



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

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 24 APRIL / APRELI 2023

**VENUE / PLEK / INDAWO : BANQUETING HALL /
BANKETSAAL**

**CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU
HERMANUS**

TIME / TYD / IXESHA : 11:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

17 April / Apreli 2023

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 **MONDAY, 24 APRIL 2023 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, Schedule 7 of the Local Government : Municipal Structures Act, 1998 (Act 117 of 1998).

D O'NEILL
MUNICIPAL MANAGER

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 **MAANDAG, 24 APRIL 2023 om 11:00** om die sake op meegaande sakelys te bespreek.

Raadslede se aandag word gevestig op die Gedragskode vir Raadslede, Skedule 7 van die Wet op Plaaslike Regering : Munisipale Strukture, 1998 (Wet 117 van 1998).

D O'NEILL
MUNISIPALE BESTUURDER

ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA

INTLANGANISO YESIQHELO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND

OKU KUKWAZISA ukuba intlanganiso **YESIQHELO yeBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iza kuba se **I-Banqueting Hall, kwiZiko LoLUNTU, eHermanus, uMVULO, Umhla we 24 APRELI 2023, ngeye-11:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

OCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba, iShedyuli 7 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, uMthetho -1998 (uMthetho we-117 ka-1998).

D O'NEILL
UMPHATHI KAMASIPALA

AGENDA/...

COUNCIL

24 April 2023

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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, 29 March 2023** at **10:00**

3.2 Minutes of a **Special Meeting** of the **Overstrand Municipal Council** held on **Tuesday, 11 April 2023** at **08:10**

4. STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE SPEAKER / EXECUTIVE MAYOR

4.1 Schulphoek Housing Project

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 are subject to confirmation or amendment by the Executive Mayor in view of the fact that the **compilation of the Council agenda** was done before the Mayoral Committee of 24 April 2023 had formally sat.

5.1

OVERSTRAND MUNICIPALITY: COST OF SUPPLY STUDY

(ITEM 1 PAGE 1 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

1. that the support received from the Provincial Department of Economic Development and Tourism through the Municipal Energy Resilience Project (MER) **be noted**;
2. that the implementation by the Municipality of the changes to the electricity tariff structure, as advised in the Cost of Supply study, subject to NERSA approval; **be approved**;
3. that these changes be phased in over a period of four years;
4. that the implementation of the new tariff structure be postponed for one year, therefore starting from 1st July 2024; and
5. that the Overstrand Cost of Supply and Tariff study be submitted to NERSA for approval.

RESPONSIBLE OFFICIAL :

**S MULLER
S REYNEKE-NAUDÉ**

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2023

5.2**OVERSTRAND MUNICIPALITY: HEMEL & AARDE VALLEY RURAL DEVELOPMENT AREA (RDA)****(ITEM 2 PAGE 127 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

that the Hemel & Aarde Valley: Rural Development Area (RDA) Development Guidelines be approved as a guiding document to the Overstrand Spatial Development Framework, 2020 and the Overstrand Integrated Development Plan with the condition that all development along the Onrustrivier be subject to a delineation of the floodplain by a professional registered person.

RESPONSIBLE OFFICIAL:**H VAN DER STOEP****TARGET DATE FOR IMPLEMENTATION:****25 APRIL 2023**

5.3

A PORTION OF PORTION 18 OF FARM NO 644 STANFORD: DEVIATION FROM PARAGRAPH 18 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A DIRECT LEASE AGREEMENT WITH FOOD FOR THOUGHT COMMUNITY PROJECTS NPC

(ITEM 9 PAGE 324 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to enter into a direct lease agreement with Food For Thought Community Projects NPC in respect of a portion of Portion 18 of Farm No 644 Stanford, ±25,500m² (APPROXIMATELY TWENTY FIVE THOUSAND FIVE HUNDRED SQUARE METRES) in extent for a period of 3 (THREE) years for agricultural purposes (vegetable farming only), without following a competitive bidding process at a rental amount equivalent to the rental amount approved for leases to non-profit organisations, being R167.83 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month for the 2022-2023 financial year, escalating annually on the 1st of July to an amount in accordance with the Municipality's budget for the specific financial year, **be approved.**

RESPONSIBLE OFFICIAL :	R MARINUS
TARGET DATE FOR IMPLEMENTATION :	30 MAY 2023
TARGET DATE TO INFORM APPLICANT :	15 MAY 2023
TARGET DATE TO INFORM OBJECTOR :	N/A

5.4

IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 1851 GANSBAAI (SITUATED AT 18 INDUSTRY CIRCLE, GANSBAAI INDUSTRIAL AREA), 4,000M² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS

(ITEM 10 PAGE 332 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 1851 Gansbaai (4,000m² in extent) for industrial purposes by means of a competitive process at a market related price **be approved in principle**;
2. that all the costs pertaining to the transaction, for example the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidder/purchaser; and
3. that it is hereby confirmed by Council that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	31 MAY 2023
TARGET DATE TO INFORM APPLICANT :	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A

**5.5
ENVIRONMENTAL PROGRESS REPORT**

**(ITEM 14 PAGE 552 : INVESTMENT & INFRASTRUCTURE
PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO THE COUNCIL:

that the report **be noted**.

RESPONSIBLE OFFICIAL :

S MULLER

TARGET DATE FOR IMPLEMENTATION :

N/A

5.6**BENEFICIARIES: 107 SERVICED SITES, HAWSTON: ADDITIONAL LIST (REPLACEMENTS)****(ITEM 5 PAGE 23 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

1. that the progress report with regard to the beneficiary subsidy status in the FLISP: 107 serviced sites, Hawston be **noted**;
2. that the additional list (replacements) of 19 (nineteen) potential beneficiaries (replacements) be **noted**;
3. that, given the support by the Minister of Human Settlements: Western Cape and the letter of support by the DOHS, potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross household income be approved to participate in the project under FLISP, subject to the qualifying criteria for FLISP (excluding income threshold) and Western Cape Provincial Circular 10/2015;
4. that approval be granted to potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross household income, to purchase serviced sites from the Municipality subject to:
 - (a) the site being sold at subsidise price in accordance with the municipal determination, and
 - (b) the candidate being informed that he/she will therefore not be receiving any FLISP subsidy assistance from the Department.
 - (c) recommendation(s) 4(a) and (b) should be applicable to previous reports: Affordable Housing: 107 serviced sites, Hawston, 28 August 2019 and Beneficiaries: 107 serviced sites, Hawston: additional list, 28 July 2021;
5. that the applicants on the Western Cape Housing Demand Database for Hawston, who physically reside in Hawston be given preference to participate in the FLISP project before opportunity is given to applicants on the Western Cape Housing Demand Database for the broader Overstrand Municipal area;
6. that the following procedure for potential beneficiaries to finalise subsidy applications, be approved:
 - (a) that potential beneficiaries be given 30 days' written notice to complete their subsidy application documentation; and
 - (b) that potential beneficiaries that do not respond to the first notice (30 days) be given a final written notice of 7 days;

7. that, in the event of any applicants not responding within the mentioned period of 7 days, the available housing opportunities be given to identified additional beneficiaries (replacements); and
8. that a separate report serve before Council regarding finalised erf prices.

