



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

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 31 MAY / MEI / MEYI 2022
VENUE / PLEK / INDAWO : AUDITORIUM / OUDITORIUM
CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU
HERMANUS
TIME / TYD / IXESHA : 10:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

24 May / Mei / Meyi 2022

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 **Auditorium, Civic Centre, Hermanus**, on **TUESDAY, 31 MAY 2022** at **10:00** 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 **Ouditorium, Burgersentrum, Hermanus**, op **DINSDAG, 31 MEI 2022** om **10:00** 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-Auditorium, kwiZiko LoLUNTU, eHermanus, uLWESIBINI, Umhla we 31 MEYI 2022**, ngeye-**10:00** 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/...

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 **Tuesday, 26 April 2022** at **10:00**

3.2 Minutes of a **Special Meeting** of the **Overstrand Municipal Council** held on **Tuesday, 17 May 2022** at **12:00**

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 contained in this agenda 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 30 May 2022 had formally sat.

5.1

PROPOSED INVESTMENT INCENTIVE POLICY FOR THE OVERSTRAND MUNICIPALITY

(ITEM 5 PAGE 151 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 MAY 2022)

RECOMMENDATION TO THE COUNCIL:

that the proposed Investment Incentive Policy, **be approved.**

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

31 MAY 2022

5.2

OVERSTRAND MUNICIPALITY: CEMETERY BY-LAW**(ITEM 1 PAGE 1 : COMMUNITY SERVICES PORTFOLIO - MAYORAL
COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**that the Overstrand Municipal Cemetery By-Law **be approved.****RESPONSIBLE OFFICIALS :****DEPUTY DIRECTOR :
OPERATIONAL SERVICES
AREA MANAGERS:
KLEINMOND,
GANSBAAI, HERMANUS
SENIOR OPERATIONAL
MANAGERS: KLEINMOND,
GANSBAAI, HERMANUS
SENIOR MANAGER: LAW
ENFORCEMENT & TASK
TEAM****TARGET DATE FOR IMPLEMENTATION :****01 JUNE 2022**

5.3**OVERSTRAND MUNICIPALITY: CEMETERY POLICY****(ITEM 2 PAGE 17 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**that the 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 JUNE 2022**

5.4

DRAFT OVERTIME AND STANDBY POLICY

**(ITEM 1 PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 30 MAY 2022)**

RECOMMENDATION TO THE COUNCIL:

that the draft Overtime and Standby Policy **be approved.**

RESPONSIBLE OFFICIAL :

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION :

JULY 2022

5.5**REVIEW OF RECRUITMENT AND SELECTION POLICY****(ITEM 2 PAGE 13 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**that the review of the Recruitment and Selection Policy **be approved.****RESPONSIBLE OFFICIAL :****L BUCCHIANERI****TARGET DATE FOR IMPLEMENTATION :****JUNE 2022**

5.6

MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM) POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) AND PARAGRAPH 6(7)(4)(F) OF THE DIRECTIONS OF THE DISASTER MANAGEMENT ACT, APRIL 2022

(ITEM 2 PAGE 12 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 MAY 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for April 2022, **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 April 2022, **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 April 2022, **be noted**.

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

5.7

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE APPLICATION OF INTERIM MEASURES DUE TO THE CONSTITUTIONAL COURT RULING OF 16 FEBRUARY 2022

(ITEM 4 PAGE 27 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 MAY 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the report on the implementation of interim measures due to the Constitutional Court ruling of 16 February 2022, **be noted**;
2. that the implementation of National Treasury's advisory notes, until such time as the Constitutional Court clarifies the applicable date of the invalidity of the regulations, or new Procurement Regulations come into effect, **be approved**; and
3. that the Overstrand Preferential Procurement Policy be withdrawn until such time as the Constitutional Court clarifies the applicable date of the invalidity of the regulations, or new Procurement Regulations come into effect, based on the exemption letter received, dated 07 May 2022 advising that the Minister has approved the request.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****01 JUNE 2022**

