



**MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY ON THURSDAY, 27 JANUARY 2022 AT 10:00**

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**PRESENT:**

Speaker, ald M A Rangasamy  
Executive Mayor, ald J H Cleophas  
Deputy Executive Mayor, clr J M de Beer

**COUNCILLORS:**

Bess, D G (DA)	Penxa, B J (ANC)
Booyesen, A M (VF)	Pieters, C (ANC)
Daniels, C (DA)	Pypers, D C (DA)
Duda, A A (EFF)	Smit, N (DA)
Fortuin, C (ANC)	Soldaka, P E (ANC)
Jooste, R J (DA)	Stanley, B J (DA)
Le Minnie, I S (DA)	Van Essen, T (DA)
Ngozi, M (ANC)	Vermeulen, G (VF)
O'Kennedy, E C (DA)	Warnick, A K (DA)
Papier, J R (GOOD)	

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: Protection Services, mr P A C Humphreys  
Director: Corporate Services, ms M S Terblanche  
Director: Development Services, ms J S Krieger  
Manager: Secretarial and Records, ms N Brand

**1. OPENING**

The Speaker welcomed the Executive Mayor, aldermen, councillors and officials. A special word of welcome was extended to members of the public.

The Chaplain from Corrective Services, Ds Mariette Frantz, opened the meeting with a scripture reading and prayer at the request of the Speaker.

The Speaker congratulated councillors who had celebrated birthdays recently and congratulated especially, mr Leon Fourie, from the Office: Strategic Services who celebrated his birthday today.

**2. APOLOGIES**

Apology received from aldd M van Zyl.

**3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS**

**3.1 OATH OF ALLEGIANCE: clr A A DUDA**  
[Item 8.1 refers]

The Speaker gave clr A A Duda the opportunity to declare his oath of allegiance and to sign it.

**4. MINUTES FOR APPROVAL**

**4.1 MINUTES OF THE FIRST MEETING OF THE FIFTH MUNICIPAL COUNCIL HELD ON 16 NOVEMBER 2021**

**RESOLUTION**

(proposed by clr A K Warnick, seconded by clr N Smit)

That the minutes of the first meeting of the Fifth Municipal Council held on 16 November 2021 are approved and signed by the Speaker.

**4.2 MINUTES OF A SPECIAL COUNCIL MEETING HELD ON 9 DECEMBER 2021**

**RESOLUTION**

(proposed by clr A K Warnick, seconded by clr E C O’Kennedy)

That the minutes of a Special Council Meeting held on 9 December 2021 are approved and signed by the Speaker.

**5. REPORTING IN RESPECT OF 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, in the following minutes:

**5.1 MINUTES OF AN ORDINARY EXECUTIVE MAYOR’S COMMITTEE MEETING HELD ON 23 NOVEMBER 2021**

**5.2 MINUTES OF AN ORDINARY EXECUTIVE MAYOR’S COMMITTEE MEETING HELD ON 8 DECEMBER 2021**

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

**RESOLUTION**

That note is taken of the decisions made by the Municipal Manager in accordance with his delegated power, in the following minutes:

**6.1 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 7 DECEMBER 2021**

**7. MATTERS ARISING FROM THE MINUTES**

None.

**8. MATTERS FOR DISCUSSION**

**8.1 (1) RESIGNATION AS COUNCILLOR: MS M F GAIKA / (2) APPOINTMENT OF NEW COUNCILLOR: MR A A DUDA (17/17/3/2/4; 3/1/7)**

A letter was received from ms M F Gaika dated 5 December 2021 in which she confirmed her resignation as councillor of the Swartland Municipal Council.

The vacancy was reported to the Independent Electoral Commission (IEC), where after mr A A Duda was appointed on 13 December 2021 as councillor of the Swartland Municipal Council in place of ms M F Gaika.

**RESOLUTION**

(proposed by clr D C Pypers, seconded by clr B J Penxa)

- (a) That cognisance be taken of:
  - (i) the resignation of councillor M F Gaika effective from 5 December 2021;
  - (ii) the statutory procedures adhered to in the filling of the EFF's proportional seat in Council, left vacant as a result of councillor Gaika's resignation;
  - (iii) the election of councillor A A Duda as advised by the IEC on 13 December 2021;
- (b) That cllr A A Duda be granted the opportunity to take the oath;
- (c) That cllr A A Duda be appointed to the following committees of Council as representative of the EFF:
  - (i) Portfolio Committee: Civil and Electrical Services
  - (ii) Municipal Public Accounts Committee (MPAC).

