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Municipality
Umasipala

MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON THURSDAY, 26 JANUARY 2017 AT 11:00

PRESENT:

Speaker, clr M Rangasamy

Executive Mayor, ald T van Essen

Deputy Executive Mayor, ald M S I Goliath

Bekebu, Z (ANC)

Bess, D G (DA)

Daniels, C (DA)

De Beer, J M (DA)

Fortuin, C B (DA)

Maart, E S M (DA)

McQuire, V D (DA)

Mfutwana, L E (EFF)

Papers, C H (DA)

Penxa, B J (ANC)

Philander, D B (ANC)

Smit, N (DA)

Sneewe, A M (ANC)

Solomons, P E (DA)

Stanley, B J (DA)

Stemele, O M (DA)

Van der Westhuizen, R F (DA)

Van Zyl, M (DA)

Zatu, N S (ANC)

Officials:

Municipal Manager, mr J J Scholtz

Director: Financial Services, mr M A C Bolton

Director: Security Services, mr P A C Humphreys

Director: Electrical Engineering Services, mr R du Toit

Director: Corporate Services, ms M S Terblanche

Snr Manager: Technical Services (Civil), mr L D Zikmann

Manager: Secretarial and Records, ms N Brand

1. OPENING

Ds Jantjies of the Kalvynse Protestante Kerk opened the meeting with a scripture reading and a prayer at the request of the Speaker.

The speaker welcomed all present, and especially the representatives of the Office of the Auditor General, mr Ashiq Allie and mr Dewald Botha.

The Speaker congratulated all councillors and officials who had celebrated birthdays during December and January.

2. APOLOGIES

Apology received from clr F S Humphreys.

3. SUBMISSIONS/DECLARATIONS AND COMMUNICATIONS/DEPUTATIONS

None

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 24 NOVEMBER 2016

Resolution/...

4.1/...

RESOLUTION

(proposed by clr M van Zyl, seconded by clr V D McQuire)

That the minutes of an Ordinary Council Meeting held on 24 November 2016 are approved and signed by the Mayor, subject to the correction of the word verbal (in place of oral) in item 9.2.

5. REPORT IN RESPECT OF DELEGATED DECISION MAKING BY THE EXECUTIVE MAYOR**RESOLUTION**

That the decisions made by the Executive Mayor in accordance with his delegated power in the following minutes are approved:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 9 NOVEMBER 2016

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 2 NOVEMBER 2016**5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 13 DECEMBER 2016**

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 7 DECEMBER 2016**6. REPORT IN RESPECT OF DELEGATED DECISION MAKING BY THE MUNICIPAL MANAGER****RESOLUTION**

(a) That note is taken of the decisions taken by the Municipal Manager in his capacity as Accountable Officer in accordance with his delegated authority and in conjunction with the tender award committee in the following minutes

6.1 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 26 OCTOBER 2016**6.2 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD 15 NOVEMBER 2016****FURTHER RESOLUTION**

(b) That these minutes will also be made available in English in future.

7. MATTERS FOR DISCUSSION**7.1 SUBMISSION OF THE DRAFT ANNUAL REPORT: 2015/2016 FINANCIAL YEAR (7/1/1 MY)**

A copy of the draft annual report for the 2015/2016 financial year was tabled according to article 127 of the MFMA and the Speaker gave the councillors the opportunity to comment.

The following aspects were pointed out by clr D B Philander with reference to the Executive Mayor's foreword:

- although mention was made in the Auditor General's report of financial misconduct, this was not mentioned in the annual report;
- reference is made to ward councillors and ward committee members supporting the Council in establishing a culture of payment by users, and addressing vandalism, and clr Philander requested that the rest of the councillors, who also contribute to this initiative, must not be excluded;

7.1/...

- reference is only made to Silvertown, which does not have basic services, but there are about 200 residents in Sibanye Square, Moorreesburg who also do not have access to basic services;
- the budget in respect of youth development in the Swartland must be publicised;
- the contributions made by the emerging farmers in the Swartland is not covered;
- the role of the National Government in the EPWP projects is ignored; and
- a correction must be made that funding for housing development is channelled via the Provincial Government, and the shortage of funding must not be laid solely at the door of the National Government.

The Municipal Manager dealt with the report in respect of the tabling of the 2015/2016 Annual Report. Mr J J Scholtz explained (on a point of order by clr Philander that the latter would rather have comment from the Executive Mayor – as the person submitting the annual report - to the input) that the following items are the responsibility of the accountable officer, which must form part of the annual report, namely:

- The municipality's annual financial statements;
- The Auditor General's report in respect of the financial statements;
- The municipality's annual performance report.

