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**Agenda**

**Council Committee Meeting**

**14 September 2021**

Dear Council Member

The next meeting of the Council Committee will be held on Tuesday 14 September 2021 in the Council Chamber at the City of Nedlands located at 71 Stirling Highway, Nedlands and livestreamed commencing at 7.00pm.

Please be aware that any COVID-19 restrictions relevant at the time of meeting will apply. Once the venue is at capacity no further admission into the room will be permitted. Prior to entry, attendees will be required to register using the SafeWA App or by completing the manual contact register prior to entry - as stipulated by Department of Health mandatory requirements.

The public can participate by submitting questions and addresses via the required online submission forms at:

<http://www.nedlands.wa.gov.au/intention-address-council-or-council-committee-form>

<http://www.nedlands.wa.gov.au/public-question-time>



Bill Parker

Chief Executive Officer

8 September 2021

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**City of Nedlands**

**Notice of a meeting of the Council Committee to be held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 14 September 2021 at 7 pm. The meeting will be livestreamed.**

###### 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.

# Present and Apologies and Leave of Absence (Previously Approved)

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** None as at distribution of this agenda.

**Disclaimer**

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

# Public Question Time

A member of the public wishing to ask a question should register that interest by notification in writing to the CEO in advance, setting out the text or substance of the question.

The order in which the CEO receives registrations of interest shall determine the order of questions unless the Mayor determines otherwise. Questions must relate to a matter affecting the City of Nedlands.

# 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.

# Disclosures of Financial and/or Proximity Interest

The Presiding Member to remind Council Members and Employees 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 Council Members may allow participation of the declarant if the Council 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 Council Members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

# Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Council Members and Employees of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Council Members and Employees 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). This association is ….. (nature of the interest).

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 Council Member or employee is encouraged to disclose the nature of the association.

# Declarations by Council Members That They Have Not Given Due Consideration to Papers

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

# Confirmation of Minutes

## Committee Meeting 10 August 2021

The Minutes of the Council Committee held 10 August 2021 are to be confirmed.

# 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.

# 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.

## Planning & Development Report No’s PD28.21 to PD33.21

Planning & Development Report No’s PD28.21 to PD33.21 to be dealt with at this point (copy attached yellow cover sheet).

PD28.21 Consideration of Development Application for a Change

 of Use from ‘Animal Establishment’ to ‘Industry-Light’ at

 29 Carrington Street, Nedlands

PD29.21 Consideration of Development Application - 6 Grouped Dwellings at 29 Martin Avenue, Nedlands

PD30.21 Consideration of Development Application - Single House at 67 Dalkeith Road, Nedlands

PD31.21 Consideration of Development Application - Single House at 92 Kingsway, Nedlands

PD32.21 Consideration of Development Application (Single House) at No. 20 Vincent Street, Nedlands

PD33.21 Consideration of Development Application - 5 Grouped Dwellings at 25 Mountjoy Road, Nedlands

## Community Development Report No’s CSD09.21 to CSD12.21

Community Development Report No’s CSD09.21 to CSD 12.21 to be dealt with at this point (copy attached orange cover sheet).

CSD09.21 CSRFF Forward Planning Grants - Peak Trampoline Inc & UWA Sports

CSD10.21 CSRFF Club Night Lights Grant Applications - Collegians Amateur Football Club & UWA Sports

CSD11.21 Point Resolution Child Care Centre Financial Viability Review

CSD12.21 Strategic Active Sports Facilities Plan 2020-2050

## Corporate Strategy Report No’s CPS16.21 to CPS17.21

Corporate & Strategy Report No’s CPS16.21 to CPS17.21 to be dealt with at this point (copy attached green cover sheet).

CPS16.21 Rate Exemption Approval – Religious Organisation

CPS17.21 List of Accounts Paid – August 2021

# Reports by the Chief Executive Officer

## Review of Various Council Policies

|  |  |
| --- | --- |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and City of Nedlands Code of Conduct for Employees.** | The CEO declares no interest in this matter, except that the position he occupies is affected, in relation to the proposed Election Caretaker Policy, as it describes matters and decisions that the Council will avoid during the Period. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Bill Parker |
| **Attachments** | 1. Record Keeping for Council Members Council Policy
2. Legal Representation for Council Members & Employees Council Policy
3. Council Member Fees, Expenses, Allowances and Other Provisions Council Policy
4. Council Member and CEO Attendance at Events Council Policy
5. Council Member Professional Development Council Policy
 |
| **Confidential Attachments** | Nil. |

**Executive Summary**

All Council Policies are required to be reviewed regularly every five years as per Council’s Policy and approved by Council. The purpose of this report is to present five policies which have been reviewed and updated and require formal Council adoption.