5.8

WRITING OFF OF IRRECOVERABLE DEBT**(ITEM 5 PAGE 59 : FINANCE & TOURISM PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

that the irrecoverable debt to the value of R349 325,41 as listed below, be written off as bad debt:

A	First time write off – Indigent Households	R 149 716.93
B	Indigent water leakages irrecoverable	R 167 392.50
C	Final accounts equal or less than R1 500.00	<u>R 32 215.98</u>
	TOTAL	R 349 325.41

RESPONSIBLE OFFICIAL :

EM HOONEBERG

TARGET DATE FOR IMPLEMENTATION :

31 MAY 2022

5.9

MUNICIPAL OWNED IMMOVABLE PROPERTIES IDENTIFIED FOR SALE AND LEASE BY MEANS OF A COMPETITIVE PROCESS - INVESTMENT CONFERENCE**(ITEM 5 PAGE 1 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

that Council **takes note** of the following municipal owned immovable properties to be presented at the proposed Investment Conference to be held on 23 and 24 June 2022:

1. Lease:

- (a) Portion of Remainder Erf 4771 Hermanus (Grotto Beach) – Restaurant and related
- (b) Portion of Erf 775 Fisherhaven – Holiday Resort and related
- (c) Portion of Erf 5462 Kleinmond - Holiday Resort
- (d) Portion of Erf 4831 Hermanus and a Portion of Erf 5327 Hermanus - Public Resort (De Mond Caravan Park)

2. Sale:

- (a) Portion of Remainder Erf 4771 Hermanus (Next to OK, Voëlklip) – Residential development
- (b) Portion of Erf 4833 Hermanus (Lakeview) - Retirement Village
- (c) Unregistered Erf 11440 Hermanus – Offices
- (d) Portions of Erf 210 Gansbaai – Aquaculture
- (e) Erf 1886 Franskraalstrand – Town Housing
- (f) Portion of Erf 210 Gansbaai – Industrial
- (g) Erf 1070 De Kelders (use to be confirmed)
- (h) Unregistered Erf 12308 (a portion of Erf 384) Hermanus - Medical facilities and related community purposes

RESPONSIBLE OFFICIAL :**A LE ROUX
R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****PROCESS****TARGET DATE TO INFORM APPLICANT :****N/A****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.10**FINAL AMENDED INTEGRATED DEVELOPMENT PLAN (IDP) FOR 2022/2027****(ITEM 6 PAGE 12 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

1. that the final amended IDP for 2022/2027 **be approved**; and
2. that the current 5-year IDP process plan, which has been approved by the new Council on 25 November 2021 for the drafting of the 2022/2027 IDP, remain in place until the adoption of a new IDP process plan in August 2022.

RESPONSIBLE OFFICIAL :**RG LOUW****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2022**

5.11

**ADOPTION OF OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK:
OVERSTRAND MUNICIPALITY****(ITEM 7 PAGE 87 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

that the reviewed Spatial Development Framework as was adopted by Council at its meeting held on 27 May 2020 **be confirmed** without any amendments.

RESPONSIBLE OFFICIAL/S :**R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2022**

5.12**FINAL DRAFT WATER SERVICES DEVELOPMENT PLAN FOR 2022/23****(ITEM 8 PAGE 241 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

that the Final Draft Water Services Development Plan (WSDP) for 2022/23 **be approved.**

RESPONSIBLE OFFICIAL:**H BLIGNAUT****TARGET DATE FOR IMPLEMENTATION:****1 JULY 2022****TARGET DATE TO INFORM APPLICANT:****NOT APPLICABLE****TARGET DATE TO INFORM OBJECTOR:****NOT APPLICABLE**

5.13

REVISION OF ALL BUDGET RELATED POLICIES OF THE OVERSTRAND MUNICIPALITY**(ITEM 9 PAGE 248 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

that the budget related policies attached to the item and amended as indicated in the report, **be approved** and implemented with effect from 1 July 2022.

