

PALMERSTON NORTH CITY COUNCIL

**AGENDA
INAUGURAL
COUNCIL**

7PM, WEDNESDAY 30 OCTOBER 2019
COUNCIL CHAMBER, FIRST FLOOR, CIVIC ADMINISTRATION BUILDING
32 THE SQUARE, PALMERSTON NORTH



MEMBERSHIP

Grant Smith (Mayor)

**Brent Barrett
Susan Baty
Rachel Bowen
Zulfiqar Butt
Vaughan Dennison
Renee Dingwall
Lew Findlay QSM
Patrick Handcock ONZM**

**Leonie Hapeta
Lorna Johnson
Billy Meehan
Karen Naylor
Bruno Petrenas
Aleisha Rutherford
Tangi Utikere**

Agenda items, if not attached, can be viewed at:

**pncc.govt.nz | Civic Administration Building, 32 The Square
City Library | Ashhurst Community Library | Linton Library**

Heather Shotter

Chief Executive, Palmerston North City Council

Palmerston North City Council

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Private Bag 11034, 32 The Square, Palmerston North



INAUGURAL COUNCIL MEETING

30 October 2019

MEETING NOTICE

Pursuant to Clause 21 of Schedule 7 of the Local Government Act 2002, the inaugural (first) meeting of the Council will be held at 7.00pm on Wednesday, 30 October 2019 in the Council Chamber, first floor, Civic Administration Building, 32 The Square, Palmerston North, to consider the business stated below.



CHIEF EXECUTIVE

ORDER OF BUSINESS

(NOTE: Prior to the commencement of the Inaugural Council Meeting local iwi will give a brief mihi and karakia (a greeting and prayer) led by Wiremu Kingi Te Awe Awe.)

1. Apologies

2. Notification of Additional Items

Pursuant to Sections 46A(7) and 46A(7A) of the Local Government Official Information and Meetings Act 1987, to receive the Chairperson's explanation that specified item(s), which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded, will be discussed.

Any additions in accordance with Section 46A(7) must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

Any additions in accordance with Section 46A(7A) may be received or referred to a subsequent meeting for further discussion. No resolution, decision or recommendation can be made in respect of a minor item.

3. Declarations of Interest (if any)

Members are reminded of their duty to give a general notice of any interest of items to be considered on this agenda and the need to declare these interests.

4. Address by the Chief Executive

5. Installation of Mayor and Mayoress

Page 7

6. Installation of Councillors

7. Inaugural address by The Mayor

8. Appointment of Deputy Mayor

Page 11

9. Date and Time of the First Council Meeting

Page 13

REPORTS

10. Explanation of Statutes

Page 15

Memorandum, presented by John Annabell, Legal Counsel.

11. Exclusion of Public

To be moved:

“That the public be excluded from the following parts of the proceedings of this meeting listed in the table below.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing this resolution

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public as stated in the above table.

Also that the persons listed below be permitted to remain after the public has been excluded for the reasons stated.

[Add Third Parties], because of their knowledge and ability to assist the meeting in speaking to their report/s [or other matters as specified] and answering questions, noting that such person/s will be present at the meeting only for the items that relate to their respective report/s [or matters as specified].

PRESENTATION


TO: Council

MEETING DATE: 30 October 2019

TITLE: Installation of Mayor and Mayoress

ITEM 5

ATTACHMENTS

1. Installation of the Mayor and Councillors 2019 [↓](#) 

PALMERSTON NORTH CITY COUNCIL
**INSTALLATION OF THE MAYOR AND
 COUNCILLORS**

(Order of Procedure)

30 October 2019

The Chief Executive will read out the declaration by the Electoral Officer upon the election of the Mayor.

"The Electoral Officer, Mr Warwick Lampp, has declared Grant Smith to be elected Mayor of Palmerston North City Council as a result of the 2019 Triennial General Election."

She will then call upon the Mayor to be upstanding and will address him as follows:

"Mr Mayor, the law requires that before entering upon the duties of your Office, you shall make and sign in the presence of the Council a formal declaration in the form prescribed by the Local Government Act. I set before you the Declaration."

The Mayor makes the declaration:

"I, Grant Charles Smith, 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 Palmerston North City, the powers, authorities, and duties vested in, or imposed upon, me as Mayor of the Palmerston North City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act."

The Mayor signs the Declaration, and the **Chief Executive** signs as attesting witness.

The Legal Counsel now invests the **Mayor** with his Chain of Office, and invests the **Mayoress** with the symbol of her Office.

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The Mayor then assumes his place as Chairperson of the meeting, and the Mayoress returns to her seat.

The Chief Executive now reads the declaration by the Electoral Officer upon the election of Councillors.

