



City of Nedlands

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.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. Confirmation of Minutes

6.1 Committee Meeting 10 August 2021

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

7. 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.

8. 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.

8.1 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

8.2 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

8.3 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

9. Reports by the Chief Executive Officer

9.1 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	<ol style="list-style-type: none"> 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:
 - a. Record Keeping for Council Members Council Policy (previously named Management of Information for Elected Members Council Policy), as per attachment 1; and

- b. Legal Representation for Council Members & Employees Policy, as per attachment 2;**
- 2. by Absolute Majority, adopts the following policies:**
 - a. Council Member Fees, Expenses, Allowances and Other Provisions Policy (previously named Elected Member Expenses and Equipment Council Policy), as per attachment 3;**
 - b. Council Member & CEO Attendance at Events Policy (previously named Council Member and Employee Training and Conference Attendance Council Policy), as attachment 4; and**
 - c. 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 the City 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.

Record Keeping by Council Members

Status	Council
Responsible Division	Corporate & Strategy
Objective	To provide for the compliance by Council Members with the <i>State Records Act 2000</i> and the City of Nedlands Record Keeping Plan 2018 .

Context

Council Members' records must be created, kept, and lodged with the City, in a way which properly and adequately record the performance of Council Member functions arising from their participation in the decision-making processes of Council and Committees of Council and arising from their role as Council Members.

Commented [NC1]: Added to reflect advice provided at Council Member workshop.

This requirement should be met through the creation and retention of records of meetings of local government and other communications and transactions of Council Members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Political and personal records of Council Members are exempt.

Any correspondence produced or received by Council Members as part of their duties should be periodically returned to the City for registration into the approved record keeping system.

Statement

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.”

This applies regardless of a record's format or where it was received.

The City will file and archive any public records that are created or received by Council Members in the course of their duties that are required by the *State Records Act 2000*, or the *City's Record Keeping Plan* to be retained.



Examples of records related to local government projects or business activities to be retained include – communications; lobbying; telephone, meetings, and other verbal conversations; social media posts; work diaries; allowances, benefits and gifts records; and addresses/ speeches / presentations.

Examples of records that are NOT required to be retained include – duplicate copies; draft or working documents; publications; invitations; telephone, meetings and other verbal conversations NOT related to local government projects or business activities; electioneering; and personal records.

All records created by Council Members must be returned to the City to be captured, retained and, when authorised, legally destroyed.

Related Documentation

City of Nedlands [Record Keeping Plan 2018](#)

State Records Office - Local Government Elected Members' Records: Which records to capture? (2019)

Related Local Law / Legislation

[Freedom of Information Act 1992](#)

[State Records Act 2000](#)

Related Delegation

Nil.

Review History

14 December 2010 (Report CM29.10)

9 July 2019

05 June 2020

Legal Representation for Council Members and Employees

Status	Council
Responsible Division	Corporate & Strategy
Objective	To determine when it is appropriate to pay legal representation costs for Council Members or employees.

Context

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.**

Rationale

The Department of Local Government addressed this issue in Local Government Operational Guidelines Number 14 – April 2006 – “...*Today there is an increased risk of legal action being taken or threatened against individual Council Members and employees.*

Council Members and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the cost of the advice or representation.

Commented [NC1]: Added for further clarity, in context of discussions at Council Member Workshop.

Commented [NC2]: Requested some broader rationale regarding need for Policy – quote is from DLG publication – reference included at end of policy.



For example, Council Members or employees may be threatened with legal action when an aggrieved party believes that they will not, or have not, carried out their legislative functions or responsibilities in the correct and appropriate manner. Legal action may also be threatened where it is anticipated that such action will influence a vote or a recommendation.

Council Members and employees may feel inhibited in undertaking their roles in a full, frank, and impartial manner if they do not have an assurance that they are protected from threats and will be given proper legal representation if any legal action is taken against them.