RESPONSIBLE OFFICIAL :**S REYNEKE-NAUDE****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2022**

5.14**GRANTS-IN-AID: ALLOCATION OF FUNDING TO ANIMAL WELFARE SOCIETIES FOR 2022/2023****(ITEM 10 PAGE 420 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)****RECOMMENDATION TO THE COUNCIL:**

1. that the necessary deviations from the Grants-in-Aid Policy be approved to enable budget provision (2022/23) to the following beneficiaries:

1. HAWS (Hermanus Animal Welfare Society)	R200,000.00
2. KAWS (Kleinmond Animal Welfare Society)	R100,000.00
3. BARC (Birkenhead Animal Rescue Centre)	R100,000.00
4. SAWS (Stanford Animal Welfare Society)	<u>R100,000.00</u>
	R500,000.00

2. that the Service Level Agreements be concluded with the respective Animal Welfare Societies.

RESPONSIBLE OFFICIAL:**R FRASER****TARGET DATE FOR IMPLEMENTATION:****01 JULY 2022**

5.15

FINAL BUDGET FOR OVERSTRAND MUNICIPALITY : 2022/2023 MTREF

(ITEM 11 PAGE 423 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)

RECOMMENDATION TO THE COUNCIL:

1. That, in terms of section 24 of the Municipal Finance Management Act, (Act 56 of 2003), the annual budget of the Municipality for the 2022/2023 to 2024/2025 MTREF (Medium Term Revenue and Expenditure Framework) period **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- and single year capital appropriations by standard classification (vote) and 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 property rates reflected in **Annexure A** to the item, **be imposed** for the budget year 2022/2023;
3. that tariffs and charges reflected in **Annexure A** to the item, **be approved** for the budget year 2022/2023;
4. that the Municipal Manager be authorised to sign the necessary documents to give effect to the 2nd draw down of the proposed three year borrowing programme for external loans amounting to R50 million per year;
5. that the following schedules be noted:

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

6. that **cognisance be taken** of the letters of comment received from the community and the SIME: LG MTEC Assessment Report by Provincial Treasury and the Provincial Department of Local Government, included in Annexures K and L respectively to the item of the budget report; and

7. that **cognisance be taken** of the 2022/2023 Budget Report.

RESPONSIBLE OFFICIALS:

**S REYNEKE-NAUDE
BA KING**

TARGET DATE FOR IMPLEMENTATION:

1 JULY 2022

5.16

PROPOSED OVERSTRAND MUNICIPALITY TINY HOUSE POLICY

(ITEM 12 PAGE 523 : MAYORAL COMMITTEE MEETING : 30 MAY 2022)

RECOMMENDATION TO THE COUNCIL:

that the proposed Tiny House Policy **be approved** for public participation.

RESPONSIBLE OFFICIAL :

S MULLER

TARGET DATE FOR IMPLEMENTATION :

29 JULY 2022

6. CONSIDERATION OF REPORTS**6.1****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE:
SCIE 2021.22.16: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT
POLICY WITH REGARDS TO BABOON MANAGEMENT PROGRAMME**

3/2/3/8

S Muller

29 March 2022

Director : Infrastructure & Planning

(028) 313 8019

1. Executive Summary

The purpose of this report is to provide the necessary information and to request Council to write off 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 baboons for one incident during the period November 2021.

A report dealing with the remainder of the costs incurred as Irregular Expenditure related to Baboon Management, served before MPAC and Council in March and April 2022 respectively, exclusive of the amount now under consideration omitted, also incurred during the same period up to December 2021.

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

Not applicable

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 awarded a three-year contract for the management of Baboons.

On Saturday 13 November the HWS hotline was informed of a deceased baboon. HWS staff searched and located the body of the baboon. Due to advanced stages of decomposition a veterinary surgeon (Dr Greyling) was contacted, and it was suggested that a virtual autopsy be performed to determine cause of death. Tacit approval was requested and granted for the procedure.