"The Electoral Officer, Mr Warwick Lampp, has declared the following to be elected as a result of the 2019 Triennial General Election for Councillors of Palmerston North City Council:

Brent BARRETT

Susan BATY

Rachel BOWEN

Zulfiqar BUTT

Vaughan DENNISON

Renee DINGWALL

Lew FINDLAY

Patrick (Pat) HANDCOCK

Leonie HAPETA

Lorna JOHNSON

Billy MEEHAN

Karen NAYLOR

Bruno PETRENAS

Aleisha RUTHERFORD

Tangi UTIKERE

The Chief Executive will then address the Councillors as follows:

"Ladies and Gentlemen, I shall read out the declaration that each of you are about to make:

'I 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 Palmerston North City, the powers, authorities, and duties vested in, or imposed upon, me as a member of the Palmerston North City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.'

I shall now call upon you each in turn to affirm this declaration commencing with Councillor Brent Barrett."

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Upon each Councillor being addressed, he/she should be upstanding and answer

"I do".

The Chief Executive will then call upon individual Councillors in the same order to come forward and to sign their Declaration in front of the full Council. The Mayor will sign each of the Declarations as attesting witness.

When Councillor Tangi Utikere has signed his Declaration and returned to his seat, the **Mayor** will deliver his inaugural address.

PRESENTATION

TO: Council

MEETING DATE: 30 October 2019

TITLE: Appointment of Deputy Mayor

ITEM 8

RECOMMENDATION(S) TO COUNCIL

1. That the Council note that under clause 41A(3)(a) of Schedule 7 of the Local Government Act 2002, the Mayor has appointed Councillor Tangi Utikere as the Deputy Mayor.

ATTACHMENTS

Nil

PRESENTATION

TO: Council

MEETING DATE: 30 October 2019

TITLE: Date and Time of the First Council Meeting

RECOMMENDATION(S) TO COUNCIL

1. That the first meeting of the Council be held as an extraordinary meeting to commence at 9.00am on Wednesday 13 November 2019 to consider matters outstanding from the Inaugural Council meeting and other urgent business, pursuant to Clause 21(5)(d) of Schedule 7 of the Local Government Act 2002. This meeting will be held in the Council Chamber, first floor, Civic Administration Building, 32 The Square, Palmerston North.

ATTACHMENTS

Nil

ITEM 9

MEMORANDUM

TO: Council

MEETING DATE: 30 October 2019

TITLE: Explanation of Statutes

PRESENTED BY: John Annabell, Legal Counsel

APPROVED BY: Sheryl Bryant, General Manager - Strategy & Planning

RECOMMENDATION(S) TO COUNCIL

1. That the Memorandum entitled “Explanation of Statutes” be noted.

1. ISSUE

To provide a general explanation of certain specified statutes, as required by the Local Government Act 2002

2. BACKGROUND

Clause 21 of Schedule 7 of the Local Government Act requires that the business to be conducted at the first meeting of the Council following a triennial general election of members include a general description of:

- The Local Government Official Information and Meetings Act 1987.
- Appropriate provisions of the Local Authorities (Members’ Interests) Act 1968, the Crimes Act 1961, the Secret Commissions Act 1910 and the Financial Markets Conduct Act 2013.

Information about the relevant statutes is set out in the Appendix attached to this memorandum. Elected Members should acquire and maintain a familiarity with the information set out in the Appendix. Some of this information has also been covered in the Elected Members’ Induction Programme.


3. NEXT STEPS

This memorandum is provided as a statutory requirement for the Inaugural Council Meeting. The information is for noting.

4. COMPLIANCE AND ADMINISTRATION

Does the Council have delegated authority to decide?	Yes
Are the decisions significant?	No
If they are significant do they affect land or a body of water?	No
Can this decision only be made through a 10 Year Plan?	No
Does this decision require consultation through the Special Consultative procedure?	No
Is there funding in the current Annual Plan for these actions?	Yes
Are the recommendations inconsistent with any of Council's policies or plans?	No
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	
This Memorandum is to meet legal requirements.	

ATTACHMENTS

1. Appendix Relevant Content of Statutes [↓](#) 

APPENDIX

RELEVANT CONTENT OF STATUTES

1. LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

1.1 Principle and Purposes

The fundamental principle embodied in this Act is that *information should be made available unless there is good reason for withholding it*. This is known as the principle of availability.

The express purposes of the Act are:

- To make information held by local authorities more freely available.
- To promote the right of access to personal information (although this is now largely governed by the Privacy Act 1993).
- To promote more open conduct of local authority meetings.
- To protect information where it is in the public interest and for reasons of personal privacy.

1.2 Procedures

The Act contains detailed provisions on how requests for information are to be made and how they are to be dealt with, including the review of local authority decisions by the Ombudsman.

Anyone can request information. Organisations have the same rights as individuals. Decisions on requests for information are required to be made as soon as practicable, and no later than 20 working days after receiving the request.

1.3 Reasons for Withholding Information

Valid reasons for withholding information include:

- Providing the information would prejudice the maintenance of law, or endanger the health or safety of any person.
- To protect the privacy of natural persons.
- To protect information where it is provided under an obligation of confidence or which would prejudice the commercial position of the person who supplied it or who was the subject of the information.

- To prevent or mitigate material loss to members of the public.
- To enable a local authority to conduct its affairs without improper pressure or harassment.
- To maintain legal professional privilege.
- To enable any local authority to carry on commercial activities or negotiations.
- The information requested is not available, or is trivial, or cannot be provided without substantial collation or research.

