

## 5. RESIGNATION OF COUNCILLOR ERIN BAKER

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The purpose of this report is to outline the options available to the Council in respect of the extraordinary vacancy arising from the recent resignation of Councillor Erin Baker.

### BACKGROUND

Councillor Erin Baker has resigned as a City Councillor (representing the Ferrymead Ward) with effect from 15 January 2004. As a consequence of her resignation as a Councillor, Ms Baker has also vacated her position as an appointed member of the Hagley/Ferrymead Community Board.

### EXTRAORDINARY VACANCY

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 9 October 2004) then the Council 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. The Council cannot decide to hold a by-election within 12 months of a triennial election.

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.”*

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."*

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

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

To be eligible for appointment as a member of the Council, 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).

Persons who are currently members of a regional council are also ineligible for appointment to the City Council.

#### **RESULTS OF 2001 TRIENNIAL COUNCIL ELECTION IN THE FERRYMEAD WARD**

The following votes were cast for the Council candidates in the Ferrymead Ward at the 2001 triennial elections:

<b>Candidates</b>	<b>Votes Received</b>
BAKER, Erin (Independent for Christchurch 2021)	6,676
COX, David (Independent)	6,308
CUNNINGHAM, Elizabeth Herra (Labour for Christchurch 2021)	2,821
McDERMID, Graham (Independent Citizens)	2,718

If the Council is of a mind to make an appointment to fill the extraordinary vacancy, it is not necessary for the appointee to have been a candidate at the previous triennial elections.

#### **DISCUSSION**

Should the Council decide to make an appointment to fill the vacancy, then it will not be possible for such appointment to be made at the present meeting. If the Council is of a mind to explore the option of making an appointment then I suggest that a subcommittee be appointed to bring a recommendation back to the 25 March Council meeting, setting out the process or criteria by which the proposed appointee was selected. Should the selection of the proposed appointee be approved by the Council, it will then be necessary for the requisite public notice to be given before such appointment can be confirmed at the Council meeting on 22 April 2004. The appointed person would take office once they had taken their declaration as a councillor.

On the other hand, if the Council is of the view that the extraordinary vacancy should be left unfilled, then it will be possible for a resolution to this effect to be adopted at the 26 February Council meeting.

#### **RECOMMENDATION**

The Council has two options open to it, as set out in the two following alternative draft resolutions:

- (a) That the Council resolve pursuant to section 117(3)(b) of the Local Electoral Act 2001 to leave unfilled the extraordinary vacancy created by the resignation of Erin Baker, and that the Chief Executive Officer immediately give public notice of that decision; or
- (b) That the Council appoint a subcommittee to:
  - (i) Investigate the option of appointing a person for the unexpired balance of the current triennium created by the resignation of Erin Baker, as provided in section 117(3)(a) of the Local Electoral Act 2001;
  - (ii) Make a recommendation to the 27 March 2003 Council meeting as to whether or not it is feasible to appoint a person to fill the extraordinary vacancy;
  - (iii) If the subcommittee favours such an appointment, to recommend a proposed appointee, setting out the criteria by which the proposed appointee was selected by the subcommittee.

At the Committee meeting letters from the following local organisations, urging the Council to appoint a person to fill the vacancy in the Ferrymead Ward, were read to the meeting:

- Clifton Neighbourhood Committee
- Mt Pleasant Community Centre and Ratepayers' Association
- Sumner Residents' Association
- Sumner-Redcliffs Historical Association

The above correspondence is attached.

In addition, letters were tabled from the following individuals also seeking the filling of the vacancy:

Terry and Rosalie Comer  
Ms Ruth Dyson MP  
Zane L MacDonald  
Mrs M Rule

In light of the views of the local community organisations, in particular, the majority of the Committee concluded that the vacancy should be filled for the remainder of the Council term.

The Committee is recommending that Mrs Linda Rutland be appointed to fill this vacancy. Mrs Rutland has served on the Hagley/Ferrymead Community Board for the last six years and as a consequence has an excellent knowledge of local ward issues. Mrs Rutland is currently deputy chair of the Board.

The recommendation when put to the meeting was declared **carried** by 6 votes to 5, the voting being as follows:

**For (6):** Councillors Anderton, Austin, Condon, Ganda, O'Rourke and James.

**Against (5):** Councillors Corbett, Harrow, Stewart, Wright and the Mayor.

- Recommendation:**
1. That the Council resolve, pursuant to section 117(3)(a) of the Local Electoral Act 2001, that the vacancy created by the resignation of Ms Erin Baker be filled by the appointment of Mrs Linda Rutland.
  2. That for the purpose of section 118(1)(b) of the Local Electoral Act 2001 the criteria by which Mrs Rutland was selected for appointment are that she has served for six years as a member of the Hagley/Ferrymead Community Board and that she is well aware of local ward issues.
  3. That the Council give public notice of the above resolution.