After the tacit approval was given, it was neglected to initiate the necessary SCM processes, and this oversight was only realised when the invoices were received from HWS on 10 December 2021, consequently the deviation process was activated. The invoice that was received from HWS was queried and sent back for verification. The revised invoice was received on 29 March 2022.

The Municipality did not suffer a financial loss as the service was rendered.

Corrective Steps/Conclusion

The service was rendered without an official order issued therefore and thus it is agreed that the expenditure was irregular. However, the value for money was received as the services were indeed rendered. The service provider was formally notified that late submission of information and documentation will result in rejection of any expenses incurred, even though tacitly approved as an emergency at the time of the incident.

On 12 May 2022 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs C Tafu-Nwonkwo, S Williams, M Nomatiti 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 729,53 (Including VAT), be certified as irrecoverable and be written off.

7. Financial Implications

R2 729.53 (Vat Incl)

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 fact that the municipality has received value for money, the irregular expenditure to the amount of R2 729.53 (Vat Incl) rendered for the treatment of baboons 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; and
2. that it be noted that the veterinary services for certain emergency purposes are not included in the service contract with Human Wildlife Solutions.

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

6.2**INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE:
SCIE 2021.22.15: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT
POLICY WITH REGARDS TO ADVERTISEMENT IN OVERBERG WINE GUIDE****3/2/3/8****S Madikane****Director : Local Economic Development****4 May 2022****(028) 313 8000****1. Executive Summary**

The purpose of this report is to provide the necessary information and to request Council to write off expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003. This report contains the detailed background and reasons for the incurrence of the expenditure, when services were rendered for the placement of a destination marketing advertisement without an official order.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Economic and Social Development and Tourism
Department: Tourism

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**

A deviation process commenced but was not approved before the service provider completed the service without an order number, with regard to procurement of an advertorial in an annually published guide through Overberg Promotions and Publishing. The service provider acted on previous experience, of the municipality placing an advertisement for this purpose in a

publication, and the indication of a current procurement process underway at the time (a requisition was processed and a deviation application submitted for confirmation of good standing of the supplier as required and the necessary processing), as well as the urgency of the matter from a publication deadline perspective. It is the view that the Service Provider's action was not malicious but were merely to ensure that the production and distribution of the booklet is on time, otherwise it would have meant that the space is forfeited by the municipality.

It was furthermore established that neither the employee responsible for procurement (A Jantjies, who went on maternity leave) or the manager (F Lloyd) responsible for conclusion of this process in the absence of Me Jantjies, were aware of any final instruction to the service provider.

It can however be confirmed that the municipality received promotional value through the placing of the advertisement and the services were indeed rendered.

Corrective Steps/Conclusion

The department will ensure re-emphasis of the role of staff in ensuring continued communication of municipal supply chain management processes as they arise.

On 12 May 2022 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs C Tafu-Nwonkwo, S Williams, M Nomatiti 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 R11 000 (Vat not applicable), be certified as irrecoverable and be written off.

7. Financial Implications

R11 000 (Vat Not Applicable)

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that, since the municipality received value for money, irregular expenditure to the amount of R11 000 (VAT not applicable) rendered for the placement of the advertisement, 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
INVESTIGATION INTO THE INSTANCE OF FRUITLESS AND WASTEFUL
EXPENDITURE: OUTSTANDING AMOUNTS NOT RECOVERABLE FROM
PREVIOUS OWNERS FOR PLOT CLEARING CHARGES, AFTER PROPERTY WAS
SOLD**

3/2/3/8

N Michaels

Director: Protection Services

R Williams

Director : Community Services

04 May 2022

(028) 313 8054

1. Executive Summary

The purpose of the report is to provide Council with the necessary information to take an informed decision when considering the facts and circumstances regarding the negligence in reporting on the fruitless and wasteful expenditure of Beneficium Mission NPC (account number 900000500561) and to write off expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003).

