



**SPECIAL MEETING OF THE MAYORAL
COMMITTEE**

**SPEZIALE VERGADERING VAN DIE
BURGEMEESTERSKOMITEE**

**INTLANGANISO EKHETHEKILEYO YEKOMITI
KASODOLOPHU**

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 12 JUNE / JUNIE / JUNI 2020
VENUE / PLEK / INDAWO : VIRTUAL
TIME / TYD / IXESHA : 10:00

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

Office of the Municipal
Manager
Municipal Offices
HERMANUS

9 June / Junie / Juni 2020

NOTICE TO ALL ALDERMEN AND COUNCILLORS

NOTICE IS HEREBY GIVEN that, due to the Covid-19 lockdown, a **SPECIAL MEETING** of the **MAYORAL COMMITTEE** will be held by means of a virtual platform on **FRIDAY, 12 JUNE 2020** at **10:00** of which the agenda will be available on the Overstrand Website (www.overstrand.gov.za).

C GROENEWALD
MUNICIPAL MANAGER

KENNISGEWING AAN ALLE RAADSHERE EN RAADSLEDE

KENNIS WORD HIERMEE GEGEE dat, weens die Covid-19 inperking, 'n **SPESIALE VERGADERING** van die **BURGEMEESTERSKOMITEE** gehou sal word by wyse van 'n virtuele platform op **VRYDAG, 12 JUNIE 2020** om **10:00** welke agenda op die Overstrand Webtuiste beskikbaar sal wees (www.overstrand.gov.za).

C GROENEWALD
MUNISIPALE BESTUURDER

ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA

OKU KUKWAZISA ukuba, ngenxa yokuvalwa okubangelwe yintsolongwane i-Covid-19, intlanganiso **INTLANGANISO EKHETHEKILEYO YEKOMITI KASODOLOPHU**, izakubanjwa ngeqonga elibonakalisayo **NGOLWESIHLANU UMHLA, 12 JUNI 2020** ngeye-**10:00** Apho i-ajenda iya kufumaneka kwiwebhusayithi ye-Overstrand (www.overstrand.gov.za).

C GROENEWALD
LOMPHATHI KAMASIPALA

AGENDA/...

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE EXECUTIVE MAYOR / DEPUTY EXECUTIVE MAYOR

4. CITY IMPROVEMENT DISTRICT: HERMANUS PUBLIC PROTECTION (HPP)

5/B

S Reyneke-Naude
11 May 2020

Director : Finance

(028) 313 8040

1. Executive Summary

The purpose of the report is to present council with the current status of the HPP City Improvement District and to recommend to Council regarding the nett assets of the HPP, currently still operational as the management body of the HPP in accordance with old order legislation until the anticipated reconstitution of the HPP Management body of the City Improvement District (CID).

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Finance
Department: Finance

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, 2003 (Act 56 of 2003) (MFMA)
Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)
Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004)
Overstrand Municipality By-law for the Establishment of Improvement Districts, 2000
Overstrand Municipality Special Rating Areas By-law, 2016 (SRA By-law)
Overstrand Municipality Special Rating Area Policy, as amended (the Policy)

6. Background/Discussion/Evaluation/Conclusion

A report served before Council in June 2019, advising Council of the latest developments regarding the HPP CID at that stage.

The said report provided the history how the HPP came into being subsequent to the gazetting of the By-law for the Establishment of Improvement Districts Adopted by the then Greater Hermanus Transitional Local Council. Subsequent to the promulgation of the by-law, HPP was formed to manage, on behalf of the Municipality, an improvement district covering an area in Hermanus from 17th Avenue, Voëlklip to Stil Street and Swartdam Road, Westcliff in the western side, inclusive of the central business area.

The legal opinion obtained in December 2018 pointed out that consultation with the local community on the proposed boundaries of the area and its proposed improvement or upgrading, and obtaining the consent of the majority of the members of the local community in the proposed area who will be liable for paying the additional rate, must take place in terms of the SRA By-law and the Policy, to regulate the establishment and operation of special rating areas, before the Municipality can consider applications for such areas in future.

It was furthermore pointed out that the CID cannot be changed into an SRA, but that the specific legislative requirements as provided for in the respective SRA By-Law and the Policy as approved by Council, must be followed for the establishment of a Special Rating Area.

Before-mentioned also implied that the Municipality could not impose the additional rate for the city improvement district for the 2019/2020 municipal financial year that commenced on 1 July 2019.

The CID Management Body (HPP) was also notified in writing during April 2019 that the By-Law for the Establishment of Improvement Districts dictates the dissolution of the improvement district, inclusive of the winding up and transfer of nett assets to the municipality.

