of the ordinary meeting of the Akaroa-Wairewa Community Board held on Tuesday 24 April 2007 is attached.

### **STAFF RECOMMENDATION**

That the report of the ordinary meeting held on Tuesday 24 April 2007 be confirmed.

### **3. CONFIRMATION OF REPORT**

The report of the extra-ordinary meeting of the Akaroa-Wairewa Community Board held on Wednesday 2 May 2007 is attached.

#### **STAFF RECOMMENDATION**

That the report of the extra-ordinary meeting held on Wednesday 2 May 2007 be confirmed.

#### **4. PETITIONS**

#### **5. CORRESPONDENCE**

##### **5.1 The Armstrong Family - Sandy Bay Toilet**

Pat Armstrong is writing on behalf of her family requesting that Council consider installing public toilets behind the beach at Sandy Bay (refer attached).

This letter is similar to one received recently from the Akaroa Harbour Issues Working Party.

*At that point the Board “decided to support the concept of installing a toilet in Sandy Bay providing that there was actually a pollution problem in the area. The Board asked that staff provide some comment on the reported pollution and an indication of what, if anything, the Council could do to help address the situation.”*

Staff have looked at this situation. An update on that is included in the Akaroa Service Centre Manager's Update.

## **6. DEPUTATIONS BY APPOINTMENT**

### **6.1 Ms Shirley Hayward - Environment Canterbury**

Ms Hayward will attend the meeting to report on the testing regime that Environment Canterbury has for monitoring the algal bloom in Lake Forsyth.

### **6.2 Bi-Monthly Police Report**

A representative of the local police will attend the meeting.

## 7. EXTRAORDINARY VACANCY

<b>General Manager responsible:</b>	General Manager, Regulation & Democracy Services, DDI 941-8549
<b>Officer responsible:</b>	Acting Democracy Services Manager
<b>Author:</b>	Max Robertson

### PURPOSE OF REPORT

1. The purpose of this report is to advise the Community Board that an extraordinary vacancy has arisen in the office of elected member of the Board, as a consequence of the resignation of Winston McKean.

### EXECUTIVE SUMMARY

2. Resignations which occur during the triennium are treated as extraordinary vacancies, which are dealt with under sections 117-120 of the Local Electoral Act 2001. If the vacancy occurs within 12 months of the next triennial local government elections (being 13 October 2007) then the Community Board has two options. It can either leave the vacancy unfilled, or it can appoint a person to fill the vacancy for the balance of the current triennium. A by-election cannot be held within 12 months of a triennial election.

### PERSONS ELIGIBLE TO BE APPOINTED TO FILL EXTRAORDINARY VACANCY

3. To be eligible for appointment as a member of the Board, the candidate must:
  - (a) Be a New Zealand citizen.
  - (b) Enrolled as a Parliamentary elector somewhere in New Zealand (it is not necessary for the candidate to be enrolled as a Parliamentary elector in Christchurch).
4. Persons who are currently members of a regional council are also ineligible for appointment to the Board.
5. As the number of candidates standing for election in the Akaroa subdivision of the Akaroa-Wairewa community did not exceed the number of vacancies to be filled, no election was necessary for this issue when the Christchurch City (Banks Peninsula) elections for the remaining issues were held on 25 February 2006. In any event, it is not necessary for a proposed appointee to have been a candidate at the previous election.

### DISCUSSION

6. Should the Board decide to make an appointment, then it is open to the Board to identify a proposed appointee at its present meeting, in which case it will then be necessary for the requisite public notice to be given before such appointment can be confirmed at the Board's subsequent meeting. The appointed person would take office once they had taken their declaration as a Board member.
7. On the other hand, if the Board is of the view that the extraordinary vacancy should be left unfilled, then it will be possible for a final decision to this effect to be adopted at the present Board meeting.

