24 OCTOBER 2019

TRIENNIAL MEETING OF COUNCIL

Order Paper for an Triennial Meeting of Council to be held in the Gillies Group Theatre, Expressions Whirinaki Arts and Entertainment Centre, 836 Fergusson Drive, Upper Hutt on -

WEDNESDAY 30 OCTOBER 2019 COMMENCING AT 3.00PM

NOTE:

Order Paper reports may be inspected at the following offices whenever they are open to the public:

(a) Public Counter, Reception, Level 1, Civic Administration Building, 838-842 Fergusson Drive, Upper Hutt.

(b) The Central Library, 844 Fergusson Drive, Upper Hutt.

(b) The Pinehaven Branch Library, Corner Jocelyn Crescent and Pinehaven Road Pinehaven, Upper Hutt.
TRIENNIAL MEETING OF COUNCIL

Order Paper for an Triennial Meeting of Council to be held
on WEDNESDAY 30 OCTOBER 2019 commencing at 3.00pm

PUBLIC BUSINESS

MIHI WHAKATAU

WELCOME AND SAFETY BRIEFING

APOLOGIES

1. UPPER HUTT CITY COUNCIL ELECTION 2019
   DECLARATION OF RESULT OF ELECTIONS (306/10-010)

   Declaration of results of election by the Electoral Officer.  3

2. DECLARATION BY AND INSTALLATION OF MAYOR (306/02-001)

   Pursuant to Clause 14, Schedule 7 of the Local Government Act 2002,
   the Mayor must make an oral declaration and then sign a written version
   of it, before assuming office.

   The form of declaration is attached.

3. DECLARATION BY COUNCILLORS (306/02-001)

   Pursuant to Clause 14, Schedule 7 of the Local Government Act 2002,
   each Councillor must make an oral declaration and then sign a written
   version of it, before assuming office.

   The form of declaration is attached.

4. APPOINTMENT OF DEPUTY MAYOR (306/02-001)

   Report from the Chief Executive dated 17 October 2019.
   Recommendation on Page 7.

5. STATUTORY RESPONSIBILITY OF MEMBERS (306/02-012)

   Report from the General Counsel dated 15 October 2019.
   Recommendation on Page 8.

6. DATE AND TIME OF FIRST ORDINARY MEETING OF COUNCIL (306/02-002)

   Report from the Strategic Policy Manager through the
   Director of Strategy, Partnerships and Growth dated 21 October 2019.
Upper Hutt City Council Election 2019 | Declaration of Result of Elections

Notice is given of the official result of the elections held 12 October 2019 for Mayor and Councillors of the Upper Hutt City Council as required by section 86 of the Local Electoral Act 2001.

I confirm that the official result was determined after the scrutiny of the roll was completed, the validity of all special votes was determined and all valid votes were counted.

**Mayoralty**

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Votes Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>GUPPY, Wayne</td>
<td>6,245</td>
</tr>
<tr>
<td>MCLEOD, Angela</td>
<td>4,211</td>
</tr>
<tr>
<td>TAYLOR, Steve</td>
<td>2,735</td>
</tr>
<tr>
<td>INFORMAL</td>
<td>16</td>
</tr>
<tr>
<td>BLANK VOTING PAPERS</td>
<td>177</td>
</tr>
</tbody>
</table>

Wayne GUPPY is declared elected.

**Council - At Large** (10 vacancies)

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Votes Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCLEOD, Angela</td>
<td>8,292</td>
</tr>
<tr>
<td>WHEELER, Dave</td>
<td>7,030</td>
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<tr>
<td>TAYLOR, Steve</td>
<td>6,982</td>
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<tr>
<td>ULTRA, Tracey</td>
<td>6,868</td>
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<tr>
<td>SWALES, Hellen</td>
<td>6,614</td>
</tr>
<tr>
<td>LAMBERT, Paul</td>
<td>6,067</td>
</tr>
<tr>
<td>NEWELL, Heather</td>
<td>6,043</td>
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<tr>
<td>BENTLEY, Dylan</td>
<td>5,708</td>
</tr>
<tr>
<td>CARSON, Chris</td>
<td>5,606</td>
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<tr>
<td>GRIFFITHS, Blair</td>
<td>5,533</td>
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<tr>
<td>MCARTHUR, Glenn</td>
<td>4,964</td>
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<tr>
<td>THOMPSON, Paul</td>
<td>4,784</td>
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<tr>
<td>NEWELL, Michael</td>
<td>4,425</td>
</tr>
<tr>
<td>MACANN, Rebecca</td>
<td>3,709</td>
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<tr>
<td>MCNICHOLAS, D.J.</td>
<td>3,549</td>
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<tr>
<td>COOKE, Luke</td>
<td>3,479</td>
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<td>HURLE, Michael</td>
<td>3,254</td>
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<tr>
<td>COOPER, Ted</td>
<td>2,801</td>
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<tr>
<td>ANDERSON, Michael J</td>
<td>1,860</td>
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<td>KENT, Harry Dale</td>
<td>1,743</td>
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<td>45</td>
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<tr>
<td>BLANK VOTING PAPERS</td>
<td>222</td>
</tr>
</tbody>
</table>
Dylan BENTLEY, Chris CARSON, Blair GRIFFITHS, Paul LAMBERT, Angela MCLEOD, Heather NEWELL, Hellen SWALES, Steve TAYLOR, Tracey ULTRA and Dave WHEELER are declared elected.

