



**ORDINARY MEETING OF THE COUNCIL**  
**GEWONE VERGADERING VAN DIE RAAD**  
**INTLANGANISO YESIQHELO YEBHUNGA**

**A G E N D A**

**I-AJENDA**

<b>DATE / DATUM / UMHLA :</b>	<b>28 APRIL / APRELI 2016</b>
<b>VENUE / PLEK / INDAWO :</b>	<b>BANQUETING HALL / BANKETSAAL CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU HERMANUS</b>
<b>TIME / TYD / IXESHA :</b>	<b>11:00</b>

# **MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

22 April / Apreli 2016

## **NOTICE TO ALL ALDERMEN & COUNCILLORS**

### **ORDINARY MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL**

**NOTICE IS HEREBY GIVEN** that an **ORDINARY MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held in the **Banqueting Hall, Civic Centre, Hermanus**, on **THURSDAY, 28 APRIL 2016** at **11:00** to consider the business set forth in the subjoined agenda.

*The attention of Councillors is directed to the Code of Conduct for Councillors and Municipal Officials, Schedules 1 & 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).*

**C GROENEWALD**  
**MUNICIPAL MANAGER**

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## **KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE**

### **GEWONE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD**

**KENNIS WORD HIERMEE GEGEE** dat 'n **GEWONE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word in die **Banketsaal, Burgersentrum, Hermanus**, op **DONDERDAG, 28 APRIL 2016** om **11:00** om die sake op meegaande sakelys te bespreek.

*Raadslede se aandag word gevestig op die Gedragskode vir Raadslede en Munisipale Beamptes, Bylae 1 & 2 van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000).*

**C GROENEWALD**  
**MUNISIPALE BESTUURDER**

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## **ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA**

### **INTLANGANISO YESIQHELO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND**

**OKU KUKWAZISA** ukuba intlanganiso **YESIQHELO yeBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iza kuba se **Banqueting Hall, kwiZiko LoLUNTU, eHermanus ngoLWESINE, 28 APRELI 2016 ngeye-11:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

*OoCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba namaGosa kamasipala, amaXwebhu 1 & 2 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, 2000 (UMthetho 32 wowama-2000).*

**C GROENEWALD**  
**UMPHATHI KAMASIPALA**

**AGENDA/...**

1. **OPENING**
  
2. **APPLICATIONS FOR LEAVE OF ABSENCE**
  
3. **CONFIRMATION OF MINUTES**
  
- 3.1 Minutes of an **Ordinary Meeting** of the Overstrand Municipal **Council** held on **Wednesday, 30 March 2016 at 11:00**
  
4. **STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE SPEAKER / EXECUTIVE MAYOR**

**5. CONSIDERATION OF RECOMMENDATIONS MADE BY THE EXECUTIVE MAYOR TO COUNCIL, IN TERMS OF SECTION 160(2) OF THE CONSTITUTION, 1996, AND SECTION 59(1)(a) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 2000 (ACT 32 OF 2000)**

**REMARK**

Please note that the following recommendations contained in this agenda are subject to confirmation or amendment by the Mayoral Committee in view of the fact that the **compilation of the Council agenda** was done before the Mayoral Committee of 28 April 2016 had formally sat.

**5.1**

**REVISION OF POLICY ON MEMBERSHIP OF MEDICAL AID FUNDS**

**(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)**

**RECOMMENDATION TO THE COUNCIL:**

that the reviewed Policy on Membership of Medical Aid Funds and Registration of Dependents on Accredited Medical Aid Funds, **be approved.**

**RESPONSIBLE OFFICIAL :**

**L BUCCHIANERI**

**TARGET DATE FOR IMPLEMENTATION :**

**1 MAY 2016**

**5.2****DRAFT DRESS CODE GUIDELINES****(ITEM 2, PAGE 8 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)****RECOMMENDATION TO THE COUNCIL:**that the draft Dress Code Guidelines **be approved**.**RESPONSIBLE OFFICIAL :****L BUCCHIANERI****TARGET DATE FOR IMPLEMENTATION :****1 MAY 2016**

**5.3**

**SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)  
THIRD QUARTERLY REPORT: JANUARY- MARCH 2016**

**(ITEM 3, PAGE 14 : MANAGEMENT SERVICES PORTFOLIO -  
MAYORAL COMMITTEE MEETING : 28 APRIL 2016)**

**RECOMMENDATION TO THE COUNCIL:**

that the content of the report for the third quarter of the 2015/16 financial year on the top level Service Delivery and Budget Implementation Plan, **be noted.**

**RESPONSIBLE OFFICIAL :****R LOUW****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

**5.4****TRANSFER : OVERSTRAND MUNICIPALITY TO MR GERCHAN JOHN HENN :  
ERF 995, HAWSTON****(ITEM 1, PAGE 1 : COMMUNITY SERVICES PORTFOLIO - MAYORAL  
COMMITTEE MEETING : 28 APRIL 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the permission be granted to transfer of Erf 995, Hawston to Mr Gerchan John Henn; and
2. that the aforementioned approval furthermore be subject to Mr Gerchan John Henn accepting responsibility for the outstanding municipal services account in respect of Erf 995, Hawston.

