



AGENDA

Pleasant Point Community Board Meeting Tuesday, 12 November 2019

Date Tuesday, 12 November 2019

Time 7.30pm

Location Pleasant Point Town Hall

File Reference 1295476

Timaru District Council

Notice is hereby given that a meeting of the Pleasant Point Community Board will be held in the Pleasant Point Town Hall Meeting Room, on Tuesday 12 November 2019, at 7.30pm.

Pleasant Point Community Board Members

Clr Richard Lyon, Clr Paddy O'Reilly, Neville Gould, Raewyn Hessel, Anne Lemmens, John McDonald, Ross Munro

Local Authorities (Members' Interests) Act 1968

Community Board members are reminded that if you have a pecuniary interest in any item on the agenda, then you must declare this interest and refrain from discussing or voting on this item, and are advised to withdraw from the meeting table.

Bede Carran
Chief Executive

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- 1 Apologies**
- 2 Public Forum**
- 3 Identification of Items of Urgent Business**
- 4 Identification of Matters of a Minor Nature**
- 5 Declaration of Conflicts of Interest**
- 6 Chairperson's Report**

7 Reports

7.1 Declaration by Pleasant Point Community Board Members

Author: Bede Carran, Chief Executive

Authoriser: Bede Carran, Chief Executive

Declaration

Members of the Pleasant Point Community Board are required to make and sign a declaration, pursuant to section 54(1) and clause 14 of Schedule 7 of the Local Government Act 2002.

The wording of the declaration is below. The written declaration must be signed and witnessed in accordance with the LGA.

Declaration by Community Board Member

I, *[full name of member]*, 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 Pleasant Point community, the powers, authorities, and duties vested in, or imposed upon me as a member of the Pleasant Point Community Board by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Attachments

Nil

7.2 Election of Chairperson

Author: Bede Carran, Chief Executive

Authoriser: Bede Carran, Chief Executive

Recommendation

1. That the Board select the voting system to be used for the appointment of the Chairperson and Deputy Chairperson.
2. That a Chairperson of the Pleasant Point Community Board be appointed.

Purpose of Report

- 1 To select a voting system for the appointment of a Chairperson and Deputy Chairperson.
- 2 To nominate and appoint a Chairperson to the Pleasant Point Community Board. The Chief Executive will call for nominations for the position.

Discussion

- 3 When electing a Chairperson or Deputy Chairperson, the Pleasant Point Community Board must decide by resolution to use one of the following two voting systems:

4 **System A—**

- (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the Community Board present and voting; and
- (b) has the following characteristics:
 - (i) there is a first round of voting for all candidates; and
 - (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
 - (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
 - (iv) in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

5 **System B—**

- (c) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
- (d) has the following characteristics:
 - (i) there is only 1 round of voting; and
 - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

Relevant Legislation, Council Policy and Plans

Local Government Act 2002

Attachments

Nil

7.3 Election of Deputy Chairperson

Author: Bede Carran, Chief Executive

Authoriser: Bede Carran, Chief Executive

Recommendation

1. That a Deputy Chairperson of the Pleasant Point Community Board be appointed, using the voting system agreed to.

Purpose of Report

- 1 To appoint a Deputy Chairperson to the Pleasant Point Community Board. The Chairperson will call for nominations for the position.

Relevant Legislation, Council Policy and Plans

- 2 Local Government Act 2002

Attachments

Nil

7.4 General Explanation by the Chief Executive

Author: Bede Carran, Chief Executive

Authoriser: Bede Carran, Chief Executive

Recommendation

That the Community Board notes the advice of the Chief Executive regarding key legislation that applies to members of the Community Boards.

Purpose of Report

- 1 To give the overview of key legislation applying to members of the Community Boards.

Assessment of Significance

- 2 This matter is important and the report is a statutory requirement. However, in respect of Council's Significance and Engagement Policy it does not require direct community engagement and consultation.

Background

- 3 Clause 21(5)(c) to Schedule 7 of the Local Government Act 2002 (**LGA**) requires the Chief Executive to give a general explanation of the following Acts at the first meeting:
 - The Local Government Official Information and Meetings Act 1987 (**LGOIMA**); and
 - Other laws affecting members, including:
 - The appropriate provisions of the Local Authorities (Members Interests) Act 1968; and
 - Sections 99, 105 and 105A of the Crimes Act 1961; and
 - The Secret Commissions Act 1910; and
 - Financial Markets Conduct Act 2013.

