



Munisipaliteit
Municipality
Umasipala

**MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL,
MALMESBURY ON THURSDAY, 28 JULY 2022 AT 10:00**

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

Officials:

Municipal Manager, mr J J Scholtz
Director: Electrical Engineering Services, mr R du Toit
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
Senior Manager: Solid Waste- and Trade Services, mr J Venter
Manager: Secretariat and Records Services, ms N Brand

1. OPENING

The Speaker welcomed the Executive Mayor, the Deputy Executive Mayor, aldermen, councillors and officials. A special word of thanks is directed to officials from the Office of the Internal Auditor and the Law Enforcement Reaction Unit.

The Director: Protection Services opened the meeting with a scripture reading and prayer at the request of the Speaker.

The Speaker congratulated those who had celebrated birthdays during May.

2. APOLOGIES

RESOLUTION that apologies are accepted from alderlady M van Zyl and clr R J Jooste.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

The Municipal Manager mentioned that, with the retirement of mr P le Roux and new appointments, officials from the Office of the Internal Auditor were invited to the meeting to introduce them to council, namely

- The Senior Manager: Internal Auditor, ms J Erasmus
- The Internal Auditor, mr M Mseleni (absent)
- The Intern involved in Risk Management, ms T Howburg.

3.1 PRESENTATION BY THE OFFICE OF THE PUBLIC PROTECTOR

The Municipal Manager confirmed that an apology was received from the Office of the Public Protector and that they will not be able to do the presentation – therefore the matter stands over.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 26 MAY 2022

RESOLUTION

(proposed by cllr A K Warnick, seconded by cllr E C O'Kennedy)

That the minutes of an Ordinary Council Meeting held on 26 May 2022 are approved and signed by the Speaker.

4.2 MINUTES OF A SPECIAL COUNCIL MEETING HELD ON 15 JUNE 2022

RESOLUTION

(proposed by cllr A K Warnick, seconded by cllr E C O'Kennedy)

That the minutes of a Special Council Meeting held on 15 June 2022 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 in the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 19 MAY 2022

read in conjunction with

MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE MEETING HELD ON 11 MAY 2022

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 15 JUNE 2022

read in conjunction with

MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE MEETING HELD ON 8 JUNE 2022

5.3 MINUTES OF A SPECIAL MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 22 JUNE 2022

6. REPORT IN RESPECT OF THE 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 BID ADJUDICATION COMMITTEE MEETING HELD ON 17 MAY 2022

6.2 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 7 JUNE 2022

7./...

7. MATTERS ARISING FROM THE MINUTES

None.

8. MATTERS FOR DISCUSSION

8.1 RE-ADOPTION OF THE MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (MSDF) AS PART OF THE IDP (2/1/4/4/1)

Since the adoption of the Spatial Development Framework (SDF) by the former Council on 30 May 2019, no amendments were done to the SDF. The SDF forms an integral part of the Integrated Development Plan (IDP) and therefore an executive summary is included in the IDP as approved by Council on 26 May 2022.08.18

The Municipal Manager mentioned that the IDP was submitted to the Minister of Local Government and a request was received from the latter to re-adopt the SDF, as only a summary thereof in the IDP is regarded as insufficient.

RESOLUTION

(proposed by ald J H Cleophas, seconded by ald T van Essen)

That the Municipal Spatial Development Framework that was adopted by Council on 30 May 2019 and of which a summary is included in the current approved IDP (Chapter 6, paragraph 6.4), be re-adopted by Council.

8.2 SUBMISSION OF 2022/2023 PERFORMANCE AGREEMENTS AND PLANS (2/4/2)

The compilation of the 2022/2023 performance agreements and plans was done in accordance with Section 57 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and serves as replacement addendum to the service contracts.

RESOLUTION

(proposed by ald J H Cleophas, seconded by cllr A K Warnick)

That the performance agreements and plans of the Municipal Manager and directors for the 2022/2023 financial year be noted.

8.3 ADOPTION OF BY-LAW RELATING TO THE CONDUCT OF MEETINGS (1/1)

The draft By-law relating to the Conduct of Meetings was tabled to Council on 26 May 2022 for the purpose to initiate the public participation process.

No comments/inputs were received by the deadline of 1 July 2022.08.19

The by-law was considered by the Executive Mayoral Committee on 13 July 2022 for tabling to Council

The matter was put to vote by the Speaker and decided with 15 votes in favour of the adoption of the By-law relating to the Conduct of Meetings and the remainder of the councillors abstained.

RESOLUTION

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

(a) That the following by-law be adopted by Council, to take effect on date of promulgation in the Provincial Gazette:

- Swartland Municipality: By-law relating the the Conduct of Meetings

(b) That fines for offences of the by-law be determined by the Department of Justice;

(c)/...

8.3/...

- (c) That the Rules for Virtual Meetings that were adopted to supplement the existing by-law, be repealed with effect from date of publication of the new by-law.

8.4 NOTICE OF APPROVAL OF THE ORGANISATIONAL STRUCTURE WITH EFFECT FROM 1 JULY 2022 TAKING INTO ACCOUNT AMENDMENTS TO THE DEPARTMENT PROTECTION SERVICES (2/6)

Section 66 of the Municipal Systems Amendment Act, 2011 determines that the municipal manager is responsible for developing an organizational structure for tabling to the municipal council.

The amendments to the organisational structure in relation to the Department: Protection Services are explained in the annexures to the report, as circulated with the agenda.

Cllr B J Penxa mentioned that it is noted that the Department: Protection Services is largely represented by only one race and that an effort must be made to integrate other races as well.

RESOLUTION

(proposed by cllr A K Warnick, seconded by cllr B J Penxa)

That Council takes note of the organisational structure as approved by the Municipal Manager taking into account the amendments with regard to Protection Services for implementation with effect from 1 July 2022.