**RESPONSIBLE OFFICIAL :****FW FRANS****TARGET DATE FOR IMPLEMENTATION :****01 MAY 2016**

## 5.5

**HERMANUS, A PORTION OF ERF 4771, KNOWN AS “DUTCHIES RESTAURANT”: DEVIATION FROM PARAGRAPHS 18 AND 24 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A FURTHER TEMPORARY LEASE AGREEMENT WITH SUPERFECTA TRADING 608 CC**

**(ITEM 9, PAGE 367 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 in order to renew the current lease agreement with Superfecta Trading 608 CC for a further period of 2 (TWO) years without following a competitive process, **be approved;**
2. that the deviation from paragraph 24 of the Administration of Immovable Property Policy of 2015 in order to lease the property at the current lease amount (to escalate on 1 July 2016 in terms of the current lease agreement and thereafter on 1 July 2017 and 1 July 2018) being paid and not having to determine the fair market value by appointing a professional valuer; **be approved;**
3. that the renewal of the lease of Municipal Property, being a portion of Erf 4771 Hermanus to Superfecta Trading 608 CC for the management of a kiosk/restaurant at Grotto Beach, Hermanus at a monthly rental amount of R4,209.85 (FOUR THOUSAND TWO HUNDRED AND NINE RAND AND EIGHTY FIVE CENTS) (VAT excluded) until 30 June 2016, where-after the lease amount will escalate on 1 July 2016 with a percentage equal to the prevailing consumer price index (all items) for a period of 2 (TWO) years as from 1 October 2016 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;** and
4. that the lease amount mentioned in 3 above escalate on 1 July 2017 and 1 July 2018, by a percentage fixed in accordance with the prevailing consumer price index (all items) in accordance with paragraph 40 of the Administration of Immovable Property Policy of 2015.

<b>RESPONSIBLE OFFICIAL :</b>	<b>M MÜLLER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>20 JUNE 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>11 MAY 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>



**5.6**

**SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2015/2016 :  
3<sup>RD</sup> QUARTER: 01 JANUARY TO 31 MARCH 2016**

**(ITEM 5, PAGE 1 : - MAYORAL COMMITTEE MEETING : 28 APRIL  
2016)**

**RECOMMENDATION TO THE COUNCIL:**

that **cognisance be taken** of the activities undertaken and outcomes achieved in the implementation of the Overstrand Municipality Supply Chain Management Policy for the 3<sup>rd</sup> Quarter of 2015/2016;

**RESPONSIBLE OFFICIAL :**

**C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**

**5.7**

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)  
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c), FOR MARCH 2016**

**(ITEM 6, PAGE: 12 - MAYORAL COMMITTEE MEETING : 28 APRIL  
2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for March 2016, **be noted**; and
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for March 2016, **be noted**.

**RESPONSIBLE OFFICIAL :**

**C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**

5.8

**QUARTERLY BANK ACCOUNT WITHDRAWALS NOT IN TERMS OF AN APPROVED BUDGET FOR MARCH 2016**

**(ITEM 7, PAGE: 18 - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)**

**RECOMMENDATION TO THE COUNCIL:**

that the consolidated quarterly report, as per Annexure A, in respect of Bank Account Withdrawals not in terms of an Approved Budget for the quarter ended March 2016, **be noted.**

**RESPONSIBLE OFFICIAL :**

**BA KING**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**

**5.9****QUARTERLY BUDGET REPORT FOR APRIL 2016****(ITEM 8, PAGE: 21 - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)****RECOMMENDATION TO THE COUNCIL:**

that the budget report for the quarter ended April 2016, prepared as part of the financial reporting obligations arising from the Local Government: Municipal Finance Management Act, 2003, **be noted**.

**RESPONSIBLE OFFICIAL :****BA KING****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

## 5.10

**4<sup>th</sup> ADJUSTMENTS BUDGET 2015/2016 (ADDITIONAL WESTERN CAPE PROVINCIAL ALLOCATIONS)****(ITEM 9, PAGE: 58 - MAYORAL COMMITTEE MEETING : 28 APRIL 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 28(2)(b) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), the 4<sup>th</sup> Adjustments Budget for 2015/2016 **be approved** as set out in the following schedules:

- Schedule 1:** Budgeted financial performance (revenue & expenditure by municipal vote)
- Schedule 2:** Budgeted financial performance (revenue by source & expenditure by type)
- Schedule 3:** Budgeted multi-year capital appropriations by standard classification (vote) and associated funding by source
- Schedule 4:** Budgeted financial position
- Schedule 5:** Budgeted cash flow
- Schedule 6:** Cash backed reserves and acc. surplus reconciliation
- Schedule 7:** Asset management
- Schedule 8:** Basic service delivery measurement

