



MINUTES

**CORPORATE SERVICES AND FINANCE
COMMITTEE MEETING**

9 August 2016

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

VISION

Western Australia's most sought after and unique regional city to live, work and visit.

VALUES

All Councillors, Staff and Volunteers at the City of Albany will be...

Focused: on community outcomes

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

United: by working and learning together

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

Accountable: for our actions

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

Proud: of our people and our community

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

TERMS OF REFERENCE

(1) Function:

The Corporate Services and Finance Committee will monitor and comment on the financial health and strategies of Council and will be responsible for the delivery of the following Civic Leadership Objectives contained in the City of Albany Strategic Plan:

- (a) To establish and maintain sound governance structures;
- (b) To provide strong, accountable leadership supported by a skilled and professional workforce;
- (c) To engage effectively with our community.

(2) It will achieve this by:

- (a) Monitoring and commenting on the financial health and strategies of Council;
- (b) Developing policies and strategies;
- (c) Establishing ways to measure progress;
- (d) Receiving progress reports;
- (e) Considering officer advice;
- (f) Debating topical issues;
- (g) Providing advice on effective ways to engage and report progress to the Community; and
- (h) Making recommendations to Council.

(3) Chairperson: *Councillor Elect*

(4) Membership: *Mayor Wellington, Councillor Goode, Councillor Stocks, Councillor Mulcahy, Councillor Hollingworth, Councillor Shanhun, Councillor Hammond, Councillor Terry, Councillor Dowling, Councillor Price, Councillor Smith, Councillor Moir*

(5) Meeting Schedule: 2ND Tuesday of the Month

(6) Meeting Location: Council Chambers

(7) Executive Officer: Executive Director Corporate Services

(8) Delegated Authority: None

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1. **DECLARATION OF OPENING** [6:01:03 PM](#)

2. **PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

“Heavenly Father, we thank you for the peace and beauty of this area. Direct and prosper the deliberations of this Council for the advancement of the City and the welfare of its people. Amen.”

“We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land.

We would also like to pay respect to Elders both past and present”.

3. **RECORD OF APOLOGIES AND LEAVE OF ABSENCE**

Councillors:

Member	G Stocks (Chair)
Member	A Goode JP (Deputy Chair)
Member	P Terry
Member	S Smith
Member	J Shanhun
Member	J Price
Member	C Dowling
Member	A Moir

Staff:

Chief Executive Officer	A Sharpe
Executive Director Corporate Services	M Cole
Manager Finance	D Olde
Meeting Secretary	H Bell

Apologies:

Mayor	D Wellington
Member	B Hollingworth
Member	N Mulcahy
Member	R Hammond

Councillor Price entered Chambers at 6.04pm

Councillor Terry entered Chambers at 6.13pm

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

6. PUBLIC QUESTION TIME

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES

DRAFT MOTION

**MOVED COUNCILLOR SMITH
SECONDED COUNCILLOR DOWLING**

THAT the minutes of the Corporate Services and Finance Meeting held on 14 June 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 6/0

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

CSF256: FINANCIAL ACTIVITY STATEMENT – JUNE 2016

Proponent : City of Albany
Report Prepared by : Manager Finance (D Olde)
Responsible Officer : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:



RECOMMENDATION

CSF256: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR PRICE
SECONDED: COUNCILLOR GOODE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8/0

CSF256: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 June 2016

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 June 2016 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$50,000 are reported to Council.
6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

“Please note that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”

UNCONFIRMED
MINUTES

STATUTORY IMPLICATIONS

7. Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:
- I. A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –
 - a. annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - b. budget estimates to the end of the month to which the statement relates;
 - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relate
 - d. material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - e. the net current assets at the end of the month to which the statement relates.
 - II. Each statement of financial activity is to be accompanied by documents containing –
 - a. an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - b. an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - c. such other supporting information as is considered relevant by the local government.
 - III. The information in a statement of financial activity may be shown –
 - a. according to nature and type classification;
 - b. by program; or
 - c. by business unit
 - IV. A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –
 - a. presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - b. recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City's 2015/16 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 30 June 2016 has been incurred in accordance with the 2015/16 proposed budget parameters. Details of any budget variation in excess of \$50,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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CSF257: LIST OF ACCOUNTS FOR PAYMENT – JULY 2016

Proponent : City of Albany
Attachments : List of Accounts for Payment
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:



RECOMMENDATION

CSF257: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOWLING
SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8/0

CSF257: RESPONSIBLE OFFICER RECOMMENDATION

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 July 2016 totalling \$10,379,979.24.

BACKGROUND

- Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

DISCUSSION

- The table below summarises the payments drawn from the municipal fund for the period ending 15 July 2016. Please refer to the Attachment to this report.