RESPONSIBLE OFFICIAL:

TA GCOTYELWA

TARGET DATE FOR IMPLEMENTATION:

IN PROGRESS

5.7**BENEFICIARIES: AFFORDABLE HOUSING SERVICED SITES: MOUNT PLEASANT AND HERMANUS: WESTDENE****(ITEM 6 PAGE 42 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

1. that the once-off ratio allocation to beneficiaries per neighbourhood in the Mount Pleasant and Hermanus: Westdene be **approved**, namely;
Mount Pleasant : 10 erven
Hermanus: Westdene : 2 erven
2. that the list of 215 potential beneficiaries and additional lists of 102 potential beneficiary replacements for respective neighbourhoods be **noted**;
3. that given the support by the Minister of Human Settlements: Western Cape and the letter of support by the DOHS, potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross household income be approved to participate in the project under FLISP, subject to the qualifying criteria for FLISP (excluding income threshold) and Western Cape Provincial Circular 10/2015;
4. that approval be granted to potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross household income, to purchase serviced sites from the Municipality subject to:
 - (a) the site being sold at subsidise price in accordance with the municipal determination; and
 - (b) the candidate being informed that he/she will therefore not be receiving any FLISP subsidy assistance from the Department;
5. that the applicants on the Western Cape Housing Demand Database for Mount Pleasant and Hermanus, who physically reside in Mount Pleasant and Westdene be given preference to participate in the FLISP project before opportunity is given to applicants on the Western Cape Housing Demand Database for the broader Overstrand Municipal area;
6. that the schedule of erf prices to be finalised with the Directorate Infrastructure and Planning;
7. that the following procedure for potential beneficiaries to finalise subsidy applications, be approved:

- (a) that potential beneficiaries be given 30 days written notice to complete their subsidy application; and
 - (b) that potential beneficiaries that do not respond to the first notice (30 days) be given a final written notice of 7 days;
8. that, in the event of any applicants not responding within the mentioned period of 7 days, the available housing opportunities be given to identified additional beneficiaries (replacements); and
9. that the erf prices be finalised and submitted to Council in a separate report.

RESPONSIBLE OFFICIAL :

**TA GCOTYELWA
A LE ROUX
D HENDRIKS**

TARGET DATE FOR IMPLEMENTATION :

IN PROGRESS

TARGET DATE TO INFORM APPLICANTS:

31 MAY 2023

TARGET DATE TO FINALISE ERF PRICES:

1 JULY 2023

5.8

SHORT TERM LEASE AGREEMENTS IN THE OVERSTRAND REGION: DEVIATION FROM PARAGRAPH 20.1(b) OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2022 ALLOWING THE MUNICIPALITY TO ENTER INTO FURTHER LEASE AGREEMENTS WITH LESSEES AT THE ONRUS CARAVAN PARK: RENEWAL OF LEASE AGREEMENTS SUBJECT TO CONDITIONS

(ITEM 7 PAGE 72 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

1. that the Municipal Manager approves in principle the short-term lease agreements for three years with the current occupiers of the stands in the Onrus Caravan Park;
2. that the Municipal Manager approves in principle that the process for longer lease agreements be followed in the third year, subject to:
 - a) Council approving the deviation from paragraph 20.1 (b) as to the public participation process;
 - b) Council approving the deviation to proceed with entering into direct leases;
 - c) Executive Mayor approving the long-term leases.
3. that the Municipal Manager advises whether it is necessary to request a deviation from the relevant policy to enter into direct 3-year lease agreements with the current occupiers of the stands.

RESPONSIBLE OFFICIAL :**AJE WYNGAARD****TARGET DATE FOR IMPLEMENTATION :****01 JULY 2023**

5.9**DRAFT ACTING AND ACTING ALLOWANCE POLICY****(ITEM 1 PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**that the draft Acting and Acting Allowance Policy **be approved.****RESPONSIBLE OFFICIAL:****L BUCCHIANERI****TARGET DATE FOR IMPLEMENTATION:****12 MAY 2023**

5.10

DRAFT: HUMAN RESOURCES (HR) STRATEGY: FILLING OF POSTS

**(ITEM 2 PAGE 9 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO THE COUNCIL:

that the Draft: Human Resources (HR) Strategy: Filling of Post **be approved**.

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.11

DRAFT EXIT MANAGEMENT POLICY

**(ITEM 3 PAGE 20 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO COUNCIL:

that the Draft Exit Management Policy **be approved.**

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.12

DRAFT CHANGE MANAGEMENT STRATEGY

**(ITEM 4 PAGE 36 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO THE COUNCIL:

that the Draft Change Management Strategy **be approved.**

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.13

REVISED SCARCE SKILLS AND RETENTION POLICY

**(ITEM 5 PAGE 53 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO COUNCIL:

that the Revised Scarce Skills and Retention Policy **be approved**.

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.14

REVISED DECLARATION OF INTEREST AND PRIVATE WORK POLICY

**(ITEM 6 PAGE 68 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 24 APRIL 2023)**

RECOMMENDATION TO THE COUNCIL:

that the Revised Declaration of Interest and Private Work Policy **be approved.**

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.15

DRAFT: HUMAN RESOURCES (HR) STRATEGY AND HUMAN RESOURCES (HR) IMPLEMENTATION PLAN

(ITEM 7 PAGE 84 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

that the Draft HR Strategy and HR Implementation Plan **be approved**.

RESPONSIBLE OFFICIAL:

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION:

12 MAY 2023

5.16**SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2022/2023:****3rd QUARTER: 01 JANUARY 2023 TO 31 MARCH 2023****(ITEM 1 PAGE 1 : FINANCE & TOURISM PORTFOLIO - MAYORAL
COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

that the activities undertaken, and outcomes achieved in the implementation of the Overstrand Municipality's Supply Chain Management Policy for the 3rd Quarter of 2022/2023 **be noted**.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.17**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR MARCH 2023****(ITEM 2 PAGE 30 : FINANCE & TOURISM PORTFOLIO - MAYORAL
COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for March 2023, **be noted**;
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 2023, **be noted**; and
3. that the awards made through the Bid Committee system, and formal written price quotations in excess of R30 000 and all price quotations below R30 000 for March 2023, **be noted**.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.18

QUARTERLY BANK ACCOUNT WITHDRAWALS IN TERMS OF SECTION 11(4) OF THE MFMA FOR THE QUARTER ENDED MARCH 2023

(ITEM 4 PAGE 55 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

that the consolidated quarterly report in respect of Bank Account Withdrawals in terms of Section 11(4) of the MFMA for the quarter ended March 2023, **be noted**.

