

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 27 May 2009

SUBJECT: ELECTED MEMBERS – STAFF RELATIONSHIPS

BACKGROUND

1. The Chairman reporting:
2. The workshop item dated 28 November 2007 *"Discussion on Councillor Interaction with Staff"* is attached as Appendix 1. This is a well considered guide to sensible protocols for councillor/staff relationship.
3. However, there is an important matter missing, which can be key to the performance (or perception of non-performance) of the organisation.
4. This is the quality of the relationship between the Chairpersons of Standing Committees and Group Managers or their senior staff.
5. Standing Committee Chairs should not just preside at committee meetings every month or so. More importantly they are obliged to maintain good working relationships with the Group Manager(s) who deliver their committee's range of activities.
6. Good working relationships between the two parties will be open, communicative and mutually supportive, but respect the boundaries and occasional tensions between governance and management. Obviously the relationship does not permit the chairperson to direct staff.
7. The objective of this relationship is that there should be *"no surprises"*, particularly nasty ones, which could bring the organisation into disrepute and for both parties to be well informed and have an understanding of issues and events on an ongoing basis. In turn, the Committee Chair is equipped to ensure he/she can keep fellow Councillors well informed.
8. For Committee Chairs the **right** to engage and be informed flows from an important **responsibility** delegated to them by their Councillors colleagues. That is that Committee Chairs, not just staff, will be held to account by their Councillor colleagues if things go seriously wrong.
9. In practice a good relationship will be facilitated by:
 - 9.1. Regular dialogue – even if nothing special is apparent, a regular phone discussion maintains communication;
 - 9.2. Special briefings or inspections as appropriate;
 - 9.3. Pre-agenda meetings, prior to finalisation of committee agendas;
 - 9.4. Approval of staff recommendations by the Committee Chair. If the Chair does not agree with the staff recommendation, standing orders provide for a Chairman's recommendation to be placed on the agenda in addition to (but not replacing) the staff recommendation.
10. If the Standing Committee has a Deputy Chair the rights and responsibilities extend to the Deputy in the Chair's absence. Otherwise the Chair should keep his/her Deputy well informed.

11. With regard to the appended paper “*Councillor Interaction with Staff*” item 24 (contact protocols) it follows that Councillors should inform the relevant committee Chair of their enquiry both out of courtesy and because the Committee Chair may be able to assist the enquiry. The interaction protocol with two suggested additions is repeated ie:
 - 24.1 For issues relating to Council meeting arrangements contact the Administration Manager.
 - 24.2 For clarification of Council or Committee agenda items prior to a meeting contact the relevant Group Manager or Chief Executive.
 - 24.3 For operational issues raised by members of the public contact the relevant Group Manager or Chief Executive (note the Group Manager may refer Councillors to a relevant staff member).
 - 24.4 All other issues to be referred to the Chief Executive.
 - 24.5 For significant issues within the scope of a Standing Committee either direct the enquiry to the Chair or if directing the enquiry to staff, also advise the Chair out of courtesy.**
 - 24.6 Other than by prior approval of the CEO or Group Manager, Councillors should not bring issues to subsidiary staff – this is particularly important in regard to the Council’s regulatory compliance responsibilities which require staff to be able to operate independently without influence or duress.**
12. The Chairperson of Council’s relationship with senior staff is similar but even more widely embracing. The Chairman’s primary staff relationship is with the CEO but direct access to senior staff is necessary, but with the CEO’s knowledge and assent. The Council Chair should accordingly keep Standing Committee Chairs and Councillors in the picture and involved. As well, the Council Chair has overall responsibility that all aspects of the communication web function to ensure that **all** elected members are fully informed on an inclusive and timely basis.
13. A further matter that requires clarification is the role of elected members in regard to their Portfolio allocation and responsibility. My recommendation is that Portfolios should be acknowledged as special areas of interest and knowledge but that authority in staff interaction should be limited to:
 - 13.1. Staff recognising and acknowledging the responsibility through communication of relevant information to portfolio holders and portfolio holders seeking information through normal channels and protocols as described in this paper.
 - 13.2. Portfolio holders advising staff and elected member colleagues of developments and acquired knowledge, through Council agenda items, general business or other communication channels such as memoranda and reports.
 - 13.3. Portfolio holders recognising that their responsibilities are subsidiary to the responsibilities of standing committee chairs but equal to all of their elected member colleagues.
14. The purpose is for the organisation to be optimally functional and that a high performance organisation is facilitated by effective governance/management arrangements. The rights and responsibilities of all and every elected member are enhanced not diminished by this proposal.
15. The CEO has discussed this paper with Senior Staff who have had their input and fully concur with the content and processes prescribed.