Local governments have a legislative duty of care to their employees to provide a safe working environment and morally have the same duty to council members. Accordingly, it is appropriate and prudent for local governments to assist council members and employees by adopting a policy to fund or partly fund the cost of providing legal representation in appropriate circumstances...

Definition

Approved lawyer is to be:

- a 'certified practitioner' under the *Legal Practice Act 2003*,
- from a law firm on the City of Nedlands' insurance provider's panel of legal service providers,
- approved by the Council or the Chief Executive Officer under delegated authority.

Council Member or employee means a Council Member of the Council of the City of Nedlands or an employee of the City of Nedlands.

Legal proceedings may be civil, criminal, or investigative.

Legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

Legal services include advice, representation or documentation that is provided by an approved lawyer.

Payment by the City of Nedlands of legal representation costs may be either by:

- a direct payment to the approved lawyer (or the relevant firm); or
- a reimbursement to the Council member or employee.
- If a reimbursement is to be paid, the amount must be agreed in advance of the costs being incurred.



Statement

Examples of legal representation costs that may be approved

The City of Nedlands may approve the payment of legal representation costs for the following reasons:

- where proceedings are brought against a Council Member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council Member or employee; or
- to enable proceedings to be commenced and/or maintained by a Council Member or employee to permit him or her to carry out his or her functions – for example where a Council Member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council Member or employee; or
- in the event of a local government inquiry or complaint lodged against a Council Member or employee, to permit him or her to provide a proportionate response – for example when questioned by a member of the legal profession; and
- where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about Council Members or employees.

The City of Nedlands will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council Member or employee.

Application for payment

A Council Member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Chief Executive Officer.

For payment to be made, the written application for payment of legal representation costs is to give details of:

- the matter for which legal representation is sought,
- how that matter relates to the functions of the Council Member or employee making the application,
- the lawyer (or law firm) who is to be asked to provide the legal representation,



- the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc),
- an estimated cost of the legal representation; and
- why it is in the interests of the City of Nedlands.

The application is to contain a declaration by the applicant that he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

As far as possible the application is to be made before commencement of the legal representation to which the application relates.

The application is to be accompanied by a signed statement by the applicant that he/she:

- has read, and understands, the terms of the policy,
- acknowledges that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- undertakes to repay to the City of Nedlands any legal representation costs not consistent with this policy.

When a person is to be in receipt of such monies the person should sign a document which requires repayment of that money to the local government as may be required by the local government and the terms of the policy.

An application is also to be accompanied by a report prepared by the Chief Executive Officer or where the Chief Executive Officer is the applicant by an appropriate employee.

Legal representation costs – Limit

The Council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

A Council Member or employee may make a further application to Council in respect of the same matter.



Council's powers

The Council may:

- refuse,
- grant; or
- grant subject to conditions

an application for payment for legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs where required under this policy.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City of Nedlands' Council Members or employee's insurance policy or its equivalent.

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may determine that a Council Member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved:

- not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- given false or misleading information in respect of the application.

If a determination is made by the Council, it can only be based on, and consistent with, the findings of a court, tribunal, or inquiry.

Where the Council decides, the legal representation costs paid by the City of Nedlands are to be repaid by the Council Member or employee.

Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the Chief Executive Officer may exercise, on behalf of the Council, approval to a maximum of \$10,000 in respect of each application.

An application approved by the Chief Executive Officer is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this policy.



Repayment of legal representation costs

A Council Member or employee whose legal representation costs have been paid by the City of Nedlands is to repay the City of Nedlands:

- all or part of those costs in accordance with a determination by the Council,
- as much of those costs as are available to be paid by way of set-off – where the Council Member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City of Nedlands paid the legal representation costs.

The City of Nedlands may act in a court of competent jurisdiction to recover any monies due to it under this policy.

Related documentation

[Legal Representation for Council Members and Employees \(dlgsc.wa.gov.au\)](http://dlgsc.wa.gov.au)

Related Local Law / Legislation

Sections 3.1, 6.7(2) and 9.56 of the Local Government Act 1995

Related delegation

Add from Delegations register once approved.