2. that the following schedules be noted:

- Schedule 9:** Budgeted financial performance (revenue & expenditure by standard classification)
- Schedule 10:** Budgeted capital appropriations by municipal vote

**RESPONSIBLE OFFICIAL :****BA KING****TARGET DATE FOR IMPLEMENTATION :****29 APRIL 2016**

**5.11****REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)  
FOR 2015/16****(ITEM 10, PAGE: 134 - MAYORAL COMMITTEE MEETING : 28 APRIL  
2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the revised SDBIP for 2015/16 **be approved**;
2. that the amendments to the Departmental and Top Layer SDBIP for 2015/16 **be approved**; and
3. that the revised SDBIP for 2015/16 **be made public**.

**RESPONSIBLE OFFICIAL :****R LOUW****TARGET DATE FOR IMPLEMENTATION :****5 MAY 2016**

## 6. CONSIDERATION OF REPORTS

### 6.1

**APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 966, 73 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING : MESSRS OVERPLAN & ASSOCIATES ON BEHALF OF EAGLE VALLEY PROPERTIES 125 CC**

3/2/3/6

S Swart

7 April 2016

(028) 313 8006

Corporate Head Office

#### 1. Executive Summary

To submit a resolution of the proceedings of the Appeal Committee to Council for information.

#### 2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

#### 3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

#### 4. Delegated Authority

Not applicable. The matter is submitted **for information** only.

#### 5. Legal Requirements

Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

#### 6. Discussion

The nature of the appeal is as follows:

The appellant appeals against the Executive Mayor's decision dated 30 September 2015 that the application for rezoning be approved, subject thereto that the land use be limited to office use only.

**The Appeal Committee resolved as indicated in the recommendation hereunder.**

**7. Financial Implications**

The full deposit to be refunded to the appellant.

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

Not applicable

**10. Annexures**

Annexure A: Record of Decision of Appeal held on 30 March 2016

**RECOMMENDATION TO THE COUNCIL:**

that the decision of the Section 62 Committee **be noted**, namely:

1. that the appeal **be upheld**, subject thereto that condition 1(a) of the Executive Mayor's resolution dated 30 September 2015 **be removed**; and
2. that the full deposit **be refunded** to the appellant.

**RESPONSIBLE OFFICIAL :**

**H OLIVIER/S SWART**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**





**RECORD OF DECISION**  
30 MARCH 2016

**RE:**  
APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT:  
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 966, 73 MAIN ROAD,  
SANDBAAL, OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING : MESSRS  
OVERPLAN & ASSOCIATES ON BEHALF OF EAGLE VALLEY PROPERTIES 125  
CC

**PRESENT :**

**COUNCILLORS**

Ald A Coetsee  
Cllr D Coetzee  
Cllr M Dyani  
Cllr V Macothen  
Cllr L Krige

**CAPACITY**

Chairperson: Appeal Committee  
Member : Appeal Committee  
Member : Appeal Committee  
Member : Appeal Committee  
Member : Appeal Committee

**OFFICIALS**

Mr H Olivier  
Mr L Wallace  
Ms S Swart

Town Planner  
Legal Advisor  
Administrative Officer, Secretariat

**APPELLANT**

Eagle Valley Properties 125 CC Represented by Mr K Stead from Messrs Overplan &  
Associates

**APOLOGIES**

None

**ABSENT**

None

**APPELLANT:**

Messrs Eagle Valley Properties 125 CC, represented in the appeal by Mr K Stead from Messrs Overplan & Associates.

**RESPONDENT:**

Overstrand Municipality herein represented by Mr H Olivier, Town Planner.

**NOTICE OF APPEAL HEARING:**

Notices were sent to all parties concerned.

**NATURE OF APPEAL:**

The appellant appeals against the Executive Mayor's decision dated 30 September 2015 that the application for rezoning be approved, subject thereto that the land use be limited to office use only.

**CONSTITUTION:**

With the presence of a quorum, the Appeal Committee was regarded as duly constituted.

The Chairperson, Ald Coetsee, declared that no members of the Appeal Committee have a conflict of interest in the application barring their presence to this meeting.

**VALIDITY OF APPEAL:**

It was determined by the Appeal Committee that the appeal was lodged within the prescribed time frame viz. within 21 days of written notification of the decision taken by the Executive Mayor, and therefore the appeal was regarded as valid and could proceed.

It was noted that the deposit was paid in terms of the approved tariffs.

