MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON THURSDAY, 26 JULY 2018 AT 10:00

PRESENT:

Speaker, cllr M A Rangasamy
Executive Mayor, ald T van Essen
Deputy Executive Mayor, ald M S I Goliath

Bekebu, Z (ANC)           Philander, D B (ANC)
Bess, D G (DA)              Smit, N (DA)
Daniels, C (DA)            Sneewe, A M (ANC)
De Beer, J M (DA)          Solomons, P E (DA)
Fortuin, C B (DA)          Stanley, B J (DA)
Humphreys, F S (ANC)       Stemele, O M (DA)
Maart, E S M (DA)          Van der Westhuizen, R F (DA)
McQuire, V D (DA)          Van Zyl, M (DA)
Papers, C H (DA)           Zatu, N S (ANC)
Penxa, B J (ANC)           

Officials:
Municipal Manager, mr J J Scholtz
Director: Electrical Engineering Services, mr R du Toit
Director: Civil Engineering Services, mr L D Zikmann
Director: Financial Services, mr M A C Bolton
Director: Security Services, mr P A C Humphreys
Director: Corporate Services, ms M S Terblanche
Director: Development Services, mr J T Steenkamp
Manager: Secretarial and Records, ms N Brand

1. OPENING

The Speaker welcomed the Executive Mayor, the Deputy Executive Mayor, councillors, officials, guest (Alderman J J Hoop of the West Coast District Municipality) and the media.

The Speaker, mindful of rdl L E Mfutwana and many other families affected by death, share with the Council some thoughts on the meaning of life and the importance of living according to the will of God.

The Municipal Manager, mr J J Scholtz, opened the meeting with a prayer at the request of the Speaker.

The Speaker requested a minute’s silence in condolences with cllr L E Mfutwana with the passing of his father and brother within a short amount of time.

The Speaker congratulated councillors who celebrated their birthdays during the month.

2. APOLOGIES

Apology received from cllr L E Mfutwana.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

3.1/…
3.1 SUBMISSION BY THE EXECUTIVE MAYOR:

The Speaker granted the Executive Mayor, Rdh T van Essen, the opportunity to pay tribute to former President of South Africa, Nelson Rolihlahla Mandela (better known as Madiba) to celebrate his 100th birthday and the recent International Mandela Day.

The Executive Mayor presents a few quotes of Madiba's life lessons to the Council.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 23 MAY 2018

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

That the minutes of an Ordinary Council Meeting held on 23 May 2018 are approved and signed by the Speaker.

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

RESOLUTION

That note is taken of the decisions made by the Executive Mayor in accordance with his delegated power with reference to the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR’S COMMITTEE HELD ON 23 MAY 2018, read in conjunction with MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 9 MAY 2018

6. REPORT IN RESPECT OF THE DELEGATED DECISION MAKING BY THE MUNICIPAL MANAGER

None

7. MATTERS FOR DISCUSSION

7.1 ANNUAL REPORT: IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE FINANCIAL YEAR ENDING 30 JUNE 2018 (8/1/2/B)

Regulation 6(2)(a)(i) of the Municipal Supply Chain Management Regulations determines that annually a report must be presented to the Council regarding the implementation of the Supply Chain Management Policy.

The annual report for the period 1 July 2018 until 30 June 2018 is distributed with the agenda.

Cllr D B Philander enquires, with reference to the purchasing of a drone, if Swartland Municipality has the necessary licence to operate the drone.

The Municipal Manager confirms that a licence is only required when the drone is used for commercial purposes. The Director: Protection Services states that it is in the process of drafting a by-law to stipulate guidelines in which the drone can be used.

Cllr D B Philander confirms that its inquiry results in the Municipality meeting the necessary requirements to use the information collected as proof of liability.

Resolution/…
7.1/…

RESOLUTION
(proposed by cllr C B Fortuin, seconded by cllr E S M Maart)

(a) That cognisance is taken of the Annual Report regarding the implementation of the Supply Chain Management Policy in accordance with section 6(2)(a)(i) of the Regulations, as well as reports on the Formal Tenders (Annexure A), Informal Tenders (Annexure B), and the Deviation Report (Annexure C).

(b) That cognisance is taken of the services rendered for the period 1 April 2018 to 30 June 2018 with reference to the exceptions where it is impractical to test the market and therefore justified a deviation from the procurement processes in terms of paragraph 2(6) of the Supply Chain Management Policy (Annexure D).

