

11 December 2020



NOTICE OF MEETING

Dear Councillor,

The next Ordinary Meeting of Council will be held at 4pm on Wednesday 16 December 2020

The attached Agenda is presented for your consideration.

A handwritten signature in blue ink, appearing to read "Vin Fordham Lamont".

Vin Fordham Lamont
CHIEF EXECUTIVE OFFICER

Please Note

If an Elected Member has a query regarding a report item or requires additional information in relation to a report item, please contact the senior employee (noted in the report) prior to the meeting.



AGENDA ORDINARY COUNCIL MEETING 16 DECEMBER 2020

ATTENTION/DISCLAIMER

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In particular and without detracting in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire of Carnamah during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Carnamah.

The Shire of Carnamah advises that anyone who has any application lodged with the Shire of Carnamah shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Carnamah in respect of the application.

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ORDINARY COUNCIL MEETING

1.0 DECLARATION OF OPENING

Acknowledgment of Country

The Shire of Carnamah would like to acknowledge the traditional custodians of this land, and pay its respect to local Aboriginal Elders, both past and present.

We also reflect on the spirit of the pioneers who settled this country and developed the land, and the service personnel whose sacrifices have enabled us to enjoy the lifestyle we have become accustomed to.

2.0 RECORD OF ATTENDANCE

2.1 Present

2.2 Apologies

2.3 Leave of Absence (Previously Approved)

- Cr Counsel is on a previously approved leave of absence.

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.0 PUBLIC QUESTION TIME

15 minutes (with a possible extension of two extra 15 minute periods) are set aside at the beginning of each Council meeting to allow members of the public to ask questions of Council. Questions must be submitted electronically in writing prior to the meeting.

5.0 APPLICATION FOR LEAVE OF ABSENCE

6.0 DISCLOSURE OF INTEREST

6.1 Declaration of Financial Interest and Proximity Interests

6.2 Declaration of Interest Affecting Impartiality

7.0 PETITIONS AND DEPUTATIONS

Petitions and Deputations must be submitted electronically in writing prior to the meeting.

8.0 ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

9.0 CONFIRMATION OF MINUTES

9.1 CONFIRMATION OF MINUTES – ORDINARY COUNCIL MEETING HELD ON 18 NOVEMBER 2020


RECOMMENDATION

That the Minutes of the Ordinary Meeting of Council held on Wednesday 18 November 2020 be accepted as a true and correct record.

10.0 MANAGEMENT REPORTS

10.1 FINANCE REPORTS

10.1.1 ACCOUNTS FOR PAYMENT

File Code	ADM0076
Author	Ian Walsh, Deputy Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Cheque & EFT Listing 

SUMMARY

Council to confirm the payment of creditors for the period 11 November 2020 to 9 December 2020, in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

BACKGROUND

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

COMMENT

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the provision of services and as to prices, computations and costings, and that the amounts shown were due for payment.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995, Section 6.4 Financial Report
Local Government (Financial Management) Regulations 1996 -
Section 12 Payments from municipal fund;
Section 13 Lists of accounts; and
Section 15 Rounding off figures

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority


RECOMMENDATION

That payment listed as Attachment 10.1.1. List of Accounts Due and Paid for the period 11 November 2020 to 9 December 2020; and paid by the Chief Executive Officer under delegated authority of Council, or by the Deputy Chief Executive Officer (in the Chief Executive Officer's absence) as delegated by the Chief Executive Officer including:

Municipal cheques	28195 – 28198
Municipal EFT's:	13930 – 14023
Payroll direct debits:	#11 - #13
Municipal Direct Debits:	301120

Totalling \$ 428,580.95 be approved and passed for payment.

10.1.2 FINANCIAL REPORTS TO 30 NOVEMBER 2020

File Code	ADM0076
Author	Ian Walsh, Deputy Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Monthly Statement of Financial Activity November 2020 

SUMMARY

A Statement of Financial Activity and other supplementary financial information is produced monthly as part of the Council meeting agenda.

BACKGROUND

The attached financial reports for the period 1 July 2020 to 30 November 2020 (Attachment 10.1.2(a)) have been prepared in accordance with the Local Government Financial Management Regulations.