Municipal Fund		
Trust		\$0.00
Credit Cards		\$29,986.63
Payroll		\$1,235,880.32
Cheques		\$92,084.15
Electronic Funds Transfer		\$9,022,028.14
TOTAL		<u>\$10,379,979.24</u>

- As at 15 July 2016, the total outstanding creditors, stands at \$507,548.39 and made up as follows:-

Current	\$508,765.99
30 Days	\$-2.02

60 Days	- \$97.26
90 Days	-\$1118.25
TOTAL	<u>\$507,548.39</u>

UNCONFIRMED
MINUTES

Cancelled cheques – 29707, 29978, 30132 – out of date and never presented, 30158 - no longer required, 30172 – out of date and never presented, 30254, 31235 – no longer required, 31243 – incorrect amount, 30643 & 30657 – lost and never presented – paid via eft & 30736 – no longer required.

STATUTORY IMPLICATIONS

4. Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
5. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
6. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

POLICY IMPLICATIONS

7. Expenditure for the period to 15 July 2016 has been incurred in accordance with the 2015/2016 budget parameters and section 6.8 (1)(a) and (2)(a) of the *Local Government Act 1995*.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 July 2016 has been incurred in accordance with the 2015/2016 budget parameters and section 6.8 (1)(a) and (2)(a) of the *Local Government Act 1995*.

SUMMARY CONCLUSION

9. That list of accounts have been authorised for payment under delegated authority.
10. It is requested that any questions on specific payments are submitted to the Executive Director Corporate Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CSF258: DELEGATED AUTHORITY REPORTS

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Personal Assistant to the ED Corporate Services (H Bell)
Responsible Officer : Chief Executive Officer (A Sharpe)

Responsible Officer's Signature:



RECOMMENDATION

CSF258: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SHANHUN
SECONDED: COUNCILLOR MOIR

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8/0

CSF258: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports 16 June 2016 to 15 July 2016.

UNCONFIRMED
MINUTES

CSF259: WRITE OFF RATE DEBT REPORT AS AT 30 JUNE 2016

Proponent : City of Albany
Attachments : Write Off Rate Debt Report as at 30 June 2016
Report Prepared by : Senior Finance Officer – Rates (G Shephard)
Responsible Officer : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:



RECOMMENDATION

CSF259: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR TERRY

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8/0

CSF259: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Write Off Rate Debt Report as at 30 June 2016.

UNCOMPLETED
MINUTES

CSF260: PROPOSED NEW RESIDENTIAL LEASE – WARREN AND GLORIA PORTER – AIRPORT RESIDENCE

Land Description : Lot 5643 on Deposited Plan 157458 and Lot 4861 on Deposited Plan 157338, the subject Certificate of Title Volume 2088 Folio 492, Drome

Proponent : Warren Neil Porter and Gloria May Porter

Owner : City of Albany

Report Prepared by : Team Leader Property and Leasing (T Catherall)

Responsible Officer : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategy:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations

Maps and Diagrams:



In Brief:

- Council is requested to consider a residential lease to Warren and Gloria Porter (Proponent), the current franchisees of "Avis Albany" car hire, over the Airport residence for Avis staff caretaker accommodation and home office space.
- The Proponent currently operate under a lease agreement with the City for car hire operations within the terminal.
- The proposed lease satisfies a number of Airport business plan objectives including improving security by having a permanent presence at the airport.
- The residential lease will be formalised under the *Residential Tenancies Act 1987 (WA)* as the proposed occupancy is for caretaker type residence.
- The lease will be conditional on the Proponent continuing to hold and operate a lease agreement with the City for car hire operations within the terminal.
- It is recommended that Council approve the new lease.

RECOMMENDATION

CSF260: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SHANHUN**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8/0

CSF260: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE a residential lease over the Airport residence situated at 35615 Albany Highway, Drome, being portion of Lot 5643 on Deposited Plan 157338 to Warren Neil Porter and Gloria May Porter, subject to

- (1) Lease purpose being 'Caretaker residence and home office space for Avis Albany employees'.
- (2) The residential lease being conditional upon the Proponent continuing to hold and operate under a lease agreement with the City of Albany for car hire operations within the Airport terminal.
- (3) Lease area being approximately 870m². This area includes the dwelling area of approximately 136m².
- (4) Lease commencement date being as soon as practicable.
- (5) Lease to run in conjunction with the Proponent's current car hire lease with the City of Albany, expiring 20 November 2017.
- (6) Lease rent being determined by a current market valuation provided by a licensed Valuer.
- (7) Rent reviews being Consumer Price Index applied for intervening years.
- (8) Lease special condition to document that the tenant acknowledges the proximity of the residence to the airport. The premises is occupied in acknowledgement of the impact of airport operations and waives and indemnifies the City in this regard.
- (9) The proposed lease being advertised to comply with Section 3.58 of the *Local Government Act 1995* requirements.
- (10) Lease being consistent with Council Policy – Property Management (Leases and Licences) and standard residential tenancy terms under the *Residential Tenancies Act 1987 (WA)*.

