



City of Bunbury Council

Notice of Meeting and Agenda 25 July 2017



CITY OF BUNBURY
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Bunbury WA 6230
Western Australia
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Nature of Council's Role in Decision Making

- Advocacy:** When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
- Executive/Strategic:** The substantial direction setting and oversight role of the Council, e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
- Legislative:** Includes adopting local laws, town planning schemes and policies.
- Review:** When Council reviews decisions made by Officers.
- Quasi-Judicial:** When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.

Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

City of Bunbury Council Notice of Meeting

The next Ordinary Meeting of the City of Bunbury Council will be held in the Council Chambers, City of Bunbury Administration Building, 4 Stephen Street, Bunbury on Tuesday, 25 July 2017 at 5.30pm.



MJ (Mal) Osborne
Acting Chief Executive Officer
(Date of Issue: 20 July 2017)

Agenda 25 July 2017

Note: The recommendations contained in this document are not final and are subject to adoption, amendment (or otherwise) at the meeting.

Council Members:

Mayor Gary Brennan
Deputy Mayor Brendan Kelly
Councillor Wendy Giles
Councillor James Hayward
Councillor Judy Jones
Councillor Jaysen Miguel
Councillor Michelle Steck
Councillor Karen Steele
Councillor Sam Morris
Councillor Betty McCleary
Councillor Monique Warnock
Councillor Joel McGuinness
Councillor Murray Cook

1. Declaration of Opening / Announcements of Visitors

2. Disclaimer

All persons present are advised that the proceedings of this meeting will be recorded for record keeping purposes and to ensure accuracy in the minute taking process, and will also be streamed live via the internet to the public.

3. Announcements from the Presiding Member

4. Attendance

4.1 *Apologies*

4.2 *Approved Leave of Absence*

Cr Warnock is on approved leave of absence from all Council-related business from 18 July 2017 to 8 August 2017 inclusive.

5. Declaration of Interest

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A: *“a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.”*

Section 5.60B: *“a person has a **proximity interest** in a matter if the matter concerns –*

- (a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or*
- (b) a proposed change to the zoning or use of land that adjoins the person’s land; or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”*

Regulation 34C (Impartiality): *“**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”*

6. Public Question Time

In accordance with Reg. 7(4)(a) of the Local Government (Administration) Regulations 1996, members of the public in attendance at the meeting may stand, state aloud their name and address, and ask a question in relation to any matter over which the municipality of Bunbury has jurisdiction or involvement.

In accordance with Standing Order 6.7(3)(a) a person wishing to ask a question, must complete a question form which is provided in the trays at the back of the public gallery and on the City’s website. The completed form must include your name and address and contain no more than three (3) questions. If your question requires research or cannot be answered at the meeting, it will be taken on notice and you will receive a written response and a summary of your question (and any responses provided) will be printed in the minutes of the meeting.

6.1 Public Question Time

6.2 Responses to Public Questions Taken ‘On Notice’

7. Confirmation of Previous Minutes and other Meetings under Clause 19.1

7.1 Minutes

7.1.1 Minutes – Ordinary Council Meeting

The minutes of the Ordinary meeting of the Bunbury City Council held 11 July 2017 have been circulated.

Recommendation

The minutes of the Ordinary meeting of the Bunbury City Council held 11 July 2017 be confirmed as a true and accurate record.

7.1.2 Minutes – Council Advisory Committees and Working/Project Groups

Applicant/Proponent:	Internal Report
Author:	Various
Executive:	Various
Attachments:	Appendix MTBN-1 – Minutes CEO Performance Review Panel Meeting

Summary

The following Advisory Committee Meetings were held and the minutes are presented for noting:

1. Title: Minutes CEO Performance Review Panel Meeting
Author: Mayor Gary Brennan
Appendix: MTBN-1

Council Committee Recommendation

The following Advisory Committee meeting minutes listed in the report be accepted and noted:

1. Minutes CEO Performance Review Panel Meeting

8. Petitions, Presentations, Deputations and Delegations

8.1 *Petitions*

Pursuant to clause 6.10(2) of the City of Bunbury Standing Orders 2012, upon receiving a petition, the Council is to

- a) Receive the petition and refer to the relevant officer for a report to be submitted within the next two (2) rounds of Council meetings; or
- b) Reject the petition

8.2 *Presentations*

8.3 *Deputations*

8.4 *Council Delegates' Reports*

8.5 *Conference Delegates' Reports*

9. Method of Dealing with Agenda Business

10. Reports

10.1 *Recommendations from Advisory Committees*

Nil.