## **8.2 SUBMISSION OF DRAFT ANNUAL REPORT: 2020/2021 FINANCIAL YEAR (7/1/1/1)**

The 2020/2021 Draft Annual Report was drawn up in accordance with the format prescribed in MFMA Circular 63 dated 26 September 2012, and is submitted in accordance with section 127(2) of the Local Government: Municipal Financial Management Act, 2003 (Act 56 of 2003) – MFMA.

The Municipal Manager explained the process up to and including the final approval of the 2020/2021 Annual Report during the Council Meeting of 31 March 2022, including the drawing up of the Oversight Report in conjunction with the MPAC. The input received during the public participation process, in respect of the draft annual report, will be included in the Oversight Report, for consideration during the above mentioned Council meeting.

Ald B J Stanley and cllr C Daniels expressed their dissatisfaction over the fact that a hard copy of the agenda is not provided for them, although it was received electronically. Cllr C Daniels stated that it is especially important to receive the draft annual report, because it is an important document, and that he feels excluded from the process.

The Speaker requested all councillors to notify the administration Department immediately when the agenda of any meeting is not delivered within 48 hours of the meeting. The Speaker also requested all councillors to take note of the meeting schedule in order to keep up to date with when the meetings will be held.

The Speaker, supported by the Chief Whip of the DA, cllr A K Warnick, asked Ald Stanley to leave the hall after ald Stanley ignored the Speaker's chair during the utterances made by the latter.

The Chief Whip of the DA, cllr A K Warnick, asked the Speaker to adjourn the Council for ten minutes and the motion was acceded to by the Speaker.

Cllr A K Warnick asked the Speaker to continue the meeting after the adjournment thereof.

### **RESOLUTION**

(proposed by ald T van Essen, seconded by cllr N Smit)

- (a) That cognisance be taken of the annual report in respect of the 2020/2021 financial year, as tabled in terms of section 127(2) of the MFMA, and of which the tabling is done in the format as prescribed by National Treasury's MFMA Circular 63 of 2012;
- (b) That cognisance be taken of the following steps to be taken in terms of section 127 of the MFMA, being:
  - (i) disclosure of the annual report;
  - (ii) inviting the public to submit representations in connection with the report;

8.2(b)/...

- (iii) inviting the public and relevant organs of state to attend the council meeting on 31 March 2022, when the annual report and oversight report will be discussed;
  - (iv) submission of the annual report to the Auditor-General, provincial treasury and the provincial department responsible for local government;
- (c) That the MPAC, after the closing of comments on the annual report, undertake a detailed analysis of the representations received in order to compile the draft oversight report for consideration by the Council on 31 March 2022;
- (d) That councillors who are not members of the MPAC take note that they should also be conducting their own review of the report by inter alia having discussions with their constituents, ward committees and ward representatives to encourage inputs and comments for consideration at the full council meeting on 31 March 2022.

### **8.3 QUARTERLY REPORT (SECTION 52 OF MFMA): 1 OCTOBER 2021 TO 31 DECEMBER 2021 (7/1/2/2-2)**

The submission of the quarterly report is prescribed by section 52(d) of the MFMA.

The submission of the report to the Council serves as one of the Executive Mayor's general responsibilities in order to inform the Council with respect to the implementation of the budget and the state of the financial matters of the Municipality.

The quarterly report in respect of Quarter 2 ending on 31 December 2021 was circulated with the agenda.

#### **RESOLUTION**

(proposed by clr E C O'Kennedy, seconded by clr C Daniels)

That Council takes cognisance of the attached quarterly report, as required by Section 52 of the Municipal Finance Management Act, Act 56 of 2003 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 October 2021 to 31 December 2021.

### **8.4 HALF-YEARLY BUDGETS – AND PERFORMANCE EVALUATION (7/1/2/2-2; 2/4/2)**

Section 72(1) of the MFMA stipulates that the accountable officer must evaluate and present to the Executive Mayor, by 25 January of each year, the performance of the Municipality during the first half of the financial year.

The Executive Mayor must then present the evaluation report to the Municipal Council by 31 January in accordance with section 54(f) of the MFMA.

The Half-Yearly Budget and Performance Report is drawn up in line with the prescriptions of the Municipal Budget and Reporting Regulations (General Notice 393 promulgated in the Government Gazette dated 17 April 2009).

#### **RESOLUTION**

(proposed by clr A K Warnick, seconded by ald T van Essen)

That cognizance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2021/2022 financial year and more specifically the need to revise the original budget by way of an adjustments budget.