COMMENT

Included with this report is the following:

- Statement of Financial Activity for the period 1 July 2020 to 30 November 2020;
- Summary Rates Trial Balance Report as at 30 November 2020;
- Cash and Investment Listing;
- Debtors Listing; and
- Other Supplementary Information.

The Australian Accounting Standard Board (AASB) have recently released the following standards:

- a) AASB 16 – Leases
- b) AASB 1058 Income of Not-for-Profit Entities
- c) AASB 15 Revenue from Contractors and Customers

The first two have no real impact on the Shire of Carnamah.

The main objective of AASB 15 is to provide clarity about the nature, amount and timing of contracts and the accounting treatment of funds received.

All funds received prior to the funding obligations being met are to be classified as a Current Liability. Once the obligations associated with the funding is to be recorded as revenue.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulation 34 - Financial activity statement report — s. 6.4

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council receives the Statement of Financial Activities for the period 1 July 2020 to 30 November 2020 and other supplementary financial information as presented.

10.2 ADMINISTRATION REPORTS

10.2.1 OUTCOME OF A REVIEW OF LOCAL LAWS UNDER S3.16 OF THE LOCAL GOVERNMENT ACT 1995

File Code	ADM0543
Author	Vin Fordham Lamont - Chief Executive Officer
Disclosure of Interest	Nil
Attachments	Nil

SUMMARY

Section 3.16 of the Local Government Act 1995 requires local governments to undertake a review of their local laws at least once every eight years. At its meeting held on 16 September 2020 Council resolved to initiate the public consultation process required.

Submissions closed on 11 November 2020, and while none were received, a number of new local laws and amendments to existing ones will ensure they are kept up to date.

BACKGROUND

The Shire has a number of local laws in place. Most were made in 2013 and are relatively up to date:

Local law or issue	Date Gazetted	Date of amendments (if any)	Comments
Dogs Local Law 2014	12-Jan-15		
Pest Plants Local Law 2013	6-May-13		Prescribes only Caltrop as a pest plant
Public Places and Local Government Property Local Law 2013	6-May-13	27-Sep-13	
Fencing Local Law 2013	6-May-13		Made by reference to Shire of East Pilbara Fencing Local Law
Winchester Cemetery Local Law 2013	6-May-13		Only issue relates to assistance animals in clauses 8.1 and 8.2; and which is overridden by Commonwealth legislation
Health Local Law 2013	6-May-13		Made by reference to Shire of East Pilbara Health Local Law
Standing Orders Local Law 2013	6-May-13		

COMMENT

The Shire has now complied with the requirements of the Local Government Act 1995. As noted in the previous report to Council, the Shire may get some benefit from having a parking local law. It is unlikely to be heavily used but may be useful in resolving issues such as those recently experienced around the local primary school.

In addition, the Shire is required to have a Bush Fire Brigades local law under the *Bush Fires Act 1954* which can be introduced at the same time as any other local laws or amendments to existing ones.

A minor amendment to the Cemeteries local law is necessary to ensure compliance with Commonwealth legislation relating to assistance animals.

It would be preferable to change the title of the Standing Orders Local Law to Meeting Procedures Local Law, and to make the Order of Business section more generic.

Making or amending local laws is a separate process under s3.12, and proposed changes will be brought to Council for consideration in due course.

CONSULTATION

As part of a review of local laws under section 3.16 of the Local Government Act 1995, a local government is required to give local public notice, inviting submissions for a period of not less than 6 weeks.

A notice requesting comments from the public was duly published, with comments closing on 11 November 2020. None were received.

STATUTORY ENVIRONMENT

Section 3.16 of the Local Government Act 1995 requires a local government to review its local laws at least once every eight years.

STRATEGIC IMPLICATIONS

Keeping local laws up to date ensures the Shire is well placed to deal with any issues that may arise.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are costs associated with making any new local laws or amending them. These have been included in Council's 2020/2021 annual budget.

VOTING REQUIREMENT


Absolute majority.

RECOMMENDATION

That Council notes:

1. The outcome of the review of local laws under s3.16 of the Local Government Act 1995;
2. That amendments to various local laws and potential new local laws will be presented for consideration in due course.

