

## NEW ENGLAND COUNTY COUNCIL ABN 35 514 070 354

12th August 2024

## **NOTICE OF MEETING**

An Ordinary Meeting of the New England County Council, is to be held in the offices of the New England Weeds Authority, 1/129 Rusden Street, Armidale NSW 2350 on:

## Thursday 15th August at 3pm

The meeting Agenda and Business Paper are attached.

Please notify the General Manager of any apology.

Yours sincerely

Renee Irvine

**GENERAL MANAGER** 

# **ORDINARY MEETING AGENDA**

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The Chair to advise that while the meeting is not being live-streamed, a video recording of the meeting will be available on the County Council's website.

## ORDINARY MEETING OF COUNCIL

- 1. PRESENT:
- 2. APOLOGIES:
- 3. DECLARATION OF INTEREST:
- 4. MATTERS OF URGENCY:
- 5. MINUTES OF THE EXTRAORDINARY MEETING OF THE NEW ENGLAND COUNTY COUNCIL HELD ON FRIDAY 31 MAY 2024

### Recommendation:

That the Minutes of the Extraordinary Meeting of the New England County Council held on 31 May 2024, which have been distributed to all members, are taken as read and confirmed as a true record.

The Chair advised that the meeting was not being live-streamed, and minutes of the meeting would be available on the County Council's website.

**PRESENT:** John Rayner - Interim Administrator

Tim Weeks - General Manager

**APOLOGIES**: None

## **DECLARATION OF INTEREST:**

In regard to pecuniary interest, it is noted the Model Code of Conduct, Clause 4.6, does not require disclosure:

- of interest relating to the payment of fees to Councillors
- An interest relating to the payment of expenses and the provision of facilities to Councillors"

#### INTERIM ADMINISTRATORS MINUTE

## 4.1 Suspension of Council

By Government Gazette on 17th May 2024, the Minister for Local Government suspended the Board of the New England County Council for a period of three months from the date of the gazettal. The same Government Gazette Notice has appointed John Rayner as Interim Administrator for the period during which the Council is suspended by the Order.

The Councillors on the Board retain their positions with the constituent Councils. I note that following the Board's consideration of the Minister's 'Notice of Intention to Suspend' on 29th April 2024 Councillors unanimously resolved:

- 1. That the Board acknowledges the concerns raised by the Minister of Local Government, the Hon Ron Hoenig MP, and supports the appointment of an Administrator.
- 2. That the member Councils acknowledge the critical nature of the services provided by NEWA and would be highly supportive of working with the Administrator to resolve the governance and financial issues to ensure the continuation of these services. The Minister has determined that the Interim Administrator shall have the following functions:
  - To perform the role and function of the governing body of the County Council under the Local Government Act and any other Act.
  - To exercise the role of the governing body and councillors identified in sections 390, 391, 391A, and 400 of the Local Government Act. The Letter of Appointment from the Minister states the role will also include:
    - a) Undertaking an urgent assessment of NEWA's current financial position and ensuring it is able to meet its immediate financial obligations.
    - b) Recommending and implementing a Strategic Improvement Plan or any other required interventions.
    - Ensuring compliance with accounting principles including as provided in the Local Government Act, Regulations and Code of Accounting Practice.
    - d) Restoring NEWA's compliance with its statutory responsibilities.

- e) Developing strategies to improve its current financial circumstances, including the preparation of a Liquidity Plan.
- f) Recommending and developing longer term strategies to assess NEWA's long-term financial sustainability.

The appointment means that the Administrator takes on the role of the Chairperson and Councillors, not the General Manager. However, given the seriousness of governance and financial issues and the contents of Reports from the NSW Audit Office there may be actions that have to be taken to prevent a deterioration of the financial position.

The day-to-day operations of the New England Weeds Authority will continue; staff operations are not directly impacted by the Suspension Order.

For those that do not know me:

- 50 plus years in local government, starting in Grafton, and including Mudgee and Lithgow before starting 33 years as Shire Clerk (as it was known in those days) to General Manager to Sutherland Shire Council,
- retired from Sutherland Shire Council in 2015.
- Administrator Georges River Council upon the amalgamation of Hurstville and Kogarah Councils.
- In more recent years Acting General Manager at Edward River, Armidale Regional and Moree Plains Councils

• Financial Controller/Temporary Advisor, appointed by the Minister for Local Government to Armidale Regional and Dubbo Regional Councils.