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## 8.5 APPROVAL OF THE 2021/2022 HALF-YEARLY ADJUSTED CAPITAL AND OPERATING BUDGETS (5/1/1/1, 5/1/1/2)

The 2021/2022 Half-yearly Adjusted Capital and Operating Budgets were considered during an Executive Mayor's Committee Meeting held on 20 January 2022 for approval by the Council, and are tabled by the Executive Mayor.

The submission of the adjusted budgets is in accordance with section 28 of the MFMA after the Municipality's performance during the first half of the financial year has been evaluated – refer to item 8.4.

The questions from councillors for explanations were handled by the Municipal Manager and the Financial Director, inter alia, in respect of

- the donation from SANRAL of R1 million (total donation of R 14,8 million over the following two financial years) in order to build pedestrian walkways;
- the availability, on request, of prepaid type meters for destitute households in order to exercise control over usage;
- the components of the Capital Replacement Fund and the existence and importance of capital projects financed out of own funds. Taking out external loans is expensive and may lead to higher tariffs;
- The adjustment of the grant from the Department of Sport and Cultural Affairs for the operation of libraries.

The Speaker brought the matter to the vote and (in the absence of two councillors) it was decided with 12 votes in favour thereof, whilst nine councillors abstained.

### RESOLUTION

(proposed by ald J H Cleophas, seconded by clr N Smit)

- That it be noted that the Budget Steering Committee convened to consider the explanations and motivations provided by the financial staff and other directors in a bid to advise the Executive Mayor on way forward;
- That council takes note of the proposed adjustment (as it relates to Section 19) in respect of the Sewerage Works Project: Moorreesburg (**Annexure A-2: Capital Projects ito Sec 19**);
- That approval be granted to amend the high-level capital and operating budget for 2021/2022 with no amendments to the outer years as follows:

	Original Budget 2021/22	Mid-Year Adj Budget 2021/22	Original Budget 2022/23	Original Budget 2023/24
Capital budget	166 435 729	166 040 448	132 744 732	136 678 848
Operating Expenditure	911 967 149	951 133 356	983 835 346	1 055 314 274
Operating Revenue	968 875 613	1 007 040 106	1 048 008 388	1 119 714 984
<b>Budgeted (Surplus)/ Deficit</b>	<b>(56 908 464)</b>	<b>(55 906 750)</b>	<b>(64 173 042)</b>	<b>(64 400 709)</b>
Less: Capital Grants, Donations & Development Charges	47 912 409	48 027 246	45 865 556	50 788 078
<b>(Surplus)/ Deficit</b>	<b>(8 996 055)</b>	<b>(7 879 504)</b>	<b>(18 307 486)</b>	<b>(13 612 631)</b>

- That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2021/2022 financial year or beyond but will result in a decreased budgeted net surplus from R8 996 055 to a budgeted net surplus of R7 879 504;

8.5/...

- (e) That the unauthorised expenditure of R13 258 009 for the 2020/2021 financial year be authorised in this adjustments budget in line with section 32(2)(a)(i) of the Act;
- (f) That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in **(Annexure C: Budget Report and B-Schedules 2021/22 – 2023/24)**;
- (g) That the Director: Financial Services adhere to the requirements of the Budget Circulars and Budget Reforms in the context of the reporting requirements to Provincial and National Treasury;
- (h) That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

#### **8.6 INVESTIGATION INTO FUTILE AND WASTED EXPENDITURE IN TERMS OF SECTION 32 OF THE MFMA (5/15/15)**

The report circulated with the agenda contains the latest investigations into futile and wasted expenditure in terms of section 32 of the Municipal Financial Management Act, 2003, as carried out by the Disciplinary Council.

The Municipal Manager explained the various concepts and processes which have to be followed in order to authorise the relevant expenses. The Municipal Manager confirmed, also with reference to item 8.7 that the Municipality did not suffer any losses and therefore it is an important indication that there was no corruption involved.

The comprehensive report from the Disciplinary Council, together with the outcome of the investigation, was circulated with the agenda.

