

3. GOVERNANCE ISSUES FOR THE NEXT COUNCIL

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The purpose of this report is to provide information for the next Council as to the work carried out this year by the Proposed Committee Structure Review Subcommittee (“the Subcommittee”) and the discussion at the Council seminar held on Thursday 8 July 2004. It is intended this information be a resource for the next Council when it gives consideration as to whether or not to adopt a committee structure.

LOCAL GOVERNMENT ACT 2002

In a discussion of this nature it is important to bear in mind that the Local Government Act 2002 now sets out governance principles for local authorities. Those principles state:

- “(1) *In performing its role, a local authority must act in accordance with the following principles:*
- (a) *a local authority should—*
 - (i) *conduct its business in an open, transparent, and democratically accountable manner; and*
 - (ii) *give effect to its identified priorities and desired outcomes in an efficient and effective manner;*
 - (b) *a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*
 - (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) *the interests of future as well as current communities; and*
 - (iii) *the likely impact of any decision on each aspect of well-being referred to in section 10;*
 - (d) *a local authority should provide opportunities for Maori to contribute to its decision-making processes;*
 - (e) *a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and*
 - (f) *a local authority should undertake any commercial transactions in accordance with sound business practices; and*
 - (g) *a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and*
 - (h) *in taking a sustainable development approach, a local authority should take into account—*
 - (i) *the social, economic, and cultural well-being of people and communities; and*
 - (ii) *the need to maintain and enhance the quality of the environment; and*
 - (iii) *the reasonably foreseeable needs of future generations.*
- (2) *If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).”*

NEW COUNCIL STRUCTURE

This report is written on the basis of the determination of the Local Government Commission of 8 April 2004 that there will be one Mayor and 12 Councillors, together with 30 elected Community Board members.

(a) Subcommittee Recommendations

Over five meetings the Subcommittee has considered the issue of the governance structure for the new Council. The Subcommittee’s recommendations to the seminar were that there be two Council meetings a month.

The first Council meeting would cover city-wide issues and the second Council meeting, to be held at approximately the same general time towards the end of the month as the current Council meetings, would consider a report from four standing committees.

With regard to committees although there is no legal requirement for the Council to have committees the Subcommittee is recommending that the new Council establish committees for the reason that committees:

- (a) Bring a focus and development of expertise to consideration of an issue
- (b) Enhance Council efficiency and effectiveness
- (c) Enable an issue to be studied in depth
- (d) Allow for a better division of workload
- (e) Hear deputations
- (f) Act as a filter to the Council

The Subcommittee's recommendation is that the Council meeting at the beginning of the month would consider reports made directly to it on the following matters:

- Annual Plan process (Chaired by the Mayor)
- Matters dealt with by the current Strategy and Finance Committee
- CCHL reporting
- Canterbury Development Corporation/Canterbury Development Economic Fund
- Tourism/Christchurch City Marketing
- Central City Issues
- Commercial and retail strategies
- Maori liaison
- Urban planning
- Heritage issues
- Multi-cultural issues
- Sister Cities

The Subcommittee has recommended the following committee structure and terms of reference for those committees for the new Council:

Parks & Water Services

Water Supply
Wastewater
Land Drainage
Parks

Transport & Utilities

Solid Waste
Transport
Parking

Community & Leisure

Housing
Community Development
Grants
Festivals and Events
Recreation and Sport
Libraries
Art Gallery
Museum
Pools
Stadia
Art in Public Places

Regulation

RMA
Dogs
Prostitution
Liquor
Building Control
Fencing of Swimming Pools
City Plan
Gambling

Each committee would have a membership of six so that each Councillor is on two committees.

With the four standing committees the Mayor would be a member ex-officio as at present. It should also be noted that the Local Government Act 2002 Amendment Act 2004, which came into force on 6 July 2004, provides that the Council can choose whether or not to give the Mayor, and the chairs of committees and Community Boards, through the Council's Standing Orders a casting vote. At the present time this Council has chosen to provide such a power to the Mayor and chairs.