DECISION MAKING PROCESS

16. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
 - 16.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
 - 16.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 16.3. The decision does not fall within the definition of the Council's policy on significance.
 - 16.4. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 16.5. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

RECOMMENDATIONS

1. That the protocols for Councillor/Staff engagement embodied in this paper be adopted.



Alan Dick
CHAIRMAN



Andrew Newman
CHIEF EXECUTIVE

ENCL: APPENDIX 1 – DISCUSSION ON COUNCILLOR INTERACTION WITH STAFF

HAWKE'S BAY REGIONAL COUNCIL**WORKSHOP ITEM****Wednesday 28 November 2007****SUBJECT: DISCUSSION ON COUNCILLOR INTERACTION WITH STAFF****INTRODUCTION**

1. The Hawke's Bay Regional Council has been very fortunate to have an excellent operating relationship between councillors and staff for many years. The strength of this relationship is a very significant factor in underpinning the organisation's excellent reputation with its traditional stakeholder groups (rural sector) and outside of the region with Central Government Agencies.
2. Within this context and taking into account the Governance role of Councillors and the delivery role of staff it is important to have some simple yet relatively flexible terms of engagement. This paper also briefly sets out the parameters for the governance role and how it operates within the local government environment.

COMMENT**What is Governance?**

3. Governance is the means for collective action in society, responding to and guiding change that is beyond the capacity of private action. It enables values to be realised. Governance involves the notion of a collective voice, an avenue for resolving questions of competing priorities and determining the 'public interest'.
4. The governance model under the Local Government Act 2002 (the Act) is representative democracy. The community elects individuals to make judgements on behalf of the community about what will promote community well-being. Although the model is one of representative democracy, there are strong elements of citizen participation.
5. There are three elements to governance under the Act. They are:
 - representing the community
 - setting policy
 - monitoring and review.

Representing the Community

6. Representation might involve any or all of the following:
 - making decisions on the promotion of community well-being
 - keeping in contact with the community, ascertaining their views and putting these to Council
 - advocating for the community with other bodies such as central government or private sector bodies (e.g. the major industry sectors in the region)
 - explaining Council decisions to affected parties.
7. The representation role is the source of one of the most common misconceptions about governance. An elected member is elected by the electors to represent those electors, but all elected members are required to act in the interests of the region as a whole. This is so fundamental to the governance role that elected members are required to make a declaration to execute and perform their duties in the interests of the region.

8. Individual Councillors however can make no commitment on behalf of Council or attempt to influence staff members (other than through the CE) in the way they are implementing Council policy.

Setting Policy

9. The policy setting role involves deciding what the local authority should be doing, i.e. what activities should the local authority engage in and why, what regulatory intervention should the local authority make and why etc. This policy setting takes place within a framework of:
 - things the local authority is prohibited from doing by law
 - things the local authority must do by law
 - community needs and preferences.
10. The rule of thumb is the elected members jointly decide what the local authority should be doing, staff provide policy advice on issues and carry out the decisions, and the elected members review the performance of the organisation in achieving the objectives. Of course, things are never that simple. Citizens hold 'their' elected member responsible not only for the 'what' but the 'how'. In practice there is no clear demarcation between what is 'governance' and what is 'management'. For example, the staff carry out the policy directions of the Council, but the Council may have particular views on how the staff should carry out its directions. It is an entirely legitimate part of the governance role for elected members to express concerns about the timeliness or quality of work a local authority has undertaken, or services the local authority has provided. However the elected member should raise such issues with the Chairman who will seek resolution through the Chief Executive.
11. Managing these tensions is one of the key challenges most elected members will face.