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Protection Services

Department: Fire and Emergency Services, Disaster Management and Security Services

Directorate: Community Services

Department: Area Management

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

4. Delegated Authority

None

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion

On 18 January 2018 a First Inspection was conducted by our Plot Clearing Inspector, the property was found to be a fire hazard and a notice was issued

on 22 January 2018; the compliance date was 28 February 2018. A notice was issued for the clearance of this property and due processes were followed and was handled as a plot clearing complaint and was processed by Hermanus Administration. See for the official notice that was sent to the current owner at that time of receiving the complaint.

A separate instruction was given by the Finance Department for a rates clearance to check whether the property was in compliance with the plot clearing policy as part of the rates clearance process. Shantal Maree on 31 January 2018 was informed by Assistant Chief Schoeman that Erf 2028 (HVM) was in compliance with the Community Fire Safety By-Law P.N. 6454. Therefore, no levies were raised against the current owner (Aquarella Inv 226 (Pty) Ltd because the plot at that time was deemed to be in compliance.

The Fire Department is only responsible for the physical plot clearing inspections. Area Management is responsible for processing all complaints and issuing of notices after the inspections were done by the fire department. The Finance Department is responsible for processing rates clearances only in order for a property to be transferred between two owners. At this stage we have a gap between the two systems as it is managed independently by three different directorates and three different area management offices.

The sale of land then continued and subsequent to the notice issued on 22 January 2018 to Aquarella Inv 226 (Pty) Ltd, a second inspection was conducted on 5 April 2018, 4 days before the transfer at the deeds office. The second inspection was conducted three months after the first notice was issued, due to the time. The vegetation might have grown to be deemed in non-compliance with the policy.

Having all of the above information on hand, a third and final inspection was conducted on 14 May 2018, on which it was indicated that the property had not been cleaned as required by the notice issued on 22 January 2018 to Aquarella Inv 226 (Pty) Ltd. The municipal appointed contractor was thus instructed to clear the property. During the property transfer process, the notice was sent to Aquarella Inv 226 (Pty) Ltd. They were no longer the property owner, the new landowner never received any notices to clear, and therefore the did not respond to the notice to clear their plot.

The process for plot clearing may be explained as follows:

1. A proactive or reactive inspection will be conducted on a particular property.
2. The plot clearing inspector conducts an inspection to determine the status of the property.
3. Feedback is provided to the Area Manager's office for a notice to be issued or not
4. The notice is issued, and 28 days is given as a basis to clear the erf

5. After 28 days has passed, a second inspection is conducted to check compliance
6. If the erf is not cleared according to the Community Fire Safety By-Law P.N. 6454, it is placed on the contractors list for clearing

During the investigation it was found that Beneficium Mission NPC was never issued a first notice in order to comply with the Community Fire Safety By-Law P.N. 6454. Therefore, due to the actual process of clearing of clearing and inspection of an erf begin anything between two to four months after the notice was issued, identified as the gap in the process.

To remedy the situation, all inspections, regardless of whether it is a rates clearance or re-active inspection, will be logged on Uniti, which is a Cloud Aided Dispatch (CAD) system to prevent duplication and ultimately advise the administrator whether a process has been logged against a particular erf.

This issue had identified gaps, which is now rectified, in our internal processes, and we cannot hold the landowner owner or municipal official accountable for the outstanding cost.

On 12 May 2022 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs C Tafu-Nwonkwo, S Williams, M Nomatiti 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 R7 069.13 in relation to the outstanding amount not recoverable from Beneficium Mission NPC, be certified as irrecoverable and written off.

7. Financial Implications

Fruitless and Wasteful Expenditure:

900000500561 Beneficium Mission NPC R7 069.13

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that the Fruitless and Wasteful Expenditure to the amount of R7 069.13 in relation to the outstanding amount not recoverable from Beneficium Mission NPC 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; and
2. that a Standard Operating Procedure be developed for the clearing of privately-owned plots and that Council considers the reorganisation of the specific function for plot clearing to only take place in one department.