**Recommendation to Council**

**That Council:**

1. **by Simple Majority, adopts the following policies:**
2. **Record Keeping for Council Members Council Policy (previously named Management of Information for Elected Members Council Policy), as per attachment 1; and**
3. **Legal Representation for Council Members & Employees Policy, as per attachment 2;**
4. **by Absolute Majority, adopts the following policies:**
5. **Council Member Fees, Expenses, Allowances and Other Provisions Policy (previously named Elected Member Expenses and Equipment Council Policy), as per attachment 3;**
6. **Council Member & CEO Attendance at Events Policy (previously named Council Member and Employee Training and Conference Attendance Council Policy), as attachment 4; and**
7. **Council Member Professional Development Policy (previously names Council Member and Employee Training and Conference Attendance Council Policy), as per attachment 5.**

**Discussion/Overview**

**Background**

Several Council Policies need to be reviewed and updated, either to reflect new legislative provisions, or contemporary practices.

Regard has been had for the approach taken by other similar Councils (especially those in Band 2 of the SAT) in proposing draft Policies.

All the draft Policies have been canvassed with Council Members over several workshops, and changes made to the drafts to reflect requests for changes at the workshops.

**Record Keeping for Council Members Council Policy**

There is a need to ensure compliance by Council Members with the *State Records Act 2000* and theCity of Nedlands Record Keeping Plan.

The State Records Office policy regarding the records of local government Council Members requires the creation and retention of records of the:

“…communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.”

The Policy describes a range of matters which constitute Council Member’s records, and which must be retained and lodged with the City.

**Legal Representation for Council Members & Employees Council Policy**

The Department of Local Government in 2006 released guidelines to assist Councils in determining the basis on which legal representation might be provided to Council Members and employees.

This Policy sets the parameters and conditions for payment of legal representation for Council Members and employees.

There are four criteria for determining whether the City of Nedlands may pay the legal representation costs of a Council Member or employee. These are:

* the legal representation costs must relate to a matter that arises from the performance, by the Council Member or employee, of his or her functions,
* the legal representation costs must be in respect of legal proceedings that have been, or may be commenced,
* in performing his or her functions, to which the legal representation relates, the Council Member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
* the legal representation costs do not relate to a matter, unrelated to the roles and responsibilities of a Council Member, or employee.

The Policy proposes specific circumstances and processes which would govern consideration of a request for legal representation to be paid by the City and provides for the CEO to be able to approve assistance of up to $10,000, in an urgent situation.

**Council Member Fees, Expenses, Allowances and Other Provisions Council Policy**

This Policy outlines the entitlements of Council Members as per the Salary & Allowance Act 1975 and when and how they are to be paid.

The Policy maintains the prior position of the Council that the Mayor and Councillors will all be paid at 100% of the relevant SAT Band (currently Band 2).

All Council Members will be paid the maximum IT and Communications Allowance of $3,500 pa, no equipment will be provided by the City to Council Members, as per the Salary & Allowances Act 1975.

The Salary & Allowances Tribunal have confirmed that:

Part 9.1(3) outlines the range of factors the Tribunal considered in setting the allowance range. Specifically:

* the intent of the allowance to reflect the extent and nature of the expenses incurred and not to result in a windfall gain for council members; and
* the particular practices of local governments in the use of information and communication technology (e.g. laptop computers, iPads).

Therefore, supplying ICT equipment on top of the allowance would contradict the intention of the allowance.

Council Members will be able to purchase whatever specification of equipment that suits them with the allowance provided.

Administration is recommending a significant change to this policy to pay elected members in arrears, not in advance. Payment in advance of work performed is not in keeping with modern accepted business practice. Payment in arrears, while possible, creates problems after an election or resignation of an elected member, since the local government is required to seek reimbursement of unused advanced payment.

The Policy also addresses gifts to retiring, or defeated Council Members, and seating for Council meetings.

**Council Member Attendance at Events Council Policy**

There is a statutory requirement that Council adopt such a Policy (s5.90A LGA 1995) in situations where tickets are not given to the Council Member or CEO by name and specifically.

The Policy proposes a range of “approved events” - attendance at Approved Events are not treated as gifts and do not need to be included on the City’s public Register of Gifts, as they are "excluded gifts" in accordance with section 5.62(1B) of the Act.

Attendance at Approved Events does not trigger a conflict of interest if a matter comes before Council or the CEO for consideration. Where there is a cost for attending an “Approved Event” the City will pay for the ticket or reimburse the case of same.

Where tickets are provided under a sponsorship agreement the CEO will determine the allocation of the tickets.

Proposed attendance at a “non” approved event will require the approval of the CEO, or the Mayor in the case of the CEO.