The voter return was 43.15%, being 13,167 votes, excluding special votes.

Warwick Lampp
Electoral Officer
Upper Hutt City Council
17 October 2019
I, [FULL NAME], declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the City of Upper Hutt, the powers, authorities, and duties vested in or imposed upon me as Mayor of the Upper Hutt City Council, by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Dated at Upper Hutt this 30th day of October 2019.

Signature: ________________________________

Signed in the presence of: ____________________________

Chief Executive
I, «Full_Name» declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the City of Upper Hutt, the powers, authorities, and duties vested in or imposed upon me as a Member of the Upper Hutt City Council, by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Dated at Upper Hutt this 30th day of October 2019.

Signature: __________________________________________

Signed in the presence of: ___________________________

His Worship the Mayor, Wayne Guppy
Appointment of Deputy Mayor

Purpose of report

1. To outline the procedure required for the appointment of the Deputy Mayor.

Recommendation

It is recommended that Council notes the Mayor will appoint the Deputy Mayor.

Background

2. The Local Government Act 2002 Amendment Act 2012 provided additional powers for mayors which came into effect immediately after the 2013 elections. One of the additional powers is that the Mayor can appoint the Deputy Mayor.

3. The Local Government Act 2002 requires the Deputy Mayor to be appointed at the Council’s first Triennial Meeting.

4. The appointment of a Deputy Mayor ensures the continuity of performance of the responsibilities and duties of the Mayor on occasions when the Mayor is unable to do so.

Peter Kelly
Chief Executive
Statutory responsibility of members

Purpose of report

1. To provide a general explanation of the key law that regulates the conduct of elected members.

Recommendation

THAT the report be received.

Background

2. Clause 21(5), Schedule 7 of the Local Government Act 2002 stipulates that the first Council Meeting after the election must include a general explanation of the:

   a. Local Government Official Information and Meetings Act 1987 (LGOIMA);
   b. Local Authorities (Members Interests) Act 1968;
   c. Crimes Act 1961; sections 99, 105 and 105A
   d. Secret Commissions Act 1910; and

Local Government Official Information and Meetings Act 1987 (LGOIMA)

Purpose

3. The LGOIMA can be divided into two areas:

   a. access to local authority information; and
   b. local authority meetings,

   and has the following purposes, to:

   c. make official information held by local authorities accessible to the public
d. protect official information and Council deliberations when it is appropriate due to reasons of public interest and personal privacy

e. provide a person access to official information relating to that person

f. encourage business at local authority meetings to be conducted openly and publicly so that:
   i. the public is enabled to be more effectively involved in the actions and decisions of local authorities and
   ii. local authority members and officials are more accountable.

Requests for official information

4. This Act is the Local Government equivalent of the Official Information Act 1982. Requests for Council official information are governed by this Act. The Act requires that a request for official information must be processed on the presumption that the information requested shall be made available unless there is a good reason for withholding it. If the information requested is not within the definition of official information in the Act, the Act does not apply.

5. The main reasons for withholding information are:
   a. that disclosure would prejudice the maintenance of the law including the prevention, investigation and detection of offences
   b. protection of the privacy of persons
   c. to maintain legal professional privilege
   d. to enable the Council to carry on negotiations (including commercial or industrial negotiations)

   and they are specified in sections 6 and 7 of the Act. If information is withheld or the request is refused the requester can ask the Ombudsman to review the Council’s decision to withhold or refuse the release of information.

Conduct of Council Meetings

6. These 'rules', that must be observed, are additional to those contained in Schedule 7 of the Local Government Act 2002 and the Council's Standing Orders. The 'rules' imposed on meetings by LGOIMA are intended to ensure that:
   a. meetings of Council and its Committees are publicly notified
   b. meetings of Council are open to the public and the exclusion of the public is an exception to this rule
   c. members of the public can obtain copies of agendas of meetings, including the reports and other information to be provided to members for consideration and discussion at the meetings
   d. most of the business dealt with at the meeting will be listed in the agenda for the meeting. However, an item that is not on the agenda can be considered at a meeting
in special circumstances and the Act specifies the circumstances, procedures and restrictions that apply.

7. The Act stipulates the procedure to be followed at a meeting where some business is to be conducted in the absence of the public and the reasons permitting the exclusion of the public are in sections 6 and 7.