10.2.2 PROPOSED BUSH FIRE BRIGADES LOCAL LAW

File Code	ADM0543
Author	Vin Fordham Lamont - Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Draft Shire of Carnamah Bush Fire Brigades Local Law 

SUMMARY

The purpose of this report is to recommend adoption of a draft *Shire of Carnamah Bush Fire Brigades Local Law*. *The Bush Fires Act 1954* requires local governments who have bush fire brigades to adopt a local law dealing with certain matters listed in the Act.

BACKGROUND

Section 43 of the Bush Fires Act provides that a local government which establishes a bush fire brigade shall by its local laws:

... provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade, and prescribe their respective duties.

Sections of the Bush Fires Act where a local government may make local laws are:

- Under s33(5a) to require land owners to make fire breaks. Section 33(1) though allows this to be done simply by publishing a notice in the Gazette or a newspaper circulating in the district; and where a local government does so the provisions of the notice override the local law.
- Under s41(1), to establish and maintain one or more bush fire brigades and equip them with appliances, equipment and apparatus; and
- Under s62, make local laws in relation to —
 - the appointment, employment, payment, dismissal and duties of bush fire control officers; and
 - the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
 - any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.

The use of a local law to deal with anything other than what is required under the Act is unnecessary - all critical matters are dealt with under the Bush Fires Act and Regulations. For example:

- Part 2 of the Bush Fires Act sets out the powers of the Fire and Emergency Services Commissioner, provides for the appointment of bush fire liaison officers, and sets out powers of police or authorised persons as well as providing for entry on to land or buildings for the purposes of the Act;
- Part 3 sets out measures to prevent bush fires, including restricted or prohibited burning times, fire bans, and provisions about burning of land or rubbish. Section 33 allows a local government to require occupiers of land to establish fire breaks by a notice in the Gazette and or public notice, or by local law;

- Part 4 deals with the control and extinguishment of bush fires. In particular:
 - Section 36 provides that a local government may expend funds to control and extinguish bush fires;
 - Under s37 a local government must insure volunteer fire fighters and bush fire brigade equipment;
 - Section 38 provides that a local government may appoint a person as a bush fire control officer (and who does not necessarily have to be a local government employee), and of whom can be a Chief Bush Fire Control Officer and deputy. Under s38A the FES commissioner may appoint a person as a Chief Bush Fire Control officer if requested by a local government for its district;
 - Section 39 sets out the powers of bush fire control officers;
 - Section 40 sets out the powers and duties of local governments, brigades, and bush fire control officers in the event of a bush fire;
 - Section 41 provides that a local government shall keep a register of bush fire brigades and their members in accordance with the regulations, and may at any time cancel the registration of a bush fire brigade;
 - Under s42A, any group of persons, however constituted and whether incorporated or not, may be established as a bush fire brigade under section 41(1) or 42(1);
 - Section 43 is the only area of the Bush Fires Act that requires a local government to make a local law (discussed below); and
 - Sections 44 – 47 deal with fire-fighting by officers of bush fire brigades, 'CALM' and bush fire control officers.
- Part 5 deals with miscellaneous matters and among other things:
 - Allows a local government to delegate any of its powers and duties to its CEO; and
 - Provides for penalty and prosecution provisions.

COMMENT

Local laws are usually used to regulate activities in communities generally. They typically set out a set of requirements and include provisions for non-compliance such as notices, infringements or prosecution. Services run by volunteers are not usually 'regulated' by local laws.

The question here is the extent to which a local law is useful when it comes to assisting and encouraging a service provided by volunteers; and what could be better dealt with by agreement. In this regard the Shire is better able to manage its funding and/or support to volunteer brigades in a more flexible manner, not by use of a local law.

A draft *Shire of Carnamah Bush Fire Brigades Local Law* is attached. It deals only with those matters required by the Bush Fires Act.

It also contains a number of notes and text boxes to assist readers to interpret what clauses mean, and what other legislation might apply, but which do not form part of the local law and will be deleted from the official version to be Gazetted.