Residents and Councillors of the constituent Councils can be assured that while I hold the position of Interim Administrator, I will do my best to independently serve in an honest, open and transparent way. It is my intention to address the issues raised in the Notice of Intention to Suspend and the Suspension Order. Attention will also be given to the most recent Independent Auditor's Report giving particular attention to the most serious Disclaimer of Opinion from that Report, The Engagement Closing Report and when it is received, the finalised Management Letter.

In an endeavour to ensure improvement to the organisation, I will be addressing many other aspects of the workings of the County Council. Discussions are being held with the Councillors suspended from the Authority and the Mayors of the constituent Councils. I will have an open door to anyone else who may wish to have discussions with me. The importance of confidentiality is well known to me, and residents and staff (current and former) alike should not hesitate to make contact.

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### 4.2 Financial Position

The financial position of the Council is dire! The impact is noted in Report 10.2

'Quarterly Business Review' to the 14th May Council Meeting, "Ordinarily, Quarterly Budget Reviews are undertaken in an environment of relative certainty. In this instance, there is significant uncertainty surrounding Council's operational environment and its capacity to continue operations without a substantial cash injection. These difficulties have been rapidly escalating due, in the most part, to the continuing delays in obtaining OLG approval for the proposed loan funding, and also the extraordinary delay in the Department of Primary Industries and Regional Development releasing the Weeds Action Program (WAP) funding, which is an integral part of Council's funding mix, and for which Council's own funds have been utilised in advance of funding, in order to achieve relevant delivery targets.

At this point in time, Council has been unable to pay suppliers and contractors for several months and operations have been reduced to an absolute minimum, including substantially reduced activity on project and private works, which has only exacerbated the cashflow position. Council is now in the unthinkable position where the lack of available funding will result in the inability to pay staff within a very short period of time.

In the light of the above, the proposed budget variations represent a scenario where the projected financial position at 30 June 2024, is extremely difficult to predict. To the extent possible, the predicted Operating result for the year is a deficit of \$190K, whereas the original Budget had presented a proposed surplus of \$198K. This reflects the circumstances where Council has effectively entered a hibernation mode of operation, which is not sustainable."

Since taking up the role of Administrator, I have established the extent of the money owing to creditors, ATO and others and the situation is extremely serious. I have engaged an expert in local government finance to undertake an independent and urgent cash flow analysis to 30th June 2025. The Council had been relying on the *Weeds Action Program Grant* to address its cash flow and a \$700,000 loan to partly assist in funding the depot and office development in the Airside Business Park.

### 4.3 Weeds Action Program Grant

This grant is now allocated on a competitive basis, and it was expected approximately \$460,000 would be received. Local Land Services (LLS) has agreed to release part of the funds for works undertaken in good faith and declared as such by the General Manager. This allocation may be in excess of \$345,000. The remainder of the funds will only be released, when a Forensic Audit by LLS confirms that the WAP funds have been expended on the works required to be done.

## 4.4 CBA Loan \$700,000

Council has been relying on this loan to part fund the Depot/Office project. The Contractor is owed a significant sum. As the Council is now under Administration the CBA has withdrawn its offer and will require a new loan application which will include

"a report by the Administrator, including a summary of findings and proposed actions."

If approved, a condition of funding will be a letter signed by the Minister for Local Government confirming approval of the borrower. There is no certainty the loan funds will come through.

## 4.5 Meeting with Mayors

Once the cash flow analysis is complete, a meeting will be held with the Mayors and General Managers of the member Councils, to consider the status of NEWA and to consider a strategy for the future.

## 4.6 Priority of Payments

Over the coming months there will be competing requests for the limited funds available. Decisions on priority will be taken by the Administrator on advice from the staff. In this regard the Administrator will be the signatory on banking transactions.

## 4.7 Audit Risk and Improvement Committee (ARIC)

The Council had commenced the process of appointing its initial Audit Risk and Improvement Committee. A priority will be the appointment of the Committee with the view it meeting in June or July 2024. The <u>attached Charter</u> is proposed for adoption. See 5.0 below.

### 4.8 Delegations

It is proposed that the current delegations to the Chairperson and Deputy Chairperson be extended to include the Interim Administrator.