BACKGROUND

2. The City of Albany owns the land and the premises known as the Airport residence located at 35615 Albany Highway, Drome, which is located non airside within the Albany Airport Precinct.
3. The dwelling was constructed in 1985 by the former Shire of Albany for use as an airport caretaker residence. The residence was recently occupied by the City of Albany's current Airport Senior Reporting Officer (SRO) as a part of the SRO employment package.
4. The current SRO vacated the premises in September 2015 and the residence has remained vacant since this time.
5. The residence is situated a short distance to the south west of the main terminal building, facing Albany Highway adjacent to the overflow carpark and car hire parking bays.
6. The building is a single storey conventional style house with 3 bedrooms, 1 office, 1 bathroom, kitchen / meals, lounge, hallway, laundry and separate toilet with a single carport.
7. The residence is fully fenced with access through the airport overflow car parking area.
8. The City has recently undertaken some minor maintenance works on the residence such as painting and repairs to cracked tiles.
9. The City was recently approached by the Proponent seeking to lease the Airport residence for Avis Albany employee accommodation on a caretaker type arrangement with a small home office.
10. The Proponent's, are the current franchisee of Avis Albany and operate under a lease agreement with the City for car hire operations within the terminal. The lease also provides parking bays in the car park for exclusive use by Avis Albany.
11. The car hire lease is for a term of 5 years with a 5 year further term, expiring on 20 November 2017 and returns a current rental to the City of \$6,385.52 + GST per annum.
12. The business premises of Avis Albany is located at 557 Albany Highway, McKail, with the car hire operation at the airport supporting this arrangement.

DISCUSSION

13. City officers, in considering the lease proposal, sought City Planning and Building team comments regarding the potential use as a caretaker residence and home office.
14. Given the dwelling was originally constructed for caretakers residence, and the proposed use is for residential tenancy, advice received confirmed the proposed use is permitted. It is noted the home office area can be no greater than 10% of the total area of the dwelling.
15. It is further noted the business activity of Avis Albany cannot be conducted from the Airport residence as the building is not suitable as a business type premises, however a small home office arrangement is permitted.
16. The proposed lease satisfies a number of Airport business plan objectives including growing non Regular Public Transport (RPT) revenue opportunities, reinforcing operational

efficiencies for key airport users, and improving management of security issues by having a permanent presence at the airport.

17. The lease arrangement would be formalised as a residential tenancy agreement in line with the *Residential Tenancies Act 1987 (WA)*, on terms that would include the following:
 - a. Lease will be conditional on the Proponent continuing to hold and operate the airport car hire lease within the terminal.
 - b. Fixed term to commence as soon as practicable and run in conjunction with the airport car hire lease, expiring 20 November 2017. A new lease may be considered subject to a new car hire lease being approved by Council and no breach of the current residential lease.
 - c. Rent determined by current market valuation, noting recent advice is a gross rental value being around \$300 - \$310 per week.
 - d. No business can be conducted from the lease area, with no Avis clients coming on to the lease area.
 - e. A sublet arrangement to Avis employees is allowable with the City consent.
 - f. Tenant will be responsible for utilities and holding appropriate insurances.
 - g. City as Landlord is responsible for outgoings and maintenance, unless due to tenant misuse.
 - h. Special condition to document that the tenant acknowledges the proximity of the residence to the airport. The premises is occupied in acknowledgement of the impact of airport operations and waives and indemnifies the City in this regard.
18. Other than the above, standard residential tenancy agreement terms will apply to the arrangement, as applicable to a fixed term tenancy.

GOVERNMENT & PUBLIC CONSULTATION

19. No Government consultation is required as the lease area is located within City of Albany owned freehold land and located non airside within the Albany Airport Precinct.
20. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
21. The proposed new lease will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

22. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements.
23. The Western Australia Planning Commission (WAPC) has not been consulted with regard to the proposed new lease as per Section 136 of the *Planning and Development Act*, as no comment is required from WAPC when a lease term does not exceed twenty years.
24. The *Residential Tenancies Act 1987* defines the requirements when entering into a residential lease.

POLICY IMPLICATIONS

25. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.
26. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
27. The recommendation is consistent with Council Policy Property Management (Leases and Licences).

RISK IDENTIFICATION & MITIGATION

28. The risk identification and categorisation relies on the City's Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: new lease not approved.	Possible	Low	Low	Seek to negotiate terms to Council satisfaction.
Financial: new lease not approved –no rental income	Possible	Low	Low	Seek to negotiate terms to Council satisfaction.