10.2 Chief Executive Officer Reports

10.2.1 Bunbury CBD Revitalisation Master Plan

Applicant/Proponent:	Internal Report
Responsible Officer:	Mal Osborne, Acting Chief Executive Officer
Responsible Manager:	Mal Osborne, Acting Chief Executive Officer
Executive:	Mal Osborne, Acting Chief Executive Officer
Attachments:	CEO-1: Copy of the Bunbury CBD Master Plan

Summary

Piacentini & Sons independently commissioned AECOM to produce a Master Plan to revitalise Bunbury's CBD for sustainable activation of the city centre as the region's leading lifestyle, tourism, entertainment, education, and transit hub.

A copy of the Bunbury CBD Master Plan is attached at Appendix CEO-1.

Executive Recommendation

That Council:

1. Thank Mr Colin Piacentini for independently engaging AECOM to prepare the Bunbury CBD Revitalisation Master Plan.
2. Note the work undertaken to date on the Bunbury CBD Revitalisation Master Plan and commit that the City will continue to provide support where appropriate and within the current approved budget and plans.
3. Accept the Bunbury CBD Revitalisation Master Plan as a formal submission to the upcoming review of the City's Strategic Community Plan.

Strategic Relevance

Key Priority Area 4 Regional Economy

Objective 4.2 Create an environment that will attract new Business

Objective 4.3 Promote Bunbury as a place that supports commercial, residential and social development

Background

Engineering, design and construction management company AECOM was commissioned by Bunbury businessman Colin Piacentini to develop a Bunbury CBD Revitalisation Master Plan aimed at activation and connectivity in the Central Business District.

The Bunbury CBD Revitalisation Master Plan includes a number of initiatives however the plan identifies four (4) major opportunities including:

- Development of the Outer Harbour Precinct including a Cruise Ship Terminal, cafe, lookout deck and landscaped gardens.

- Intermodal Transport including new rail line at Leschenault Inlet to bring a Perth-to-Bunbury train line into the Central Business District as well as interconnected cycling and pedestrian prioritisation.
- Retirement Mixed Use Precinct including the redevelopment of existing buildings on Casuarina Drive into an aged living precinct.
- Youth and Education Precinct to create a student oriented culture and to support new technology incubators.

Council Policy Compliance

Not applicable.

Legislative Compliance

Not applicable.

Officer Comments

It is felt the Master Plan provided by AECOM is aligned to some major projects already under way in the City, including the Transforming Bunbury's Waterfront Project and changes to the Town Planning Scheme.

Council has not had the opportunity to formally consider many of these matters and as such it is noted that there will not be any significant further action from the City at this point in time other than progressing actions which the Council has already approved.

Officers feel there is scope for some aspects to be progressed with other agencies and the private sector and propose that the City will continue to provide support where appropriate and within the current approved budget and plans.

It has been suggested that when the Council progresses with the review of the Community Strategic Plan later this year it would present an opportunity to bring these matters to the table which will allow Council to consider and debate them at that time.

Analysis of Financial and Budget Implications

It is recognised that the City of Bunbury supports many of the initiatives outlined in the master plan prepared and the workshop outcomes, however unless these are reflected in the Council's endorsed Community Strategic Plan there are no resources currently allocated to progressing them. Where there are synergies between the projects identified, and the objectives of the Council and the community, there remains a prospect that projects can be advanced.