Note that as required, it prescribes the duties of a captain of a bush fire brigade. Other matters are simply by agreement with a brigade. This could include:

- The make up of bush fire brigades (membership, structure, meetings, elections, etc);
- How funding, facilities and equipment provided by the *Shire* is to be dealt with and any associated requirements;
- Record, book keeping, asset management and accounting requirements;
- Office bearers such as a secretary, treasurer, training, and/or equipment officers;

- Grievance processes and membership issues;
- How and with whom liaison with the Shire is to occur (day to day, longer term);
- What reporting might be required in terms of brigade activities, membership lists, acquittal of funds provided, etc; and
- Operational matters or standards.

These can be drafted by the Shire but can only be implemented in agreement with the brigades. They are not intended to be punitive or overly complex – brigade members are volunteers and should not be tied up with unnecessary regulation.

In addition the rules can be more easily changed than a local law - by council resolution and/or by the CEO acting under delegated authority from Council.

In the unlikely event it became necessary for the Shire to take action in relation to a brigade, if all else fails it could:

- Withhold funding; and/ or
- Seek return of assets and/or equipment; and/ or
- Ultimately, deregister a brigade under s41(3) of the Bush Fires Act. This provision is wide ranging and is used mainly when a brigade merges with another or disbands, but can be applied for any reason a local government sees fit.

CONSULTATION

Section 62 of the *Bush Fires Act 1954* provides that a local government may make local laws using the process set out in section 3.12 of the *Local Government Act 1995*. Amongst other things this requires a local government to give state-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the proposed Shire of Carnamah Bush Fire Brigades Local Law is:

Purpose

To provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of bush fire brigades in the district, and prescribe their respective duties.

Effect

The appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of bush fire brigades in the district is prescribed, as are their respective duties.

As part of the process, local governments are also required to send a copy of the proposed local law to the Ministers for Local Government and Emergency Services.

The results of the community consultation and feedback from the Minister(s) are to be considered by Council before it makes the local law.

STATUTORY ENVIRONMENT

As noted above, Section 62 of the Bush Fires Act 1954 provides that a local government may make local laws using the process set out in section 3.12 of the Local Government Act 1995.

STRATEGIC IMPLICATIONS

Communities appear to be facing more challenges from longer and more intense fire seasons. Implementing a proper legislative framework will assist the Shire to do what it can to deal with bush fires in future.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are financial and resource implications associated with the advertisement, processing of the local law, and its eventual Gazettal on final adoption. These have been allowed for in the Shire's 2020/2021 annual budget.

VOTING REQUIREMENT


Simple majority

RECOMMENDATION

That Council RESOLVES to:

1. In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, give State wide and local public notice stating that:
 - a. It is proposed to make a Shire of Carnamah Bush Fire Brigades Local Law, and a summary of its purpose and effect;
 - b. Copies of the proposed local law may be inspected at the Shire offices;
 - c. Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;
2. In accordance with s3.12(3)(b) of the Act, as soon as the notice is given, sends a copy of the proposed local law to the Ministers for Local Government and Emergency Services;
3. In accordance with s3.12(3)(c) of the Act, supply a copy of the proposed local law to any person requesting it; and
4. Note that the results of the public consultation be presented to Council for consideration of any submissions received.

10.2.3 PROPOSED PARKING LOCAL LAW

File Code	ADM0543
Author	Vin Fordham Lamont - Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Draft Shire of Carnamah Parking Local Law 2021 

SUMMARY

The Shire has recently reviewed its local laws. While a parking local law is hardly likely to be used (and if so, infrequently), there have been recent issues where it may have been of use.

A draft *Shire of Carnamah Parking Local Law 2021* is attached. Note that while it contains provisions that are unlikely to be used in the Shire relating to fee parking and the like, given that it is based on a model local law, it is simpler and cheaper to leave them 'as is' rather than undertake extensive customisation to suit.

If Council agrees, the draft local law can be advertised for public comment; the results must then be returned to Council for consideration before the local law can be made.

BACKGROUND

Parking issues are not generally a major issue in the Shire, although complaints about car parking at the local primary school recently, as well as concerns over car parking close to street corners, has highlighted that a local law may be useful.

COMMENT

A draft new *Shire of Carnamah Parking Local Law* is attached. It is based on one made by the Shire of Coolgardie in 2020 which in turn comes from a model developed by the WA Local Government Association.

The local law draws heavily on the provisions of the Road Traffic Code, particularly with respect to how certain matters are defined and applied in thoroughfares (roads).