FINANCIAL IMPLICATIONS

29. All costs associated with the development, execution and completion of the residential lease documentation will be met by the City.
30. All costs associated with the maintenance and repairs to the premises will be met by the City unless damage is directly caused by tenant misuse.
31. The new lease rental will be determined by current market valuation provided by a licensed Valuer, noting recent advice being a gross rental value of around \$300 - \$310 + GST per week, \$15,600 - \$16,120 per annum.

LEGAL IMPLICATIONS

32. The residential lease will be governed by the *Residential Tenancies Act 1987 (WA)* and prepared by City lawyers.

ENVIRONMENTAL CONSIDERATIONS

33. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

34. Council may:
- Approve the lease; or
 - Decline the lease.
35. Should Council decline the lease, the Proponent may need to reconsider their future business plans for Avis Albany. There may also be a missed opportunity for the City to receive rental income.

SUMMARY CONCLUSION

36. The current franchisee of Avis Albany car hire have requested to lease the Airport residence for the purpose of caretaker residence and home office for Avis employees.
37. The proposed lease would run in conjunction with the Proponent's current lease agreement with the City of Albany for car hire operations at the Airport terminal, due to expire on 20 November 2017.
38. The residential lease would be formalised in line with the *Residential Tenancies Act 1987 (WA)*.
39. The proposed lease satisfies a number of Airport business plan objectives including growing non Regular Public Transport (RPT) revenue opportunities, reinforcing operational efficiencies for key airport users, and improving management of security issues by having a permanent presence at the airport.
40. It is recommended that the proposed residential lease for the Airport residence be supported.

Consulted References	:	<ul style="list-style-type: none">Council Policy – Property Management (Leases and Licences)<i>Local Government Act 1995</i><i>Residential Tenancies Act 1987 (WA)</i>
File Number (Name of Ward)	:	PRO380, A160418 (Kalgan Ward)
Previous Reference	:	Nil

**CSF261: PROPOSED NEW COMMUNITY LICENCE AGREEMENTS –
CRICKET & SOCCER ASSOCIATIONS – WESTERN PRECINCT PAVILION,
CENTENNIAL PARK SPORTING PRECINCT**

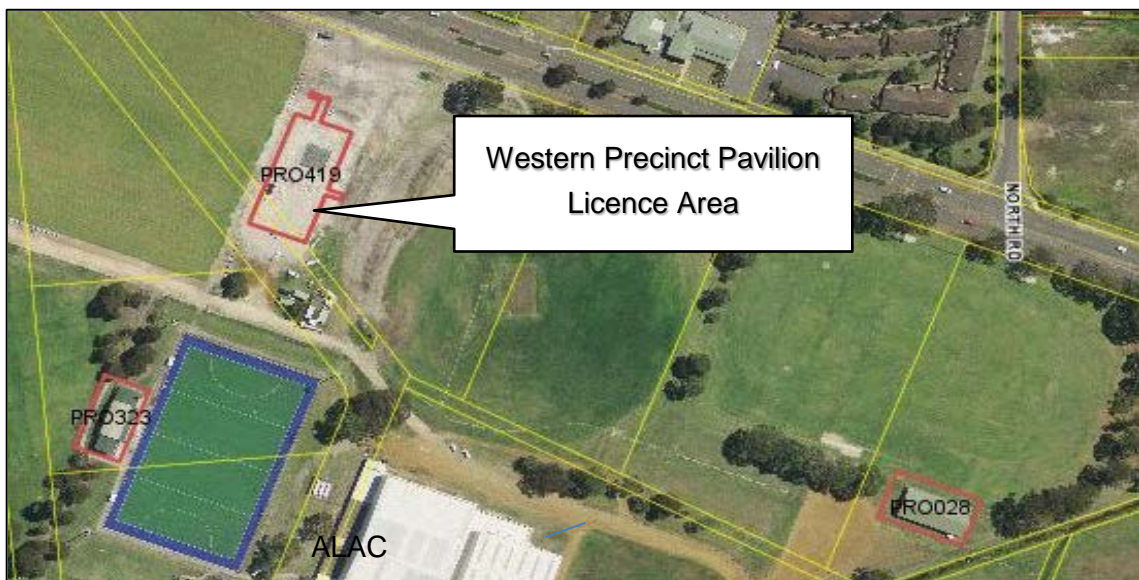
- Land Description** : • Crown Reserve 31567, Lot 1235 on Deposited plan 27565, the subject Certificate of Title Volume LR3009 Folio 390 and Lot 1264 on Deposited Plan 27565, the subject Certificate of Title Volume LR3009 folio 572
- Crown Reserve 32469, Lot 1270 on Deposited Plan 91031, the subject Certificate of Title Volume LR3121 Folio 733
- Proponent** : • Albany Cricket Association Incorporated & Albany Junior Cricket Association Incorporated and
- Great Southern Soccer Association Incorporated & Albany Junior Soccer Association Incorporated
- Owner** : Crown
- Report Prepared by** : Team Leader Property and Leasing (T Catherall)
- Responsible Officer** : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategy:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations

