



City of Nedlands

Agenda

Council Committee Meeting

14 August 2012

Dear Council member

The next meeting of the Council Committee will be held on Tuesday 14 August 2012 in the Council Chambers at 71 Stirling Highway Nedlands commencing at 7 pm.

Michael Cole
Acting Chief Executive Officer
7 August 2012

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City of Nedlands

Notice of a meeting of the Council Committee to be held in the Council Chambers, Nedlands on Tuesday 14 August 2012 at 7 pm.

Council Committee Agenda

Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm, and will draw attention to the disclaimer below.

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

Present and Apologies and Leave Of Absence (Previously Approved)

Leave of Absence Councillor W R Hassell Dalkeith Ward
(Previously Approved)

Apologies None as at distribution of this agenda.

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1. Addresses By Members of the Public (only for items listed on the agenda)

Addresses by members of the public who have completed Public Address Session Forms will be invited to be made as each item relating to their address is discussed by the Committee.

2. Disclosures of Financial Interest

The Presiding Member to remind Councillors and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

3. Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Councillors and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Councillors and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x..... I disclose that I have an association with the applicant (or person seeking a decision). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

4. Declarations by Members That They Have Not Given Due Consideration to Papers

Members who have not read the business papers to make declarations at this point.

5. Confirmation of Minutes

5.1 Committee Meeting 10 July 2012

The minutes of the Council Committee held 10 July 2012 are to be confirmed.

6. Matters for Which the Meeting May Be Closed

In accordance with Standing Orders and for the convenience of the public, the Committee is to identify any matter which is to be discussed behind closed doors at this meeting and that matter is to be deferred for consideration as the last item of this meeting.

7. Divisional Reports

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

7.1 Planning & Development Report No's PD28.12 to PD36.12

Development Services Report No's PD28.12 to PD36.12 to be dealt with at this point (copy attached yellow cover sheet).

- PD28.12 No. 9 (Lot 201) Cross Street, Swanbourne – Retrospective Additions and Enclosure of Carport to Single House
- PD29.12 No. 7 (Lot 201) Cross Street, Swanbourne – Retrospective Enclosure of Carport to Single House
- PD30.12 No. 75 (Lot 137) Viking Road, Dalkeith – Retrospective Enclosure of Carport to Single House
- PD31.12 No. 97 (Lots 619-620) Tyrell Street, Nedlands – Proposed Retrospective Side Fence to Single House
- PD32.12 Draft Subiaco Wastewater Treatment Plant Odour Buffer Local Planning Policy
- PD33.12 Draft North Hollywood Precinct Land Use Strategy
- PD34.12 Sunset Hospital
- PD35.12 Review of the verge parking trial, Smyth Road between Monash Avenue and Verdun Street
- PD36.12 Review of the Proposed Local Law Relating to Parking and Parking Facilities

7.2 Technical Services Report No TS17.12

Technical Services Report No TS17.12 to be dealt with at this point (copy attached blue cover sheet).

TS17.12 Investigation of Location Options for a Fenced Dog Park South of Stirling Highway

7.3 Community & Organisational Development No's CM05.12 to CM06.12

Report No's CM05.12 to CM06.12 to be dealt with at this point (copy attached pink cover sheet).

CM05.12 CSRFF Applications Small Grants Summer Round
2012/2013 City of Nedlands and Allen Park Tennis Club

CM06.12 MOU – City of Neldands and Rotary – All Abilities Play
Space, Beaton Park

7.4 Corporate & Strategy Report No's CP32.12 to CP37.12

Report No's CP32.12 to CP37.12 to be dealt with at this point (copy attached green cover sheet).

CP32.12 Monthly Financial Report – June 2012

CP33.12 Investment Report – June 2012

CP34.12 List of Accounts Paid – June 2012

CP35.12 Policy Review


CP36.12 Review of Wards and Representation

CP37.12 Dogs Local Law 2012

8. Reports by the Chief Executive Officer

8.1 Negotiation Process for City Of Nedlands Membership of the WMRC

Committee	17 August 2012
Council	28 August 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Acting CEO	Michael Cole A/CEO
Acting CEO Signature	
File ref.	ORN/016-21
Previous Item No's	TS11.12 - 26 June 2012
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

The purpose of this report is to seek Council endorsement of the negotiation process and proposed timeline for membership of the WMRC and to appoint 2 elected members and the Acting Chief Executive Officer as the Council's representatives on the Core Negotiating Group.

Recommendation to Committee

1. Council endorse the process and proposed timeline for the negotiations between the City of Nedlands and the Western Metropolitan Regional Council (WMRC) member Councils for membership of the WMRC; and
2. _____ ; _____ and the A/Chief Executive Officer be appointed as the City of Nedlands representatives on the Core Negotiating Group.

Strategic Plan

KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.
- 5.7 Provide Elected Members and Staff with training to assist them in complying with their legislative and implied roles and responsibilities.
- 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.

KFA 7: Economic Development

- 7.3 Work collaboratively with WESROC and State Government agencies in developing and implementing regional strategies.