**Council Member Professional Development Policy**

There is a statutory requirement that Council adopt such a Policy (s5.128 LGA 1995) to describe the entitlements, and process for Council Members to access professional development.

The Policy identifies the mandatory 5 modules that all new Council Members must complete within 12 months of being elected, as well as a range of other training subject matters and service providers to deliver same.

Limits are proposed on the cost and location of such training, where the CEO, in consultation with the Mayor, may approve same. In situations where the cost exceeds $2000 or the training is provided interstate, or overseas, the request will be determined by Council.

**Key Relevant Previous Council Decisions:**

Ordinary Council Meeting 23 February 2021 (extract):

“Council Resolution

Council:

1. refers the following policies to a Councillor workshop:
* Elected Member Fees, Expenses, Allowances and Other Provisions
* Legal Representation for Elected Members and Employees Council Policy
* Management of Information for Elected Members Council Policy
* Professional Development and Attendance at Events.”

**Consultation**

Reviews are done in accordance with Council’s Review of Council Policies Policy.

Consideration has been given to approaches taken by other local governments in guiding drafting of proposed policies.

The listed policies were presented to Council at its Ordinary Meeting of Council on the 23 February 2021 where Council deferred these policies to a workshop.

Council Members workshopped these policies on Tuesday 29 June 2021 and 3 August 2021.

**Strategic Implications**

It is the Role of Council to determine the Local Government’s policies.

Council policies are reviewed periodically to ensure they reflect the strategic direction and responsibilities of Council and are kept up to date.

**Budget/Financial Implications**

No specific financial implications arise from the adoption of the draft Policy; however, care and planning will need to occur in the lead up to local government elections to ensure the Policy is not contravened in relation to types of decisions.

**Conclusion**

It is timely for Council to regularly review Policies for compliance and consistency with contemporary practice.

It is envisaged that additional Policies will be reviewed by Council during future Council meetings.

## Use of the Common Seal and Execution of Documents Council Policy

|  |  |
| --- | --- |
|  **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Bill Parker, Chief Executive Officer |
| **Attachments** | 1. Use of the Common Seal and Execution of Documents Council Policy
 |
| **Confidential Attachments** | Nil. |

**Executive Summary**

Local Government Act 1995, section 9.49A – Execution of documents and Part 19 City of Nedlands Standing Orders Local Law 2016 address and envisage a process for authorising the application of the Common Seal of the City of Nedlands, and in relation to the execution of documents, by and on behalf of the City.

A Policy will ensure that separate authority does not need to be sought from Council every time the Seal needs to be applied, or certain documents executed.

The attached Policy seeks to describe the circumstances, and processes in which the Seal of the City of Nedlands is to be applied, and regarding the execution of documents.

**Recommendation to Council**

**That Council adopt the Use of the City of Nedlands Common Seal and Execution of Documents Council Policy as per attachment 1.**

**Discussion/Overview**

**Background**

The Local Government Act s9.49A requires documents needing to be sealed, to be witnessed by the Mayor and the CEO and the Policy describes a range of documents that are to be sealed accordingly.

Section 9.49A permits the local government to authorise the CEO, or another employee, or an agent, to sign documents, on behalf of the City.

It is proposed that the CEO and Directors be authorised to sign documents but with certain limits attaching to each authority, detailed within the Policy.

**Key Relevant Previous Council Decisions:**

Part 19 City of Nedlands Standing Orders Local Law 2016 refers to the use of the Common Seal, but only by reference to the Local Government Act.

**Consultation**

Consideration was given to approaches taken by other local governments.

A workshop was held on the 3 August 2021 with Council Members.

**Strategic Implications**

**How well does it fit with our strategic direction?**

The introduction of this Policy aligns with the ‘Great Governance and Civic Leadership’ value as outlined within the Strategic Community Plan.

**Who benefits?**

The City’s customers will benefit from the efficient execution of documentation.

**Does it involve a tolerable risk?**

Most executed documentation is a result of a Council decision. Therefore, minimal risk is associated with the introduction of this policy.

**Do we have the information we need?**

A number of local governments have introduced similar policies. The City has reviewed the incorporated elements from other local governments.

**Does this affect any CEO Key Result Areas?**

N/A.

**Budget/Financial Implications**

No specific financial implications arise from the adoption of the draft Policy.

**Conclusion**

Council adopting a Policy on the use of the Common Seal of the City of Nedlands and in relation to the execution of documents, will provide clear guidance about circumstances and conditions which apply and will reduce the number of occasions when formal authority of Council needs to be sought in relation to the execution of documents.

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

# Confidential Items

Any confidential items to be considered at this point.

# Declaration of Closure

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