It has more than enough scope to deal with any parking issues that may arise in the Shire.

The following table describes some parking related issues that have been raised recently, and identifies which clause(s) in the draft local law can be used to address those issues.

Issue	Clause	Extract
Parking on footpaths	4.5(2)(e)	4.5 General prohibitions on parking (2) Subject to any law relating to intersections with traffic control signals, a person shall not park a vehicle so that any portion of the vehicle is: ... (e) on any portion of a footpath or pedestrian crossing;
Parking on road verges	7.9 (1)(c) (You would have to put up some 'no stopping on verge' signs).	7.9 Stopping on verge (1) A person shall not: ... (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge or in contravention of clause 9.6,
Parking on roads within metres of an intersection	4.5(2)(j) There are various restrictions about parking near intersections.	4.5 General prohibitions on parking (2) Subject to any law relating to intersections with traffic control signals, a person shall not park a vehicle so that any portion of the vehicle is: (j) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked unless a sign or markings on the carriageway indicate otherwise.

CONSULTATION

Local laws are made using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give state-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the local law is:

Purpose

To enable the Shire to regulate the parking of vehicles within the district and provide for the management and operation of parking facilities under the Shire's care, control and management.

Effect:

A person parking a vehicle within the parking region is to comply with the provisions of the local law.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

STATUTORY ENVIRONMENT

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

There are costs associated with the drafting, advertisement, and eventual Gazettal of the local law. These have been included in the Shire's 2020/2021 annual budget.

VOTING REQUIREMENT

Simple majority.

RECOMMENDATION

That Council

5. In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, gives State wide and local public notice be given stating that:
 - a. It is proposed to make a Shire of Carnamah Parking Local Law, and a summary of its purpose and effect;
 - b. Copies of the proposed local law may be inspected at the Shire offices;
 - c. Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;
6. In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;
7. In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
8. The results of the public consultation be presented to Council for consideration of any submissions received.

10.3 CONFIDENTIAL REPORTS

PROCEDURAL MOTION**RECOMMENDATION**

That the meeting be closed to the public to consider Confidential Item 10.3.1 of the Agenda as the item is considered confidential pursuant to s 5.23 (2)(a) of the Local Government Act 1995 due to the matter being a matter affecting an employee or employees.

10.3.1 DEPUTY CHIEF EXECUTIVE OFFICER CONTRACT OF EMPLOYMENT

File Code	PER101
Author	Vin Fordham Lamont - Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Confidential item tabled under separate cover

10.3.2 CITIZEN OF THE YEAR AWARDS 2021

File Code	ADM0203
Author	Vin Fordham Lamont - Chief Executive Officer
Disclosure of Interest	Nil
Attachments	1. Confidential item tabled under separate cover

10.3.3 MOTION TO RE-OPEN THE MEETING

File Code	N/A
Author	Vin Fordham Lamont – Chief Executive Officer
Disclosure of Interest	Nil
Attachments	Nil

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That the meeting be re-opened to the public.

11.0 ORDERING THE COMMON SEAL

11.1 ORDERING THE COMMON SEAL – LICENCE, ENEABBA AIRSTRIP - WATER BOMBER RE-FILLING FACILITY.

File Code	D2084
Author	Chloe Burman, Executive Coordinator
Disclosure of Interest	Nil
Attachments	Nil

SUMMARY

Council is required to approve the use of the Common Seal to the Licence between Shire of Carnamah, and Parks and Wildlife Service, Department of Biodiversity, Conservation and Attractions for the Eneabba Airstrip Licence – Water Bomber Re-filling Facility.

BACKGROUND

Nil

OFFICER COMMENT

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Policy 2.6 Shire of Carnamah Common Seal

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

That Council endorse the use of the Common Seal for the Licence between Shire of Carnamah, and Parks and Wildlife Service, Department of Biodiversity, Conservation and Attractions for the Eneabba Airstrip Licence – Water Bomber Re-filling Facility.

12.0 REPORTS OF COMMITTEES AND MEMBERS

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14.0 NOTICE OF MOTIONS (FOR CONSIDERATION AT THE FOLLOWING MEETING, IF GIVEN DURING THE MEETING)

15.0 NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL

16.0 CLOSURE OF MEETING