Review History

24 September 2013 (Report CPS28.13)

24 August 2010 (Report CM21.10)



Council Member Fees, Expenses, Allowances and Other Provisions

Status	Council
Responsible Division	Office of the Chief Executive Officer
Objective	To determine discretionary elements of fees, expenses, allowances, and other provisions provided to Council Members.

Context

Council Members are entitled to receive fees, expenses, and allowances in performing their duties. This policy determines the extent of those fees, expenses and allowances that are subject to Council's discretion.

Upon election Council Members are entitled to receive the necessary other provisions, including allocated seating, a gift at the conclusion of office, training, and conference attendance, in performing their role.

Definitions

Determination – means the Western Australia Salaries and Allowances Act 1975 Determination of The Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Council Members, pursuant to Section 7A and 7B of the Local Government Act 1995,

ICT expenses – means:

- (a) rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the LG Regulations; or
- (b) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations.

Statement

1. Fees

The Mayor, Deputy Mayor and Council Members shall be paid the 100th percentile of the applicable annual fee range of the determination (6.4), to be confirmed in the annual budget each year (s5.98(1) & 5.99). The annual fee shall be paid monthly, in arrears, unless a Council Member requests that the allowance be paid monthly, in advance, in which case, it shall be so paid.



2. Expenses and Allowances

The Mayor, Deputy Mayor and Council Members shall be paid expenses as annual allowances, as per the Determination (s5.98(2)(a), 5.98A, 5.99A, reg31 & reg32).

The Mayor shall be paid the annual allowance range maximum under s7.1 & 7.2 of the Determination (s.5.98(5)).

The Deputy Mayor shall be paid the annual allowance percentage provided under section 7.3 of the Determination (s.5.98A).

The Mayor, Deputy Mayor and Council Members shall be paid the annual allowance range maximum of the information and communications technology (ICT) allowance (s5.99A(1)).

As from October 2021 Ordinary Elections no IT or communications equipment will be provided by the City. Equipment provided by the City to Council Members prior to October 2021 may be kept by the Council Member if the equipment is 3 years old or more when the Council Member terminates their membership of Council.

The annual allowances are to be confirmed in the annual budget each year.

The annual allowances shall be paid monthly, in arrears, with newly elected Council Members to be paid the \$3500 ICT allowance on the first payment of their first year only, then paid monthly, in arrears, in subsequent years.

Commented [NC1]: Modified given discussion at Council Member workshop.

3. Induction

Newly Elected Council Members will be required to undertake a comprehensive induction process including:

- Mandatory 5 Modules (within 12 months of election)
- External training for newly elected council members
- Internal training provided by Administration. This may involve evening and weekend sessions.

Commented [NC2]: Modified given discussion at Council Member workshop.

4. Provision of Information

All agendas, reports, minutes, and other relevant materials will be provided electronically to Council Members. Hard copies may be provided upon request to the CEO.

Council Members will be provided with a City of Nedlands email address which is to be used for all Council related email correspondence.

Council Members will be provided with access to a Council Member portal.



5. **Seats in Council Chambers.**

Council Members will occupy the seats in the Council Chambers allocated to them based on the ward represented and alphabetical placement. In exceptional circumstances, by resolution of Council, a Council Member may be allowed to occupy another seat.

6. **Gift at conclusion of term of office.**

Council may recognise the service given by Council Members when they retire or are unsuccessful in seeking re-election, by presenting them with a gift to the value of \$100 per year of office, up to the maximum prescribed amount. The Council Member must have served at least one full 4-year term of office to be eligible for a gift (s5.100A & reg34AC). The Mayor in consultation with CEO will determine the gift.

Commented [NC3]: Amended to align with Reg 34AC which specifies \$100 per year.

7. **Disability Provisions**

The requirements of the Disability Discrimination Act 1992 ensure equal access is provided where disability of a Council Member imposes limitations on their ability to perform their duties. The City will provide information and equipment, as needed, in addition to that listed in this policy to support Council Members with disabilities.