## 4.9 Councillor Expenses and Facilities Policy

This policy needs to be amended to include the Interim Administrator.

## 5.0 Next Ordinary Council Meeting

Due to prior commitments, the Interim Administrator will be unable to conduct the Ordinary Council Meeting scheduled for 18th June 2024. It is proposed the next Ordinary Council be held at **10am Friday 21st June 2024**.

#### Resolved 19/24:

- 1 That the Minute from the Interim Administrator be received and noted.
- 2 That the Administrator be authorised to determine the priority for payments of creditors and others and payroll commitments following advice from staff.
- That the Administrator be the authorised signatory to banking transactions.
- 4 That the attached charter for the Audit Risk and Improvement Committee be adopted.
- That the following be appointed to the Audit Risk and Improvement Committee: Dr Merideth Caselli, Mr Stephen Coates and Ms Mel Jacobs.
- That fees paid be commensurate with fees paid to ARIC members in Constituent Councils.
- 7 That the delegations to the Chairperson and Deputy Chairperson be extended to include the Interim Administrator.
- 8 That the Councillor Expenses and Facilities Policy be amended to add Interim Administrator in each clause where there is mention of 'Member', 'Chairperson' or 'Councillor'.
- 9 That the Councillor Expenses and Facilities Policy be amended to include the clause "The Council shall reimburse the Interim Administrator for any reasonable expenses incurred in relation to visits to and within the boundary of the New England County Council including travel, accommodation and associated expenses. Claims shall be submitted by invoice and supported by receipts and/or tax invoices and submitted to the General Manager."
- 10 That Council give notice of the proposed amendments to the Councillor Expenses and Facilities Policy as required under Clause 253(1) of the Local Government Act.
- 11 That the next Ordinary Meeting of the Council be held at 10am 21st June 2024.
- 12 Due to the time that has elapsed since negotiations occurred on the General Manager's Contract of Employment, the offers and any draft contract be withdrawn.

### **MATTERS OF URGENCY - ANY OTHER BUSINESS**

There were no matters of urgency.

**NEXT MEETING - 10:00am, 21 June 2024** 

CLOSE: 10:16am

# 6. MINUTES OF THE ORDINARY MEETING OF THE NEW ENGLAND COUNTY COUNCIL HELD ON TUESDAY 21 JUNE 2024

### Recommendation:

That the Minutes of the Ordinary Meeting of the New England County Council held on 21 June 2024, which have been distributed to all members, are taken as read and confirmed as a true record.

**PRESENT:** Interim Administrator John Rayner

Tim Weeks - General Manager

**APOLOGIES: None** 

**DECLARATION OF INTEREST: None** 

MATTERS OF URGENCY: None

**INTERIM ADMINISTRATORS MINUTE - JUNE** 

Resolved: 22/24

That the Administrator's Minute be received and noted.

Moved – Administrator John Rayner

Carried.

## **GENERAL MANAGERS REPORTS**:

## **WEEDS ACTION PROGRAM REPORT**

Resolved: 23/24

That the Weeds Action Plan (WAP) Report, summarising activities and outcomes to date, including the 2023-2024 Weeds Action Program, be received and noted.

Moved - Administrator John Rayner

Carried.

### **GRANT APPLICATION FOR 2023-2024 WAP FUNDING**

#### Resolved: 24/24

- 1. That Council note the status and timing of funding to be provided under the 2023-2024 Weeds Action Program.
- 2. That Council has received \$379,134 (incl. GST) from DPI/LLS. The remainder of WAP funding is being withheld pending finalisation of a forensic audit by LLS.

Moved - Administrator John Rayner

Carried.

### ADOPTION OF 2024-2025 OPERATIONAL PLAN AND ANNUAL BUDGET

Resolved: 25/24

- 1 That the Annual Operational Plan be adopted other than the Annual Budget and 10 year Long Term Financial Plan (LTFP).
- That the Budget and the 10 year Long Term Financial Plan (LTFP) be updated to take account of NEWA's current financial circumstances and the early payment of the annual contributions for 2024-2025 by ARC.

Moved - Administrator John Rayner

Carried.

### **FINANCIAL REPORTS**

SETTING OF COUNCILLOR FEES AND CHARGES FOR THE 2024-2025 FINANCIAL YEAR.