7.2 QUARTERLY REPORT (SECTION 52 OF MFMA): APRIL – JUNE 2018 (7/1/2/2-2)

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

Cllr D B Philander, on behalf of the ANC, once again requires an explanation of the establishment of conservation areas in white dominant areas and information about the film industry, as the impression is that Swartland Municipality still pursues the principles of apartheid.

The Speaker rules – after several councillors objected to the remark of cllr Philander – that no further discussions will be allowed and requests the Municipal Manager to give feedback.

The Municipal Manager mentions that with the establishing of the latest Phola Park extension and the Chatsworth Sportsfield rare flora was discovered. It is agreed to identify biodiversity offset areas and that mentioned areas be managed as conservation areas to make up for the loss of flora.

The Director: Corporate Services mentions that the aforesaid action arises from legislative requirements in accordance with the National Environmental Management Protected Areas Act, 2003 (NEMPA) and that the conservation areas will be managed in conjunction with CapeNautre. For these purposes management plans will be drawn up for every conservation area.

RESOLUTION
(proposed by cllr O M Stemele, seconded by cllr M van Zyl)

That Council takes cognisance of the attached quarterly report, as required by Section 52 of the Municipal Finance Management Act, Act 56 of 2003 (MFMA) in respect of the implementation of the budget as well as the performance against the Top Layer Service Delivery and Budget Implementation Plan of the municipality for the period 1 April 2018 to 30 June 2018.

7.3 INVESTIGATIONS INTO IRREGULAR EXPENDITURE AS WELL AS FRUITLESS AND WASTEFUL EXPENDITURE IN TERMS OF SECTION 32 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (5/15/1/5)

A report must be submitted to the Council on a quarterly basis regarding any investigations into unauthorised, irregular, or fruitless and wasteful expenditure.

A case of financial mismanagement was investigated – see agenda for complete information regarding the investigation – but the outcome of the Disciplinary Board does not indicate any unlawful expenditure, nor fruitless and wasteful expenditure.

RESOLUTION
(proposed by cllr C B Fortuin, seconded by alw M S I Goliath)

(a) That the progress of the reported cases regarding the irregular expenditure as well as fruitless and wasteful expenditure be noted:
7.3/(a)/…

(i) All previous reported cases have been finalised; and
(ii) The alleged irregular expenditure w.r.t. a vehicle accident not timeously reported did not result in Fruitless and Wasteful expenditure – Investigation completed and the municipality suffered no loss.
(iii) The Director, Civil Engineering Services addressed the matter to ensure that officials adhere to the Code of Conduct for Municipal Staff Members and the Fleet Management Policy in future to prevent reoccurrence of the above;

(b) That, on request of the chairperson of the MPAC, cllr C B Fortuin, the outcome of the investigation by tabled to the MPAC and that the relevant policy and Code of Conduct for Personnel be circulated to personnel.

7.4 MUNICIPAL DEMARCATION 2017-2021 (17/17/1/1)

The Municipal Demarcation Council indicated in 2017 that no substantial demarcation of municipal boundaries is intended but merely technical determinations.

On 26 April 2018 the Council considered the proposals from the Municipal Demarcation Board. Although the Council accepted four out of the six proposals of the Municipal Demarcation Board, the latter agreed with the proposals from the Council for the purpose of the public participation process.

RESOLUTION
(proposed by cllr P E Solomons, seconded by cllr D B Philander)

That Council takes cognizance that the municipal boundaries of Swartland Municipality (WC015) have been re-determined by the Municipal Demarcation in accordance with the Council resolution of 26 April 2018, which is however still subject to potential comments and/or representations by aggrieved parties.

7.5 PROPOSED LAND EXCHANGE, MALMESBURY: SWARTLAND MUNICIPALITY / NEWPORT PROPERTY GROUP ACTING ON BEHALF OF SCHOONSPRUIT DEVELOPMENT (PTY) LTD AND DE HOOP MALMESBURY (PTY) LTD (12/2/1-8/10)

The Municipal Manager reports that since 2013, efforts have been made to acquire land for a new housing project adjacent to the existing low-cost housing areas.