Maps and Diagrams:



In Brief:

- Council is requested to consider two community licences over the Western Precinct Pavilion, within the Centennial Park Sporting Precinct on a seasonal co-sharing arrangement to:
 - a) Albany Cricket Association Incorporated & Albany Junior Cricket Association Incorporated; and
 - b) Great Southern Soccer Association Incorporated & Albany Junior Soccer Association Incorporated.
- The licence terms being five years with an option for two further five year terms.
- Each Association will occupy the licence premises in accordance with its own designated 'Seasonal Term'.
 - a) Cricket seasonal term – 1 April to 30 September.
 - b) Soccer seasonal term – 1 October to 31 March.
- The licence being conditional on the Associations entering into a Memorandum of Understanding detailing all matters relevant to the seasonal co-sharing of the licensed area.
- It is recommended that Council approve the two new licences.

RECOMMENDATION

CSF261: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR DOWLING
SECONDED: COUNCILLOR TERRY**

THAT the Responsible Officer Recommendation be ADOPTED, subject the following amendments:

THAT the dates for the Cricket and Soccer seasonal terms be AMENDED to read:

**Cricket seasonal term – 1 October to 31 March
Soccer seasonal term – 1 April to 30 September**

AND

**THAT the Responsible Office Recommendation part (e) be AMENDED to read as follows:
Licence rent being equivalent to the minimum rate as set by Council each year, currently \$968 plus GST.**

CARRIED 8/0

CSF261 AMENDMENT BY COUNCILLOR DOWLING

**MOVED COUNCILLOR DOWLING
SECONDED COUNCILLOR TERRY**

THAT the dates for the Cricket and Soccer seasonal terms be AMENDED to read:

**Cricket seasonal term – 1 October to 31 March
Soccer seasonal term – 1 April to 30 September**

AND

**THAT the Responsible Office Recommendation part (e) be AMENDED to read as follows:
Licence rent being equivalent to the minimum rate as set by Council each year, currently \$968 plus GST.**

CARRIED 8/0

CSF261: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE community licences on portion of Reserves 31567 and 32469, Centennial Park Sporting Precinct, North Road Yakamia, to:

1. Albany Cricket Association Inc. & Albany Junior Cricket Association Inc.
2. Great Southern Soccer Association Inc. & Albany Junior Soccer Association Inc.

Subject to

- a) Licence purpose being 'Sporting Association activities in accordance with the Association incorporations objectives'.
- b) Licence area being approximately 1569m², being the Western Precinct Pavilion and immediate surrounds.
- c) Licence term being five years with an option for two further five year terms.
- d) Licence commencement dates being as soon as practicable following completion of construction of the pavilion.
- e) Licence rent being equivalent to the minimum rate as set by Council each year, currently \$977 plus GST.
- f) Licence special condition to document that the Associations agree to comply with the Centennial Park Sporting Precinct Management Framework and the City of Albany Sporting Precincts Grounds User Guide.
- g) Licence special condition to document that the Associations will enter into a Memorandum of Understanding detailing all matters relevant to the seasonal co-sharing of the licensed area.
- h) Legal costs associated with the preparation, execution and completion of the Deed of Licence are to be payable by the Associations.
- i) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent being obtained.
- j) Licence being consistent with Council Policy – Property Management (Leases and Licences).

BACKGROUND

2. Council at its meeting on 25 February 2014 adopted the Centennial Park Sporting Precinct Master Plan and Concept Designs. Since this date the Football Stadium in the Eastern Precinct and the Soccer/Cricket Pavilion in the Western Precinct have been approved and progressed.
3. In July 2015, the City commenced works on the Western Precinct along North Rd, between Sanford Road and Barnesby Drive. The works included field earthworks and the building pad for the new Western Precinct Pavilion to be used by both Cricket and Soccer Associations.
4. In October 2015 Council awarded the tender to Tectonics to construct the Western Precinct Pavilion. It is anticipated the pavilion will reach practical completion sometime in September 2016, to allow for Association fitout.
5. The new Western Precinct Pavilion is located on portion of Crown Reserves 31567 and 32469. The reserves are under management orders H655743 and H654356 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of 'Recreation' for any term not exceeding 21 years subject to the consent of the Minister for Lands.