In addition to these four standing committees there would still be a standing committee which forms the Council Hearings Panel for the purpose of Resource Management Act and other statutory hearings. Further, there would still be the need for committees involving relationships with other local authorities such as the Canterbury Joint Standing Committee, the Summit Road Protection Authority, the Civic Defence Emergency Management Group and the greater Metropolitan Urban Development Strategy.

It was considered that there would still be the need to have some standing subcommittees of the Council such as the Legislation Subcommittee, the CEO Liaison Subcommittee, the Ethics Subcommittee, the Metropolitan Funding Subcommittee and the Audit Subcommittee.

(b) 8 July 2004 Council Seminar

From discussion at the seminar held on 8 July it would seem that there is a range of views as to the necessity to have standing committees for the new Council. Another model that was put forward at the seminar was to have weekly or fortnightly Council meetings and not have any committees at all. Officers would make reports directly to the Council meeting when necessary.

The rationale for that view is that when debate on issues occurs in a committee then Councillors who are not members of the committee are not privy to that debate. This can lead to reports being debated by a committee or subcommittee and then the Council's decision going against the committees recommendation with the Councillors who are not present not necessarily having the same degree of information and understanding as the committee members themselves. Further there is no reflection of the debate that occurred at a committee meeting reported in the Council agenda. Having regard to the different views at the seminar, an option would be for the new Council to operate with no committees for an agreed time period to enable full consideration of whether it wished to appoint committees.

DELEGATIONS

The Local Government Act 2002 provides that "*... for the purposes of efficiency and effectiveness on the conduct of the Council's business...*" the Council can delegate to a committee, Community Board, and Council officer almost any of its responsibilities, duties, or powers under any statute. The Act provides for certain exceptions for matters such as making rate, making a bylaw, adopting a long term council community plan or appointing a chief executive. In making delegations the Council can impose any conditions, limitations or prohibitions on such delegations.

There is a new legal duty on the Council in the Local Government Act "*... to consider whether or not to delegate to a Community Board if the delegation would enable the Board to best achieve its role.*"

The Local Government Act sets out the role of Community Boards as:

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

Previous work and discussion within the Council has seen the role of the Boards within this Council as being:

- Expenditure of discretionary expenditure in their areas
- Implementation of minor capital works
- Implementation of changes to the operational programme
- Engagement of the agencies
- Undertaking community consultation

With the reduction in the number of Councillors, the new Council will need to consider the way in which it manages its work and part of that discussion would need to involve the role of the Community Boards as to what work should be referred by way of delegation of Boards. Another issue that can be considered is whether some existing Community Board delegations could be given to officers.

For decision-making purposes, the Boards are an integral part of the Council organisation in the same way that committees and managements are. Ultimately it will be for the Council to set the balance between decisions to be made by the Council, committees (if they are established), Community Boards and officers. As noted above the Local Government Act authorises the Council to set conditions, limitations or prohibitions on delegations and so that such conditions or limitations could, to a certain extent, ensure consistency across the city with regards to the types of decisions that may be made by Community Boards, or officers. The Subcommittee noted that it was important that the Council ensure that further delegations to Community Boards did not turn the city into six parts versus an overall city.

It would also seem opportune to review the current system of making delegations to move towards a system where by instead of delegations being done on an individual section number from a statute that they be done in a more comprehensive way by reference to parts of statutes. The Council does that to some extent now already, for example, delegations to officers under the Building Act, and where that has occurred then that has been effective insofar as it is easier to understand whether there subsequent amendments to a statute it avoids the need for the Council having to make specific changes to the delegations. It would be proposed that this could also be a method of delegating powers to committees and Community Boards.