**SITE VISIT:**

None

**CONSIDERATION OF APPEAL:**

After due consideration of the documents and after hearing arguments by both parties, it was the opinion of the Committee that the merits of the appeal are not difficult and that the grounds of appeal are crisp. The Appellant handed out a letter from The Hermanus Rainbow Trust motivating their reasons to be able to sell fresh vegetables and sandwiches from Erf 966, Sandbaai. The chairperson stressed the fact that the Committee cannot be influenced by who the tenant is going to be. Some points raised by the Respondent did not make sense *inter alia* that retail concerns on the property can

have a negative effect on the surrounding residential area. It was important to note that the subject property is situated within a development node in the main road of Sandbaai, and that it is furthermore situated next to a shopping centre and opposite a supermarket. The Committee held the view that a relatively small retail outlet will not increase the commercial impact that currently exists in the area. The fact that no objections were received most probably attests to that.

**THE MEETING STOOD DOWN AT 14:55 FOR DELIBERATION BY THE PANEL**

**THE MEETING RESUMED AT 15:10**

The Committee then –

**RESOLVED (UNANIMOUSLY):**

1. that the appeal **be upheld**, subject thereto that condition 1(a) of the Executive Mayor's resolution dated 30 September 2015 **be removed**; and
2. that the full deposit **be refunded** to the appellant.

**The session of the Appeal Committee closed at 15:15**

SIGNED ON THIS 14<sup>TH</sup> DAY OF APRIL 2016 AT HERMANUS BY THE APPEAL COMMITTEE:

Clr A Coetsee **Chairman:** Appeal Committee .....

Clr D Coetsee **Member:** Appeal Committee .....

Clr V Macotha **Member:** Appeal Committee .....

Clr M Dyani **Member:** Appeal Committee .....

Clr L Krige **Member:** Appeal Committee .....

The block contains handwritten signatures in black ink. The signature for the Chairman, A. Coetsee, is a large, stylized cursive signature. The signature for D. Coetsee is also cursive. The signature for V. Macotha is a smaller, more compact cursive signature. The signature for M. Dyani is a very compact, almost illegible cursive signature. The signature for L. Krige is a cursive signature that clearly shows the name 'L. Krige'.

**6.2****IRREGULAR EXPENDITURE: SCMIE 2015/002: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT POLICY AFTER THE EXPIRY DATE OF THE THEN EXISTING SECURITY MONITORING CONTRACTS****3/2/3/8****H van Tonder  
3 April 2016****(028) 313 8037****Corporate Head Office****1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of irregular expenditure incurred for the payments for security monitoring services to the amount of R763 236.62.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996  
Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)  
Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)  
Overstrand Municipality Supply Chain Management Policy

**6. Background/Discussion**

The rendering of security services through monitoring systems have been operated since 1997 in Overstrand Municipality, and its predecessors, as individual contracts via a debit order payment system, prior to the establishment of the Supply Chain Unit in December 2005.

The terms and conditions regulating these contracts included an “evergreen clause”, which implies that the contract will renew itself on a month to month basis after the contract end date was reached.

Due to the value of the contract below R30 000 per year, contracts were secured by officials delegated to sign the contract agreements. These contracts were therefore signed by the delegated official across all directorates at that point in time.

The contract management function was still decentralised and therefore the responsibility of the respective departments. Ownership for security services contracts has recently been managed by officials employed in the Directorate: Protection Services.

The security services contract monitoring function, (currently resorting with the Directorate Protection Services, Law Enforcement Department), originates from a previous organogram structure referred to as "Directorate Public Services (2001)".

This function was integrated at that stage, with the current directorate, Community Services (established in June 2006), and subsequently transferred to the Directorate Protection Services (established in December 2008).

Prior to July 2012 the Contract Management function was managed by each individual department on a case by case basis at that stage, which was not supported by an electronic contract management system.

The contract management office subsequently reported that these transactions below R30 000 have not been supported by a new SCM process. Therefore, a portion of the expenditure incurred in terms of the contracts with evergreen clauses consisted of Irregular Expenditure. Contracts with the "evergreen" clause resulted in the automatic renewal there-of.

Effective contract management is a result of the security monitoring services at this stage solely resorting under the department "Law Enforcement.

Tenders have been awarded subsequently, providing for both security guarding and monitoring services, ensuring that the relevant directorate receive monthly reports which enable effective management of these contracts.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion that, although the municipality received value for money for the payments for security monitoring to the amount of R763 236.62, the expenditure was indeed irregular.

The Committee was unanimous in its decision to recommend to Council that the amount of R763 236.62 is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

**7. Financial Implications**

Irregular expenditure to the value of R763 236.62 to be written off as irrecoverable and expensed

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure of R763 236.62 be certified as irrecoverable and written off in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL:**

**B KING  
C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION:**

**6 MAY 2016**

**6.3****FRUITLESS AND WASTEFUL EXPENDITURE: MUNICIPAL FINANCIAL MANAGEMENT DEVELOPMENT PROGRAMME (MFMDP) - FUNDING FOR EMPLOYEE NUMBER 1295****3/2/3/8****H van Tonder****(028) 313 8037****Corporate Head Office****3 April 2016**

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**1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of fruitless and wasteful expenditure in the amount of R27 000.00.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance.