Great Southern Soccer Federation Association Inc (formerly Albany Soccer Association) & Junior Soccer Association Inc (**Soccer Association**)

6. The Soccer Association entered into a 21 year lease agreement with the City over Reserve 23110 situated on along North Road (Campbell Road end) commencing July 1994.
7. In March 2014 the Soccer Association surrendered the fields, fence and access roads within the leased area to the City and retained the clubrooms, storage shed and toilets.
8. The lease expired 30 June 2014 and the Soccer Association have remained at the property on a holding over basis.
9. In April 2016, the City further accepted the surrender of the storage shed and toilets located within the lease area, with the Soccer Association continuing to retain the clubrooms on a holding over basis pending the completion of the Centennial Park Sporting Precinct and the Western Precinct Pavilion.

Albany Cricket Association Incorporated & Albany Junior Cricket Association (Inc.) (**Cricket Association**)

10. The Cricket Association has never had formal dedicated clubrooms, though it is understood that overtime, informal arrangements with other sporting clubs have been utilised.
11. As part of these past arrangements, senior cricket used an old shed in the Centennial Precinct near ALAC. However this arrangement was not governed by any formal lease or licence agreement.
12. In 2009 the Cricket Association approached the City with a proposal to construct a suitable facility to house both senior and junior cricket. This proposal was taken into consideration when developing the Centennial Park Sporting Precinct Master Plan.

DISCUSSION

13. In January this year, the City established a working group comprising of representatives from the City, Cricket and Soccer Associations to make recommendations during the development and implementation phases for the pavilion including planning, design and occupancy arrangements.
14. Both the Cricket and Soccer Associations were actively engaged in the development of the Western Precinct Pavilion.
15. It is recommended a non-exclusive licence agreement between the City and both Cricket and Soccer Associations would be the best approach to formalise the co-sharing arrangements of the pavilion.
16. Key provisions of the community licence will be:
 - a. Defined seasonal term for each Association with provisions detailing the vacation and handover arrangements of the premises following each seasonal term.

- b. Licensees will contribute to a maintenance fund, administered by the City of Albany, for planned and programmed maintenance, annual services and renewal of internal fitout, furniture and equipment.
 - c. Licensees will be responsible for cleaning, preventative maintenance, consumables, utilities and outgoings.
 - d. Occasional hire of the pavilion for community purposes by the Licensees is permitted. All fees from hiring may be kept by the licensee.
 - e. City may request priority use of the pavilion by giving 8 weeks' notice, on a cost recovery basis of utilities and consumables.
 - f. The City reserves the right to allocate naming rights of the pavilion to a sponsor.
 - g. Licence conditional on the development and agreement by Associations to a Memorandum of Understanding (MOU) detailing all matters relevant to the seasonal co-sharing of the licensed area, to the satisfaction of the City. The MOU will address:
 - i. Seasonal vacation of the pavilion, inspection, handover process and checklist.
 - ii. Payment of outgoings and all other expenses and obligations with respect to the licensed area.
 - iii. Arrangements under any liquor licence issued to MOU party.
 - iv. Treatment of income generated by MOU parties.
 - v. Responsibility for maintenance and repair obligations.
 - vi. Register of ownership of items owned by MOU parties.
 - vii. Dispute resolution procedures.
 - h. Licensees' agree to comply with the Centennial Park Sporting Precinct Management Framework and the City of Albany Sporting Precincts Grounds User Guide.
17. Other than as set out above, standard terms will apply as applicable to a City of Albany community licence.

GOVERNMENT & PUBLIC CONSULTATION

18. The Department of Lands will be consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
19. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
20. Section 30 of the *Local Government (Functions & General) Regulations 1996* defines the dispositions to which the advertising requirements of Section 3.58 of the Act do not apply. Section 30 (2) (b) (i & ii) states that Section 3.58 of the Act is exempt if:
 - (b) The land is disposed of to a body, whether incorporated or not –

- (i) the object of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

21. The sporting Associations are exempt from the advertising requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

- 22. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands.
- 23. As this is Crown land, under Management Order held by the City, the Minister's consent will be sought.
- 24. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements.
- 25. The *Aboriginal Heritage Act 1972* applies to any place or object of importance to persons of Aboriginal descent and Section 17 of this Act makes it an offence to destroy, damage or alter in any way an Aboriginal site or object.
- 26. The City's Aboriginal Heritage Risk Management process has been observed for this proposed development and it was considered by the South West Aboriginal Land and Sea Council held in March 2013. No concerns were raised and no requirements have been sought. The development was also considered in the context of the Centennial Park Aboriginal Heritage Survey (November 2013) and it was supported with no requirements.

POLICY IMPLICATIONS

- 27. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.
- 28. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
- 29. The recommendation is consistent with Council Policy Property Management (Leases and Licences).