Discussion

Local Government Official Information and Meetings Act 1987

- 4 The LGOIMA has the following purposes under section 4:
 - To increase progressively the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order –
 - to enable more effective participation by the public in the actions and decisions of local authorities; and
 - to promote the accountability of local authority members and officials,-and thereby to enhance respect for the law and to promote good local government in New Zealand.
 - To provide for proper access by each person to official information relating to that person.

- To protect official information and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.
- 5 Most requests for information held by Council (and Elected Members in their official capacity) that are made to Council come within the ambit of the LGOIMA. Any person can ask for official information. Broadly, official information is any information held by a local authority. There are exclusions for (in summary):
- information held in libraries and museums and held for reference or exhibition purposes;
 - information held as an agent or for safe custody and held on behalf of another person or local authority;
 - information contained in correspondence and communication that has taken place between the office of the Ombudsmen and the local authority;
 - information contained in correspondence and communication that has taken place between the office of the Privacy Commissioner and the local authority and which relates to an investigation by the Privacy Commissioner.
- 6 Section 5 of the LGOIMA stipulates that the principle to be applied when dealing with requests for information is that the information will be provided unless good reason exists for withholding it.
- 7 The 'good reasons' for withholding information are specified in sections 6 and 7 of the LGOIMA, and include (but are not limited to) the following:
- The making available of that information would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial (section 6(a)).
 - The making available of that information would be likely to endanger the safety of any person (section 6(b)).
 - To protect the privacy of natural persons, including that of deceased natural persons (section 7(2)(a)).
 - To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (section 7(2)(b)(ii)).
 - To enable the local authority to carry out without prejudice or disadvantage commercial activities (section 7(2)(h)).
 - To maintain legal professional privilege (section 7(2)(g)).
 - To enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial or industrial negotiations) (section 7(i)).
- 8 These grounds are always subject to considering whether the public interest justifies releasing the information.
- 9 The LGOIMA also contains 'rules' for the conduct of meetings of Council under Part 7. These 'rules', that must be observed, are additional to those contained in Schedule 7 of the LGA or in the Council's Standing Orders. The 'rules' imposed on meetings by LGOIMA are intended to ensure that:
- Meetings of the Community Boards are publicly notified (section 46).
 - Members of the public can obtain copies of agendas of all meetings, including the reports and other information to be provided to members for consideration and discussion at the meetings (section 46A).

- All 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 if special circumstances exist and procedures and restrictions imposed by the LGOIMA are observed (section 46A).
- The public may only be excluded from a meeting or part of a meeting on one of the grounds specified in the LGOIMA (section 48). In general terms, the LGOIMA permits an item to be discussed in private if to do so in public would be likely to result in the disclosure of information which the Community Board has good reason to withhold for one of the reasons set out in sections 6 or 7. The LGOIMA also stipulates the procedure to be followed at a meeting where it is intended to conduct some business in the absence of the public.

- 10 Compliance with LGOIMA by Elected Members and Council staff is supervised by the Office of the Ombudsman, which has wide powers to investigate and make recommendations.

Local Authorities (Members Interest) Act 1968

- 11 The Local Authorities (Members' Interest) Act 1968 (**Members' Interest Act**) stipulates that any member who has "...directly or indirectly, any pecuniary interest, other than an interest in common with the public" in any matter before the Community Board shall not vote on the matter or take part in its discussion (section 6(1)).
- 12 Instances where a member is deemed to have a pecuniary interest are set out in section 6 of the Members' Interest Act. In particular, the interest of a spouse and certain involvement in a company is deemed to be the interest of the member for the purposes of the Members' Interest Act.
- 13 Section 6 also identifies situations that are deemed not to create a pecuniary interest.
- 14 Section 3 of the Members' Interest Act limits the extent to which a member may act as a contractor [or subcontractor] to the Council. Any member who earns more than \$25,000 in any financial year from contracts with the Council is automatically disqualified from office unless prior Audit Office approval to the excess is obtained.