Should any of the proposed projects be prioritised through the review of the Strategic Community Plan, then Council can give consideration at that time.

It should be noted that some of the projects listed in the report are likely to be delivered by the private sector and therefore Council may not need to consider providing funding.

Community Consultation

There has been no formal Community Consultation undertaken on the report however, notification of the commissioning of the report by Piacentini & Sons received media attention in the local newspapers.

Councillor/Officer Consultation

Elected members and Council Executive team attended a Briefing on the Bunbury CBD Revitalisation Master Plan on 24th March 2017 at the City of Bunbury. This was also attended by business people and government representatives with positive feedback received.

Senior staff continue to liaise with Mr Piacentini and AECOM on the Master Plan in general and promoting Bunbury for investment and livability.

Applicant Consultation

Officers have communicated the above with AECOM advising that it might also be useful for the City to understand if there is a determined methodology to advance the nominated projects and what, if any, prioritisation has been allocated within the projects identified in the report.

Mr Piacentini is supportive of this report and aware that it is being presented to Council.

10.2.2 Innovation and Technology Advisory Group

Applicant/Proponent	Internal
Responsible Officer:	Greg Golinski, Manager Governance
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Mal Osborne, Acting Chief Executive Officer
Attachments:	Appendix CEO-2: Terms of Reference – Innovation and Technology Advisory Group

Summary

The purpose of this report is to have Council consider a terms of reference and membership composition for a new working group – the Innovation and Technology Advisory Group.

Executive Recommendation

That Council:

1. Establish the Innovation and Technology Advisory Group as a working group of Council.
2. Endorse the terms of reference and membership composition of the Innovation and Technology Advisory Group as presented.
3. Note that membership positions on the working group will be filled at the first Ordinary Council Meeting following the October 2017 City of Bunbury elections, as will be the case for all Council committees and working groups.

Strategic Relevance

Key Priority Area 5 Corporate
Objective 5.2 Maintain a high standard of corporate governance and improve access to information.

Background

At the Ordinary Council Meeting held 30 May 2017, Council requested that the Acting Chief Executive Officer provide a report to Council by the end of July 2017 with proposed terms of reference and membership composition for a new Innovation and Technology Advisory Group.

A proposed terms of reference for the Innovation and Technology Advisory Group is **attached** at Appendix CEO-2.

Council Policy Compliance

Not applicable.

Legislative Compliance

The Innovation and Technology Advisory Group is not proposed as a formal committee of Council.

Officer Comments

Officers have prepared a draft terms of reference and membership composition for the Innovation and Technology Advisory Group, as presented at Appendix CEO-1.

Analysis of Financial and Budget Implications

There are no financial or budgetary implications impacting from the recommendations of this report.

Councillor/Officer Consultation

This matter is presented to Council for consideration.

10.2.3 Endorsement of Appointments to Bunbury Regional Theatre Inc.

Applicant/Proponent:	Internal
Author:	Mal Osborne, Acting Chief Executive Officer
Executive:	Mal Osborne, Acting Chief Executive Officer
Attachments:	CEO-3: Letter requesting endorsement of Board Management members

Summary

On 17 July, the City received correspondence from the Bunbury Regional Entertainment Centre seeking Council endorsement of the appointment of members to the Bunbury Regional Theatre Inc. (copy **attached** at Appendix CEO-3).

Executive Recommendation

Pursuant to the constitution of the Bunbury Regional Theatre Incorporated, the City of Bunbury endorses appointment of the following members to the Theatre's Board:

It is the recommendation of the Panel, as endorsed by the BREC Board of Management, that the following be appointed in 2017:

- Catrin Allsop 1-year term
- Paul Springate 2-year term
- Jane Jury 2-year term
- Diane Greville 2-year term
- Gerard Robertson 2-year term

Background

The Board of Management has requested that the City ratify the above 2017 Board appointments at the next Council meeting so that the appointments are in place in time for the first Board meeting in the new financial year on 3 August 2017.