RISK IDENTIFICATION & MITIGATION

30. The risk identification and categorisation relies on the City's Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: new licence not approved.	Unlikely	Major	Medium	Seek to negotiate terms to Council satisfaction.
Financial: new licence not approved –no rental income	Unlikely	Low	Low	Seek to negotiate terms to Council satisfaction.

FINANCIAL IMPLICATIONS

31. All costs associated with the development, execution and completion of the licence documentation will be met by the Associations, limited to \$600 + GST.
32. The new licence rental will be the equivalent of minimum rate as set by Council each year, currently \$977.00 plus GST.
33. It is proposed the Associations will contribute to a maintenance fund for planned and programmed maintenance, annual services and renewal of internal fitout, furniture and equipment. It is proposed the annual maintenance fund contribution will be waived in the first year. The annual contribution has been estimated at \$27,568.
34. It is proposed the City will contribute annually to the maintenance fund for 50% of the renewal of internal fitout only. This has been estimated at \$9,255 per annum.

LEGAL IMPLICATIONS

35. The Deed of Licence with enforceable conditions will be prepared by City's lawyers, at the licensee's expense.

ENVIRONMENTAL CONSIDERATIONS

36. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

37. Given the existing commitments made with Cricket and Soccer Associations it is not considered that there is an alternate option. The proposed licences will formalise the intention for pavilion use.
38. Both Associations would want use of clubrooms in close proximity to the fields associated with its sport. If the Western Precinct Pavilion is not the preferred location for their clubrooms this may impact on the future intentions for the recreational use of the Centennial Sporting Precinct.

SUMMARY CONCLUSION

39. The Western Precinct Pavilion is scheduled to reach practical completion sometime in September 2016, to allow for fitout then occupancy by the Associations.
40. Both the Albany Cricket and Soccer Associations have agreed to co-share the pavilion based on each Association's seasonal term.
41. The proposed licences will be conditional on a Memorandum of Understanding between the two Associations documenting seasonal co-sharing arrangements, to the City's satisfaction.
42. It is recommended the two new licences be approved.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management (Leases and Licences) • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO418 & PRO419 , A136257 (Frederickstown Ward)
Previous Reference	:	OCM 25.02.2014 Item CS008

UNCONFIRMED
MINUTES

CSF262: DISPOSAL OF PROPERTY (LAND) DELEGATION

Proponent : City of Albany
Attachments : Nil
Report Prepared by : Senior Land Administration Officer (N Crook)
Manager Governance & Risk Management (S Jamieson)
Responsible Officer(s) : Executive Director Corporate Services (M Cole)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategy:** Nil

In Brief:

- Council is requested to review and consider re-instating a past delegation to dispose of Council land under certain circumstances.

RECOMMENDATION

CSF262: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH
SECONDED: COUNCILLOR MOIR

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7/1

Record of Vote

Against the Motion: Councillor Price

CSF262: RESPONSIBLE OFFICER RECOMMENDATION

That the following Delegation of Authority be ADOPTED:

Function: Disposal of Property (Land) Delegation

Delegated Power:

1. To dispose of Council property, in accordance with section 3.58 of the *Local Government Act 1995*.
2. To engage an auctioneer, real estate agent and/or settlement agent to represent the City and to negotiate the sale of the property.

Conditions of Delegation:

- a. The land is deemed surplus to the City's requirements;
- b. The land is valued at less than \$50,000 based on an independent market valuation prepared within 6 months of entering into a Contract of Sale;
- c. The land is not considered to be capable of being independently developed, in accordance with relevant planning and/or building legislation, and/or would not be of significant benefit to anyone other than the transferee;
- d. The intent to sell the property has been appropriately advertised under section 3.58 of the *Local Government Act 1995* and all other requirements of this part have been addressed. Should any objections to the land sale be received, an item to Council is required;
- e. The appointment of an agent to act on behalf of the City meets the City's procurement processes.

Legislative or Policy Reference: Local Government Act 1995, s.3.58(2) and (3) – Disposing of property.

Reporting requirement: Report to file and Council Committee.

BACKGROUND

2. Under the provisions of the *Local Government Act 1995*, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committees of Council to help facilitate the many services it provides to the community.
3. The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by relevant legislation.
4. Without delegated authority, most decisions of the City would need to be made by Council at its ordinary meetings. Having appropriate delegations in place allow day to day decisions to be made by the Chief Executive Officer, who in turn can sub-delegate these to other staff if appropriate.
5. Council previously had a delegation in place to dispose of land, as part of the Disposal of Council Land Policy. This delegation stated:

Under section 3.58 of the Local Government Act 1995, the CEO is delegated authority to:

- *Sell a property, which is valued at less than \$50,000 and is not capable of being independently developed.*
 - *Engage an auctioneer, real estate agent and settlement agent to represent the City and to negotiate the sale of the property.*
6. At its meeting held in February 2015, Council considered an item concerning the review of land policies. Council previously had three policies in place relating to land dealings, being the Disposal of Council Land; Land Acquisition and Land Development (Subdivision). Council resolved to rescind these policies, as much of the content of these policies were procedural and repeated the requirements of various State government legislation.
 7. In rescinding the Disposal of Council Land policy, the previous delegation concerning the or disposal of land was also removed. As such, this function is not currently delegated.