Background

At its meeting on 26 June 2012, Council resolved that:

Council:

1. Enters into negotiations with the WMRC; and
2. Negotiations are completed and reported back to Council by 31 December 2012.

The Western Metropolitan Regional Council (WMRC) has as its member Councils the Town of Claremont, Town of Cottesloe, Town of Mosman Park, Shire of Peppermint Grove and City of Subiaco. The WMRC operates the Waste Transfer Station at Brockway Road in Shenton Park, as well as providing waste education services on behalf of the members and the City of Nedlands (the City).

The WMRC was formed in 1989 from a predecessor organisation, the Refuse Disposal Zone ("the Zone") which ran the Brockway Tip. The City was a member of the Zone and withdrew from the Zone upon closure of the Brockway Tip at the end of 1990.

On withdrawing from the Zone, the City also withdrew its proportion of the Zone's equity. The City has not joined the WMRC since, and has disposed of its waste at a range of sites including the Brockway Waste Transfer Station for many years now.

All WMRC member Councils have endorsed the commencement of negotiations with the City in relation to membership of the WMRC.

Proposal Detail

The proposal involves the City entering into negotiations for its membership of the WMRC. All WMRC member Councils have agreed to the negotiation process and proposed timeline. Should the City wish to proceed, Council will be required to endorse the negotiation process and proposed timeline and appoint 2 elected members and the Acting Chief Executive Officer as the Council's representatives on the Core Negotiating Group.

The negotiation process and proposed timeline are attached to this report.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type:

It is proposed to appoint 2 elected members and the Acting Chief Executive Officer as the City representatives on the Core Negotiating Group. The City representatives will consult with and report back to Council as required.

Legislation

The establishment of regional local governments, including the requirements for a constitution, an establishment agreement and related matters in covered in Division 4 – Regional Local Governments of the *Local Government Act 1995*. ie Sections 3.61 to 3.68.

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

The negotiations will incur legal and facilitation costs. The negotiations may also incur costs to value the WMRC. The WMRC has agreed to cover all costs associated with the negotiations.

Any additional advice, including independent legal advice that may be sought by the City of Nedlands will not be covered by the WMRC.

One of the ultimate outcomes of the negotiations will be a proposed equity contribution payable by the City. The membership contribution could range from no cost to potentially \$3 million.

Risk Management

By joining the WMRC, the City of Nedlands will have access to a governance structure that can achieve strong regional projects for the benefit of the western suburbs as a whole. This in turn will enable the City to more effectively and efficiently deliver ratepayers services that are common to the region.

Discussion

All WMRC Councils have endorsed the commencement of negotiations. However, further thought needed to be given to how the negotiations are to be conducted. It was initially envisaged that the WMRC CEO negotiate with the City's Acting CEO, and seek endorsement of the negotiated outcome from the WMRC member Councils and this Council.

The WMRC CEO has since discussed the process for negotiation with the Acting CEO and the CEOs of all other WMRC member Councils. These discussions have led to a more structured process in which all Councils are involved in the negotiations, and in particular, where the negotiations include elected members.

A structured process reduces the risk of an iterative process where an outcome, ostensibly agreed by the WMRC CEO and the City's Acting CEO, is rejected upon consideration at one or more of the Councils. Whilst an iterative process might eventually reach a negotiated outcome, it is unlikely to do so before 31 December 2012.

The proposed process is contained in Attachment 1, and uses the services of an external facilitator to work with all of the Councils to draw out goals, concerns, alternatives and relationships associated with the negotiation. The facilitator then manages the negotiation.

A core negotiating group of six is proposed for the negotiation, with three from the City of Nedlands and three representing the WMRC member Councils. It is recommended that the three representatives for the City be the Acting CEO and two elected members, with the elected members being both experienced in such negotiations and able to maintain strong lines of communication back to Council.

The first step in the process is for all Councils to endorse the proposed process and nominate representatives to the member Council liaison group. To achieve the nominated timeframe, this needs to be completed by the end of August.

Conclusion

The City of Nedlands and all WMRC members Councils are being asked to endorse the negotiation process and proposed timeline so that negotiations can commence. Council's endorsement of the negotiation process and proposed timeline and appointment of two elected members and the Acting Chief Executive Officer to the Core Negotiating Group is recommended.

Attachments

1. WMRC negotiation process and proposed timeline

9. Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

10. Confidential Items

Nil.

Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.



Michael Cole
Acting Chief Executive Officer

Attachment to Item 8.1

Committee 14 August 2012

Negotiation Process for City of Nedlands Membership of the WMRC

1 Setting the scene

1.1 Presentation

Each Council to receive a presentation from WMRC Administration that sets out:

- History
- Current Establishment Agreement
- WMRC Strategic Direction
- Explanation of DiCOM
- The process to be taken in negotiations

1.2 Workshop

Externally facilitated workshop with each Council to document the parameters for negotiation. Purpose is to clarify what Councils would like from the negotiation, to identify obstacles and rapidly come to common ground that is likely to gain agreement from all parties.