The Municipal Manager (with aid from an electronic illustration) gives background to the land exchange transactions for the purpose of availing land for the
(1) reallocation of the Department: Public Works and Transport’s road camp in Piketberg Way;
(2) establishing of a new hospital and school (land will be made available to the Department: Public Works and Transport);
(3) extension of the Highlands Landfill site;
(4) extension of the Newclare residential area;
(5) next housing project in Malmesbury (phase 1 = 750 housing opportunities, phase 2 = 750 housing opportunities).

The Municipal Manager further explains the conditions to the land exchange transactions for the relevant parties and the benefit thereof for Swartland Municipality.

These negotiations, also with reference to the pig farm outside Malmesbury, is a typical example where the Municipality is instrumental in the contribution to local economic development in the promotion of an environment that allows private institutions to create jobs.

RESOLUTION
(proposed by cllr D B Philander, seconded by cllr B J Penxa)
(a) That approval be granted by Council in terms of the By-law relating to the Transfer of Municipal Capital Assets (PN 7394 dated 22 May 2015) for the following land exchange transaction to be concluded with the Newport Property Group (with reference to Annexure C to this report):

Land belonging to the Newport Property Group acting on behalf of Schoonspruit Development (Pty) Ltd and De Hoop Malmesbury (Pty) Ltd:

- Portion A, being a portion of portion 1 of the Farm De Hoop no. 697, Division Malmesbury, ± 100.60 ha in extent
- Portion B, being a portion of portion 2 of the Farm Malmesbury Outspan no. 695, Division Malmesbury, ± 6 ha in extent
- Portion C, being erf 12378 a portion of erf 1237-., Malmesbury, 0.53 ha in extent;
- Portion D, being a portion of erf 353, Abbotsdale, ±20.4 ha in extent

in exchange for land belonging to Swartland Municipality:

- Portion E, being a portion of portion 1 of the Farm Oranje Fontein no. 1113, Division Malmesbury, ± 90.4 ha in extent
- Portion F, being erf 11217, Malmesbury, ± 5 ha in extent
- Portion G, being erven 1449 and 1450, Abbotsdale, jointly ± 7.7 ha in extent

(b) That the land exchange shall further be subject to the following conditions –

(i) that the developer is to build the road which is to link the Schoonspruit industrial development with Abbotsdale (indicated by means of a solid line on the map between Portion F and Portion G), excluding the construction of river and railway crossings;

(ii) that the land between Schoonspruit and Abbotsdale (portion of the Remainder Farm Oranje Fontein no. 1133) be expropriated by the Municipality for road purposes for the establishment of the above link road;

(c) That approval be granted that the competitive processes as contained in the Municipal Asset Transfer Policy be dispensed with in this instance, and that the transaction be finalized by direct negotiations, in view of the fact that Council is satisfied that the transaction will be exceptionally beneficial to the Municipality, for the following reasons:

- land will be acquired to meet the pressing need for suitable land to give effect to the Housing Pipeline, as explained above, it being in public interest to address the community need for subsidized housing;
- it is also in the public interest and beneficial for local economic development to unlock industrial development (and subsequent work opportunities for the community) on the N7;
- land will be acquired to be made available to the Department of Public Works following their expression of interest in a new hospital and school site, thereby also addressing community needs;
- the land to be acquired adjacent to the Newclare development will enable the Municipality in future to unlock further residential opportunities for higher income groups;
- the need for future expansion of the Highlands landfill site will be addressed, thus supporting the principle of long-term strategic planning;
- serviced land will be acquired for possible disposal in future for industrial purposes, to the Municipality’s financial benefit.

(d) That approval be granted by Council in terms of the applicable By-law as well as Section 14 of the Municipal Finance Management Act, 2003 for the land concerned to be transferred to Newport Property Group acting on behalf of the Schoonspruit development (Pty) Ltd and De Hoop Malmesbury (Pty) Ltd in terms of the land swop;

(e) That cognizance be taken that the land concerned is not required for the provision of a minimum or any other level of basic municipal services;
(f) That the proposed land swop be advertised for public comment and/or objections, and interested parties be invited to submit counter proposals;

(g) That the Municipal Manager be authorized
   (i) to deal with any objections and/or counter proposals received, in consultation with the executive mayoral committee;
   (ii) to finalise the expropriation of land for the construction of a link road over Remainder Farm 1133; and
   (iii) to finalise the particulars of the proposed exchange agreement;

(h) That the exchange agreement and exchange transport be effected by Council’s attorney, and the costs related to the transaction be borne by the parties on a 50/50 basis.

SIGNED

SPEAKER