The Bunbury Regional Entertainment Centre is a City of Bunbury asset. It opened in 1990 and provides the people of Bunbury and the South West Region with the opportunity to view and participate in performances staged in a top-class facility.

The Bunbury Regional Theatre Inc. is an independent, not-for-profit community organisation charged with management of the Bunbury Regional Entertainment Centre. The Management Board is comprised of ten (10) interested members of the community with a commitment to the performing arts.

The City of Bunbury contributes funding annually to support operation of the Bunbury Regional Entertainment Centre. Accordingly, the Bunbury Regional Theatre Inc. constitution permits at least one (1) sitting Bunbury City Councillor to be a member of its Management Board (this is currently a position occupied by Cr Brendan Kelly). The Constitution also requires all appointments to the Board to be endorsed by the Council.

Due to existing members' term expiring positions on the Board became vacant on 1 July 2017. The Bunbury Regional Theatre Inc. advised that it called for nominations to fill these vacancies via advertisements in the press and online. Nominations were received from (3) three of the six (6) retiring Board members, plus new applications from community members.

A panel comprising Mr John Ventris (Panel Chair and community member), Ms Jo O'Dea (sitting Board member) and Mr Julian Bowron (Director of BRAG and community member) assessed all applications.

The Panel met on 21 June to interview the four (4) community members, and again on 11 July to assess applications from the re-nominating Board members. The Panel communicated their recommendation to the Board in a letter dated 11 July 2017.

Accordingly, the Bunbury Regional Theatre Inc. now requests that the recommendation be moved at this meeting.

Community Consultation

The Bunbury Regional Theatre Inc. called for nominations for membership of the Board via advertisements on the 24 and 25 of May in the Bunbury Mail and South West Times.

Analysis of Financial and Budget Implications

Appointment of members to the Board will have no effect on the City's existing budget for the Bunbury Regional Entertainment Centre (which is a City of Bunbury asset).

Council Policy Compliance

There is no Council Policy in relation to this matter.

Legislative Compliance

The constitution of the Bunbury Regional Theatre Inc. requires Council endorsement of appointments to its Management Board.

Officer Comments

In endorsing this recommendation, the City has fulfilled its obligation under the terms of the current Deed of Management.

10.2.4 Proposed New Council Policy – Related Party Disclosures

Applicant/Proponent:	Internal
Responsible Officer:	David Ransom, Manager Finance Greg Golinski, Manager Governance
Responsible Manager:	David Ransom, Manager Finance Greg Golinski, Manager Governance
Executive:	Mal Osborne, Acting Chief Executive Officer
Attachments:	Appendix CEO-4: Draft Council Policy: Related Party Disclosures

Summary

The purpose of this report of for Council consider a new policy regarding Related Party Disclosures.

A copy of the draft policy is presented at Appendix CEO-4. The draft policy outlines the City’s disclosure requirements in regard to the existence of relationships regardless of whether or not any transaction has occurred, in accordance with Australian Accounting Standards Board Accounting Standard AASB124 (Related Party Disclosures).

Executive Recommendation

That Council:

1. Adopt Council Policy *Related Party Disclosures* as presented.
2. Agree that the following Ordinary Citizen Transactions (OCT) be exempt from Related Party Disclosure reporting, where these services are provided at arms-length and under the same terms and conditions applying to the general public:
 - Paying rates; fines or penalties;
 - Paying application fees for licences, approvals or permits;
 - Using City owned and operated facilities such as civic centres, recreation centres, aquatic centres, libraries, parks, ovals, public open space, transfer stations and landfill sites (whether a fee is charged or not);
 - Attending City functions that are open to the public.
3. Agree that the positions to be included as Key Management Personnel (KMP) in the assessment of related parties under AASB124 (Related Party Disclosures) are:
 - Elected Members
 - Chief Executive Officer
 - Directors

Strategic Relevance

Key Priority Area 5 Corporate
 Objective 5.2 Maintain a high standard of corporate governance and improve access to information

Key Priority Area 5 Corporate
 Objective 5.3 Ensure financial sustainability

Background

The scope of Australian Accounting Standards Board Accounting Standard AASB124 (Related Party Disclosures) was amended in July 2015 to encompass not for profit entities including local governments. AASB124 now imposes a number of obligations upon elected members and senior City staff in relation to disclosure of their financial dealings with related parties. These obligations come into effect for the 2016-17 financial year and the information is to be disclosed as a note within future Annual Financial Statements.