Structure in terms of:

- **Goals.** What does the Council want to achieve through the negotiation? What would you like to see the WMRC achieve?
- **Concerns.** What worries you about the negotiation? What do you want to avoid as an outcome? What worries you about the WMRC?
- **Alternatives.** If we can't agree on membership, what alternatives do you have? Are these alternatives good or bad? Does it matter if we can't reach agreement? Does failure to reach agreement cut you out of future agreements?
- **Relationships.** What is our history together like? How do we deal with this history?

This information will be useful for representatives empowered to negotiate terms.

1.3 DiCOM tour

All Councillors to be offered a tour of DiCOM, preferably guided by key figures from AnaeCo (perhaps Patrick Kedemos, CEO and MD of AnaeCo)

1.4 Facilitator

Facilitator to be appointed and paid for by the WMRC. Facilitator preferably independent from all of the participants, and where this is not possible, to clearly state previous work.

1.5 Valuation

WMRC has engaged AVP Valuers to value the WMRC assets on the basis of fair market value (assets are currently valued on historical cost). This valuation could be useful in the context of the negotiation.

2 Negotiations

2.1 Decision making

The negotiations are governed by two key considerations:

1. Formally, each member Council and Nedlands needs to individually endorse the negotiated outcome, as each Council individually signs the new Establishment Agreement.
2. The decision to endorse the negotiated outcome is made at each Council, where most of the Councillors will not have the depth of understanding of how the negotiations progressed.

Care must be taken in the negotiations to avoid these two elements leading to the negotiations being “hijacked” by a small group of Councillors within a single Council. Rules on how to agree on an outcome need to be set early. Councils need to be kept abreast of the negotiations as they occur.

2.2 Member Council liaison group

The negotiation group will need regular liaison back to member Councils to confirm negotiating positions. Suggest a liaison group comprised of:

- Three representing each of the member Councils
- Each member Council should be represented by two Councillors and the CEO.
- Might be worthwhile having each Mayor/President on the liaison group

2.3 Core negotiating group

To expedite negotiations, form a core negotiating group of six. Comprised of:

- Three representing the member Councils (as a group), to be selected from liaison group.
- Three representing Nedlands.
- Each group should be two Councillors and a CEO.

Members should be sufficiently empowered and trusted by their respective groups.

Negotiation to be facilitated externally, with negotiations to be completed in an intensive period of 2-3 meetings over a period of 2-3 weeks. Administration of the negotiating group to be conducted by WMRC CEO, who will also answer questions on relation to the implications of negotiated points for the operation of the WMRC. The WMRC CEO will not participate in negotiations.

2.4 Reaching agreement

As negotiations get closer to agreement, it may be wise to consolidate the two groups to be sure that there are no outstanding issues to resolve. This will provide each of the member Councils the opportunity to verify the negotiations against their own expectations.

2.5 Converting

Attention must be given to converting the negotiated outcome, ultimately a consensus of representatives of each Council, into agreement at each Council. Conversion cannot be assured, especially if some representatives are seen as having “betrayed” their Council’s wishes.

Conversion will be assisted by the external facilitator speaking to the negotiated outcome when it comes to each Council, potentially by presenting at committee. The WMRC CEO might assist here.

3 Timelines

3.1 End date

The Nedlands resolution requires the outcome of negotiations to be presented for consideration by 31 December 2012. The latest meeting to achieve this end date will be held on 11 December 2012, with committee on 4 December 2012 and agendas closing in mid November.

3.2 Council meetings

All Councils with the exception of the WMRC have their Council meetings in the last week of the month, and a committee meeting either one or two weeks prior. The Town of Claremont has a Council meeting two weeks prior in lieu of a committee meeting. The Town of Cottesloe has its meeting on the Monday, and all others have their meetings on the Tuesday. To make each agenda, a report needs to be ready very early in the month, typically within the first week of the month.

The WMRC has a meeting every two months, with the meeting being on the first Thursday of the month. Remaining WMRC meetings before the end date are in August, October and December.

3.3 Indicative sequencing

Month	Activity
July	<ul style="list-style-type: none">• All CEOs agree to broad process and commit to proposed timeline• WMRC accepts quotations for facilitator• Commence drafting of amended Establishment Agreement
August	<ul style="list-style-type: none">• WMRC presentations on process to Councils• All Councils agree to process and nominate participants for liaison group (negotiating group in the case of Nedlands)• Facilitator appointed
September	<ul style="list-style-type: none">• Council workshops• Negotiations conducted
October	<ul style="list-style-type: none">• Negotiations conclude, liaison and negotiating groups consolidated to ensure agreement• Complete drafting of deed of membership and amended Establishment Agreement• Update reports on negotiations to respective Councils, intended to draw out any further concerns at Council level
November	<ul style="list-style-type: none">• Resolve outstanding issues raised at Council meetings• Finalise legal drafting• Final proposed negotiated agreement considered by all Councils
December	Float month – used if necessary

After the Councils agree, the amended Establishment Agreement is sent to the Minister for Local Government for his endorsement.