

**AGENDA of the
Portfolio Committee : Protection Services
6 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

**5.
CLEARING OF PROPERTY POSING FIRE HAZARD**

**NJ Michaels
7 December 2023**

Director: Protection Services

(028) 313 8054

1. Executive Summary

The purpose of this report is to inform Council of the challenges faced within the Fire Safety & Health and Safety division due to policy requirements in the Overstrand Municipality Creating and Maintaining Fire Wise vacant erven in urban and suburban areas of Overstrand Municipality

2. Service Delivery and Budget Implementation Plan - IGNITE

Protection Services
Fire & Emergency Services, Disaster Management and Security Services

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

Constitution of the Republic of South Africa, 1996
Disaster Management Act, No 57 of 2002
Fire Brigade Services Act, Act 99 of 1987
Local Government: Municipal Structures Act, No 117 of 1998
Local Government: Municipal Systems Act, No 32 of 2000
Service Delivery Budget Implementation Plan
By-laws of the Overstrand Municipality

6. Background/Discussion/Evaluation/Conclusion

Background

The policy, Creating and Maintaining Fire – Wise Vacant Erven in Urban and Suburban Areas of the Overstrand Municipality, as approved by Council on 28 September 2022 prescribes the procedures for reducing fire hazards on erven across the jurisdiction.

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The standard procedure requires that a 1st compliance inspection is conducted by a delegated official in the Fire Services to determine whether the erf poses a fire hazard or not. Should the property pose a fire hazard a compliance notice is issued via registered post to the property owner, with a minimum compliance period of 14 working days. The options available to the owner are to clear the property within the prescribed compliance period, or notify the Fire Service of their intent to clear (if clearing will take place outside of the compliance period) or request for the municipal contractor to proceed with the clearing.

Once the compliance date has expired a 2nd compliance inspection is conducted to again determine whether the owner complied with the notice or not, and subsequently whether the owner complied with the extension date as requested and documented.

If the property is still in its original state by the time a 2nd compliance inspection is conducted, and the registered post is deemed to be delivered to the owner, legal action is taken by issuing the property owner with a summons to appear in court. The court decides the outcome of the case due to non-compliance which can either be to grant an extension or to commence with remedial action as stipulated in the policy.

Discussion

Though the process prescribes that compliance notices must be issued via registered post, the Fire Safety division email notices and contact property owners via telecom (where such details are available) to inform owners of the fire hazard on their property. The postal services are almost non-existent resulting in registered mail not being delivered or being delivered months after the compliance date has lapsed. Email communication was distributed from our Archives department to advise that the Post Office is closed until further notice (13 November 2023, 11:4am, re *POST OFFICE, HERMANUS*, sent by Ingrid Hanekom) Letters are also hand delivered to owners who live in or near the Overstrand jurisdiction. A further challenge faced is that with hand delivery of notices property owners are reluctant to open the door and sign for the notices.

The cost for clearing property with the municipal appointed contractor is an administrative fee of R 1 403.30 (2023/24 tariff) plus the additional cost per meter squared which ranges from R 1,69 – R 2,97 / m², depending on the location of the erf. The actual cost to clear a single property therefore varies.

The above process puts officials at risk of recovering fees from the delegate officials where fees cannot be recovered from the owner for services rendered. Officials are therefore reluctant to give the instruction to the contractor to clear as the total amount payable to the contractor can be costly, especially when multiple erven are cleared.

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A decision must therefore be made by Council on implementing a system which will protect the delegate official from repaying funds due to Council for services rendered. Council must establish a solution which will not hold the delegated official accountable to repay fees in the event the outstanding amount cannot be recovered from the property owner.

In lieu of the above, a request is made to council to deviate from normal process of issuing notices via registered mail and allow for the distribution of compliance notices via emails registered on the Overstrand Municipal databases. Such email will be deemed delivered unless no return of notification of email is received and properties will be cleared following non-response from registered owner(s). Such fees recoverable from property owners will not be recoverable from the delegated official giving instruction to clear the fire hazard if it can be proven there is no negligence in the process followed.

7. Financial Implications

Financial implications include the administrative fee as per the approved tariff, the size of the erven and cost per meter squared.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO COUNCIL

that Council adopt the new change as proposed in this item and that the proposed change to policy be adopted until the review of the policy has concluded.

RESPONSIBLE OFFICIAL :

**NJ MICHAELS
L SMITH**

TARGET DATE FOR IMPLEMENTATION :

1 MARCH 2024

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THIS MATTER SERVED BEFORE THE PROTECTION SERVICES PORTFOLIO COMMITTEE ON 6 FEBRUARY 2024, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL

that Council adopt the new change as proposed in this item and that the proposed change to policy be adopted until the review of the policy has been concluded.

RESPONSIBLE OFFICIAL :

**NJ MICHAELS
L SMITH**

TARGET DATE FOR IMPLEMENTATION :

1 MARCH 2024