The 2015/2016 Annual Report will again be tabled during a special council meeting on 23 March 2017 – after it has been advertised for public comment – in terms of articles 129 and 130 of the Local Government: Municipal Financial Management Act, Act 56 of 2003 (MFMA), including the Overview Report which will be drawn up by the Municipal Accountable Committee (MPAC).

The Executive Mayor, ald T van Essen, thanked clr Philander for his input, but explained that the foreword to the annual report must be written according to very strict guidelines and any comments received must be dealt with within these guidelines.

Ald T van Essen congratulated the Municipal Manager and the Management Team on receiving a sixth consecutive clean audit, and he also thanked the representatives from the Auditor General's Office for their co-operation during the external audit.

The Speaker afforded mr A Allie from the Auditor General's Office the opportunity to address the Council. Mr Allie stated that Swartland Municipality was one of the Auditor General's best clients and thanked all the officials for the efficient manner in which information was made available, the progressive nature of the municipality's thinking, the level of interaction during meetings, as well as the presence of the Executive Mayor at management committee meetings, which is an indication of the shared interest in progress towards a successful audit process.

Mr Allie also thanked the Council for fulfilling the overview role and congratulated the Swartland Municipality on the sixth consecutive clean audit, which is seen as an exceptional performance.

Mr Allie also stated that other municipalities look to Swartland Municipality for guidance on how to also improve their systems and service delivery.

RESOLUTION

(proposed by ald T van Essen, seconded by clr D B Philander)

- (a) That note is taken of the annual report for the 2015/2016 financial year as tabled in terms of article 127(2) of the MFMA, and drawn up according to the format prescribed by MFMA Circular 63 of 2012 from the National Treasury.
- (b) That note is taken of the follow up actions, which will be carried out in terms of article 130 of the MFMA, namely -
 - (i) the publication of the annual report;
 - (ii) the invitation to the public to comment thereon;
 - (iii) invitation to the public and relevant state organizations to attend the special council meeting on 23 March 2017, during which the annual report and the overview report will be discussed;
 - (iv) submission of the annual report to the Auditor General, provincial treasury and the provincial department responsible for local government;

7.1/...

- (c) That the MPAC is authorised in terms of article 79(2)(d) of the Structures Act, 1998 to co-opt as advisory members, those who are not members of the council, including the following:
- (i) the external financial audit committee;
 - (ii) two ward committee members to be co-opted onto the performance assessment panel;
- (d) That members of the ward committees will also be invited to attend (1) the MPAC meeting on the above mentioned date and (2) the special council meeting on 23 March 2017;
- (e) That the councillors who do not serve on the MPAC must note that they are also expected to evaluate the annual report themselves, and in consultation with, inter alia, their voters, ward committees and ward representatives in order to encourage input and comments for consideration during the full Council meeting on 23 March 2017.

7.2 BI-ANNUAL BUDGET AND PERFORMANCE EVALUATION (2/4/2)

Article 72(1) of the MFMA stipulates that the accountable officer must evaluate the performance of the Municipality for the first half of the financial year before the 25 January every year.

The Bi-annual Budget and Performance report was drawn up in line with the provisions of the Municipal Budget and Reporting Regulations (General Notice 393 promulgated in the Government Gazette dated 17 April 2009).

RESOLUTION

(proposed by ald M S I Goliath, seconded by clr P E Solomons)

- (a) That note is taken of the Bi-annual Budget and Performance evaluation in respect of the first half of the 2016/2017 financial year, and
- (b) That, as follow-up to the above mentioned [and with reference to regulation 23 above], an adjustment to the 2016/2017 budget is tabled for consideration by the Council on 26 January 2017;
- (c) That, as follow-up to the above, the following two performance goals are amended:
- (i) 09-0277 (by Pieter Swart): Goal changed from "before end of November" to "before end of February";
 - (ii) 09-0234 (by Gaynore Pienaar): KPI changed to "Bi-annual write-off transactions completed" and the goal to "by December and June annually".

7.3 ADJUSTED CAPITAL AND OPERATIONAL BUDGETS FOR THE 2016/2017 FINANCIAL YEAR (5/1/4, 5/1/1/1-2016/2017, 5/1/1/2-2016/2017)

The Speaker afforded the Executive Mayor the opportunity to table the Second Adjusted Budget for the 2016/2017 financial year in accordance with article 28 of the MFMA.

The following questions from councillors in respect of clarification of the contents of the Adjusted Budget were dealt with, namely:

- Clr Philander in respect of the public donations to the amount of R999 000,00 – these were made up of R333 000.00 from respectively Kaap Agri, Nova Voere and Pioneer for the construction of the traffic light at the Bokomo Road/Station Street intersection;
- Clr Zatu with respect to the upgrading of the flats – it is envisaged that the project will be tackled over two financial years, thus the adjustment in the 2016/2017 financial year;
- Clr Penxa in respect of the land occupation unit – the R2 million has been adjusted to R800 000,00, because the Security Services Directorate is not yet ready to establish the unit, due, inter alia, to the finalisation of post descriptions;

7.3/...