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

5.19

BUDGET REPORT AND SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) FOR THE QUARTER ENDED MARCH 2023**(ITEM 5 PAGE 58 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

1. that the budget report and service delivery and budget implementation plan for the quarter ended March 2023, prepared as part of the reporting obligations arising from the Local Government: Municipal Finance Management Act, 2003 and additional information, **be noted**; and
2. that the content of the report, for the third quarter of the 2022/2023 financial year, on the top level Service Delivery and Budget Implementation Plan **be noted**.

RESPONSIBLE OFFICIALS :**BA KING
RG LOUW****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.20

REPORT ON THE PROPOSED 4TH ADJUSTMENTS BUDGET & REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) FOR 2022/2023

(ITEM 6 PAGE 139 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)

RECOMMENDATION TO THE COUNCIL:

1. that, in terms of section 28(2)(g) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), the 4th Adjustments Budget for 2022/2023 **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
3. that the changes (adjusted financial figures) to the Service Delivery and Budget Implementation Plan (SDBIP) for 2022/23 **be approved**; and
4. that the revised SDBIP for 2022/23 **be made public**.

RESPONSIBLE OFFICIAL :

**BA KING
RG LOUW**

TARGET DATE FOR IMPLEMENTATION :

1 MAY 2023

5.21**REQUEST FOR EXEMPTION FROM PARAGRAPH 29(4)(b) OF THE SCM POLICY****(ITEM 7 PAGE 237 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 24 APRIL 2023)****RECOMMENDATION TO THE COUNCIL:**

that Council **approves** an exemption from paragraph 29(4)(b) of the SCM policy until such time that this matter is clarified with National Treasury and the Department of Cooperative Governance and Traditional Affairs, and a solution is implemented.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****24 APRIL 2023**

6. CONSIDERATION OF REPORTS**6.1****NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT POLICY WITH REGARDS TO INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: TRANSLATION SERVICE**

D Arrison
16 February 2023

Director: Management Services

(028) 313 8001

1. Executive Summary

The purpose of this report is to provide the necessary information and to request Council to write off the irregular expenditure in terms of the following incurrence of the irregular expenditure:

The expenditure incurred in contravention of Clause 15 of Council's Supply Chain Management (SCM) Policy to the Accounting Officer, in terms of Section 3(1)(b) of the Local Government: Municipal Finance Management Act (56/2003): Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and/or Section 32 of the Local Government: Municipal Finance Management Act (56/2003).

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Management Service
Communication Department

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Not applicable

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion

Background

A staff member of the Municipality was charged with serious misconduct and a disciplinary hearing was scheduled to commence on 01 August 2019. Upon request from the union, the matter was postponed to 21 August 2021 and all parties agreed to attend. The day of the hearing came, 21 August 2019, and it was again postponed to commence on 24 October 2019. Due to unforeseen bereavement by a union representative, the parties all agreed to move the hearing to 07 November 2019. On 07 November 2019, the employer representative requested a language practitioner to translate from Afrikaans to English and again postponement was granted.

Interpreting services are required by the Municipality to be able to convey a message in a language spoken by our communities and officials and therefore it was the Communication department's responsibility to ensure these services are made available whenever requested. On 18 December 2019, a request (104081) was captured by Riana on the system for the provision of interpreting services from English and Afrikaans, vice versa, on "as and when" the services are needed, starting from 01 January 2020 to June 2020. On 20 January 2020, an order number (243676) was issued for bulk order, to an amount of R20 000, for interpreting services and was awarded to Ms Alta Pretorius. The service provider was informed of an award and terms were communicated with her, of what was expected and that it will be communicated when her services are needed.

The first setting of the hearing started only on 12 March 2020 but did not conclude. The parties then agreed to continue and finalise the hearing on 07 and 08 May 2020. Unfortunately, the whole country went into National Lockdown on 26 March 2020, in the meantime, the language practitioner was already appointed through the SCM process.

On 01 June 2020, the chairperson of the disciplinary hearing requested dates for the hearing to continue. It became a struggle for the parties to agree on a date for the hearing to continue as the COVID pandemic was on its highest peak, and ultimately, it was the end of the financial year 2019/2020, and the hearing was still not finalised. Only two sittings were invoiced by Alta Pretorius and were submitted for payment before the end of 2019/20 financial year. The remaining balance that was on the order was then cancelled as SCM processes.

The hearing continued to the next financial year 2020/21, and a new SCM process had to start again. Unfortunately, the Communication department being the budget holder responsible for the b-key used was not informed by Human Resources department that a new order number will be needed for

Alta's services. After several postponements in between the hearing, it was finally concluded on 21 October 2020. This means that the final invoice as sent in October after the order was cancelled.

Corrective Steps / Conclusion

Engagements with trade unions conveying how the postponements have had a cascaded effect in negatively impacting SCM processes that had been put in place.

On 31 March 2023, the Municipal Public Accounts Committee (MPAC) consisting of Cllrs C Tafu-Nwonkwo, S Williams and K Ngqandana considered a detailed report on the matter and came to the conclusion that the Municipality did not suffer any financial loss and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R1 208.00 be certified as irrecoverable and be written off.

7. Financial Implications

Irregular expenditure to the value of R1 208.00 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, in view of the municipality having received value for money, the irregular expenditure in the amount of R1 208.00 for the provisioning of services, 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 :

**C LE ROUX
B KING**

6.2**INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE:
SCIE 2022.23.10: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT
POLICY WITH REGARDS TO: BABOON MANAGEMENT PROGRAMME****S Müller****Director : Infrastructure & Planning****22 December 2022****(028) 313 8019**

1. Executive Summary

The purpose of this report is to provide the necessary information and to request Council to write off the expenditure in terms of section 32(2)(b). This report contains the detailed background and reasons for the incurrence of the expenditure, when services were rendered in relation to baboon management from July 2022 up to November 2022.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Infrastructure and Planning
Department: Environmental Services

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)
Overstrand Municipality Supply Chain Management Policy dated 25 May 2008, as amended.