RESPONSIBLE OFFICIAL :**C LE ROUX
B KING
N MICHAELS
R WILLIAMS**

6.4**INVESTIGATION INTO THE INSTANCE OF FRUITLESS & WASTEFUL EXPENDITURE: THEFT OF REGISTRATION FEES FOR 13 DECEMBER 2019****3/2/3/8****N Michaels****28 April 2022****Director : Protection Services****(028) 313 8054**

1. Executive Summary

The purpose of this report is to provide the necessary information and request Council to write off the Fruitless and Wasteful expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act (56/2003). This report contains the background of reasons for the incurrence of the Fruitless and Wasteful Expenditure due to theft of vehicle registration fees for 13 December 2019.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Protection Services
Traffic, Law Enforcement & Task Team

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

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

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

The Municipal Manager requested Internal Audit Services (IAS) to investigate an incident discovered, where license fees collected on 13 December 2019, was not deposited into the Nedbank account of the municipality, i.e., R27 817.60 cash never deposited in the Nedbank account.

A request was submitted through the office of the Municipal Manager, for IAS) to investigate the cash shortage, which did not reflect on the Nedbank account

of the municipality. This request was sent to IAS for further investigation, based on the results of a preliminary investigation performed by the Senior Superintendent: Registrations, Admin & Fines.

Discussion

The Internal Audit Services investigation resulted in the following facts during the immediate period of the incident, in accordance with the following reporting stated in the audit report issued -

- Records indicate that both controllers were on duty 13 and 17 December 2019.
- There was one bag given to Fidelity on 17 December 2019, this was for TCS (fines) and the amount of R 6 800.00 was deposited on the same day. This amount is equal the cash collected by TCS on 13 December 2019. The R27 817.60 for registrations collected on 13 December 2019 was never deposited.
- The deposit slip and book has not been recovered and there is no collection receipt from Fidelity.
- Ms. L Smith was a cashier on 13 December 2019, and it is doubtful that she was managing the cash up.
- Cash statements before and after 13 December 2019 are signed by supervisor, however the cash statements for 13 December 2019 are not signed.
- Ms. Z Davids admitted on 19 December 2019 that she still has the cashier statements for 13 December 2019, however she never submitted this to financial services. The figures were only provided to the system administrator on 16 January 2020 although there were multiple queries regarding the deposit and the cashier statements for 13 December 2019.
- The cash amount not reflecting on the Nedbank account was calculated through scrutinization of the eNaTis reports, the total cash for 13 December 2019 as verified by eNaTis reports was R27 817.60, this was also the amount provided to the computer administration on 16 January 2020.
- Confirmation of the cash amount of R27 817.60 was again confirmed on 06 June 2020 when a copy of the signed cash statements was found at Financial Services, during interview with the Accountant: Internal Control. Strangely there is no record of when these cash statements were brought to financial services department. Email evidence indicate that on 20 February 2020 the Accountant: Internal Control requested cash statements for 13 December 2019 which was still outstanding. Also, on 04 June 2020 during interviews with Traffic Services staff the Traffic Chief and the acting controller confirmed to IAS that the cash statements and deposit slip of 13 December 2019 is still missing and that the Fidelity receipt for collection on 17 December 2019 was also missing.
- Based on evidence IAS is of the opinion that the money collected on 17 December 2019 as for TCS and Ms. Z Davids never gave the money

- collected for registration on 13 December 2019 to Fidelity during their collection on 17 December 2019.
- On 19 December 2019 the Accountant: Internal Control sent an email regarding work for 12 and 13 December 2019 that was not received by the department. Ms. Z Davids replied to this email on the same day that she still has the work for 12 & 13 December 2019 with her in the office and will personally bring it to Lorraine. There was numerous follow up about the deposits between the two departments after this initial email, however from Flexgen information the receipts for 12 and 13 December 2019 was only receipted on Flexgen on 16 January 2020, the money was never banked.
 - Ms. Z Davids resigned on 17 January 2020 and Ms. L Smith resigned on 31 December 2019.