Monitoring and Review

12. The third governance role is monitoring and review. These may seem like synonyms, but in fact they are not. Monitoring involves evaluating a policy or performance during a particular project. Review is about evaluating performance at a predetermined time.
13. The most visible monitoring mechanism is the local authority's annual report, which sets out the performance of the local authority against its objectives over the preceding year.
14. A review that elected members will do during a year is a review of the performance of their Chief Executive. The Chief Executive is the only person directly employed by the elected Council members.

The Chief Executive

15. Elected members are not directly responsible for the provision of services. The Chief Executive employs staff to undertake activities on Council's behalf, and the Chief Executive leads the staff. The Chief Executive is responsible for:
 - implementing the decisions of Council
 - advising the Council
 - the proper performance of any powers and duties delegated to them or to any Council employee
 - the efficient and effective management of Council activities
 - maintaining systems to enable effective planning and accurate reporting of Council performance
 - providing leadership for the Council staff

- employing staff on behalf of Council and negotiating their terms of employment.
16. The employment responsibility is important because the only person who is employed by Council is the Chief Executive, who in turn employs all other staff on behalf of Council. The Chief Executive is responsible for the performance of Council staff and only the Chief Executive may lawfully hire or fire other employees. Any complaint about individual staff members should be directed to the Chief Executive.

Summary

17. In simple terms the Council's role is governance of the organisation setting strategy making major decisions in line with strategy and monitoring performance and outcomes.
18. Staff via the CEO are accountable for efficiently and effectively delivering projects and reporting results as appropriate and required by council.
19. In reality, as with all interface situations, the roles overlap (primarily through the Chair and CEO) and executive management team to the extent that this team needs to lead the staff in the organisation and to do so needs to have an intimate role in assisting Council with the design of strategy.
20. Staff need to understand and value the strategic decision making role of Council and Councillors and need to be accountable for ensuring that information the Council uses to set policy and make decisions is of high standard and is comprehensive in nature.
21. The current practice of enabling many staff to present to Councillors through both committees and Council is a particularly valuable process in ensuring the relationship is sound and Councillors can establish what is required to create sound policy and make good decisions while doing this in conjunction with the relevant expert in a given area.
22. Outside of formal Council process it is to be expected and encouraged that Councillors have contact with staff on matters of relevance to the Council agenda and how they might form their own position but the protocol for doing this is primarily via the relevant Group Manager.
23. When Councillors are interacting with staff in such circumstances there must be an awareness that there are some subjects that should only be brought through Council Chairman to the CEO for discussion. These include:
- staff performance issues
 - organisational design and structural issues
 - employment issues including employment process, remuneration etc
 - strategic and policy issues.
24. A suggested protocol is:
- 24.1. For issues relating to Council meeting arrangements contact the Administration Manager
- 24.2. For clarification of Council or Committee agenda items prior to a meeting contact the relevant Group Manager or Chief Executive.
- 24.3. For operational issues raised by members of the public contact the relevant Group Manager or Chief Executive (note the Group Manager may refer Councillors to a relevant staff member)
- 24.4. All other issues to be referred to the Chief Executive.

Provision of Administrative Services for Councillors

25. *Photocopying*: any private copying may be done using Council facilities, however Councillors are required to do their own copying after advising the Administration Manager of their intention and there may be a cost to do this.

26. Typing: the expectation is that Councillors type their own letters to constituents. Councillors will be provided with stationery and a letter template to do this.
27. *Arrangements for conferences, travel etc for Council purposes*: Following approval by the Chairman, Council staff will arrange all air travel and accommodation requirements for attendance at conferences on behalf of Council or where Council are meeting the cost.
28. *Arrangement for Constituency meetings*: the expectation is that Councillors will arrange their own constituency meetings.
29. Although administrative services are not specifically provided to Councillors, it is acknowledged that they do need to correspond with their constituents. Therefore Council will provide any training to Councillors who need to improve their computer skills. Any Councillor wishing to take up this offer please contact the Chief Executives EA, Diane Wisely.



Andrew Newman
Chief Executive



Rex McIntyre
Chairman