### OPTIONS

8. The Board has two options open to it, as set out in the two alternative draft resolutions set out below:
  - (a) That the Board resolve, pursuant to section 117(3)(b) of the Local Electoral Act 2001, to leave unfilled the extraordinary vacancy created by the resignation of Winston McKean, and that the Chief Executive Officer immediately give public notice of that decision; or
  - (b) That the Board resolve, pursuant to section 117(3)(a) of the Local Electoral Act 2001:

- (i) That the vacancy created by the resignation of Winston McKean be filled by the appointment of *(insert name of proposed appointee)*.
- (ii) That for the purpose of section 118(1)(b) of the Local Electoral Act 2001, the criteria by which *(insert name of proposed appointee)* was selected for appointment are that *(insert criteria by which proposed appointee was selected)*.
- (iii) That the Council give public notice of the above resolution.

#### **FINANCIAL IMPLICATIONS**

- 9. There are no direct financial implications. The salary paid to Mr McKean ceased as from the date of his resignation. If the Board decides to make an appointment to fill the resulting extraordinary vacancy, the salary payable to the new member will not commence until after the appointee's appointment has been confirmed, following the giving of the requisite public notice.

#### **LEGAL CONSIDERATIONS**

- 10. Section 117 of the Local Electoral Act provides:

- “(2) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a community board 12 months or less than 12 months before the next triennial general election, the principal administrative officer of the local authority concerned must notify the local authority or community board of the vacancy immediately.*
- (3) On receiving notice under subsection (2), the local authority or community board must, at its next ordinary meeting or, if that is not practicable, at its next subsequent ordinary meeting, determine by resolution---*
  - (a) that the vacancy will be filled by the appointment by the local authority or community board of a person named in the resolution who is qualified to be elected as a member; or*
  - (b) that the vacancy is not to be filled.*
- (4) If for any reason the person specified in the resolution is unavailable, or otherwise unable to be notified of the appointment, a further vacancy occurs in that office.”*

- 11. Section 118 provides as follows in respect of any decision to make an appointment to fill an extraordinary vacancy:

#### *“118 Notice of intention to fill vacancy by appointment*

- (1) If, under section 117(3)(a), a local authority or community board resolves that a vacancy will be filled by the appointment of a person by the local authority or community board, it must immediately, unless the vacancy is for the office of Mayor, give public notice of---*
  - (a) the resolution; and*
  - (b) the process or criteria by which the person named in the resolution was selected for appointment.*
- (2) The local authority or community board must, at a meeting held not later than the expiry of the prescribed period, by resolution confirm the appointment described in the resolution under subsection (1); and the person appointed is for all purposes to be treated as having been elected to fill the vacancy on the date on which that resolution is made.*
- (3) For the purposes of subsection (2), the expiry of the prescribed period is 30 days after the date of notification of the resolution under subsection (1).*

- (4) *If for any reason the person specified in the resolution is unavailable or otherwise unable to be confirmed in the appointment, a further vacancy occurs in that office."*

12. If the Board resolves to leave the extraordinary vacancy unfilled, immediate public notice must be given of that decision.

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

##### **Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

13. Page 111 of the LTCCP refers to all elections, polls, and other related decisions being held or made in full compliance with the relevant legislation.

#### **ALIGNMENT WITH STRATEGIES**

##### **Do the recommendations align with the Council's strategies?**

14. Not relevant.

#### **CONSULTATION FULFILMENT**

15. No formal consultation is required in this instance. However, if the Board decides that the extraordinary vacancy should be filled by appointment, then that decision will need to be publicly notified before the appointment can be confirmed.

#### **STAFF RECOMMENDATION**

It is recommended that the Board adopt one of the resolutions set out under paragraph 8 of this report, and, if option (b) is adopted, specify the name of the proposed appointee and the criteria by which s/he was selected.



## 8. APPOINTMENT OF COMMUNITY BOARD REPRESENTATIVE TO BYLAW REVIEWS SUB-COMMITTEE

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	Programme Manager Strong Communities
<b>Author:</b>	Terence Moody

### PURPOSE OF REPORT

1. The purpose of this report is for the Community Board to nominate a representative to a subcommittee to feed Community Board members views in to the review of bylaws.