Another method of delegation could be by subject matter but the practical difficulty is that there may well arise situations where it is unclear at a particular set of circumstances where the decision-maker has the power to make a decision. It is important to bear in mind that when the delegations are made then the person making the decision is legally acting as "the Council" whether that decision be made by a committee, Community Board or an officer. So therefore the certainty of who has the ability to make a decision is important for this reason and reference to subject matter delegation is more problematic for this reason.

The Subcommittee was also of the view that it would be appropriate if new delegations are made to Community Boards or officers, that there be a formal review after one year for the Council to consider how those delegations are working, and whether there is any need to alter the delegations. This could also be the opportunity for the Council to ensure that any conditions or limitations with regard to those delegations are being adhered to.

REMUNERATION

The Subcommittee and the seminar also considered information from the Council Secretary regarding the Remuneration Authority's salary pool and interim salary arrangements. The Subcommittee is recommending a 'salary only' option without the payment of meeting fees. However, any decision on the remuneration structure is one to be made by the new Council.

The Subcommittee recommends that the following criteria be applied to remuneration payments by the Council:

- That all committee chairpersons be paid the same, and the Deputy Mayor be paid the same as committee chairpersons.
- That there be a clear policy and criteria on the allocation of elected members to resource management hearings panels and a good policy on expenses claims.
- That Councillors not be appointed chairpersons of Community Boards.

The Subcommittee recommends a salary only option for remuneration payments with no meeting allowance but with a mileage allowance. The Subcommittee also recommends that the percentage relativities in the table below between committee chairs (if committees are established), Councillors, Community Board chairs and Community Board members be used by the new Council in formulating its recommendation to the Remuneration Authority. The dollar figures in the table are indicative only and do not have any formal status.

	Salary	No of Positions	Total Payments	Payments Within Pool
Mayor	\$143,000 *	(1)	\$143,000	\$143,000
Committee Chair/Deputy Mayor 65% of Mayor	\$93,000	(5)	\$465,000	\$465,000
Councillor 75% of chair	\$71,000	(7)	\$497,000	\$497,000
Community Board Chair 50% of Councillor	\$35,000	(6)	\$210,000÷2	\$105,000
Board member 50% of Community Board chair	\$18,000	(24)	\$432,000÷2	\$216,000
			\$1,747,000	\$1,426,000

(* Note: The figure of \$143,000 shown for the Mayor's salary in the post-election period was based on earlier information supplied by the Remuneration Authority. However, the Authority has just issued an interim determination providing for an interim post-election salary of \$141,590 for this position. This will have a small resulting effect on the suggested salaries for the remaining positions shown.)

APPOINTMENTS TO OUTSIDE ORGANISATIONS

The Subcommittee recognised that with the reduction in the total number of Councillors, there would not be the same number of Councillors available for appointments to outside organisations as there had been in the past.

After discussion the Subcommittee agreed that the following criteria should apply to requests for Councillors to be appointed to outside organisations:

- What is the extent of Council funding of the organisation (ongoing, significant)?
- Is there statutory provision that the appointment is compulsory?
- If appointment is requested by way of a constitution or trust deed which is not compulsory, then the appointment needs to meet one or more of the other criteria.
- The impact or relationship with Council activities or the Council's strategic interests.
- If the appointment is to be during the establishment phase or during a crisis management phase of an organisation, therefore a fixed time only.
- That the appointment adds value as a Councillor, as distinct from any other appointee.
- That appointees, instead of Councillors, could be a Community Board member, staff (if approved by the Chief Executive) or a member of the public. In that situation, the following additional criteria could be relevant:
 - local interest in the matter
 - particular interest of a Community Board member
 - particular skills or expertise.

A copy of a submission presented to the Committee by Mrs Yvonne Palmer and Mr Mike Mora on behalf of the Community Board Chairs is attached. The submission outlines the views of Community Board Chairs on the proposed remuneration for Community Board members and the Committee structure of the incoming Council.

Committee

Recommendation: That the report, together with the submission from Community Board Chairs, be referred to the incoming Council for further consideration.