#### **RESOLUTION**

(proposed by clr A K Warnick, seconded by clr R J Jooste)

- (a) That the content of the Records of Decision (RoD) of the Disciplinary Board as per Annexures A to this report be noted regarding the fruitless and wasteful expenditure investigation;
- (b) That the following recommendations by the Disciplinary Board as contained in Annexure A to the report be approved and implemented:
  - (i) The write-off of R5 000 with regards to the excess payment to the insurance company as negligence by the driver could not be determine;
  - (ii) The Traffic and Law Enforcement Officers, who complete the accident reports, should include more detail of the accident scene, such as the cause of the accident, if sufficient precautionary measures were taken to prevent the accident, all traffic rules were obeyed, if the accident could have been prevented, negligent by the driver, obstacles/ difficulties affecting normal driving ability, etc;
  - (iii) The Traffic Department should determine whether the rear-view mirrors of vehicle CK47348 are sufficient for the driver to properly observe the rear of the vehicle (alterations) and the area around the vehicle.

#### **8.7 UNAUTHORIZED EXPENDITURE REPORTED BY THE AUDITOR GENERAL (AG) IN REPORT OF THE 2020/2021 FINANCIAL YEAR (5/15/15)**

The Municipal Manager provided the background to the finding of the Auditor General in respect of the non compliance with the requirements in respect of the Supply Chain Management Policy.

The investigation of the Disciplinary Council, as attached to the report, contains comprehensive information in respect of the unauthorized expenditure, as well as the recommendations as to prevention of such incidents in the future.

8.7/...

**RESOLUTION**

(proposed by clr E C O’Kennedy, seconded by ald T van Essen)

- (a) That the investigation by the Disciplinary Board regarding the irregular expenditure as reported by the Auditor-General be noted:
  - (i) The investigation has been completed with regards to the procurement of goods and services that resulted in irregular expenditure;
  - (ii) The final conclusion and recommendation to council as indicated in the report is as follows:
    - that the irregular expenditure of R950.00 for the replacement of four broken windows at the Solid Waste site in Darling be written off as irrecoverable as sufficient steps have been taken to prevent awards made to persons in service of the state, whereby Human Resources will proactively inform the SCM unit of employees of the municipality that have interests in businesses;
    - that the irregular expenditure of R333 148.10 (R199 398.50 Moorreesburg & R133 749.60 Darling) for the hiring of earthmoving equipment be written off by Council as the SCM Unit, after questioning the splitting of the quotes, was informed by the Civil Engineering Department that the decision to follow the informal tender route for the two related sites was an informed decision based on an engineering perspective;
    - that Management acted in good faith and the irregular expenditure was not because of deliberate or gross negligence or as a result of fraud or other dishonest intent: and
    - The municipality received the above services and suffered no loss.
  - (iii) No further business will be conducted with the relevant supplier and SCM will utilise National Treasury’s CSD report as far as practically possible and/ or the Declaration of Interest of employees for all purchases to ensure that no awards are made to persons in service of the municipality;
  - (iv) The MEC for Local Government and the Auditor-General to be informed in writing in terms of section 32(4) of the MFMA with regards to the irregular expenditure.

**8.8 NOMINATIONS: APPOINTMENT OF COUNCILLORS TO THE CLINIC COMMITTEES OF THE HEALTH CARE FACILITIES IN THE MUNICIPAL AREA (3/3/1)**

A request has been received from the Western Cape Government: Department of Health for the submission of nominations of councillors to serve on the primary health care facility committees in the municipal area.

**RESOLUTION**

(proposed by clr A K Warnick, seconded by clr N Smit)

- (a) That cognisance be taken of the request from the Western Cape Department of Health dated 4 January 2022 to appoint councillors to the various clinic committees;
- (b) That the following councillors be nominated to represent the Swartland Municipal Council on clinic committees of the various health facilities in the municipal area, namely:
  - (i) Darling Clinic cllr A K Warnick
  - (ii) Moorreesburg Clinic cllr D C Pypers and C Fortuin
  - (iii) Malmesbury Community Day Centre cllrs I S le Minnie en M Ngozi
  - (iv) Riebeek Kasteel Clinic cllr D G Bess
  - (v) Riebeek West Clinic cllr N Smit
  - (vi) Abbotsdale Satellite Clinic ald B J Stanley en cllr C Pieters
  - (vii) Chatsworth Satellite Clinic cllr R J Jooste

(viii) Kalbaskraal Satellite Clinic	ald B J Stanley
(ix) Riverlands Satellite Clinic	cllr R J Jooste
(x) Koringberg Satellite Clinic	cllr M van Zyl
(xi) Swartland Hospital	cllrs E C O'Kennedy & B J Penxa

- (c) That the abovementioned nominations be forwarded to the Provincial Minister of Health;
- (d) That the Executive Deputy Mayor, cllr J M de Beer be nominated to represent the Swartland Municipal Council on the West Coast District Health Council for consideration by the Provincial Minister of Health.

**SIGNED:  
SPEAKER**