- Clr Bekebu in respect of the purchase of land in Yzerfontein – the purchase is envisaged of, inter alia, the following properties, namely (1) erf 2737, Malmesbury for the extension to the municipal store and upgrading of the pedestrian routes and (2) erf 2716, Yzerfontein which will be used in the future as a road reserve and for the building of a new road to which the developer will also make a capital contribution;

The Speaker brought the matter to the vote and it was decided (in the absence of one councillor) with sixteen votes in favour thereof, and six abstentions.

RESOLUTION

(proposed by ald T van Essen, seconded by ald M S I Goliath)

- That the Director: Financial Services complies with the statutory requirements of the MFMA and notifies the National and Provincial Treasury accordingly;
- That it must be taken into account that the changes to the budget will have no effect on the tariffs in respect of the 2016/2017 financial year, but will result in a decrease in the shortfall of
 - -R 12 139 579 to a surplus of R 11 753 115;
- That it must be taken into account that the 2016/2017 Second Budget Adjustment will have an effect on the 2017/2018 financial year as a result of the adjustment brought about by the Planning/Refurbishment of the Municipal Flats which will be completed during the 2017/2018 financial year;
- That the adjusted budget schedules required by the Budget and Reporting Regulations are approved, as set out in **Attachment C**;
- That, accordingly, the Service Delivery and Budget Implementation Plan (SDBIP) is applicably amended;
- That approval is given to amend the high level Capital and Operating Budgets for 2016/2017 as follows:

	Original Budget 2016/2017	Roll over Adjusted Budget	Second Adjusted Budget	Original Budget 2017/2018	Amended budget 2017/2018
Capital Budget	R 74 689 669	R 75 643 467	R 81 428 433	R92 115 550	R 92 115 550
Operating Expenses	R 654 711 941	R 655 585 750	R 636 140 909	R701 640 184	R 710 101 971
Operating Income	R 641 914 085	R 643 446 171	R 647 894 024	R 698 162 497	R 706 624 284
Budget Surplus/ (Shortfall)	(R 12 797 856)	(R 12 139 579)	R 11 753 115	(R3 477 687)	(R3 477 687)

7.4 QUARTERLY REPORT (ARTICLE 52 OF MFMA): OCTOBER – DECEMBER 2016 (7/1/2/2-2)

The tabling of the quarterly report is prescribed by article 52(d) of the Local Government Act: Municipal Financial Management Act, Act 56 of 2003 (MFMA).

The tabling of the report to the Council serves as one of the Executive Mayor's general responsibility's, to inform the Council with respect to implementation of the budget and the status of the financial affairs of the municipality.

The quarterly report in respect of Quarter 2 ending on 31 December 2016 was circulated with the agenda.

7.4/...

RESOLUTION

(proposed by clr C B Fortuin, seconded by clr V D McQuire)

That the Council takes note of the attached quarterly report, as prescribed by article 52 of the Municipal Financial Management Act, Act 56 of 2003, in respect of the implementation of the budget as well as the performance in relation to the top level Service Delivery and Budget Implementation Plan for the Municipality for the period 1 October 2016 to 31 December 2016.

7.5 FIRST DRAFT: AMENDMENT TO THE SWARTLAND SPATIAL DEVELOPMENT FRAMEWORK 2017-2022 (15/1/4/1)

The purpose of the Swartland Spatial Development Framework (SDF) is to establish a framework, with the necessary policy provisions, in order to facilitate spatial development in a sustainable and desirable manner in the municipal area.

The company, C K Rumboll and Partners, was appointed by the Council to draw up the amended SDF – inter alia – in order to ensure that the framework complies with national, provincial and local legislation, and ensure alignment of it with the strategy referred to in the Integrated Development Plan (IDP).

Clr D B Philander inquired about the costs involved in drawing up the SDF, and stated the following -

- Mining operations are a very important sector within the Swartland Municipal area and are not adequately highlighted in the report;
- One of the aims of the SDF is to right the inequality of the past, but it is not suitably addressed in the report;

The Municipal Manager emphasised the importance of the SDF as a sectoral plan to the IDP, and invited councillors to attend the open days planned as of Monday 30 January 2016.

RESOLUTION

(proposed by clr O M Stemele, seconded by clr R F van der Westhuizen)

- (a) That note is taken of the first draft of the revised Swartland Spatial Development Framework (SDF);
- (b) That the Council approves the publication of the first draft of the amended SDF for public comment in accordance with article (7)(1)(b) of the Municipal Land Usage Planning Regulation;
- (c) That the first draft of the revised SDF is submitted to the Provincial Minister for comment;
- (d) That it is noted that the timeframe for public comment will be during February and March 2017, with open days in most of the towns in the Swartland municipal area.