Related documentation

Professional Development & Attendance Policy

Related Local Law / Legislation

Salaries & Allowances Tribunal Act 1975

Local Government Act 1995, sections 5.98, 5.98A, 5.99, 5.99A, & s5.100A.

Local Government (Administration) Regulations 1996 reg31, reg32& reg 34AC).

Disability Discrimination Act 1992 (Federal)

Related delegation

Nil.

Review History

20 December 2016 (Report CPS33.16)

24 September 2013 (Report CPS26.13)

25 May 2010 (Report CM10.10)

27 August 2013 (Report CPS26.13)

Council Member and CEO Attendance at Events

Status	Council
Responsible Division	Office of the Chief Executive Officer
Objective	To establish the requirements around the attendance at events where tickets are offered to Council Members and the CEO.

Context

s5.90A of the Local Government Act 1995 requires Council to adopt a Policy on Council Member and CEO attendance at events.

This policy applies to invitations or tickets to events that are provided to the City (for example to the City of Nedlands Council /Council Member or City of Nedlands CEO).

An invitation or ticket to an event provided directly to an individual (which means personally to a Council Member or the CEO) is to be treated as a gift (gift as defined in section 5.57 of the Act).

Council Members or the CEO may accept these invitations, subject to disclosing the acceptance of the invitation / ticket as a gift (if valued at over \$300, in accordance with the provisions of the City's Code of Conduct for Council Members, Committee Members, and Candidates for Election, and the relevant gift provisions in the Local Government Act, as they apply to Council Members and the CEO, if they have not provided appropriate consideration for the ticket/ invitation. The gift will be disclosed on the City's public Register of Gifts.

A Council Member or the CEO may attend an event and not disclose it as a gift if they have purchased the ticket themselves.

Statement

1. Attendance at Approved Events

The following events are considered Approved Events for the purpose of this policy:

Where the Council Member is attending an event in an official capacity, such as:

- performing a speaking role or some other welcoming role
- participating as a member of a discussion panel or judging panel
- presenting at the event as part of the event program

- representing the City of Nedlands at a sponsorship acknowledgement event or award ceremony, where the primary purpose of attendance is not for the entertainment of the individual Council Member, but enable the City to fulfil its role, and exercise its rights and benefits, as a sponsor
- presenting awards or prizes to others on behalf of the City
- attending an exhibition or display where the City, its programs or services are being showcased at the event.

Where the ticket is offered by:

- the Western Australian Local Government Association
- the Australian Local Government Association
- Local Government Professionals WA
- a department of the Public Service
- a government department of another State, a Territory or Commonwealth
- a State or Federal Member of Parliament, other than for party political events or fundraisers
- a local government or regional local government
- major professional or industry association(s) relevant to local government activities
- a stakeholder partner of the City
- a civic / cultural / community organisation within the City of Nedlands
- educational institutions or
- a not-for profit organisation.

Council Members or the CEO may at their discretion attend an Approved Event on behalf of the City, where the invitation or ticket is provided to the City and no fee is payable for attending.

If a fee is payable for attendance at an Approved Event, the Mayor and CEO will seek expressions of interest from Council Members or the CEO to attend the Approved Event, provided the cost of attendance is within the approved budget.

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.

2. Attendance at Non-Approved Events

Unless otherwise addressed in this Policy, the acceptance and subsequent use of a ticket by a Council Member for an event that is not a pre-approved event must be approved by the CEO (or by the Mayor for the CEO).

In deciding to approve the attendance at an event, the Chief Executive Officer (or the Mayor) is to consider:

- (a) who is providing the ticket to the event (the organiser of the event, or a third party)
- (b) the location of the event in relation to the City's district
- (c) the role of the Council Member when attending the event (i.e., presenter, participant, or observer)
- (d) whether the event is sponsored by the City
- (e) the Council Member's justification of the benefit to the City and the City's community through the attendance at the event
- (f) how many people should be authorised to attend the event
- (g) any costs associated in attending the event
- (h) whether advice following the attendance at the event is required under this Policy.