6. Background/Discussion/Evaluation/Conclusion**Background/Discussion**

In July 2019 Human Wildlife Solution (HWS) was successfully awarded the three-year Baboon Management Program Deviation on the contract No. SCD 3392/2021, contract period ending 30 June 2023.

The contract was generated for the Overstrand Wide Programme and it covered the areas of Hermanus, Onrus, Kleinmond, Betty's Bay and Pringle

Bay and the troops associated with these areas were Vogelgat, Hamilton-Russel, Voëklip, Onrus, Betty's Bay and Pringle Bay troops. When the Pringle Bay troop was successfully removed out of Pringle Bay town in 2021, the troops in Hangklip, respectively named Silversands and Hangklip, moved into Pringle Bay town and started to cause disruption in the urban area. The contract with HWS had to be revised to include the additional two troops in Hangklip area in order to keep these troops out of the town of Pringle Bay.

A new deviation needed to be drawn up for the additional two troops added to the contract.

A revised budget was requested from HWS and received in June 2021. The budget had to be submitted to the budget steering committee for the 2022/2023 financial year. The additional paperwork for the new deviation needed to be drafted and finalised and was submitted to Supply Chain Management (SCM) in October 2021. This process took 4 months to complete.

HWS's Tax Clearance Certificate (TCC) was not valid before this time and documentation could not be submitted for procurement but after resubmission SCM came back on 28 October 2021 and informed the user department that although HWS's Tax Clearance Certificate was now cleared, HWS still had outstanding documents to complete which was required for any new annual applications. The user department submitted the request for the annual documentation to the service provider on the next day.

The service provider however wanted to first get legal opinion on the matter as they believed that they already submitted all the sufficient documentation and did not have to submit it again and therefore requested a meeting with OM's Mr Roets and Supply Chain. After the matter was discussed *ad nauseum*, the service provider returned the documentation on the 20 December 2021, 2 months later, and it was forward to SCM on the next day. On the same day SCM confirmed that all the documentation was in order.

On the 19 May 2022 the budget was approved for the Hangklip troop and a quotation was requested from the service provider in order to finalise the Hangklip deviation. A quotation was received from the service provider on 14 June 2022, 1 month later.

On 21 June 2022 the Director requested the user department to increase the original amount of the deviation from R4million to R8million to include the 2023 financial year budget. This was forwarded to Mr Muller on 21 June 2022.

On 1 July 2022 the user department requested a meeting with the CFO and MM to discuss the fact that there was cut in the 2023 budget amount for the

Baboon Management Programme. These costings for the Programme were already set in the Strategic Baboon Management Plan and could not be changed and the user department requested a review of the amount. The meeting confirmed that the shortfall needed to be corrected with the mid-year review. It was forwarded to Director Muller for signature. The documentation was forwarded to SCM and on 1 September 2022 the Service Provider was informed that their Tax Clearance Certificate Pin was non-compliant. This process took 2 months to finalise.

After many emails and communications with the service provider in order to solve the outstanding documentation, the SARS Compliant TCC Pin was received on 30 November 2022. This took 3 months to finalise.

The entire process took 12 months to get to this point. The risk of injury to people or wildlife or damage to property were too great a risk to the Municipality to stop the programme infield and we had to continue while the finance and administrative processes were being finalised.

The user department and associated financial departments tried everything in our official and legal capacity to fasten the processes but we had to stay within the processes required and keep the risk of danger to life and property low.

The Municipality did not suffer a financial loss as the service was rendered and risk and danger to life and property was kept to a minimum.

Corrective Steps/Conclusion

The service was rendered without an official order issued therefore and thus it is agreed that the expenditure was irregular. However, value for money was received as the services were indeed rendered.

On 31 March 2023, the Municipal Public Accounts Committee (MPAC), consisting of Cllrs C Tafu-Nwonkwo, S Williams and K Ngqandana considered a detailed report on the matter and came to the conclusion that the Municipality did not suffer any financial loss and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R2 015 255.07 (Vat incl) be certified as irrecoverable and be written off.

7. Financial Implications

R2 015 255.07 (Vat incl)

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 fact that the municipality received value for money, the irregular expenditure to the amount of R2 015 255.07 (Vat Incl) rendered for the management of baboon troops without an official order, 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:**C LE ROUX
B KING**

6.3**INSTANCE OF POSSIBLE FRUITLESS AND WASTEFUL EXPENDITURE:
UNPAID ABSENCE NOT RECOVERABLE FROM A FORMER EMPLOYEE UPON
TERMINATION OF SERVICE (EMPLOYEE NO 3252)****J Solomons**
15 March 2023**Acting Director : Community Services****(028) 313 8156**

1. Executive Summary

The purpose of this report is to report to Council an instance of fruitless and wasteful expenditure incurred in respect of an outstanding amount not recoverable from a former employee (3252) upon the termination of his services with the Overstrand Municipality.

2. Service Delivery and Budget Implementation Plan - IGNITE

Community Services
Area Management: Hermanus

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment
The encouragement of structured community participation in the matters of the Municipality

4. Delegated Authority

Not applicable

5. Legal Requirements

Local Government: Finance Management Act 2003, (Act 56 of 2003)
Overstrand Municipality: Supply Chain Management Policy dated 25 May 2008, as amended.

6. Background/Discussion/Evaluation/Conclusion**Background**

On 7 February 2022 it was brought to the attention of the salary office that the services of former employee no 3252 was terminated with immediate effect as from 2 February 2022. Unfortunately, however, at the time of termination there was not sufficient funds available to recover the full

liability in respect of unpaid hours, resulting in an amount of R6,573.59 being unrecoverable.

Discussion

The said former employee's vocational leave was already depleted prior to October 2021. Last-mentioned also continued to abscond from work for which unpaid leave was recorded against him for specified periods, namely:

Period	Date Captured	Time
24/11/2021 – 03/12/2021	15/12/2021	08:13
20/12/2021 – 29/12/2021	30/12/2021	12:54
06/01/2022 – 31/01/2022	21/01/2022	11:07

The said former employee accumulated only 2 days' leave up to 3 December 2021, which he took on 3 and 4 January 2022. He was subsequently dismissed on 2 February 2022 due to abscondment. The salary office was informed accordingly on the same day.

In conclusion the finding on the following:

1. Due process (e.g. serving of notices) had to be followed with abscondment by the former employee that caused delay with recording of unpaid leave.
2. No short hours for December 2021 salaries were taken into consideration due to problems ESS PayDay not pulling through leave to KRONOS.
3. The unpaid leave for 6 – 31 January 2022 was timely recorded as per request of the salary office.