Crimes Act 1961

- 15 Under section 105(1) of the Crimes Act 1961, every "official" who corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe is liable to imprisonment for a term not exceeding seven years.
- 16 Under section 105(2) of the Crimes Act 1961, every "official" who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any "official" is liable to imprisonment for a term not exceeding seven years.
- 17 Under section 105A of the Crimes Act 1961, every "official" who corruptly uses or discloses any information acquired by him in his official capacity to obtain directly or indirectly an advantage or a pecuniary gain for himself or any other person is liable to imprisonment for a term not exceeding seven years.
- 18 Section 99 is an interpretation clause and contains the definition of "official". The term includes "... any member or employee of any local authority..."

Secret Commissions Act 1910

- 19 As its title suggests, the Secret Commissions Act 1910 (**SCA**) has the purpose of prohibiting secret commissions which term includes gifts and all other forms of valuable consideration.
- 20 Under the SCA, a member of the Community Board could commit an offence by, for example:
- Corruptly accessing or soliciting gifts as an inducement or reward for carrying out, or forbearing to carry out some act in relation to the Council's business; or
 - Securing a Council contract for a third person in exchange for a reward; or
 - By falsifying receipts.

Financial Markets Conduct Act 2013

- 21 If the Council seeks to borrow money from members of the public, it must ensure that any offer of debt securities is made in compliance with the Financial Markets Conduct Act 2013 (**FMCA**) which includes issuing a product disclosure statement for a regulated offer. This is not something Council currently does or proposes to do at this time.
- 22 The penalties for breach of the FMCA are severe, with liability potentially applying to both the Council and members individually.

Health and Safety at Work Act

- 23 Council is the person conducting a business or undertaking (**PCBU**) and Councillors and the Chief Executive are the Officers of the PCBU.
- 24 Officers must exercise due diligence to ensure the PCBU is meeting its health and safety obligations.
- 25 Elected members are exempted from most offences but still have due diligence duties (section 52).

Financial and Funding Implications

- 26 There are no financial and funding implications arising from this report.

Attachments

Nil

7.5 Appointment of Community Board Representatives to Organisations**Author:** Bede Carran, Chief Executive**Authoriser:** Bede Carran, Chief Executive**Recommendation**

- a) That the Pleasant Point Community Board makes a recommendation to Council in relation to the appointment of a Pleasant Point Community Board member to the following organisation:
Pleasant Point Railway and Historical Society.
- b) That the Pleasant Point Community Board decides whether to appoint a Pleasant Point Community Board member as a non-voting liaison person for each of the following community organisations:
Pleasant Point Domain Users Committee
Pleasant Point Promotions Committee
Opihi River Liaison Committee (ECan committee)

Purpose of Report

- 1 To recommend for appointment or to appoint members of the Pleasant Point Community Board to local organisations.

Background

- 2 Council has traditionally appointed a member (with voting rights) to the Pleasant Point Railway and Historical Society, and non-voting liaison persons on the Pleasant Point Domain Users Committee, Pleasant Point Promotions Committee and Opihi River Liaison Committee.
- 3 For voting positions, a recommendation to Council is required. For liaison (non-voting) positions, appointments are typically made by the Pleasant Point Community Board.

Attachments**Nil**

7.6 Community Board Meeting Dates**Author:** Bede Carran, Chief Executive**Authoriser:** Bede Carran, Chief Executive**Recommendation**

1. That the proposed Pleasant Point Community Board 2020 meeting dates be noted.
2. That the Board confirms the meeting start time.

Purpose of Report

- 1 To note the meeting dates and confirm the meeting start times for 2020.

Discussion

- 2 This is the last meeting for 2019. The 2020 Pleasant Community Board meetings are proposed for –
 - 21 January
 - 3 March
 - 21 April
 - 26 May
 - 7 July
 - 18 August
 - October
 - 17 November.
- 3 It is intended that the full Council 2020 meeting calendar will be confirmed at the Council meeting on 10 December 2019.
- 4 The Board has met at 7.30pm in the past. With the new triennium, there is an opportunity to consider starting the meeting earlier. Temuka Community Board meetings commence at 5pm and Geraldine Community Board meetings will now start at 6.30pm (formerly 7.30pm start).

Attachments**Nil**

- 8 Consideration of Urgent Business Items**
- 9 Consideration of Minor Nature Matters**
- 10 Public Forum Issues Requiring Consideration**