### EXECUTIVE SUMMARY

2. A seminar was held on 13 March 2007 of Councillors and Community Board members to provide information on the required reviews of bylaws under the Local Government Act (LGA) 2002 and the process that must be undertaken to comply with the Act. Section 158 of the LGA 2002 requires bylaws to be reviewed within five years of 1 July 2003 if they were made prior to the Act coming into force, or if made under the LGA 2002 within five years of the date they were made. Reviews must be carried out in accordance with section 155 which requires that the Council is satisfied that a bylaw is necessary, and the perceived problems cannot be dealt with in any other manner. At least 24 bylaws are required to be reviewed prior to the end of June 2008 and timetables for these reviews have been set.
3. On 10 May 2007 a Council meeting decision was made to form a subcommittee.<sup>1</sup> The subcommittee will provide a single conduit for communication with Community Boards about the reviews and highlight specific reviews likely to be of high interest. The subcommittee will gather feedback in a timely and efficient fashion and enable a fast turnaround of initial comments on the reviews prior to the formal consideration by the Council required under the Act. The options analysis for each review will be sent to the subcommittee prior to the matter going on to the Council. It will be necessary to ensure a prescribed turnaround time for responses back to the initiating units to meet timetables for the reviews. The terms of reference for this subcommittee is *to provide a process by which the views of Community Boards can be collected and considered and to communicate these views to the Council as part of the consideration of options in the reviews of bylaws*. The process is not intended to promote totally new bylaws but to consider the review requirements of the Act. Should the process identify objectives that may need to be considered by totally new bylaws these will be noted and addressed once the review of existing bylaws is completed.

### FINANCIAL IMPLICATIONS

4. The input of Community Boards will be conducted through normal Board processes. The joint sub committee approach should reduce the potential for duplication and delay, and assist Council in meeting it's statutory deadline. There are no extraordinary financial implications from the proposed process.

### Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

5. Yes

### LEGAL CONSIDERATIONS

6. The Council has the power under the LGA 2002 to appoint or discharge committees and subcommittees (clause 30). The Council can also delegate powers to subcommittees in accordance with clause 32, Schedule 7 of the LGA 2002 for the purposes of efficiency and effectiveness in the conduct of the Council's business. In this case, there is no need to delegate any powers to the subcommittee as its primary purpose concerns gathering and distributing

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<sup>1</sup> Please refer to council meeting minutes on this decision.

information to and from the Community Boards in respect of the bylaw reviews. The Council has delegated the power to appoint the Community Board members of the subcommittee to each Community Board.

**Have you considered the legal implications of the issue under consideration?**

7. Yes

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

8. The report is consistent with the Democracy and Governance Activity Management Plan in the LTCCP in that the recommendations contribute to ensuring that there is suitable community input to the Council's decision making. See Our Community Plan 2006-2016 Volume 1 Page 111.

**Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

9. Yes

**ALIGNMENT WITH STRATEGIES**

10. No specific strategies involved.

**Do the recommendations align with the Council's strategies?**

11. Compliance with Strategic Directions to promote participation in democratic processes by *making it easy for people to understand and take part in Council decision-making processes.*

**CONSULTATION FULFILMENT**

12. An initial seminar was held on 13 March 2007 with Community Boards and copies were distributed to all board members. The proposed structure was reported to Council on 10 May 2007 and adopted.

**RECOMMENDATION**

13. That the Community Board nominate a member as its representative on the Bylaw Reviews subcommittee to collectively ensure that the views of the community boards are incorporated as part of the review process required for all bylaws under the Local Government Act 2002.