Local Authorities (Members Interest) Act 1968

Purpose

8. The Act has two main purposes:
   a. to regulate the making of contracts between local bodies and their members
   b. to control the involvement of a member or members in local authority decisions when the member has a pecuniary interest

Section 3

9. This section covers when a contract between the Council and a member can disqualify the member. Section 3 stipulates that an individual cannot be a member of Council if he or she has an interest in a contract or subcontract with Council worth more than $25,000 per year. There are some exceptions, for example, the contract:
   a. was preapproved by the Auditor General
   b. was subsequently approved by the Auditor General
   c. in some circumstances, was entered before the member was elected
   d. was entered without the member’s knowledge.

Audit Office approval is likely for specific contracts if:
   e. approval obtained before the contract is entered into, and
   f. the contract was put to public tender and the member submitted the best price.

10. Audit approval is less likely if not sought until after the disqualifying contract has been entered into.

11. It is the member’s responsibility to establish that this section does not apply.

Section 6

12. This section covers when a member is excluded from discussing or voting on a matter. It identifies both pecuniary interests and non-pecuniary Interests and restricts members from voting on or discussing issues if they have a pecuniary interest. One type of pecuniary interest is if a member's spouse or partner has an Interest. The payment Councillors receive for serving on the Council is specifically excluded as a pecuniary interest. Payment for an appointment to an external organisation, even if the appointment is as the Council’s representative, is included.
Crimes Act 1961

13. Establishes bribery and corruption offences that could apply to members of the Council.

Section 99


15. “Bribe” means any money, valuable consideration, office, or employment, or any benefit, whether direct or indirect

16. "Official" includes "any member or employee of any local authority".

Section 105

17. Establishes bribery as an offence and records the penalties.

18. The Crimes Act 1961 states every "official" is liable to imprisonment for a term of up to seven years who accepts or offers a bribe, whether in New Zealand or elsewhere.

19. The prosecution of Taito Philip Field is an example of a prosecution under the equivalent legislation applying to members of parliament.

Section 105A

20. Establishes an offence of corruption and records the penalties for using information gained in an official capacity.

21. States an "official" is liable to imprisonment for up to seven years who obtains an advantage or pecuniary gain by "corruptly" using information obtained in his or her official capacity, either in New Zealand or elsewhere.

Secret Commissions Act 1910

22. This Act's purpose is to discourage corruption. “Consideration” includes gifts and all other forms of advantage. Examples of the type of offences committable by Councillors under this Act are:

   a. corruptly accessing or soliciting gifts for failing to act or acting in relation to a Council role; or
   b. securing a Council contract for a third person in exchange for a reward; or
   c. by falsifying receipts.

23. The penalties for a person convicted under this Act are a maximum fine of $1,000 or imprisonment for up to two years.
Financial Markets Conduct Act 2013

24. The main purposes of this Act are:

a. to promote the confident and informed participation of businesses, investors and consumers in the financial markets

b. promote and facilitate the development of fair, efficient and transparent financial markets.

25. This Act regulates the disclosure of information in respect of financial products and would apply if the Council was to offer a bond or debenture. If the Council fails to act fairly or fails to disclose information that is required Councillors can be held personally liable. Penalties for offences under this Act include imprisonment and significant fines.

26. There are no plans for Upper Hutt City Council to issue any of the financial products controlled by this Act and the Council has not issued financial products, as defined by the Act, in the past. Therefore, it is improbable that Councillors will have any personal obligations under this Act. If the Council was to issue financial products, requiring it to comply with the Act Councillors would be briefed fully on the impact of the Act at the appropriate time.

Conclusion

27. This report is a very brief overview so if councillors would like to know more or have any questions in relation to the legal aspects of the role of a Councillor or the role of the Council the General Counsel will be pleased to meet with those Councillors individually to expand on this report and answer questions. Please contact the Legal Services Administrator or the General Counsel for an appointment.

Andrea Hilton
General Counsel
Date and time of first ordinary meeting of Council

Purpose of report

1. The purpose of the report is to decide upon the time and date of the first ordinary meeting of Council to be held in the new triennium.

Recommendation

That Council agrees that the first ordinary meeting of the Upper Hutt City Council be held in the Council Chambers, Level 2, 838-842 Fergusson Drive, Upper Hutt on Wednesday 18 December 2019 at 4.30pm.

Background

2. At the first meeting following the triennial election, Council is required under Schedule 7, section 21(d) of the Local Government Act 2002 to set the date and time of its first ordinary meeting or to adopt a schedule of meetings.

3. The committee structure will be considered at the Extraordinary Council meeting on Wednesday 6 November 2019 at 4.30pm. Due to this, a schedule of meetings for the remainder of 2019 and 2020 will be considered at that meeting.

4. It is recommended that the first ordinary meeting of Council be at 4.30pm on Wednesday 18 December 2019. This will allow for a full round of committee of meetings to be held prior to Christmas.

Kate Glanville
Strategic Policy Manager

Vibhuti Chopra
Director of Strategy, Partnerships and Growth