Resolution: 26/24

- That Councillors note the contents of the Office of Local Government <u>Circular No</u> <u>24-08</u> in relation to the setting of fees for elected members, as determined by the Remuneration Tribunal for 2024-25 financial year, and
- 2. That in accordance with Sections 248 and 249 of the Local Government Act. 1993, the annual fees payable to the Chair and Councillors for the 2024-25 financial year, be increased by 3.75% with effect from 1 July 2024, bringing the annual amounts to \$6,730 for councillors and \$12,300 for the Chair.

Moved - Administrator John Rayner

Carried.

# CONFIRMATION OF EMPLOYEE WAGE INCREACE FOR THE 2024-2025 FINANCIAL YEAR

Resolved: 27/24

- That Councillors note the details of the Local Government State Award increases as determined for the 3 financial years 2023-2024 to 2025-2026 inclusive; noting that increases are generally in line with forecast wage increases outlined in Council's 10 year Financial Plan.
- That for the 2024-2025 Financial Year, NEWA employees be paid an increase of 3.5% *plus* 0.5% of employees' annual salary (as of 30 June 2024) *or* \$1,000, whichever is the greater.

Moved – Administrator John Rayner

Carried.

### **INVESTMENT REPORT**

At the time of the meeting, NEWA had no funds invested.

## PROPOSED MEETING DATES FOR THE 2024-2025 FINANCIAL YEAR.

Resolution: 28/24

That the schedule of proposed meeting dates for the 2024-2025 financial year, be endorsed and advertised for public information.

Moved – Administrator John Rayner

Carried.

Month	Specific Items for Council Determination (in addition to normal standing agenda items and other ordinary business)	Endorsed Meeting Date
August	Receive and note draft Financial Statements for referral to audit	15 Aug 2024
November	<ul> <li>Public presentation of audited Financial Statements,</li> <li>Receive and adopt September Quarterly Budget Review,</li> <li>Receive and adopt Annual Report for 2023/24 FY</li> </ul>	26 Nov 2023
February	Receive and adopt December Quarterly Budget Review	18 Feb 2024
April	<ul> <li>Endorse draft Operational Plan, Budget &amp; Revenue Policy for 2025/26 FY for public exhibition,</li> <li>Receive and adopt March Quarterly Budget Review</li> </ul>	22 Apr 2024
June	Adopt Operational Plan, Budget & Revenue Policy for 2024/25 FY	18 Jun 2024

## 13. ANY OTHER BUSINESS

## 14. NEXT MEETING - 10:00 AM, 15 AUGUST 2024

**MEETING CLOSE: 10:19 AM** 

# 7. MINUTES OF THE EXTRAORDINARY MEETING OF THE NEW ENGLAND COUNTY COUNCIL HELD ON TUESDAY 25 JULY 2024

### Recommendation:

That the Minutes of the Extraordinary Meeting of the New England County Council held on 25<sup>th</sup> July 2024, which have been distributed to all members, are taken as read and confirmed as a true record.

PRESENT: Interim Administrator – John Rayner
Renee Irvine – Acting General Manager

**APOLOGIES: None** 

**DECLARATION OF INTEREST: No Declaration of Interest** 

### **AUDIT RISK AND IMPROVEMENT COMMITTEE SETTING OF FEES**

## **Audit, Risk and Improvement Committee Members Fees**

The purpose of this report is to set fees for independent members of the Audit, Risk and Improvement Committee (ARIC).

### **Fee Payment**

Fees are only payable to independent members of ARIC appointed to the Committee via resolution of the Council.

Fees are determined by Council resolution.

Fees will only be paid upon receipt of a claim form with documentation and/or receipts/tax invoices as required.

Chair and independent member meeting fees as outlined below are subject to review on 1st July each year. The percentage rate increase (if any) will be the same as each year's increase in fees for Mayors and Councillors as set by the Local Government Remuneration Tribunal.

## Fee for ARIC Chair

The fee for the ARIC Chair will be \$1,700.

The fee includes an allowance for meeting preparation and will be paid for the duration of any meeting or council-approved workshop. Travel time is not paid.

In addition, travel expenses may be claimed on a per-kilometre basis as per the relevant rate set by the Australian Taxation Office. This covers travel from the usual private place of residence and return only to participate in meetings and workshops as required.