Council Members who attend paid events may be required to provide advice to the CEO (at the CEO's discretion) on the outcomes of their attendance and the benefits to them and the City in attending the event. The advice may cover the following topics:

- The nature of the event.
- The stated benefits to the City or the Nedlands community in attending the event.
- What the Council Member observed by attending the event.
- Any networking links that were made or stakeholder interactions.
- How attendance benefited the Council Member's role at the City generally

3. Free tickets to the City for events

Where tickets are given to the City as opposed to a Council Member directly, the CEO may allocate the tickets as he / she sees fit if attendance is deemed to satisfy the approval criteria detailed within this policy.

The CEO may allocate a ticket to a Council Member where the purpose of attendance is to enable the Council Member to perform their role as a community representative and to network and liaise with community individuals / groups within the district.

4. Complimentary tickets and benefits under sponsorship agreements

Where the provision of complimentary tickets or a benefit exists under a current sponsorship agreement or arrangement between the City and a third party, the management and allocation of tickets or benefits (unless expressly stated) shall be determined by the CEO and disclosed in accordance with this policy.

A Council Member may be allocated a ticket or benefit by the CEO under this Policy on the basis that attendance would enable the Council Member to perform their role as a community representative and to network and liaise with community individuals / groups within the City's district.

5. Costs for tickets

Where there is ticket cost for the Council Member to attend a pre-approved event or non-approved event, the Council Member will be reimbursed the cost of the ticket.

Where a ticket can be purchased for a non-approved event, and in the opinion of the CEO it is in the interests of the City for one or more Council Members to attend to assess and understand any possible impacts on the Nedlands community or City business, then one or more tickets for that event may be purchased by the City, at full cost, on behalf of the Council Member.

Tickets for accompanying persons (such as spouse, family member or relative) will not be purchased by the City, however the Council Member may purchase a paid ticket at their own expense.

6. Travel and accommodation costs

The City may pay or reimburse reasonable travel and accommodation costs for a Council Member to attend an event.

Accommodation costs may be paid for events outside the Perth metropolitan area, interstate or internationally.

Documentary evidence is required for all expenses or costs claimed by a Council Member and original Tax invoices and receipts are required for audit purposes and to enable G.S.T to be claimed.

7. Exemptions

The requirements of this policy do not apply to any training or conference event attended by a Council Member in accordance with the City's Professional Development for Council Members Policy.

The requirements of this policy do not apply where a Council Member is the City's representative on a board or external organisation where the Council Member is required to attend an event for the purposes of fulfilling their role on the board or external organisation.

8. Reporting

The disclosure information for tickets received by Council Members that are deemed a gift, will be listed within the City's Gift Register(s).

In accordance with the s5.62(1B) of the Local Government Act 1995 attendance at an event in accordance with this policy will exclude the Council Member from the requirement to disclose an interest when the donor of the ticket has a matter before Council (or a committee).

9. Definitions

CEO means the Chief Executive Officer of the City.

Event has the meaning given to it under the Local Government Act 1995

Note: s5.90A (1) of the Act states the following:
event includes the following:

- (a) a concert;
- (b) a conference;
- (c) a function;
- (d) a sporting event;
- (e) an occasion of a kind prescribed for the purposes of this definition.

Gift has the meaning given to it under the Local Government Act 1995

Note: s5.57 of the Act states the following:

gift means:

- (a) a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution.

For the purposes of the above definition:

- travel includes accommodation incidental to a journey;
- travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

Ticket includes an admission ticket to an event, or an invitation to attend an event, or a complimentary registration to an event, that is offered by a third party

Related documentation

Attendance at Events Policy - Local Government Operational Guidelines (December 2019)

Related local law, legislation, and compliance requirements

LGA s5.62(1B) – defines excluded gifts.