Corrective Steps/Conclusion

On 31 March 2023, the Municipal Public Accounts Committee (MPAC), consisting of Cllrs C Tafu-Nwonkwo, S Williams and K Ngqandana considered a detailed report on the matter and came to the conclusion that the fruitless and wasteful expenditure to the amount of R6,573.59 can be certified as irrecoverable and be written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

7. Financial Implications

Fruitless and wasteful expenditure to the value of R6,573.59 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 fruitless and wasteful expenditure to the amount of R6,573.59 be certified as irrecoverable and be written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

RESPONSIBLE OFFICIAL :**C LE ROUX
B KING**

6.4

PERFORMANCE BONUS TO MUNICIPAL MANAGER, MR D O'NEILL, FOR THE PERIOD 1 JULY 2021 UNTIL 30 JUNE 2022

D Arrison
17 April 2023

Director: Management Services

(028) 313 8004

1. Executive Summary

The purpose of this report is for Council to approve the payment of a performance bonus to the Municipal Manager for the 2021/2022 financial year.

2. Service Delivery and Budget Implementation Plan - IGNITE

Management Services

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

Section 8 (3) of the Local Government: Municipal Systems Act, 32 of 2000 (MSA) Municipal Planning and Performance Management Regulations, 2006

6. Background

The fixed term contract of employment of the Municipal Manager, Mr DGI O'Neill, clause 6 provides for the following:

“6. PERFORMANCE BONUS

*6.1 The provisions of The Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to the Municipal Manager, 2006 (GN R805 dated 1 August 2006), as amended from time to time, shall be applicable on the **Employee**.*

6.2 Details of this process and the implementation thereof are contained in the Performance Agreement and guideline document, but subject thereto that it will be calculated as from 1 July, being the commencement date of a

financial year, and where a full financial year's performance is not being evaluated, it will be done on a pro rata basis."

Regulation 8 of the regulations referred to in clause 6.1 above provides as follows:

- "8. Performance bonus-** *In accordance with regulation 32, a performance bonus, based on affordability, may be paid to the employee after –*
- (1) The annual report for the financial year under review has been tabled and adopted by the municipal council;*
 - (2) An evaluation of performance in accordance with the provisions of regulation 23; and*
 - (3) Approval of such evaluation by the municipal council as a reward for outstanding performance.*

Discussion

With regard to regulation 8(1) quoted above, it is herewith confirmed that the final annual report and oversight report for 2021/2022 was adopted by Council on 29 March 2023 as per the following resolution:

"That in terms of Section 129 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) and having duly considered the 2020/2021 Annual Report of the Overstrand Municipality and the content of this item, the said report be approved without reservation."

The Municipal Manager's evaluation for the period 1 July 2021 – 30 June 2022 took place on 27 September 2022 and the results are indicated below:

Evaluation outcome and bonus payable:

DESIGNATION	NAME	FINAL ASSESSMENT (% achieved)	BONUS % OF TOTAL PACKAGE
Municipal Manager	Mr Dean O'Neill	75.%	10%

The bonus structure in terms of Regulation 805, 1 August 2006. Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006 is as follows:

The structure indicated in the regulation is:

% Achieved Bonus

130% - 149% = 5 - 9%

150% + 10 - 14%

The bonus is therefore calculated as follows:

<i>% Achieved</i>	<i>R805 %</i>	<i>Bonus</i>	<i>Total Average Score</i>
65%	130%	5%	3.25
66%	132%	5%	3.30
67%	134%	6%	3.35
68%	136%	6%	3.40
69%	138%	7%	3.45
70%	140%	7%	3.50
71%	142%	8%	3.55
72%	144%	8%	3.60
73%	146%	9%	3.65
74%	148%	9%	3.70
75%	150%	10%	3.75
76%	152%	10%	3.80
77%	154%	11%	3.85
78%	156%	11%	3.90
79%	158%	12%	3.95
80%	160%	12%	4.00
81%	162%	13%	4.05
82%	164%	13%	4.10
83%	166%	14%	4.15

The Municipal Manager is, in terms of the evaluation process and outcome, entitled to a bonus equivalent to 10% of his all-inclusive remuneration package for the period 1 July 2021 until 30 June 2022 and funding for this purpose is available on the current budget.

7. Financial Implications

Provision was made on the operating budget to cover the costs associated with the payment of the performance bonus.

8. Staff Implications

Municipal Manager

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that, in terms of regulation 8(3) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to the Municipal Manager, 2006 (GN R805 dated 1 August 2006), as amended, the payment of a bonus equivalent to 10% of the Municipal Manager's all-inclusive remuneration package for the period 1 July 2021 until 30 June 2022 **be approved.**

RESPONSIBLE OFFICIAL :**D ARRISON****TARGET DATE FOR IMPLEMENTATION :****IMMEDIATELY**

7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)

7.1

OVERSTRAND MUNICIPALITY: REVISION OF THE CEMETERY POLICY

DGI O'Neill
21 April 2023

Municipal Manager

(028) 3138003

1. Executive Summary

The purpose of this report is for Council's approval for the amendment of the Cemetery Policy as approved by Council on 27 July 2022.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Community Services

3. Compliance with Strategic Priority

Provision and maintenance of Municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

Constitution of the Republic of South Africa, Act 108 of 1996
Local Government: Municipal Systems Act, Act No 32 of 2000

6. Background/Discussion/Evaluation/Conclusion

Background

The following amendments/omissions under paragraph 17 are proposed:

[] **Word in bold type in square brackets indicate omissions from existing enactments.**

_____ Words underlined with a solid line indicate insertions in existing enactments.

17.2 A person applying for the interment **[an]** of **[unclaimed]** a corpse must-
(a) depose to an affidavit **[or]** and be in possession of a letter from

the relevant ward councillor to the effect that:

17.8 No family members must be present during the interment of the corpse.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Proposed draft Cemetery Policy

RECOMMENDATION TO THE COUNCIL:

that the revised Overstrand Municipal Cemetery Policy **be approved.**

RESPONSIBLE OFFICIALS :

**DEPUTY DIRECTOR:
OPERATIONAL SERVICES
AREA MANAGERS:
KLEINMOND, GANSBAAI,
HERMANUS
SENIOR OPERATIONAL
MANAGERS: KLEINMOND,
GANSBAAI, HERMANUS**

TARGET DATE FOR IMPLEMENTATION :

01 MAY 2023



OVERSTRAND MUNICIPALITY CEMETERY POLICY

=====

[] Word in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

=====

Approved by Council: ~~[27 July 2023]~~
Revised: 24 April 2023

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OVERSTRAND MUNICIPALITY CEMETERY POLICY DEFINITIONS, ESTABLISHMENT AND CONTROL

PURPOSE

- To provide for the establishment and closing of cemeteries;
- to provide for the administration of municipal cemeteries;
- to regulate the burial of bodies;
- to prohibit the desecration, destruction and damaging of graves in cemeteries and receptacles containing bodies;
- to regulate the exhumation, disturbance, removal, and reinterment of bodies; and
- to provide for matters incidental thereto.