The primary objective of AASB124 is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and potential profit or loss may have been affected by the existence of related parties and their transactions.

Although a draft policy would ordinarily be presented to Council by its Policy Review and Development Committee, the timing of the preparation of the 2016-17 Annual Financial Statements will require disclosures for 2016-17 to be completed by late August 2017. This draft policy is presented directly to Council following the seminar held on Friday 21 July presented by Mr David Tomasi of Moore Stephens on this topic.

Council Policy Compliance

Not applicable

Legislative Compliance

AASB124 imposes a number of obligations upon Elected Members and senior City staff in relation to disclosure of their financial dealings with related parties. These obligations come into effect for the 2016-17 financial year with information to be disclosed as a note within the 2016-17 (and subsequent) Annual Financial Statements.

Officer Comments

Definitions

Definitions that relate to the commentary provided on this item are as follows.

Related party - a person or entity that is related to the local government. Related parties include:

- Entities related to Council;
- Key Management Personnel;
- Close family members of Key Management Personnel; and
- Non-Council entities that controlled or jointly controlled by Key Management Personnel or their close family members

Related party transaction - a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

Key Management Personnel - people who have authority and responsibility for planning, directing and controlling the activities of the reporting entity and for local governments includes all Elected Members and senior staff (Chief Executive Officer and Directors).

Ordinary Citizen Transaction - an exchange that is made on terms and conditions no different to those applying to the general public which is unlikely to influence the decisions made by the users of the City's financial statements (for example, a dog registration fee).

Comment

The objective of AASB124 is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and any profit or loss may have been affected by the existence of related parties and transactions with those parties.

This means that readers of the City of Bunbury Annual Financial Statements will become aware of any relationships that may affect the financial position and profit or loss of the City. The Annual Financial Statements provide information at a summary level of the financial remuneration of related parties, key management personnel and the financial value of transactions with related parties such as services or goods purchased from businesses operated by related parties.

Individual financial details of related parties are not disclosed during the reporting process, and the transactions are presented as aggregated information in the financial reports.

The information collated and aggregated for the Annual Financial Statements is proposed to be obtained a Related Party Declaration form, which forms an appendix to the draft policy.

The Policy proposes that Key Management Personnel be required to complete this form twice each financial year in December and June, and upon resignation.

Disclosure requirements apply to the existence of relationships regardless of whether or not any transaction has occurred. Each financial year, the City of Bunbury must make an informed judgement as to what is considered to be a related party, and what transactions should be considered when determining if disclosure is required.

AASB 124 advises that if a local government has had related party transactions during a financial year, it shall disclose the nature of the related party relationship as well as information about those transactions, including commitments, that are necessary for users to understand the potential effect of the relationship on the financial statements.

To progress the implementation of AASB 124 for 2016-17 as required, Council is required to consider and adopt the following, which are contained within the policy:

1. Positions to be included as Key Management Personnel (KMP) in the assessment of related parties; and
2. Transactions that are considered to be Ordinary Citizen Transactions (OCT) that will not be included as related party transactions.

Key Management Personnel

AASB 124 specifically includes Elected Members as part of the definition of Key Management Personnel (KMP). It is expected that in local government, KMP will include Elected Members, the Chief Executive Officer and the next level of management, which in the case of the City is Directors.

Ordinary Citizen Transactions

In order to identify which transactions are related party transactions and subject to disclosure it is necessary to consider and exclude Ordinary Citizen Transactions (OCT) from disclosure requirements.