The only reasons which can be used for a refusal to supply information are those specified in the Act itself. Nearly all of the reasons described above are set out in Sections 6 and 7 of the Act. In most cases, the reasons permitted by the Act must be weighed against *other considerations which render it desirable, in the public interest, to make the information available.*

1.4 Meetings

Members of the public, including media, have the right to attend all meetings of a local authority. This right includes meetings of all committees and sub-committees but does not include working parties or advisory groups. These parties/groups are excluded as they cannot make decisions or pass resolutions.

Copies of agenda are required to be made available for public inspection at least two working days before the meeting, and at the meeting. For Palmerston North City Council, the 'display points' include the Customer Service Centre at the Civic Administration Building and Libraries. An exception is made for information that is likely to be considered with the public excluded from the meeting. Copies of agenda and/or reports must also be supplied on request.

Members of the public can be excluded from the meeting upon the passing of the appropriate resolution. The reasons for which the public may be excluded from meetings are set out in Section 48 of the Act and include:

- (a) There is good reason for withholding information under Sections 6 and 7 of the Act, as summarised above.
- (b) Disclosure would be contrary to the provisions in another enactment.
- (c) The meeting is to consider a recommendation from the Ombudsman.
- (d) Private deliberation is necessary as a decision is subject to a right of appeal to a court or tribunal.

The reasons to exclude the public from meetings are also set out as an Appendix to the Council's Standing Orders.

A meeting must be open to the public when a resolution to exclude the public is passed, and the resolution must indicate the general subject matter to be considered. Where it is proposed that some person or persons be allowed to remain after the public has been excluded, such provision must be incorporated in the resolution stating the names of the persons concerned and the reasons for their remaining. This requirement does not apply to Council officers.

The form required for the resolution is set out in the schedule to the Local Government Official Information and Meetings Act and is attached to each agenda.

Although a meeting may be held with public excluded, that does not automatically mean that the minutes or any information considered at the meeting will be protected from public scrutiny. A request can be made to inspect such information and must be considered in light of circumstances at the time the request is made, and **not when the meeting was held**. The Chief Executive and Legal Counsel have delegated authority to release information in these circumstances.

2. OTHER STATUTES

2.1 Local Authorities (Members' Interests) Act 1968

This Act regulates situations where a Member's personal interests may impinge, or might be seen as impinging, on their duties as an Elected Member.

Under Section 3 of this Act, Elected Members may not be concerned or interested in contracts made by the Council when payments made for contracts entered into during a particular financial year exceed \$25,000 including GST. That amount may only be exceeded if the Council has either obtained the prior approval of the Audit Office or, in special circumstances, obtained retrospective approval. Where payments exceed \$25,000 or any other approved amount, the Elected Member concerned is automatically disqualified from office. He or she also commits an offence if he or she continues to act as a Member.

Under Section 6 of the Act, Elected Members may not discuss or vote on a matter in which they have a pecuniary interest when under consideration by the Council or a committee. Elected Members who fail to observe that prohibition commit an offence and could be prosecuted. Conviction results in disqualification from office.

When a matter is raised at a meeting of the Council or a Committee in which a Member has a pecuniary interest, the Member prohibited from voting or discussing the matter must declare the pecuniary interest. The fact of that disclosure and abstention from discussion and voting on it is also recorded in the minutes. While it is not necessary to withdraw from the meeting, it is good practice to do so.

Members have already received more detailed information on this Act, together with a questionnaire which they are asked to complete and return, as required by the Council's Code of Conduct. This form is usually completed at the end of each financial year, and immediately following the election of any Member or a change to any interests previously recorded.

2.2 Crimes Act 1961

Elected Members should be aware of Sections 99, 105 and 105A of the Crimes Act 1961 which concern bribery.

Members and employees of a local authority commit a crime if they corruptly accept or obtain any bribe for themselves or any other person in respect of an act done or omitted in their official capacity. A bribe is defined as meaning any money, valuable consideration, office or equipment, or any benefit, whether direct or indirect.

Members and employees also commit a crime if they corruptly use any information acquired by them in their official capacity, to obtain an advantage or a pecuniary gain for themselves or any other person.

The penalty for these crimes is a maximum of seven years imprisonment. Conviction will also result in disqualification from office.

2.3 Secret Commissions Act 1910

This Act prohibits secret commissions. Very briefly:

- It is an offence for any Officer or Member of a local authority to corruptly accept a gift or other consideration in relation to the Council's affairs or business.
- It is also an offence for any Officer or Member of a local authority to contract on behalf of the Council and not declare to the Council the existence of a pecuniary interest that an Officer or Member has.

Persons convicted of an offence against this Act are liable to imprisonment for a maximum of 2 years or a fine not exceeding \$1,000, or any corporation to a fine not exceeding \$2,000. Conviction will also result in disqualification from office.

2.4 Financial Markets Conduct Act 2013

The Financial Markets Conduct Act 2013 essentially places Elected Members in the same position as company directors whenever the Council offers stock to the public. Elected Members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.