1. DEFINITIONS

In this policy, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates:

"ashes" means the cremated remains of a body;

"body" shall mean any dead human body, including the body of any stillborn child;

"burial" means burial in the earth or some other form of interment and shall include any other mode of disposal of a body;

"burial order" means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

"cemetery" means any burial place which, as contemplated in section 3, has been duly set apart by the Municipality for the burial or disposal of bodies within the Municipal area of the Overstrand;

"coffin" means any form of opaque outer shell which completely encloses the body and is of sufficient strength to bear the weight of a body without collapsing;

"double depth plot" a single plot in which the caskets are buried on top of each other;

"interment" means to commit a corpse or ashes to its final resting place;

"memorial" means any tombstone, monument, kerbing, bed and chips, plaque, and inscription on it, or other similar work erected or intended to be erected in any cemetery to commemorate a deceased person;

"Municipal area" means the area described in Clause 2 of the Establishment Notice published under Provincial Notice 487 dated 22 September 2000;

"Municipality" means the Municipality of Overstrand established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 488 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer,

councillor, agent or employee;

“**name**” includes any identifying description of a deceased human being who possessed no name or whose name is unknown;

“**unclaimed corpse**” deceased persons with no known next of kin.

2. APPLICATION

This policy shall be applicable in the Municipal area of the Overstrand, and cemeteries shall be under the control of the Overstrand Municipality.

3. ESTABLISHMENT OF PUBLIC CEMETERIES

- 3.1 The Municipality may set apart any piece of land within its area of jurisdiction for the purposes of a cemetery and is responsible for the general maintenance of such cemetery.
- 3.2 The council must before decide to establish a municipal cemetery-
 - (a) undertake a geophysical and other relevant scientific investigations to determine a suitable site for a cemetery;
 - (b) obtain the provisional approvals from the national or provincial departments of health and water; and
 - (c) advertise its intention to establish a municipal cemetery and invite objections or comments thereon.
- 3.3 The Municipality may set aside cemeteries or any section thereof for the interment of the dead of any religious denomination or other body or community; provided that such setting aside will not vest in any person the right to be interned in any particular place in any cemetery.
- 3.4 Notwithstanding the provisions of subsection (3.1), the responsibility for the maintenance of the areas contemplated in subsection (3.3) rests with the group to which exclusive use was granted.
- 3.5 The Municipality may set aside cemeteries or any section thereof to be maintained by the Municipality in the form of memorial gardens.
- 3.6 Passive cemeteries-
 - (a) Once a cemetery is full and can no longer be used as an active cemetery, the Municipality must declare, through the issuing of a certificate, that cemetery to be a passive cemetery.
 - (b) The Municipality may declare sections of a cemetery which are full to be closed, pending the use of the remaining sections of the cemetery. Once the entire cemetery is full, the Municipality must declare the cemetery to be a passive cemetery in accordance with subsection 3.6 (a).
 - (c) The Municipality is responsible for the on-going maintenance of all passive cemeteries.

CEMETERIES

4. AUTHORITY FOR INTERMENT

- 4.1. No person shall inter a body or cause it to be so interred within the Municipal area other than in a cemetery-
 - (a) No body shall be interred in the earth in a cemetery within the Municipal area without permission of the Municipality.
 - (b) Such permission shall not be granted unless a burial order in terms of the Births and Death Registrations Act 51 of 1992 replaced by No. 18 of 2010: Births and Deaths

Registration Amendment Act, 2010, has been issued and produced to the officer in charge, and payment of the fees as determined by the Municipality have been paid.

- 4.2. The Municipality may at its discretion, in such manner as it may deem fit; allow the interment of any body without charge in a cemetery.

5. HOURS OF INTERMENTS & PUBLIC ACCESS

- 5.1 Interments and public access shall take place at times determined by the Overstrand Municipality from time to time.
- 5.2 Despite the provisions of subsection (5.1), the Municipality may, if the case is one of emergency or the custom or conventions of a religious or cultural group, permit interment outside the times contemplated in subsection (5.1).

6. REGISTER OF INTERMENTS

- 6.1 The Municipality shall keep a register of all interments and of graves sites.
- 6.2 Such register shall be completed as far as possible immediately after an interment has taken place.

7. DEMARCATION OF GRAVE PLOTS

The Municipality shall demarcate grave plots in accordance with an approved layout plan.

8. RESERVATION OF GRAVE PLOTS

No plots shall be reserved, except for the reservation of a double depth plot, which shall be reserved in the name of the next of kin, or in the name of the person applying for the grave and payment of fees has been made as determined by the Municipality.

9. NOTICE OF INTERMENT

- 9.1. Except in urgent cases, an application for interment must be lodged at the Municipality at least two working days before the time set for such interment. If an interment will take place on the day after a public holiday or a weekend, the requirement of two working days' notice shall also apply.
- 9.2. Every such application shall be accompanied by the fees determined by the Municipality.
- 9.3. The Municipality must, as soon as possible, issue the necessary certificate for such interment.

10. REMOVAL OF MONUMENTS OR STRUCTURES

If it is necessary to remove a monument or other structure for the purpose of an interment, it shall be removed by the holder of the certificate of reservation in respect of such plot or by his duly authorised representatives not less than two working days before the burial is to take place.

11. DIMENSIONS OF GRAVES

- 11.1 The excavation for a single grave for a deceased person of the age of twelve years or over shall measure 2160 mm in length and 800mm in width, at ground level.
- 11.2 The excavation of a double depth grave for a deceased person of the age of twelve years or over shall measure 2160mm in length and 800 mm in width, at ground level.

- 11.3 The excavation for a single grave for a deceased person under the age of twelve years shall measure 1350 mm in length and 530 mm in width, at ground level.
- 11.4 The covering soil shall not be less than 1000mm for a single and double depth grave and should two bodies be buried in the same grave, 300mm of soil coverage shall be maintained between the coffins.

12. GRAVE INFILL SYSTEM

Due to sandy soil conditions at certain cemeteries a grave infill system has been adopted. Every second plot is used as a double depth grave with a single grave in between.