LGA s5.90A(2) – requires local governments to adopt a policy in respect to event attendance by Council Members and the CEO.

LGA s5.90A(5) - The CEO must publish an up-to-date version of the policy on the local government's official website.

Related delegation

Nil.

Review History

Adopted by Council xxxx

Council Member Professional Development

Status	Council
Responsible Division	Office of the Chief Executive Officer
Objective	<p>To provide guidance to Council Members with respect to meeting their legislative requirements to undertake compulsory training and the entitlements associated with the attendance of the Mayor and Council Members at ongoing professional development opportunities.</p> <p>This policy also outlines the Chief Executive Officer's requirement to report on the training and development undertaken by each Council Member as required by the Local Government Act 1995</p>

Context

The Local Government Act 1995 requires that Council Members undertake compulsory training within 12 months of being elected and requires that the City adopt a policy, and report on training and development undertaken by its Council Members each year.

In the interest of ensuring Council Members understand their obligations as Council Members, make well informed decisions and effectively represent their constituents, the City provides support for Council Members to attend compulsory training and conferences, seminars, and other professional development opportunities in order to develop and enhance their knowledge pertaining to their role.

Training and conference attendance are important to Council Members in performing the functions of their roles. This policy sets out Council's express authority and terms of approval for attendance at training and conferences, in addition to mandatory training.

Statement

1. Training and Professional Development

1.1 Mandatory Training

Commencing October 2019, in accordance with s 5.126 of the Act and Reg 35 of the Local Government (Administration) Regulations 1996, a Council Member is to complete the course titled 'Council Member Essentials' within 12 months from the day on which the Council Member is elected.



The Council Member Essentials Course consists of five core modules:

- Understanding Local Government,
- Serving on Council,
- Meeting Procedures,
- Conflicts of Interests; and
- Understanding financial reports and budgets.

The Council and CEO will determine which of the 3 approved providers will be engaged to deliver the mandatory training to Council Members.

Council's preferred provider of such training is WALGA, but the CEO may make alternative arrangements with the other approved providers, having regard to costs and the City's procurement policy, as well as any other relevant factors.

Costs to undertake mandatory training are determined by the approved Training Providers. The City will meet the costs of all mandatory training courses for Council Members, including reasonable travel and parking expenses (if required), as determined by the Chief Executive Officer (or nominee).

1.2 Professional Development

To assist Council Members to perform their duties efficiently and effectively, the following training and development opportunities will be available to Council Members:

- Attendance at the Annual Western Australian Local Government Association conference and/or Annual General Meeting,
- Attendance of the Mayor or Deputy Mayor or delegate at the Annual Local Government Professionals Australia National Congress,
- Attendance of the Mayor or Deputy Mayor or delegate at the Annual Australian Local Government Association Conference,
- Council Member training arranged by the CEO for Council Members to be inducted into the role of Council Member and further training to keep up to date with their obligations and duty of care responsibilities as contained in the Local Government Act 1995 and other relevant legislation and guidelines relevant to their role, including, but not limited to:
 - Professional Speaking
 - Planning Practices – The Essentials
 - Planning Practices – Advanced
 - Integrated Strategic Planning – The Essentials
 - Integrated Strategic Planning – Policy
 - Infrastructure Asset Management
 - Effective Community Leadership
 - CEO Performance Appraisals
 - Better Planning Decisions



- Decision Making at a Governing Board Level
- Dealing with Conflict
- Land Use Planning

The CEO is authorised to approve requests from Council Members for professional development opportunities, and make the associated arrangements (including registration, air fares, accommodation, sustenance, and reimbursement of approved expenses) subject to:

- the total cost of the proposed training being no more than \$1000
- the proposed training NOT requiring interstate or international travel to attend,
- the training, development or conference is organised by an identified, industry recognised training provider,
- the number of Council Members attending a particular conference, seminar or training does not impact the quorum required for Council or Committee meetings; and
- sufficient funds being available in the relevant Budget item.