**4. Delegated Authority**

Not applicable

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)

**6. Background/Discussion**

In terms of the Minimum Competency Levels Regulations each and every budget holder of a municipality must obtain the prescribed qualification before the end of September 2015.

115 Employees were identified to obtain the abovementioned qualification and prescribed competencies, starting with our Top, Senior and Middle Level Managers. The first group completed their training in January 2012, the second group in March 2012, the third group in August 2013 and the fourth group in January 2015. The service provider for the first three groups was the University of Pretoria, and the University of Stellenbosch for the fourth group.

Another group, who are neither budget holders nor managers, started above course on 23 March 2015 at the School of Public Leadership, University Stellenbosch, in order to further their careers.

Employee No 1295 attended the first day of class, but due to medical reasons, was booked off for the rest of the week. It was advised that he should not complete the course. Other officials were approached to substitute Employee No 1295 but without any interest.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion after studying the Medical Reports included in the bundle, that the expenditure was indeed fruitless and wasteful, but that there was no negligence on the part of Employee No 1295. The Committee was unanimous in its decision to recommend to Council that the amount of R27 000,00 is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

#### **7. Financial Implications**

R27 000.00 to be written off

#### **8. Staff Implications**

None

#### **9. Comments from other Departments, Divisions and Administrations**

None

#### **10. Annexures**

None

#### **RECOMMENDATION TO THE COUNCIL:**

that the amount of R27 000.00, in terms of Section 32(2)(b) of the Local Government : Municipal Finance Management Act, No. 56 of 2003, be certified as irrecoverable and **be written off**.



**RESPONSIBLE OFFICIAL :**

**B KING  
C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**6 MAY 2016**

## 6.4

**IRREGULAR EXPENDITURE: SCMIE 2014/05: IN RELATION TO THE PAYMENTS FOR THE SECOND (2012) AND THIRD (2013) YEAR FOR THE ENTERPRISE LICENSE AGREEMENT WITH ESRI FOR THE GIS SYSTEM**

3/2/3/8

H van Tonder

(028) 313 8037

Corporate Head Office

3 April 2016

**1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of irregular expenditure incurred for the payments for the second (2012) and third (2013) year to the amount of R277 200.00 (excl VAT) for the Enterprise License Agreement with ESRI for the GIS System.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)

Overstrand Municipality Supply Chain Management Policy

**6. Background/Discussion**

In 2008 the Overstrand municipality began a process of rationalising and updating the disparate parts of the GIS software and spatial data that existed in the municipality, at that stage the greatest investment in GIS software was the ESRI software suite. The Western Province Government recommends and standardises on the ESRI ArcGIS (and its product suite).

This resulted in the municipality entering into an Enterprise License Agreement (ELA), where the municipality was licensed to use additional packages and received a higher level of support from ESRI. The value of the software received in this ELA amounted to R1,529,874 and represented a substantial increase in the capabilities available to the municipality.

The Capped ELA Proposal (in 2011) with ESRI for GIS licenses, was backed up by a Supply Chain Deviation, **SCD 2195/2012, SUPPLY CHAIN MANAGEMENT POLICY: APPLICATION FOR DEVIATION: ACQUISITION OF CAPPED ELA LICENSING FEE FOR THE GIS SYSTEM**, drawn up by the late Ernie Muller, the ICT Manager at the time.

The irregular expenditure issue has come about, by reference of supposition and provided documented evidence, through the intent of Mr E. Muller and team's deviation and the associated Supply Chain process followed.

The ELA was structured as a payment over 3 years, as outlined in the table below, and the deviation was to address the payment of the ELA contract in totality, however, evidently the deviation was drawn up and approved only for the first year (2011/2012) amount of R120,000 (excluding VAT).

<i>ELA 3 yearly cost</i>	<b>ELA Value &amp; Maintenance (excluding VAT)</b>
<i>Year 1: 2011/2012</i>	120,000.00
<i>Year 2: 2012/2013</i>	132,000.00
<i>Year 3: 2013/2014</i>	145,200.00
<b>Total</b>	<b>397,200.00</b>

It is our assumption that Mr E. Muller intended to write separate deviations for year 2 (*R132,000*) and year 3 (*R145,200*), however due to unforeseen circumstances (Mr E. Muller's cancer and subsequent sick leave) this was not followed up.

Therefore the fact that a Supply Chain Process was followed (albeit for the value of the first year only), the subsequent ELA license contract that was signed, and used as the proof of evidence to pay the license fees for the remaining years (year 2 and 3). This was an oversight, not an intentional omission.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion that, although the municipality received value for money for the payments for the second (2012) and third (2013) year to the amount of R277 200.00 (excl VAT) for the Enterprise License Agreement with ESRI for the GIS System, the expenditure was indeed irregular.