13. PROVISIONS RELATING TO GRAVE PLOTS

- 13.1 Where a grave of a greater depth, length or width than that specified is required, application in respect thereof, together with payment of an extra fee (if applicable) shall be made when notice of burial is given.
- 13.2 All graves shall be prepared by the family under the supervision of the Municipality and in conformity with the specifications applicable to ordinary graves.
- 13.3 The family or the representative of a deceased person will prepare the grave subject to the following conditions-
 - (a) that an application for approval to prepare such grave be submitted to the Municipality at least two working days prior to the burial;
 - (b) that the prepared grave be inspected and approved by the responsible municipal official at least eight hours prior to the burial.
- 13.4 Notwithstanding the provisions of subsection (12) if unfavourable soil conditions prevail for example sandy soils, the family or representative of the family may request assistance from the Municipality with the preparation of the grave site.

14. INTERMENTS IN DOUBLE DEPTH GRAVES

- 14.1 In the case of double depth graves, no more than two bodies may be interred in the grave, provided further that the lid of the second coffin placed in the grave under no circumstances be less than 1 000 mm from the surface.
- 14.2 That, in the event of the reopening of the grave for the purpose of the interment of the second body, a layer of soil coverage not less than 300 mm thick shall be left undisturbed above the coffin previously placed in the grave.
- 14.3 If in the event of reopening of any grave the soil is found to be unsuitable, the reopening shall not be proceeded with, and the grave shall be refilled.

15. PREPARATION OF GRAVES, AND COFFINS

- 15.1 All graves shall be prepared according to the specifications set out by the Municipality and under the supervision of a municipal official.
- 15.2 Bodies shall be placed in coffins for interment, except where religious beliefs prohibit its use.
- 15.3 A coffin interred in a grave should insofar as this is possible be constructed of natural wood or other non-toxic, perishable material.

16. PROVISIONS RELATING TO FUNERALS

- 16.1 No person shall, without prior permission of the Municipality, conduct any religious ceremony or service according to the rites of any denomination in any portion of any cemetery which in terms of subsection (3.3) has been set apart by the Municipality for the use of any other denomination.
- 16.2 No person shall cause any vehicle, while in a cemetery, to leave the roads and all vehicles shall leave the cemetery as soon as possible after the funeral for which it was intended.
- 16.3 Every person taking part in any funeral procession or ceremony shall comply with the directions of the Municipality as to the route to be taken within the cemetery.

17. FUNERALS FOR PAUPERS

- 17.1 The removal and burial of the unclaimed corpse who has died within the area of jurisdiction of the District Municipality is the responsibility of the District Municipality if-
- (i) the pauper's corpse has not been claimed by a competent person; or
 - (ii) a competent person has undertaken to interment the corpse of the pauper but has not done so.
- 17.2 A person applying for the interment [an] of [undaimed] a corpse must-
- (a) depose to an affidavit [or] and be in possession of a letter from the relevant ward councillor to the effect that:
 - (i) the applicant is unable to pay for the interment or cremation; and
 - (ii) the deceased person left no money or policy to pay for the funeral or cremation; and
 - (b) submit the affidavit or signed letter from the relevant ward councillor, which must be to the satisfaction of the Municipality.
- 17.3 The burial site(s) of an unclaimed corpse will be made available free of charge.
- 17.4 The corpses of more than one pauper may, at the discretion of the Municipality or be interred in one grave.
- 17.5 In the case of the interment of the corpse of a pauper, the Local Municipality remains the certificate holder.
- 17.6 In the case of the cremation of the corpse of a pauper, the Municipality must inter the ashes in an area specifically set aside for that purpose.
- 17.7 The Municipality reserves the right to refuse to inter the corpse of a pauper if the requirements set out in subsection (17.2) are not met.
- 17.8 No family members must be present during the interment of the corpse.

18. PROCEDURES DURING A PANDEMIC

During a pandemic and a resultant declaration of a National State of Disaster by the government, all regulations with regard to the handling; transportation and final disposal of human remains must be done in accordance with Disaster Management Act and Regulations.

19. EXHUMATION OF HUMAN REMAINS

- 19.1. Human remains may be exhumed only if-
- (a) the Premier of the Western Cape, the Attorney-General or a magistrate and the reservation certificate holder authorise the exhumation in writing;
 - (b) the authorisation contemplated in subsection (a) is handed to the Municipality in advance;
 - (c) the family of the deceased person or the funeral director notifies the Municipality not less than three working days in advance of the date and time proposed for the

- exhumation;
 - (d) a nominated Municipal official is present at the exhumation; and
 - (e) at least one member of the South African Police Service, who must be notified by the family of the deceased person or the funeral director, is present at the exhumation.
- 19.2. The Municipality may require that a screen be erected around the area where the exhumation is to take place so that members of the public cannot view the exhumation.
- 19.3. The Municipality or the Municipality's contractor may open a grave up to the coffin, being the reopening level, but may not remove the remains.
- 19.4. Only members of the family of a deceased person are permitted at the exhumation of the remains of that deceased person. If members of an organisation wish to attend an exhumation, the organisation must obtain permission from the Municipality in writing at least three working days before the proposed exhumation, failing which the members may be refused access to the exhumation.
- 19.5. All persons present at an exhumation must obey the instructions of the nominated Municipal official and any member of the South African Police Service.
- 19.6. If an exhumation takes place to remove a corpse from a grave, the reservation certificate holder retains his or her rights in respect of the grave if the corpse is to be returned to that grave. If the corpse is not to be returned to the same grave, the reservation certificate holder relinquishes his or her rights in respect of that grave, and the grave may be used again as the Municipality deems fit.

20. PROVISIONS RELATING TO MEMORIAL STONES OR MONUMENTS

- 20.1 No person shall bring or cause to be brought any material into any cemetery for the purpose of carrying out any work in connection with a memorial stone or brickwork or stonework upon any grave, and no person shall erect or place in position any tombstone, kerbing, or monument or any structure whatsoever on any grave, unless and until-
- (a) the grave plot allocated in terms of subsection (9) in the name of the person authorising such work;
 - (b) a drawing with dimensions and figures thereon showing the position of the proposed work together with a specification of the material to be used, and a copy of any proposed epitaph or ornamentation have been handed to the Municipality not less than three working days before it is intended to bring such material into the cemetery;
 - (c) all fees, determined by the Municipality, which are due in respect of such work shall have been paid;
- 20.2 The Municipality may refuse to approve any proposed work with regard to a memorial stone or monument, the plan and specification of which reveals that it will disfigure any cemetery, or which bears any epitaph which may cause offence to users of the cemetery or visitors to it.
- 20.3 No person shall convey any stonework or brickwork or monuments or any portion thereof within any cemetery upon any vehicle or truck which is not fitted with wheels having pneumatic tyres and which is of a kind likely to cause damage to the roads and grounds of such cemetery.
- 20.4 No person engaged in work in connection with any memorial stone or monument shall at any time disturb any adjacent grave plot or, on completion of the work, leave the grave plot before it is in a clean and tidy condition.
- 20.5 Any person carrying out any work in connection with any memorial stones or monuments shall comply with the following provisions – any stones or monuments must be constructed in such a manner so as to be permanently stable and safe.
- 20.6 No person shall, without the Municipality's permission, bring any memorial stone or within

any cemetery from twelve noon on a Friday until the opening hour on the following Monday.