**BACKGROUND (THE BYLAW REVIEW PROCESS)**

14. A seminar was held on 13 March 2007 of Councillors and Community Board members to provide information on the required reviews of bylaws under the LGA 2002 and the process that must be undertaken to comply with the Act. Where Community Board members were unable to attend copies of the material presented and the notes of the meeting were distributed for their information. Section 158 of the LGA 2002 requires bylaws to be reviewed within five years of 1 July 2003 if they were made prior to the Act coming into force, or if made under the LGA 2002 within five years of the date they were made. Reviews must be carried out in accordance with section 155 which requires that the Council is satisfied that a bylaw is necessary, and the perceived problems cannot be dealt with in any other manner.
15. If it is determined that a bylaw is the most appropriate way of dealing with the problem the Council must decide that the bylaw is the most appropriate form and does not give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). This means the Council must be able to show that the bylaw provision being considered serves an important and significant objective, there is a rational connection between the provision and objective and it does not interfere with any right or freedom protected by the NZBORA.

16. The Code of Good Regulatory Practice requires that consideration be given to:
- Efficiency - by adopting only regulations for which the costs to society are justified by the benefits;
  - Effectiveness - to ensure it can be complied with and enforced at the lowest possible cost;
  - Transparency - by defining the nature and extent of the problem and evaluating the need for action;
  - Clarity - in making things as simple as possible, to use plain language where possible, and keeping discretion to a minimum; and
  - Regulation should be fair and treat those affected equitably.
17. Section 145 of the LGA02 provides the general bylaw-making power for territorial authorities for the following purposes:
- (a) protecting the public from nuisance
  - (b) protecting, promoting, and maintaining public health and safety
  - (c) minimising the potential for offensive behaviour in public places
18. Sections 146 and 147 provide specific bylaw-making powers to regulate:
- On-site wastewater disposal systems,
  - Waste management,
  - Trade wastes,
  - Solid wastes,
  - Keeping of animals, bees, and poultry,
  - Trading in public places
  - Water races,
  - Water supply,
  - Wastewater, drainage, and sanitation,
  - Land drainage,
  - Cemeteries,
  - Reserves or Recreation grounds, and
  - Prevention of the spread of fires involving vegetation subject to provisions of the Forest and Rural Act 1977.

For liquor control purposes the Council is empowered to prohibit or regulate the consumption of liquor, bringing of liquor, or possession of liquor in a public place.

19. There remain some provisions which enable territorial authorities to make bylaws which are contained in the Local Government Act 1974, which largely relate to the use of roads and traffic matters. These tend to be more specific in nature than the purposes set out in the LGA 2002. Some of the bylaws due for review may fall within the 1974 Act provisions.

20. The table below sets out the bylaws that must be reviewed by June 2008.

CC Public Places and Signs Bylaw 2003	BP District Refuse Bylaw 2002
CC Dog Control Bylaw 1997	BP Trade Wastes Bylaw 2000
CC Refuse Bylaw 1995	BP Wastewater Drainage Bylaw 2000
CC Bylaw No. 118 (1981) Parks and Reserves	BP Water Supply Bylaw 1998
CC Traffic and Parking Bylaw 1991	BP Amusement Devices and Shooting Galleries 1996
CC Water Related Services Bylaw 2001	BP Nuisances 1996
CC Bylaw No. 110 (1980) Cemeteries	BP Public Swimming Pools 1996
CC Bylaw No. 103 (1979) Public Swimming Pools	BP Gin Trap Bylaw 1991 No. 1
CC Bylaw No. 120 (1982) Estuary and Foreshore	BP Cemetery Bylaw 1996
BP Licences for Vehicle Stands on Streets 1996	BP Marine Facilities Control Bylaw 2002
BP Parks and Reserves 1996	BP Traffic and Parking Bylaw 1998
BP Mobile or Travelling Shops, and Hawkers and Itinerant Traders 1996	BP Stock Control Bylaw 1994 No. 1

