

FEATHERSTON COMMUNITY BOARD

16 JUNE 2020

AGENDA ITEM 8.1

FEATHERSTON COMMUNITY BOARD EXTRAORDINARY VACANCY

Purpose of Report

To confirm the appointment of Tohoa (Jayson) Tahinurua to fill the Featherston Community Board extraordinary vacancy.

Recommendations

Officers recommend that the Community Board

1. *Receive the Featherston Community Board Extraordinary Vacancy Report.*
2. *Confirm the appointment of Tohoa (Jayson) Tahinurua to fill the extraordinary vacancy on the Featherston Community Board*

1. Background

At the Featherston Community Board meeting on 19 May 2020, the Board was giving options in respect to filling the extraordinary vacancy. The Board decided to fill the vacancy by appointment and the following resolution was passed:

FCB RESOLVED (DC2020/13):

1. To receive the Featherston Community Board Extraordinary Vacancy Report.
(Moved Bleakley/Seconded Smith) Carried
2. To note that the Featherston Community Board has an extraordinary vacancy since no nominations were received through the recent by-election to fill the vacancy resulting from the resignation of Indigo Freya.
(Moved Smith/Seconded Bleakley) Carried
3. That the extraordinary vacancy will be filled by the appointment of Tohoa (Jayson) Tahinurua, and the process and criteria by which Tohoa (Jayson) Tahinurua was selected for appointment was by agreeing the following criteria for selection a) consideration of experience b) sector of the community that is not represented c) balancing Board composition and d) people who have expressed

an interest in the past to stand for the Board, each with an equal weighting of 25 percent.

(Moved Bleakley/Seconded Smith) Carried

3. To note that the decision of the Community Board will be publicly notified in accordance with the requirements of the Local Electoral Act 2001.

(Moved Smith/Seconded Cr Emms) Carried

Note: The minutes of the meeting of 19 May 2020 have not yet been confirmed as a true and correct record.

There is a legal requirement that the Board meets within 30 days of the public notice and confirms the appointment by resolution.

The relevant extracts from the Act are included in Appendix 1.

2. Discussion

2.1 Notice of decision

Section 118(1) of the Local Electoral Act 2001 states that if a Local Authority resolves that a vacancy will be filled by appointment, the Local Authority must immediately give public notice of:

- The resolution; and
- The process or criteria by which the person named in the resolution was selected for appointment.

The public notice was published in the Wairarapa Times Age and on the South Wairarapa District Council website on 26 May 2020.

2.2 Confirmation of appointment

Section 118(2) and (3) of the Local Electoral Act state the local authority must, at a meeting no later than 30 days after the public notice was published, confirm the appointment by resolution.

2.3 Inability to Confirm

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.

2.4 Commencement date

The person appointed is for all purposes to be treated as having been elected to fill the vacancy on the date on which the resolution is made to confirm the appointment.

3. Appendices

Appendix 1 - Extracts from Local Government Act 2002, & Local Electoral Act 2001

Prepared by: Steph Dorne, Committee Advisor

Review by: Karen Yates, Policy and Governance Manager

**Appendix 1 – Extracts from Local
Government Act 2002, & Local
Electoral Act 2001**

Extracts from relevant legislation

Local Government Act 2002, Schedule 7

4 Member's right to resign

- (1) A member of a local authority may resign office by notice in writing addressed and delivered to the chief executive of the local authority.
- (2) The notice takes effect on the day on which it is delivered to the chief executive of the local authority.

5 Extraordinary vacancies

- (1) The office of a member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the member—
 - (a) dies; or
 - (b) becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988; or
 - (c) is disqualified from, or is ousted from, office; or
 - (d) is absent without leave of the local authority from 4 consecutive meetings (other than extraordinary meetings) of the local authority; or
 - (e) resigns under clause 4.
- (2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies. [...]

29 Proceedings not invalidated by vacancies, irregularities, etc

An act or proceeding of a local authority or committee, or of a person acting as a member of a local authority or committee, is not invalidated by—

- (a) a vacancy in the membership of the local authority or committee at the time of that act or proceeding; or
- (b) the subsequent discovery—
 - (i) of some defect in the election or appointment of the person acting as a member of the local authority or committee; or
 - (ii) that that person was or is incapable of being a member.

Local Electoral Act 2001

58 Candidacy for both regional council and constituent authority prohibited

- (1) In this section,—

constituent authority, in relation to any region, means—

 - (a) a territorial authority having jurisdiction over a constituent district; or
 - (aa) a local board for a local board area that is wholly or partly within the region;
or
 - (b) a community board for a community that is wholly or partly within the region

member, in relation to a constituent authority, includes a mayor.

- (2) No person may, at the same time, be both a candidate for election to a regional council for a region and a candidate for election to a constituent authority of that region.
- (3) No member of a constituent authority of a region may be a candidate for election to the regional council for the region.
- (4) No member of a regional council for a region may be a candidate for election to a constituent authority of that region.
- (5) Subsections (3) and (4) do not apply if a general election of members of the regional council of a region is to be held concurrently with a general election of members of a constituent authority of that region.

117 Extraordinary vacancy in local authority or [local board or] community board

- (1) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a local board or community board more than 12 months before the next triennial general election, the vacancy must be filled by an election under this Act.
- (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 local board or community board 12 months or less than 12 months before the next triennial general election, the [chief executive] of the local authority concerned must notify the local authority or local board or community board of the vacancy immediately.
- (3) On receiving notice under subsection (2), the local authority or local board or] community board must, at its next meeting (other than an extraordinary meeting)] or, if that is not practicable, at its next subsequent [meeting (other than an extraordinary meeting)], determine by resolution—
 - (a) that the vacancy will be filled by the appointment by the local authority or local board 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.
- (5) Despite subsection (3), if the vacancy is for the office of Mayor, the vacancy must not be left unfilled but must be filled by appointment of 1 of the other members of the local authority as Mayor.
- (6) If any member is appointed or elected to fill a vacancy in the office of Mayor,—
 - (a) the person is to be treated as having vacated the office of a member; and
 - (b) the vacancy in the office of a member is an extraordinary vacancy and this section and sections 118 to 120 apply.

[...]

118 Notice of intention to fill vacancy by appointment

- (1) If, under section 117(3)(a) or section 117A, a local authority or local board or community board resolves that a vacancy will be filled by the appointment of a person by the local authority or [local board 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 [local board 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.

119 Notice of intention to leave vacancy unfilled

If, under section 117(3)(b), a local authority or [local board or] community board resolves not to fill a vacancy, it must immediately give public notice of its decision.



**SOUTH WAIRARAPA
DISTRICT COUNCIL**
Kia Reretahi Tātau

DECLARATION

I, Jayson Tahinurua, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the South Wairarapa district the powers, authorities, and duties vested in or imposed upon me as a member of the South Wairarapa District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987 (LGOIMA), or any other Act.

Dated at Featherston this 16th day of June 2020

Signature.....

Signed in the Presence of:

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Euan Stitt, Acting Chief Executive Officer