Conclusion

In Part A of the IAS report, it was recommended that:

The incident re cash of 13 December 2019 be reported to SAPS for a criminal enquiry to be opened for investigation and made various other recommendations to address the governance, risk management and control process (systems).

Part B of the IAS report recommended that:

The Internal Audit Report served before the Joint Audit and Performance Audit Committee (JAPAC).

The Report subsequently served before the JAPAC, where the following was reported and resolved –

The CAE gave an overview of the report, indicating that IAS have made recommendations in that report which were agreed with by MM and the Director: Protection & Security Services which duly ensured that those recommendations were implemented.

The CAE also noted that after his discussions with the Director: Protection & Security Services, it was deemed prudent, and was agreed upon, the matter identified in the report be reported to the South African Police Service (SAPS) for further investigation, as the municipality is mandated to do so in terms of section 32 (6) of the Municipal Finance Management Act 56 of 2003 (MFMA). The CAE confirmed that the matter was indeed reported to SAPS and a case number was obtained.

The JAPAC enquired from the Director: Protection & Security Services, what has been done differently now by the municipality to ensure that a similar case of theft and fraud of fines money does not occur again?

The Director: Protection & Security Services stated that after the matter was referred to the SAPS, the SAPS referred the matter to the National Prosecuting Authority (NPA), who could not proceed with the prosecution(s) due to the fact that there was no prima facie evidence that the money was stolen, as the two individuals who were alleged to be responsible for the theft and fraud of registration fees have resigned from service.

The Director: Protection & Security Services also stated that the IAS recommendations were implemented in an effort to avoid experiencing cases like these again, as well as to detect any cases similar to this that may arise. The Director also confirmed that since these recommendations have been implemented, there has never been any issue(s) similar to this until this far.

Resolved

The JAPAC noted that there are controls implemented in respect of registration fees to avoid reoccurrence of the similar case(s) in future.

It must be noted that the municipality had no other recourse in considering disciplinary action since Ms. Z Davids resigned on 17 January 2020 and Ms. L Smith resigned on 31 December 2019, as mentioned. The amount of R27 817.60 is thus declared as Fruitless and Wasteful expenditure, in view of the above.

On 12 May 2022 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs C Tafu-Nwonkwo, Cllrs S Williams, M Nomatiti and K Ngqandana considered a detailed report on the matter and came to the conclusion that, in view of the Internal Audit investigation and reporting to the JAPAC, inclusive of the outcome of a case of theft registered at the SAPS, the theft of registration fees to the amount of R27 817.60 for 13 December 2019, thus declared as Fruitless and Wasteful expenditure, 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.

7. Financial Implications

Fruitless and Wasteful expenditure: R27 817.60.

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 Internal Audit investigation and reporting to the JAPAC, inclusive of the outcome of a case of theft registered at the SAPS, the theft of registration fees to the amount of R27 817.60 for 13 December 2019, thus declared as Fruitless and Wasteful expenditure, 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; and
2. that it be noted that all disciplinary and legislative processes will be followed timeously in future to mitigate the occurrence of similar incidences.

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

6.5

RESCISSION: RENEWAL OF THE SERVICE CONTRACT OF THE MUNICIPAL MANAGER, MR DGI O'NEILL, FOR A PERIOD OF 3 YEARS

This item is distributed under separate cover.

In terms of Section 20(2) of the Local Government: Municipal Systems Act, No 32 of 2000, read with Rule 17 of the Overstrand Municipality's By-law on Rules of Order for Internal Arrangements, this item must be considered "in committee".