Where the total cost is between \$1,001 and \$2,000 then the CEO in consultation with the Mayor may approve attendance if there are sufficient unallocated funds within the budget.

Where training or conferences total cost is more than \$2,000, the request must be referred to Council for determination.

A Council Member refused permission by the CEO or Mayor to attend a training course or conference may refer the matter to Council for determination.

When considering any application by a Council Member to attend a training course or conference, the CEO, the Mayor or Council shall consider the training needs of the Council Member and any issues of equity between Council Members regarding access to training.

1.2.1 Accompanying Persons

No allowances or entitlements will be provided by the City in respect of accompanying person costs. Any additional costs resulting from a Council Member being accompanied by their partner, or another person will not be paid by the City.

1.2.2 Reports

A written report on the travel and event/s attended shall be made available to Council by the person who travelled no later than the second Council meeting after return from the travel. The Report need not form part of the Council meeting agenda but will be included at the City website regarding Professional Development by Council Members.

A Council Member may request an opportunity to present on the learnings from an event to an appropriate Council forum, or Council may request same.

The CEO will publish a report on the City website, within one month of the end of the financial year, providing the details of the training completed by each Council Member during the financial year.

2. International, interstate and intrastate travel

All proposals for City funded interstate or international travel for Council Members requires the approval of Council, when recommended by the CEO. In the case of CEO interstate or international travel, the proposal shall be presented to Council without recommendation.

Air travel will be arranged by the City (unless otherwise agreed under this Policy) and shall be based on an economy class fare with standard baggage allowance. Wherever possible, these will be booked in advance to take advantage of advance purchase discounts.

Accommodation arrangements shall be based on an appropriate room in an appropriate standard hotel recommended by the conference organisers, or one located within proximity to the conference facility. Any upgrades or extensions shall be at the expense of the Council Member.

All proposals for approval of travel covered by this provision should be in writing and show the reason for the request.

3. Reimbursement requests

Travel, accommodation, and registration arrangements shall be made by the City; however, where a Council Member has approval from the CEO to make their own arrangements in respect to accommodation and travelling, reimbursement will be made in accordance with this policy on presentation of appropriate receipts. Council Members must obtain the necessary approvals required by this policy prior to making any financial or other commitments.

The extent to which a Council Member may be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Administration Regulations is at the same

rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission as at the date of the e determination current at the time of the event.

Reimbursement requests must be provided to the CEO and are to include all receipts and a completed reimbursement form.

4. **Cancellations**

Where cancellations occur the Council Member, in conjunction with the CEO, should endeavour to find a replacement Council Member. When no replacement is secured the non-refundable portion will accrue to the Council member's or value of conference attendance.

5. **Definitions**

Act - Local Government Act 1995

CEO – the Chief Executive Officer of the City

Council - Council of the City (the elected body)

Council Member - A person elected under the Local Government Act 1995 as a member of the council of the local government

Regulations - Local Government (Administration) Regulations 1996

Related documentation

Council Member Fees, Expenses Allowances and Other Provisions Policy

Related local law and legislation, compliance requirements.

Local Government Act 1995, section 5.98(2)(b), 5.126

Local Government (Administration) Regulations 1996, reg.(32)

Under Section 5.127 of the Act, the CEO must publish a report on the local government's website within one (1) month of the end of the financial year detailing the training completed by Council Members.

Under Section 5.128 of the Act, a local government must prepare and adopt a Policy (by Absolute Majority) in relation to the continuing professional development of Council Members.

Related delegation

Nil



Review History

23 February 2021 (CEO Report 13.1)

20 December 2016 (Report CPS33.16)

9.2 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.

Use of City of Nedlands Common Seal and Execution of Documents

Status	Council
Responsible Division	Corporate & Strategy
Objective	To establish procedures for: <ul style="list-style-type: none"> a) Affixing the City's common seal; and b) Determining whether a document is executed by way of common seal or signed by an authorised employee.