The Committee was unanimous in its decision to recommend to Council that the amount of R277 200.00 (excl VAT) is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

#### **7. Financial Implications**

Irregular expenditure to the value of R277 200.00 (excl VAT) to be written off as irrecoverable and expensed

#### **8. Staff Implications**

None

#### **9. Comments from other Departments, Divisions and Administrations**

None

#### **10. Annexures**

None

#### **RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure of R277 200.00 (VAT excluded) be certified as irrecoverable and written off in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL:**

**B KING  
C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION:**

**6 MAY 2016**

**6.5****IRREGULAR EXPENDITURE: THE EXECUTION OF A CONTROLLED FIRE IN KLEINMOND FOR TRAINING PURPOSES WITHOUT FOLLOWING THE OFFICIAL PROCUREMENT PROCESS****3/2/3/8****H van Tonder****(028) 313 8037****Corporate Head Office****1 April 2016**

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**1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of irregular expenditure incurred for the execution of a controlled fire in Kleinmond.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)

Overstrand Municipality Supply Chain Management Policy

**6. Background/Discussion**

In November 2013, a meeting was convened between the Overstrand Municipality's Fire Services and the Environmental Management Section concerning the management of the Kleinmond Commonage adjacent to the Kogelpark and Gerimed complex. The occupants of the complex were concerned about their safety in the case of wildfire and the issue had been escalated to the Mayor's office. The consensus amongst the participants was that the commonage should be burned, as the fuel load was excessive. A series of meetings ensued, which culminated in a fire management plan to burn the Commonage under controlled conditions.

After some delays the controlled fire was scheduled to take place during April 2014.

At a planning meeting in Kleinmond on 10 March 2014, it became apparent that additional fire-fighting capacity would be required for the management of the controlled fire. As a standard measure, the Working on Fire programme (WoF) is used for support by the Fire Services and Disaster Management for fire management purposes.

It also became apparent that Fire Services and Disaster Management did not have the necessary funds to pay for the teams, due to two large claims which had been submitted for disaster situations in the preceding months. Mr Green indicated that the Environmental Management Section could possibly assist if the funds were available on the operational budget.

The controlled burn took place on 9 April 2014. The controlled burn was successful and all the objectives of the fire management plan were achieved.

The WoF implementing agent, FFA Assets (Pty) Ltd, submitted invoice number 104029 for the amount of R 3 867.41 (excl VAT) on 14 May 2014 for the services they rendered. The invoice was submitted to the Finance Department on 15 May 2014 with an undertaking to compile and submit the request for deviation from normal tender procedures for the payment of the service. The request for deviation from normal tender procedures was compiled and submitted on 22 May 2014, was signed by the Senior Environmental Manager on 23 May 2014 and approved by the Director: Infrastructure & Planning on 28 May 2014. Supply Chain Management queried the lack of three quotations for the delivery of the service on 29 May 2014.

Upon the understanding that FFA Assets (Pty) Ltd was the sole supplier of the WoF services to Fire Protection Association Members, Overstrand requested such confirmation. A letter of confirmation of Membership of the Greater Overberg Fire Protection Association and the sole supplier status of trained fire teams was received from Ms. Wessels on 20 June 2014. A revised request for deviation was submitted to the Director: Infrastructure & Planning on 20 June 2014. Further requests for information were received and a final document was delivered on 9 July 2014.

The purpose of the controlled fire treatment in Kleinmond was to satisfy the Municipal objectives of democratic and accountable governance as well as the maintenance of a safe and healthy environment. The service was performed in response to a justified community concern and need for fire protection services, as well as in response to the biodiversity needs of the ecosystem within the designated municipal property. Subsidiary benefits included the training of

Municipal staff as well as co-operative governance with the Western Cape Nature Conservation Board.

The procurement of WoF services through FFA Assets (Pty) Ltd was regarded as a standard procedure for Overstrand Fire Services, as the services provided by FFA Assets (Pty) Ltd are provided at reduced rates for members of the Greater Overberg Fire Protection Association. Overstrand Municipality is a member of the Greater Overberg Fire Protection Services and is thus entitled to the benefits of membership. By using WoF services, Overstrand was not billed for the wages of ground staff utilized in the fire management operation and was only required to pay for transport costs and rations for the period concerned.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion that, although the municipality received value for money for the expenses incurred for the execution of a controlled fire in Kleinmond, the expenditure was indeed irregular.