6.6**APPROVAL FOR FILLING OF VACANCY: MUNICIPAL MANAGER**

4/3/R

D Arrison

18 May 2022

Director: Management Services

(028) 313 8001

1. Executive Summary

The purpose of this report is to obtain Council's approval for the filling of the vacancy of the Municipal Manager, which will be triggered by the fixed term contract termination of the current Municipal Manager, Mr Dean Ian O'Neill, at the end of October 2022.

2. Service Delivery and Budget Implementation Plan Reference - IGNITE

Directorate: Management Services

3. Compliance with Strategic Priority

Provision of democratic and accountable governance

4. Delegated Authority

None

5. Legal Requirements

- Section 160(1)(d) of the Constitution of the Republic of South Africa, 1996
- Sections 67 and 72 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) [Systems Act]
- Section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) [Structures Act]
- Chapter 3 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000): Local Government Regulations on Appointment and Conditions of Employment of Senior Managers, (GN 21 dated 17 January 2014) [Regulations]

6. Discussion

The fixed term contract of the Municipal Manager, Mr Dean O'Neill, will terminate on 31 October 2022, which will be the last day of his employment. A vacancy in the position of Municipal Manager will thus occur as from 1 November 2022.

Chapter 3 of the Regulations provides for the legislative process to be followed for the filling of the vacancy. Sub-regulation 7(1) determines that when the post of a municipal manager becomes vacant, *the mayor, must upon receipt of the official notification that the post of the municipal manager will become vacant, obtain approval from the municipal council for the filling of such post at its next council meeting or as soon as it is reasonably possible to do so.*

Sub-regulation 10(2) provides that the vacancy must be advertised in a newspaper circulating nationally and, in the province, where the Municipality is located.

This item is thus brought before Council to seek approval to follow the recruitment process as prescribed in the Regulations mentioned above, in order for Council to appoint a new Municipal Manager in good time.

7. Financial Implications

Sufficient funds are available on the 2022/2023 salary budget for the funding of this post.

8. Staff Implications

Vacancy of the position of Municipal Manager.

9. Comments from other Departments, Divisions and Administrations

Not applicable

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that it **be noted** that the employment contract of Mr DGI O'Neill will expire on 31 October 2022;
2. that the filling of the vacancy as from 1 November 2022 **be approved**; and
3. that it **be noted** that the vacancy of Municipal Manager be advertised in the national newspapers as well as provincial newspapers in the Western Cape.

RESPONSIBLE OFFICIAL :

DS ARRISON

TARGET DATE FOR IMPLEMENTATION :

IMMEDIATELY

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

- 8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS**
 - A motion received from the Land Party re Social Compact, is attached as Annexure A to this agenda.

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

LAND PARTY SUBMIT URGENT NOTION ABOUT SOCIAL COMPACT:***ATTENTION: Speaker and the Executive Mayor***

The Land Party rejects the inclusion of ward 4, ward 7 and Beach Club in the Social Compact. The Land Party stands with the community of Zwelihle that the Social Compact must only involve affected parties which are the people of Dubai and Zwelihle.

The Land Party wants to put its position on record that the party does not support the current scope nor support the position of the council and the municipality. The Land Party submitted its position so that its councillors could not be accused of delaying or influencing the community of Zwelihle.

The Land Party proposes a mixed development be built in Voelklip if the Municipality is genuine about housing integration. The Land Party strongly believes that the municipality and the provincial government propose a mixed development plan in Dubai as their strategy to prevent black people from having access to the ocean.

The Land Party believe this development is perpetuated by racism within the municipality and province against black people not to enjoy nature and preventing them in building themselves houses next to the ocean.

It is only the Black people in the Overstrand who are prevented from building next to the ocean and the Land Party will be on the side of the people of Dubai and Zwelihle against the racist mixed development that seeks to exclude people and prevent them from having access to the ocean.

The Land Party viewed the position of the municipality and the provincial government as nothing but a provocation of the people of Zwelihle.

Thank You!

NOTION SUBMITTED BY

LAND Councillor K Ngqandana

Contact: +27 68 013 3524