- 20.7 Any person carrying out work within any cemetery shall in all matters comply with the directions of the Municipality.

21. MAINTENANCE OF GRAVES

- 21.1 Any memorial stone or monument erected upon any grave shall at all times be maintained in good order and condition by the holder of the reservation certificate in respect of such grave.
- 21.2 If any such memorial stone or monument is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the Municipality may, by written notice sent by registered post to the holder of the reservation certificate at his last-known postal address, require him to effect such repairs as may be necessary.
- 21.3 Failure on the part of the holder of the reservation certificate to effect the required repairs within one month of the date of such notice shall be in breach of this by-law and the Municipality may have the repairs effected or may have the memorial stone or monument removed, as it deems fit, and may recover the expense of such repairs or removal from the holder of the reservation certificate.
- 21.4 Any memorial stone or monument dismantled for the purpose of a further burial shall be either re-erected or removed from the cemetery by the holder of the reservation certificate within two months of date of such dismantling.
- 21.5 The Municipality shall not be liable for any loss of or damage to any memorial stone, monument or any article placed upon any grave plot which may occur at any time from any cause whatsoever, nor for any compensation in respect of any memorial stone or monument repaired or removed in terms of sections 21.3 and 21.4
- 21.6 No person shall without the prior permission in writing of the Municipality plant any tree, shrub, bush or any other plant on any grave plot, nor shall any such tree, shrub, bush or plant be planted upon any portion of such plot other than that indicated by the Municipality.
- 21.7 The Municipality shall have the right to remove, trim or prune any plant which extends beyond the boundaries of the grave plot upon which it is planted, or which is untidy.

22. PROVISIONS RELATING TO PERSONS DYING OUTSIDE THE MUNICIPAL AREA

The provisions of this policy shall apply mutatis mutandis to any interment within the Municipal area of the human remains of any person who has died outside such area.

23. FEES PAYABLE

All fees payable in respect of burials shall be determined by the Municipality.

MEMORIALS

24. GENERAL REQUIREMENTS FOR MEMORIALS AND MEMORIAL WORK

- 24.1 The Municipality may provide –
- (a) buildings, niches or other facilities for the deposit and preservation of ashes for definite periods or in perpetuity upon such terms and conditions as may be determined by the Municipality;
 - (b) facilities for memorial tablets, upon such terms and conditions as may be

- determined by the Municipality.
- 24.2 All inscriptions on niches or memorial tablets of remembrance must comply with general standards of decency and propriety and must not cause offence to users of the cemetery or visitors to it.
- 24.3 A person may only-
- (a) open a niche containing ashes, or
 - (b) remove an urn or casket containing ashes from a niche with the permission of the Municipality, which will not be unreasonably withheld.
- 24.4 If ashes are buried in a grave in a container, such container must be constructed of perishable material.
- 24.5 Only urns or caskets containing ashes may be deposited in a niche.
- 24.6 The Municipality or its employees will not be liable to members of the public for any damage to or theft from niches, urns, memorials or any other embellishments under its control or its grounds.

GENERAL

25. GENERAL PROVISIONS RELATING TO CEMETERIES

- 25.1 No person shall-
- (a) enter or leave any cemetery except by the gates and/or doors provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery except on business;
 - (b) carry on any trade or solicit any business, or exhibit, distribute or leave any business card or advertisement, within any cemetery, except on sites specifically determined and set apart for such purposes;
 - (c) sit, stand or climb upon any grave, tombstone, gate, wall, fence or building in any cemetery;
 - (d) bring or cause to be brought any animal into any cemetery without the permission of the Municipality;
 - (e) obstruct, resist or oppose the Municipality or any employee of the Municipality in the course of his duty, or refuse to comply with any order or request which the Municipality may give;
 - (f) destroy or do or cause to be done any damage to, or shall mark or draw or erect any advertisement, bill or placard upon, or in any other way deface any grave, tombstone, monument, wall, building, fence, railing or other structure or any road in any cemetery;
 - (g) disturb the soil, or plant or uproot any plant, shrub or flowering plant, or in any way interfere with any grave or structure in any cemetery.
 - (h) play any game or take part in any sport or fire any firearm, except as a salute in a military funeral, or discharge any air gun or catapult, or disturb or interfere with any person in any cemetery;
 - (i) use any part of a cemetery, or any road or footpath therein for hawking or conducting of any other business without the written consent of the Municipality;
 - (j) leave or deposit any rubbish, loose soil, stone or other debris within a cemetery other than at a place provided for that purpose;
 - (k) overnight in, trespass on or enter and remain in any cemetery unless for the purposes of a burial or visiting a grave in such cemetery;
 - (l) use a cemetery or any road or footpath therein, for the conveyance of goods, parcels or other materials or as a thoroughfare or short cut;
 - (m) play or perform any music in a cemetery without the permission of the Municipality;

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- (n) hold or take part in any demonstration for any purpose in a cemetery without the prior consent of the Municipality;
 - (o) enter and drive in a cemetery with a vehicle except in accordance with the terms and conditions determined by the Municipality;
 - (p) bring intoxicating liquor or any dependence-producing substance into a cemetery, or be in possession of such liquor or dependence-producing substance in a cemetery, without the consent of the Municipality;
 - (q) expose or convey a body in an unseemly manner in a cemetery;
 - (r) pick or in any way interfere with plants, shrubs, flowers or trees in a cemetery;
 - (s) plant a tree or shrub on a grave or plot or in any other place in a cemetery without the permission of the Municipality, and for these purposes, the Municipality shall be entitled to prune, cut down or remove any shrub, plant, flower or tree in a cemetery and the Municipality shall not be liable to any person who may suffer damages as a result of such pruning or removal;
 - (t) disturb or annoy any person lawfully present in a cemetery;
- 25.2 The driver of a vehicle within a cemetery passing in close proximity to any point where a funeral service is being conducted must pay the necessary respect by driving in an orderly fashion.

POLICY SECTION:	COMMUNITY SERVICES
CURRENT UPDATE:	24 April 2023
PREVIOUS UPDATE:	27 July 2022
APPROVAL BY COUNCIL:	

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)