21. A number of units are involved in the reviews and some bylaws will be considered jointly by more than one unit. A programme has been developed for consideration of the bylaws and the process must be adhered to whether a bylaw is to have minor or substantive changes, remain unchanged or be revoked. The full process of review requires consultation with the Executive Team, the Council and Community Boards, and progression through public consultation, submissions and a hearings panel. A minimum of five or six months is commonly required to complete a review. The table above shows that 24 bylaws must be reviewed in the next 12 months although some reviews will be able to be combined and some bylaws will possibly be able to be revoked on the grounds that their objectives are covered by other legislation. The Council must consider the need for Community Board input, and the time that may be involved in this additional consultation, with the relatively tight timetable legally required to complete the bylaw reviews.
22. The seminar concluded that a small subcommittee of Community Board members and Councillors formed to undertake an initial consideration of the reviews could be the most efficient, effective and timely method of obtaining Community Board input. The subcommittee could provide a single conduit for communication with the Community Boards about the reviews and highlight specific reviews likely to be of high interest. It is expected that the subcommittee could gather feedback in a timely and efficient fashion and enable a fast turnaround of initial comments on the reviews prior to commencement of the formal consultation process required under the Act. The proposal was that the options analysis for each review would be sent to all community board members for comments back through the Community Board's representative to the subcommittee prior to the matter going on to the Council. It would be necessary to ensure a prescribed turnaround time for responses back to the initiating units to meet timetables for the reviews. The process is not intended to be used to promote totally new bylaws. These can be raised and considered at any time, but this process is limited to considering the review requirements of the Act. If through the process possible new bylaws are identified for consideration these will be noted and addressed once the review of existing bylaws is completed. It must be noted that the Community Boards can have another opportunity to provide feedback through the special consultative procedure.
23. On 10 May 2007 the following decisions were made at the Council meeting:
- (a) Resolve to appoint a subcommittee to consider initial reviews of the Council's bylaws and provide feedback to the appropriate Units on the views of the Community Boards, prior to the matters being formally considered by the Council.
  - (b) Resolve that the subcommittee comprise one representative from each of the eight community boards and two Councillors.

- (c) Appoint two Councillors to be members of the subcommittee.
- (d) Delegate the power to appoint one Community Board member of the subcommittee to each Community Board.

Councillors Buck and Wells were appointed as the councillor members of the sub committee.

## **9. AKAROA SERVICE CENTRE MANAGERS UPDATE**

### **9.1 ELECTED MEMBER SURVEY**

Board members have had an Elected Member Survey sent to them by both email and post. The surveys are to be returned to the Council Secretary (Max Robertson) by Tuesday 5<sup>th</sup> June.

The purpose of the survey is to receive information from Elected Members on key processes and support given by the Democracy Services Unit.

If you have any questions about the survey please don't hesitate to ask me.

### **9.2 SANDY BAY TOILET**

Staff from the Coastal Area Ranger Group have investigated the request from Council to install a composting toilet in Sandy Bay, Takamatua. The simple answer to this is that it can not be done because Council has no suitable land adjacent to the bay. The unformed legal road that runs around the Peninsula is cliff face at this point.

A letter has now been received from the adjacent property owner. The letter will be passed on to the Coastal Ranger Group so that discussions can take place to ascertain if there is a suitable location for the toilet.

### **9.3 DISCRETIONARY FUNDING APPLICATIONS**

Applications for Discretionary Funding will be compiled into a report and presented to the Board meeting on 27 June.

### **9.4 SEMINARS**

I attended seminars on:

Water Conservation  
Public Places Bylaw Review  
Signs on Footpaths

I have handouts from those seminars should any member want them.

One of the issues raised at the Water Conservation seminar was that of a project called "Enviro Schools". I am making more enquiries regarding that project to see if it would be suitable to introduce on Banks Peninsula.

## **10. NOTICES OF MOTION**

## **11. QUESTIONS**

*Members may at any ordinary meeting put a question to the Chairman concerning any matter relevant to the role or function of the Community Board concerning any matter that does not appear on the order paper. All questions are subject to Standing Orders 4.1.1 to 4.1.5.*

## **12. BOARD MEMBERS' INFORMATION EXCHANGE**