Subsequent to these events, Mr Michael Farr (Chairperson: HSRA Steering Committee) has established the HSRA Steering Committee, to follow due process in order to submit an application to Council for the approval of the HSRA. An application for the establishment of a special rating area was subsequently received from Mr Farr and was approved by Council on 25 March 2020, in terms of the Overstrand Municipality: Special Rating Area By-Law, 2016 read together with the Overstrand Municipality: Special Rating Area Policy, as amended (1 July 2019), to include all properties in the proposed HSRA being; 17th Avenue in the East up to Swartdam Road in the West, with Still Street as the southern border and Fernkloof Nature Reserve as the northern border. Suburbs included in this area are Westcliff, Westdene, Industria, Northcliff, the Central Business District, Eastcliff, Hermanus Heights, Fernkloof, Kwaiwater and Voëlklip.

Mr Farr also advised that agreement was reached during a HSRA Steering Committee meeting on 21 October 2019, in that the HSRA Steering Committee's preference is for the HPP to be the management body of the

SRA in the instance of a decision by Council to approve the establishment of HSRA. The minutes of this meeting was made available to the municipality. The information shared in the presentation at the HSRA Public Meeting on 20 February 2020 also stated that Hermanus Public Protection (HPP) will be the management body of the HSRA.

The municipal council resolved as follows in approving the establishment of the HSRA:

1. that the area as reflected in the body of this report **be identified** as a special rating area (SRA), known as the Hermanus Special Rating Area (HSRA), in terms of the Overstrand Special Rating Area By-law, 2016;
2. that the application submitted by Mr Michael Farr, the registered owner of 84 Westcliff Road, Westcliff Hermanus (Erf 103 Westcliff), to establish the HSRA in terms of section 8.1(c) of the By-law, **be approved**;
3. that an additional rate **be levied** on properties in the HSRA from 1 July 2020 in terms of section 22(1)(b) of the Local Government Municipal Property Rates Act (MPRA), Act 6 of 2004;
4. that a Finance Agreement be concluded between the Overstrand Municipality and the HSRA Management Committee in terms of section 12(6) of the By-law prior to 1 July 2020;
5. that the Municipal Manager be authorised to sign all the necessary agreements and documents to give effect to the establishment of the Hermanus Special Rating Area (HSRA);
6. that the Hermanus Special Rating Area (HSRA) additional rate be calculated on the municipal valuation for properties within the HSRA mapped area, in accordance with the Overstrand Property Rates Policy, to enable the Municipality to collect the additional rates required for the HSRA's first year budget of R8 300 000.00, as well as for subsequent years in accordance with the 5-year budget period;
7. that payments to the HSRA be commenced with in accordance with the Finance Agreement once the following sections in chapter 2 of the SRA By-law as amended are met:
 - Section 10: Commencement with the Business Plan,
 - Section 11: Establishment Composition, Powers and Duties of the Management Body; and
 - Section 12: Finances (including the conclusion of a Finance Agreement); and
8. that the additional rate for the HSRA be considered by Council with the Municipality's 2020-2021 Budget and be implemented from 1 July 2020.

It is further important to note that the HPP Board needs to reconstitute itself as the management body for the Special Rating Area after Council approved the Special Rating Area. Accordingly the management body needs to be

registered as a non - profit company with members for the Special Rating Area in terms of the Amended Companies Act. The draft Memorandum of Incorporation (MOI) is currently considered, to allow the reconstitution of the existing body to a NPC and the prescribed format of the MOI determined by the CFO.

It is clear from the above that the Hermanus Public Protection (HPP) will become the management body of the HSRA after reconstitution, serving the same ratepayers as the HPP CID did over the past years, as it is furthermore confirmed that the defined geographical area, in which property owners will contribute additional rates to enhance and supplement municipal services, correlate with the previous map.

The assets in possession of the HPP Board would have had to be transferred to the municipality as prescribed in section 11 (2) of the by - law, in the instance that the HPP Management Body was not considered as the structure to be reconstituted as the HSRA Management Body. It is now regarded as prudent to recommend that the nett assets be utilised for the benefit of the very same ratepayers who have contributed to these assets.

The final step left is the repeal of the Overstrand Municipality By-law for the Establishment of Improvement Districts, 2000, following the reconstitution of the HSRA NPC.

It is thus recommended to Council -

that approval be granted for the nett assets of the existing HPP CID Management Body to be transferred to the HSRA and that the Overstrand Municipality By-law for the Establishment of Improvement Districts, 2000, be repealed after 1 July 2020, following the reconstitution of the HSRA NPC.

7. Financial Implications

N/A

8. Staff Implications

N/A

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that, as the existing ratepayers included in the mapped area of the HPP CID will be benefitting under the HSRA structure as approved by Council, approval be granted for the nett assets of the existing HPP CID Management Body, to remain with the Hermanus Public Protection (HPP) CID, which is for purposes of operating as the management body of the HSRA, to be reconstituted as a non-profit company ("**NPC**") with members, in terms of the Companies Act; and
2. that the Overstrand Municipality By-law for the Establishment of Improvement Districts, 2000, be repealed after 1 July 2020, following the reconstitution of the HSRA NPC.

RESPONSIBLE OFFICIAL :**S REYNEKE-NAUDE
L WALLACE****TARGET DATE FOR IMPLEMENTATION :****30 JUNE 2020**