DISCUSSION

8. The proposed delegation relates to section 3.58(2) and (3) (disposing of property) of the *Local Government Act 1995*, which states:

“3.58 Disposing of property

(1) *In this section -*

Dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

Property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to -*

- (a) *the highest bidder at public auction; or*
- (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection(2) if, before agreeing to dispose of the property –*

- (a) *it gives local public notice of the proposed disposition -*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

And

- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reason for it are recorded in the minutes of the meeting at which the decision was made.*

9. It is proposed that the previous delegation to dispose of land be re-instated. In addition, the conditions under which this delegation may be exercised have been further clarified. The proposed delegation is as follows:

PROPOSED DELEGATION

Delegated Power:

1. To dispose of Council property, in accordance with section 3.58 of the *Local Government Act 1995*.
2. To engage an auctioneer, real estate agent and/or settlement agent to represent the City and to negotiate the sale of the property.

Conditions of Delegation:

- a) The land is deemed surplus to the City's requirements;
- b) The land is valued at less than \$50,000 based on an independent market valuation prepared within 6 months of entering into a Contract of Sale;
- c) The land is not considered to be capable of being independently developed, in accordance with relevant planning and/or building legislation, and/or would not be of significant benefit to anyone other than the transferee;
- d) The intent to sell the property has been appropriately advertised under section 3.58 of the *Local Government Act 1995* and all other requirements of this part have been addressed. Should any objections to the land sale be received, an item to Council is required;
- e) The appointment of an agent to act on behalf of the City meets the City's procurement processes.

Legislative or Policy Reference: Local Government Act 1995, s.3.58(2) and (3) – Disposing of property.

Reporting requirement: Report to file and Council Committee.

GOVERNMENT AND PUBLIC CONSULTATION

10. Other policy positions from across the local government sector and the past Disposal of Council Land policy were reviewed in preparing this delegation.

STATUTORY IMPLICATIONS

11. Section 5.42 of the *Local Government Act 1995* enables the delegation of some powers and duties to the Chief Executive Officer. Section 5.45 states that any new delegation or change to an existing delegation must be resolved by **Absolute Majority**.
12. Section 3.58 (2) of the *Local Government Act 1995* (Disposing of Property) allows Local Government to dispose of property via public auction or public tender.
13. Section 3.58 (3, 4) of the *Local Government Act 1995* allows for the disposal of property other than by public auction or by tender. It requires Council to give local public notice of its intention to dispose of the property and consider any submissions which are received within the specified period.
14. Regulations 30 and 31 of the *Local Government (Functions and General) Regulations 1996* identify dispositions of property to which section 3.58 of the *Local Government Act 1995* does not apply and an anti-avoidance provision about dispositions.

POLICY IMPLICATIONS

15. If this delegation is supported by Council, the Register of Delegations will be amended accordingly.

RISK IDENTIFICATION & MITIGATION

16. The risk identification and categorisation relies on the City’s Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: Public perception that this delegation will reduce the City’s accountability with regard to land dealings.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Nothing in this delegation will negate the need to observe the public notification processes required by the Act and the City will remain open and accountable in its land dealings.</i>

FINANCIAL IMPLICATIONS

17. There are no financial implications associated with this item.

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LEGAL IMPLICATIONS

18. This item has been prepared in close consultation with relevant legislation, ensuring all requirements are considered and documented.

ENVIRONMENTAL CONSIDERATIONS

19. There are no environmental considerations related to this report.

SUMMARY CONCLUSION

20. The previous delegation to dispose of property has been enacted in the past to sell small parcels of land surplus to the City's requirements and that can usually be amalgamated with adjoining land titles.
21. In rescinding the past policies of Council, this delegation was removed. An updated delegation has been proposed to reinstate this power.

Consulted References	:	<i>Local Government Act 1995</i> <i>Local Government: Operational Guidelines. Number 17 – January 2007 – Delegations</i> <i>Local Government (Functions and General) Regulations 1996</i>
File Number (Name of Ward)	:	PE.AUT.1 (All Wards)
Previous Reference	:	OCM 24/2/2015 Item CSF143

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL
13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
14. REPORTS OF CITY OFFICERS
15. MEETING CLOSED TO THE PUBLIC
16. CLOSURE [6:30:12 PM](#)

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