7.6 ADOPTION OF THE REGULATION IN RESPECT OF MUNICIPAL LAND USAGE PLANNING (1/1)

The draft Regulation in respect of Municipal Land Usage Planning, including the Scheme Regulations schedule, was published for public comment, after submission to the Council on 24 November 2016.

No comments were received from the public. The comments received from the Province were already incorporated in the draft regulation.

The Speaker brought the matter to the vote and it was decided (in the absence of one councillor) with sixteen votes in favour thereof, and six abstentions.

7.6/...

RESOLUTION

(proposed by clr C B Fortuin, seconded by clr M van Zyl)

- (a) That the regulations in respect of Land Usage Planning are adopted;
- (d) That the regulations are promulgated in the Provincial Gazette for implementation from the date of publication of the Provincial Gazette.

7.7 APPOINTMENT OF BUILDING MANAGEMENT OFFICIAL (15/4/1)

Mr M Jacobs has been appointed as the Building Management Official according to the applicable legislation. Furthermore Mr Bertus Keulder was appointed to act as Building Management Official in the absence of mr M Jacobs.

There is a need to appoint other building inspectors to act as Building Management Officials, if it should happen that both messrs Jacobs and Keulder are not available.

RESOLUTION

The item was presented to the Executive Mayor's Committee on 13 December 2016 and because the appointment of a Building Management Official by the Council may not be delegated, the decision made by the Executive Mayor's Committee is ratified, namely -

- (a) That mr C Pietersen and ms E van der Byl are appointed to carry out the functions and duties of Building Management Official in the absence of mr M Jacobs as of 13 December 2016, in accordance with article 5(i) of the National Building Regulations and Building Standards Act, Act 103 of 1977;
- (b) That the above mentioned officials will carry out these duties in circumstances, and at such times as the Director: Development Services deems necessary.

7.8 INVESTIGATION INTO ILLEGAL EXPENDITURE AS WELL AS FRUITLESS AND WASTED EXPENCES IN TERMS OF ARTICLE 32 OF THE MUNICIPAL FINANCIAL MANAGEMENT ACT, 2003 (5/15/1/5)

Since October 2016, when instances of irregular expenditure and fruitless and wasted expenditure were reported to the Council, no new instances have been investigated. The report circulated with the agenda serves to report on the progress in respect of existing instances.

RESOLUTION

(proposed by clr V D McQuire, seconded by clr P E Solomons)

That note is taken of the progress with respect to the following cases in respect of irregular expenditure as well as fruitless and wasted expenditure:

- (a) Irregularities in respect of the purchase of material – in process, dependent on transfer of amount from the SAMWU Provident Fund;
- (b) Illegal purchase of cement – Investigation completed;
- (c) Fruitless and wasted expense in respect of late payment to DBSA and CRF – Investigation completed.

(Complete investigation reports are available from the office of the Manager: Internal Audit)

7.9 ALLEGED VIOLATIONS OF THE CODE OF CONDUCT FOR COUNCILLORS AND/OR REGULATION IN RESPECT OF THE RULES FOR THE HOLDING OF MEETINGS (3/1/6)

A report was drawn up by the Speaker in respect of the alleged violations of the Code of Conduct for Councillors and/or Regulation in respect of the Rules for the Holding of Meetings after comment, whether or not, were received from the relevant councillors. The report was circulated with the agenda.

RESOLUTION

(proposed by clr C Daniels, seconded by clr C H Papers)

- (a) That the report received from the Speaker is noted and that the recommendations therein are adopted;
- (b) That the various incidents, where appropriate, are referred to the Disciplinary Committee for investigation and to make a ruling with respect to the alleged violations of the Code of Conduct for Councillors and/or Regulation in respect of the Rules for the Holding of Meetings and to make suitable recommendations to the Council;
- (c) That the outcome of the investigation is reported to the MEC for Local Government.

7.10 CODE OF CONDUCT FOR COUNCILLORS: DECLARATION OF INTERESTS (3/1/1)

In accordance with item 7 of the Code of Conduct for Councillors a councillor must declare his/her financial interests in writing within 60 days of their election, as well as annually thereafter, as well as gifts with a value in excess of R1 000,00.

RESOLUTION

(proposed by clr P E Solomons, seconded by clr V D McQuire)

- (a) That councillors note that any changes in the nature or detail of financial interests of a councillor referred to in item 7 of the Code of Conduct for Councillors, **must be declared annually in writing to the Municipal Manager**, including gifts received by a councillor with a value in excess of R1 000,00;
- (b) That note is taken that any amendments to the details referred to in paragraph (a) must be submitted to the Director: Corporate Services no later than 10 February 2017.

**SIGNED:
SPEAKER**