If the appointed Chair resides outside of reasonable driving distance, remote participation in meetings via video conferencing will be arranged or the Council will pay for reasonable flights and accommodation to facilitate in-person attendance if required and approved by the General Manager.

No other fees for the Chair will be payable.

### **Fee for ARIC Independent Members**

The fee for independent members will be \$1250.

Fees include an allowance for meeting preparation and will be paid for the duration of any meeting or Council approved workshop. Travel time is not paid. If the appointed Committee Member resides outside of reasonable driving distance, remote participation in meetings via video conferencing will be facilitated by the Council.

Travel expenses may be claimed on a per-kilometre basis as per the relevant rate set by the Australian Taxation Office. This covers travel from the usual private place of residence and return only to participate in meetings and workshops as required.

If the Member resides outside of reasonable driving distance, remote participation in meetings via video conferencing will be arranged or the Council will pay for reasonable flights and accommodation to facilitate in-person attendance if required and approved by the General Manager.

No other fees for Independent members will be payable.

## **Superannuation**

Councils are obliged under the Superannuation Guarantee (Administration) Act 1992 to make compulsory superannuation guarantee contributions on behalf of Audit, Risk, and Improvement Committee Members where they are remunerated Superannuation Contributions will be paid at the same rate that applies to Council employees.

Note if a committee member invoices Council as a company or other business arrangement, this does not apply.

### Resolved: - 29/24

Motion that the Policy and Fees outlined in the report be adopted

Moved: - John Rayner Interim Administrator

Carried.

### **MATTERS OF URGENCY - ANY OTHER BUSINESS**

The Interim Administrator stated "As per Clause 3.29 of the Code of Meeting Practice I propose that two items of business be considered. The items are:

- Min 27/24 Item 11.2 'Confirmation of Employee Wage Increase for the 2024/25 Financial Year'
- General Manager's Contract."

Resolved: - 30/24

Motion:- That the two items of business be considered at this meeting

Moved John Rayner Interim Administrator

Carried

As Chairperson The Interim Administrator ruled that the business is of great urgency on the grounds that the business requires decisions of the Council before the next scheduled Ordinary Meeting of the Council.

- Min 27/24, Item 11.2, 21<sup>st</sup> June 2024 Confirmation of Employee Wage Increase for the 2024/2025 Financial Year
- The decision of 21<sup>st</sup> June 2024 is clarified to read
- That for the 2024/2025 Financial Year NEWA Employees whose salaries and wages are covered by the NSW Local Government (State Award) be paid an increase of 3.5% plus 0.5% of employees annual salary (as of 30<sup>th</sup> June 2024) or \$1000 whichever is the greater.

Moved John Rayner Interim Administrator

Carried

Consideration of Business in Closed Session

There were no representations received from the public on the item to be discussed in closed session. There was no one in the public gallery.

That in accordance with Section 10A(1) of the Local Government Act 1993 the following matter be considered in closed session for the reason provided.

• This matter is being considered in closed session as it related to a personnel matter concerning a particular individual.

Moved John Rayner Interim Administrator

The Interim Administrator advised that the Council move back into open session.

## **Open Council**

That Council resumes the open session and the decision taken in closed session be adopted.

Moved John Rayner Interim Administrator

### Motion

- 1. That the Contract of Employment of the General Manager is terminated.
- 2. That Renee Irvine be appointed Acting General Manager under a salary and conditions agreed with the Interim Administrator.

Moved – John Rayner Interim Administrator

Carried

**NEXT MEETING - 10 AM, 15 AUGUST 2024** 

**MEETING CLOSE:- 11.15am** 

### 8. INTERIM ADMINISTRATORS MINUTE – AUGUST

This is the final Minute of the three-month term following the suspension of the Councillors of the New England County Council.

### **Report to Minister for Local Government**

A requirement of the Interim Administrator is to report to the Minister for Local Government so that the Minister can take a decision on the immediate future of the New England County Council.

The Executive Summary of that report follows.

"The Minister for Local Government suspended the Board of the New England County Council (NECC) for a period of three months from 17th May2024 and appointed John Rayner as Interim Administrator.

Discussions with various parties and viewing the Council Meetings held in February, April and May confirmed the Minister's concerns outlined in the Notice of Intention to Suspend.

Overall, the Council was dysfunctional and lacked the required governance and financial management standards.