The Committee was unanimous in its decision to recommend to Council that the amount of R3 867.41 (excl VAT) is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

## **7. Financial Implications**

Irregular expenditure to the value of R3 867.41 (excl VAT) to be written off as irrecoverable and expensed

## **8. Staff Implications**

None

## **9. Comments from other Departments, Divisions and Administrations**

None

## **10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received multiple benefits and value for money, the irregular expenditure of R3 867.41 (VAT excluded) be certified as irrecoverable and written off in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL:****B KING  
C LE ROUX****TARGET DATE FOR IMPLEMENTATION:****6 MAY 2016**



**6.6****IRREGULAR EXPENDITURE: PROVISION OF FOOD DURING DISASTER MANAGEMENT AND FIRE SUPPRESSIONS****3/2/3/8****H van Tonder  
3 April 2016****(028) 313 8037****Corporate Head Office****1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of irregular expenditure incurred for the payments for food/catering suppliers during disaster management and fire suppressions over the period February till March 2015 to the amount of R6 200.00.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996  
Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)  
Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)  
Overstrand Municipality Supply Chain Management Policy

**6. Background/Discussion**

On 20 April 2015 the office of the Chief Fire Office approached the Supply Chain Management Unit on request for deviation in terms of paragraph 36 of Council's SCM Policy with an updated memo received on 13 May 2015, for the provision of food to fire officials who were suppressing fire over the period of February till March 2015. The request was for approval to procure the services of Gilbert's Catering, to the value of R4, 000.00 (Invoice No.258) and R2, 200.00 (Invoice No.256) respectively.

Upon review of the documentation the SCM office identified the following aspects of non-compliance to the SCM Policy:

- The proposed services had already been executed in March 2015 without an official order or needed tacit approval by the Director.
- The delegated authority for the approval of deviation declined the application as according to him the motivation did not meet the requirements prescribed in Paragraph 36 of SCM Policy.
- No official procurement process, in terms of Paragraph 16 could be identified which supported the services rendered and expenditure incurred.
- As no SCM process was followed which justified the expenditure incurred, the municipality found itself in contravention of its own SCM policy without and other recourse but to declare this expenditure incurred as non-compliance or irregular expenditure, as defined in the MFMA (act 56 of 2003).

At the time it was rather impossible or impractical to adhere to normal procurement processes due to short time frames available to put fire fighters back on the line, and due consideration should be given on the fact that during major fires both administration and operational staff are effectively involved in fire-fighting operations as fires are managed 24/7 basis on scene from the initial call reporting the fire till a senior officer declares the scene safe. Both officers and administrative staff have to work a rotation basis to ensure that there's a command structure in place throughout the day and night. Therefore during major fires there is no staff to perform day to day activities.

The provision of food to fire department officials who were suppressing fires was supplied by Gilbert's Catering over the period of February and March 2015.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion that, although the municipality received value for money for the payments for food/catering suppliers during disaster management and fire suppressions over the period February till March 2015 to the amount of R6 200.00, the expenditure was indeed irregular.

The Committee was unanimous in its decision to recommend to Council that the amount of R6 200.00 is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

**7. Financial Implications**

Irregular expenditure to the value of R6 200.00 to be written off as irrecoverable and expensed

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure of R6 200.00 be certified as irrecoverable and written off in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL:****B KING  
C LE ROUX****TARGET DATE FOR IMPLEMENTATION:****6 MAY 2016**

6.7

**IRREGULAR EXPENDITURE: SCMIE 003/2014: NON-COMPLIANCE WITH THE SUPPLY CHAIN MANAGEMENT POLICY IN RELATION TO THE PROVISION OF COMMUNICATION LINES FOR CARD MACHINES**

3/2/3/8

H van Tonder

(028) 313 8037

Corporate Head Office

3 April 2016

**1. Executive Summary**

The purpose of the report is to request Council to approve the writing off of irregular expenditure incurred for the provision of communication lines for debit/credit card machines for the payments of municipal accounts/fines, et cetera to the amount of R57 928.37.

**2. Service Delivery and Budget Implementation Plan Reference - Ignite**

Not applicable

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996  
Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)  
Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)  
Overstrand Municipality Supply Chain Management Policy

**6. Background/Discussion**

During 2011, management of the Finance Directorate took a decision to implement debit/credit card machines facilities at the Municipal Offices, in order to make payment via these methods available to customers at municipal pay-points.

The Supply Chain Management section, (Contract Management office) has subsequently identified non-compliance to the Supply Chain Management Policy, due to the fact that these services was rendered in the 2012/13, 2013/14 and 2014/15 financial years, but no official procurement process could be identified for acquiring the services in the 2012/13, 2013/14 and 2014/15 financial years.

The Supply Chain Management Unit identified the following aspects of non-compliance to the SCM Policy:

- The mobile link between the Municipality's card payment machines and the bank, are being used on a daily basis without an official order.
- No official procurement process, in terms of Paragraph 18 could be identified which supported the rendered services and expenditure incurred.

The expenditure for the services incurred in these financial years, were therefore deemed by the Supply Chain Management section as irregular and need to be dealt with in terms of section 32 of the Municipal Finance Management Act (Act 56 of 2003) (MFMA).

The process to install debit/credit card machines was started during 2011. Before the machines could be installed, Overstrand Municipality had to provide its own communications lines, as it was not part of the bank tender document.

Three telephonic quotes were requested from FastNet, Xlink and Metacom Datalinx. The cheapest quotation, which was Xlink, was accepted. A stop order was signed by the then Director of Finance and the money was subsequently monthly deducted from the bank account, as from 30 September 2011 until 1 September 2014.