Context

In accordance with s9.49A of the Local Government Act 1995 (WA), a document is duly executed by a local government if the common seal is affixed to it or it is signed by an employee authorised to do so.

The execution requirements, including the making, varying or discharge of documents pursuant to s9.49B of the Local Government Act, shall be as outlined in this Policy.

Definitions

Statement

Documents Requiring the Common Seal

The Common Seal shall be affixed to certain documents in accordance with s9.49A of the Local Government Act 1995 (WA):

- a) Local Laws adopted by Council,
- b) Notifications in accordance with s70A of the Transfer of Land Act 1893,
- c) Lodgement, modification, and withdrawal of caveats,
- d) Town Planning Scheme (including amendments),
- e) The sale of City owned land for which a Council resolution is required expressly stating that the final document is to be signed and sealed,
- f) Leases (including extensions, renewals, and modifications),
- g) Contracts,
- h) Deeds,
- i) Documents relating to land matters including memorials, transfers, licences, covenants, and easements; and
- j) New funding or contracts of agreement between the City and State or Commonwealth Government agencies, where required by the other party.

Procedure for Affixing the Common Seal

The Mayor and Chief Executive Officer are authorised to affix and sign all documents to be executed under the common seal; however, in the absence of the Mayor and/or the Chief Executive Officer, the Deputy Mayor and/or an employee authorised in accordance with the provisions of the Local Government Act 1995 (WA) may do so.

In the event the Mayor is on a Leave of Absence the Deputy Mayor is authorised to affix the common seal.

Procedure for Execution by Authorised Officers

The CEO and Directors are authorised under s9.49A of the Local Government Act 1995 (WA), and in accordance with this Policy may sign documents.

Directors may only execute documents relevant to matters within the scope of the activity of their Directorate/Branch. Documents relevant to the activities of multiple Directorates may only be executed by the Chief Executive Officer.

Limitation on Authorities

The authorities are limited by the following conditions:

1. Chief Executive Officer
 - a) Unlimited \$500,000; and/or
 - b) Commitment period is specifically resolved by Council or in any other case, no greater than a 5-year period; and/or
 - c) Moderate or lesser financial risk, legal complexity, or political sensitivity, unless specifically resolved by Council.
2. Director
 - a) <\$250,000p/a; and/or
 - b) Commitment is no greater than 3-year period; and/or
 - c) Moderate or lesser level of financial risk, legal complexity, or political sensitivity.

Deputising or Signing on Behalf of Another Person

In accordance with section 9.49A(4) of the Local Government Act 1995 (WA), which requires authority for execution of documents to be resolved by Council, a document may only be executed by a person who holds a position authorised by Council's adoption of this Policy.

In the absence of a person authorised by this policy another person may deputise where they have been appointed in writing to act in the authorised person position.

Register of documents executed under Common Seal

The Chief Executive Officer shall maintain a register of all documents executed with the Common Seal.

The register is to record each Common Seal transaction and include an identification number, date, the nature of the document and the parties to the document being executed.

The Common Seal identification number is to be recorded on the document being executed as per the examples below.

Method of Affixing the Common Seal

Below are examples of how documents should be executed under the common seal:

Example A – Where the Common Seal is Affixed by Resolution of Council

DATED: _____ 20__

The Common Seal of the City of Nedlands is affixed.

 [INSERT NAME OF MAYOR]
 MAYOR

 [INSERT NAME OF CEO]
 CHIEF EXECUTIVE OFFICER



Example B: Other Documents

DATED: _____ 20__

The Common Seal of the City of Nedlands was affixed in the presence of:

 [INSERT NAME OF MAYOR]
 MAYOR

 [INSERT NAME OF CEO]
 CHIEF EXECUTIVE OFFICER



Related documentation

Nil

Related Local Law / Legislation

s9.49A of the Local Government Act 1995 (WA)
Part 19 City of Nedlands Standing Orders Local Law 2016

Related delegation

Nil.

Review History

Adopted by Council xxxx

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

Any urgent business to be considered at this point.

11. 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.