OCTs are those transactions provided on terms and conditions no different to those applying to the general public and are unlikely to influence the decisions that users of the City's financial statements make. These Ordinary Citizen Transactions include the following:

- Paying rates; fines or penalties;
- Paying application fees for licences, approvals or permits;
- Using City owned and operated facilities such as civic centres, recreation centres, aquatic centres, libraries, parks, ovals, public open space, transfer stations and landfill sites (whether a fee is charged or not).
- Attending City functions that are open to the public.

The exclusion of the above effectively limits the related party transactions that are to be declared to typically be:

- purchases of sales or goods (finished or unfinished);
- purchases or sales of property or other assets;
- rendering or receiving services;
- leases;
- transfers under finance arrangements (including loans and equity contributions in cash or kind);
- provisions of guarantees or collateral;
- commitments to do something if a particular event occurs or does not occur in the future, including execution of contracts (recognised or unrecognised); and
- settlement of liabilities on behalf of Council or by Council on behalf of the related party.

Analysis of Financial and Budget Implications

There are no budget implications from this item.

Community Consultation

Not applicable

Councillor/Officer Consultation

A fact sheet has been provided to Elected Members on this matter previously. All Elected Members and relevant staff were invited to attend a seminar on this matter, hosted by Moore Stephens on 21 July 2017.

10.3 Director Corporate and Community Services Reports

Nil.

10.4 Director Planning and Development Services Reports

Nil.

10.5 Director Works and Services Reports

Nil.

11. Applications for Leave of Absence

11.1 Request for Leave of Absence – Councillor Jones

Applicant/Proponent:	Cr Judy Jones
Author:	Mal Osborne, Acting Chief Executive Officer
Executive:	Mal Osborne, Acting Chief Executive Officer
Attachments:	Nil

Summary/Background

Councillor Jones requests leave of absence from all Council-related business from 28 July 2017 to 21 October inclusive.

Section 2.25 of the *Local Government Act 1995*, allows a council to grant leave of absence to one of its members provided that the period of leave does not exceed six (6) consecutive ordinary meetings of the Council.

Executive Recommendation

Pursuant to Section 2.25 of the Local Government Act 1995, Councillor Jones is granted leave of absence from all Council-related business from 28 July 2017 to 21 October 2017 inclusive.

12. Motions on Notice

No Motions on Notice had been received at the time of printing.

13. Questions on Notice

13.1 Response to Previous Questions from Members taken on Notice

Nil

13.2 Questions from Members

14. New Business of an Urgent Nature Introduced by Decision of the Meeting

15. Meeting Closed to Public

15.1 Matters for which the Meeting may be Closed

This report is confidential in accordance with section 5.23(2)(b) and (e) of the Local Government Act 1995, which permits the meeting to be closed to the public for business relating to the following:

- (e) *a matter that if disclosed, would reveal –*
- (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*
- where the trade secret or information is held by, or is about, a person other than the local government;*

Recommendation

In accordance with section 5.23(2)(e) of the *Local Government Act 1995* and clause 6.2 of the City of Bunbury's Standing Orders Local Law 2012, Council resolves to close the meeting to members of the public to consider the item titled:

"15.1.1 Tender – Accessible Change Facilities South West Sports Centre";

15.1.1 Tender – Accessible Change Facilities South West Sports Centre

File Ref:	RFT1617-00011
Applicant/Proponent:	Internal
Responsible Officer:	David Russell, Senior Contracts and Procurement Officer
Responsible Manager:	Greg Golinski, Manager Governance
Executive:	Gavin Harris, Director Works and Services
Attachments:	Confidential Report CRUSC-1

This report is confidential in accordance with section 5.23(2)(e) of the Local Government Act 1995, which permits the meeting to be closed to the public for business relating to the following:

- (e) *a matter that if disclosed, would reveal –*
- (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government*

A confidential report and recommendation has been circulated to members **under separate cover** (Confidential Report CRUSC-1). The report is not for circulation.

15.2 *Public Reading of Resolutions that may be made Public*

16. Closure