Monthly debit orders to the value of R47 880 went off against the Overstrand Municipality's bank account. The last debit order was deducted on 1<sup>st</sup> September 2014.

The expenditure incurred for the services in the respective financial years, was to improve service delivery to the public, in allowing customers to make payments via debit and/or credit cards at municipal pay-points.

Quotations were requested and received and the supplier who submitted the lowest quotation was appointed. Management is therefore of the opinion that no suppliers was prejudiced by the contravention and that the awarding of the quotations encompasses the principles of fairness, equality, transparency, competitiveness and cost-effectiveness.

Quotations were requested September 2014 in terms of the prescriptions of the Supply Chain Management Policy and Xlink was subsequently appointed. An official order was issued and invoices are delivered monthly for payment through the creditors system.

On 29 March 2016 the Section 79 Committee on Fruitless and Wasteful Expenditure consisting of Ald A Coetsee, Cllrs L Beyers-Cronje, K Brice and N Nqinata considered the matter.

The Committee came to the conclusion that, although the municipality received value for money for the payments for the provision of communication lines for debit/credit card machines to the amount of R57 928.37, the expenditure was indeed irregular.

The Committee was unanimous in its decision to recommend to Council that the amount of R57 928.37 is to be written off by Council as irrecoverable and expensed in accordance with Section 32(2)b of the MFMA.

#### **7. Financial Implications**

Irregular expenditure to the value of R57 928.37 to be written off as irrecoverable and expensed

#### **8. Staff Implications**

None

#### **9. Comments from other Departments, Divisions and Administrations**

None

#### **10. Annexures**

None

#### **RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure of R57 928.37 be certified as irrecoverable and written off in terms of Section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL:**

**B KING  
C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION:**

**6 MAY 2016**

6.8

RECESS : JUNE / AUGUST 2016

3/2/1/4

H van Tonder

(028) 313 8037

Corporate Head Office

8 April 2016

## 1. Executive Summary

The purpose of the report is to, in view of the Municipal Elections which are to take place on 3 August 2016, obtain confirmation of Council's recess from 25 May 2016 (**immediately after conclusion of the Council Meeting**) until 26 July 2016 and from 28 July 2016 until the outcome of the election is proclaimed by the Electoral Commission, concomitant with related matters. A Special Council Meeting is to take place on 27 July 2016.

## 2. Service Delivery and Budget Implementation Plan Reference - IGNITE

Not applicable

## 3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance.

## 4. Delegated Authority

None

## 5. Legal Requirements

- Constitution of the Republic of South Africa, 1996 (Constitution)
- Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) (Structures Act)
- Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (Systems Act)

## 6. Background/Discussion

Section 18(2) of the Structures Act provides that a municipal council must meet at least quarterly.

Item 3 of the Code of Conduct for Councillors (Schedule 1 to the Systems Act) provides that a Councillor must attend each meeting of the municipal council and of a committee of which that Councillor is a member. Apart from the aforesaid, Council's By-law on Rules of Order for Internal Arrangements also



addresses this matter. Should Council resolve to go into recess **immediately after conclusion of the Council Meeting on 25 May 2016 until 26 July 2016 and from 28 July 2016 to the date on which the outcome of the election is proclaimed by the Electoral Commission**, such a resolution will have no effect on Council's legal responsibility to meet at least quarterly.

During the proposed recess, all urgent matters can be dealt with by the Executive Mayor (or acting) in consultation with the Municipal Manager (or acting), except those reserved in terms of the provisions of Section 160(2) of the Constitution and Section 59 (1) (a) of the Systems Act for full Council.

Councillors are requested to specifically note that a Special Council Meeting is to take place on **Wednesday, 27 July 2016**.

#### **7. Financial Implications**

None

#### **8. Staff Implications**

None

#### **9. Comments from other Departments, Divisions and Administrations**

None

#### **10. Annexures**

None

#### **RECOMMENDATION TO THE COUNCIL:**

1. that, in view of the Municipal Elections which are to take place on 3 August 2016, **Council be in recess from 25 May 2016** (immediately after conclusion of the Council Meeting) **to 26 July 2016** (the latter included) **and from 28 July 2016 until the date on which the outcome of the election is proclaimed by the Electoral Commission (the latter date included)**;
2. that, during the period of recess, all urgent matters/emergency situations be dealt with by the Executive Mayor (or acting) in consultation with the Municipal Manager (or acting), except those reserved by law for full Council; and

3. that **cognisance be taken** that a **Special Council Meeting** will take place on **Wednesday, 27 July 2016** in the Banqueting Hall, Civic Centre, Hermanus, the time of which is to be confirmed in due course.

**RESPONSIBLE OFFICIAL :**

**H VAN TONDER**

**TARGET DATE FOR IMPLEMENTATION :**

**NOT APPLICABLE**

**7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)****8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS**

At the time of the closing of the agenda, no notices of motions/questions were received.

**9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY).**