On top of the many other serious failures in governance and financial management, it was the pursuit of the \$2million Office/Depot project that led to the financial collapse of NECC.

Constituent Councils have been extremely supportive and have committed further funds in their 2024/25 Budgets to meet NECC's financial obligations.

The four Councils, Glen Innes Severn, Armidale Regional, Uralla and Walcha Councils have each unanimously resolved that NECC be dissolved and a new service delivery model be developed. The Councils support the extension of the Interim Administrator's term for a further three months from 17th August 2024. The Council's target date to dissolve NECC and commence a new service delivery model is November 2023.

The Interim Administrator agrees with the decisions of the Councils and will support the endeavours to move to a new service delivery model.

It is recognised that a number of organisations and individuals will need to consider and support the proposal put forward including

- · Constituent Councils,
- Department of Primary Industries
- · Office of Local Government
- · Minister for Agriculture
- · United Services Union
- · Minister for Local Government. and the process under Local Government Act will be followed.

As the NECC operation is now substantially funded by the Constituent Councils and considering the timing of the Council elections the November deadline for dissolving NECC is supported. It is appreciated that achieving the deadline is ambitious but necessary."

## **Constituent Councils**

As reported earlier the four constituent Councils have each unanimously resolved that NECC be dissolved and a new service model be developed, to be in place by November 2024.

A representative from the Office of Local Government has advised that there is a three-month lead time from receipt of a proposal to dissolve until proclamation.

Councils will also need to decide on the preferred model so it is expected that NECC could be in place until February 2025.

### **Financial**

The ongoing financial support being provided by the constituent Councils is very much appreciated.

It is anticipated that the value and potential sale of the new Depot/Office facility will repay the additional contributions made by the four Councils.

The majority of NECC outstanding debts will be settled this month.

The additional contributions will enable all NECC outstanding debts to be settled this month and enables this Council to manage its cash flows and properly account for expenditure from grants.

An updated cash flow analysis, to November 2024, will be discussed with member Councils in the coming days. That analysis shows that the financial position goes negative in mid-September and remains that way until the end of November 2024

Work is underway to finalise the 2023/24 Financial Statements. An external contractor has been engaged to prepare the Statements for Audit.

## Audit, Risk and Improvement Committee

The first meeting of the Audit, Risk and Improvement Committee was held on 25th July 2024.

The independent members of the committee addressed each issue raised in the Management letter from the Audit Office NSW enabling a response to be made to the auditor.

## Review of Operations and consideration of future operating models.

The member Councils are seeking an understanding of the way NECC operates, financial arrangements and whether they are getting value for money.

The Councils are also seeking an independent opinion on the best operating model for the future.

Mr Paul Quealey, Lambourne partners has been engaged by the Councils to undertake the review with a completion date mid-September 2024.

## **Depot/Office Facility**

The recently completed Depot/Office facility at 21 Waller Avenue Armidale is the NECC asset which provides security for the additional contributions being made by constituent Councils.

It is proposed to put the property on the market but not sold without consultation with the constituent Councils.

### **Motion**

- 1. That the Minute be received and noted.
- 2. That the property 21 Waller Avenue Armidale be listed for sale with First National Real Estate Armidale but not be sold until consultation with constituent Councils occurs and a further decision is taken by this Council.

## 9. GENERAL MANAGERS REPORT

9.1 Below is the Delegation of Duties for New England Weed Authority. The transfer of these duties from the General Manager to the Acting General Manager is to be formally approved in the agenda to ensure the effective continuation of operations. This transition will take effect promptly.

Delegation of Authority - August 2024

## 9.2 WEEDS ACTION PROGRAM REPORT

### **RECOMMENDATION:**

That the Weeds Action Plan (WAP) Report, summarising activities and outcomes to date, including the 2023-2024 Weeds Action Program, be received and noted.

The <u>Weeds Action Plan Report</u>, for the full FY 2023 - 2024, is set out in the attached document, titled Weed Action Program (WAP).

The <u>Weeds Action Plan Report</u>, to 7th August 2024, is set out in the attached document, titled Weed Action Program (WAP).

9.3	<b>INVESTMENT REPOR</b>	Т
J.J		

At the time of this report, NEWA has no funds invested.

- 10. ANY OTHER BUSINESS
- 11. NEXT MEETING TBA

**MEETING CLOSE:**