8.5 APPOINTMENT OF DISCIPLINARY BOARD MEMBERS TO BE RECOMMENDED TO COUNCIL (5/15/1/5)

The Disciplinary Board serves as an independent advisory body to assist the Council with investigations into financial misconduct in terms of the Financial Misconduct Regulations.

The Municipal Manager mentioned that the report only intends to appoint the new Internal Auditor to the Disciplinary Board.

RESOLUTION

(proposed by cllr E C O'Kennedy, seconded by cllr T van Essen)

According to Section 4(3) of the Financial Misconduct Regulations, the term of office for members of the Disciplinary Board must not exceed a period of three years. Therefore, the following appointment be approved to ensure continuity and further existence of the Disciplinary Board:

- (a) Appoint Ms J Erasmus, Manager: Internal Audit from 1 June 2022 to 31 May 2025 as she served on the Disciplinary Board

8.6 CONSTRUCTION OF ROADS IN CHATSWORTH: PROPOSED EXPROPRIATION OF PORTIONS PRIVATE LAND FOR SPLAYS (12/2/1-2/4)

The Municipal Manager mentioned that bellmouths must be created for the construction of streets in Chatsworth to ensure visibility for traffic. Chatsworth was established by way of a General Plan in terms of the "old" Ordinance resulting in insufficient planning for the construction of streets.

The various options to acquire the land for the construction of streets are presented to the Council and the reasons why expropriation should be considered. There are many costs involved for the Municipality, e.g. the moving of fences. The project forms part of the planning phase for the construction of streets in the 2023/2024 financial year.

Resolution

8.6/...

RESOLUTION

(proposed by cllr A K Warnick, seconded by ald B J Stanley)

- (a) That approval be granted for the expropriation for public purposes (roads) of those portions of private land required as splays for the construction of roads in Chatsworth, in order to ensure that the project can be commenced with and finalized during the 2023/24 financial year, also taking into account the complexity, increased costs and other implications of the normal transfer process, as explained in this report;
- (b) That all costs related to the transactions be reckoned against the civil project;
- (c) That the affected parties be informed in writing of the steps to be taken and the process to follow;
- (d) That the Director: Corporate Services be authorized to sign all documents related to these transactions

8.7 PROPOSED OUT OF HAND ALIENATION OF MUNICIPAL COMMONAGE (PORTION REMAINDER ERF 551) AND ERF 1119 IN DARLING (12/2/5/2-3/2)

As application was received from the owner of Erf 4373, Darling - CLB Eiendomme (Pty) - to acquire a portion of Remaining Erf 551, and Erf 1119, Darling to consolidate with their property.

The factory, Darling Romery, is accommodated on Erf 4373, Darling and has expanded over recent years to such an extent that additional space is required, specifically for the movement of vehicles.

RESOLUTION

(proposed by cllr A K Warnick, seconded by ald J H Cleophas)

- (a) 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 a portion (\pm 0.7148 ha in extent) of Remainder Erf 551, Darling as well as Erf 1119, Darling (0.075 ha in extent) to be alienated and transferred out of hand to CLB Eiendomme (Pty) Ltd for consolidation with Erf 4373, at the amount of R157 460,00, excluding VAT, subject to the conditions herein contained;
- (b) That cognizance be taken that the subject properties have at no stage been required for the provision of a minimum or any other level of basic municipal services;
- (c) That the following reasons be recorded for the out-of-hand alienation as above and for not undergoing a competitive process:
 - (i) The subject properties qualify as 'non-viable land' in that due to physical constraints they cannot be developed on their own and only becomes functional if alienated to an adjoining owner for usage in conjunction with his or her property, as proposed;
 - (ii) The proposed merging of the subject properties with Erf 4373 and the use of same for commercial purposes, links up with Strategic Goal 3 of the 2017-2022 Integrated Development Plan, namely to unlock economic opportunities, to strengthen mobility and economic links and to facilitate the economic potential of Swartland wards (in this instance ward 5);
 - (iii) The properties in their existing shape do not have any economic or other benefit for the Municipality, and only by consolidation with Erf 4373 will contribute to the economic benefit derived from the present use of the Erf 4373 by means of job opportunities created for the community;

(d)/...

8.7/...

- (d) That the transaction shall be subject to the following conditions:
 - (i) Considering that the owner of Erf 3743 may potentially also be interested in obtaining ownership of a portion of the subject properties for consolidation with Erf 3743, written confirmation by the owner of Erf 3743 first be obtained that the latter is not interested in obtaining ownership, before the transaction is advertised for potential objections and/or comments; Further, should said owner indeed be interested in obtaining a portion, the transaction be reconsidered;
 - (ii) The purchaser, in addition to the purchase price, shall be responsible for all costs ancillary and incidental to this transaction, including advertisement costs, transfer costs and costs related to the relevant land use applications (including rezoning) as well as the costs of consolidation and road closure;
 - (iii) Any improvements to the subject properties may only take place with the permission of the Municipality and by taking into account existing servitudes and services installations;
 - (iv) Ownership of the land does not exempt the purchaser from any obligations towards other authorities, and it therefore does not deprive the latter or any other authorities from any rights pertaining to the specific portions of land;
- (e) That the proposed transaction be advertised in the media for public comments and/or potential objections, and the executive mayor (in consultation with his committee) be authorized to deal with any objections that may be forthcoming;
- (f) That before the intention is advertised and subject to paragraph (d)(i) above, written confirmation first be obtained from the purchasers that they agree to the conditions as provided for in this report;
- (g) That the Director: Corporate Services be authorized to finalise and sign the deed of sale.

8.8 ANNUAL REPORT REGARDING THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE FINANCIAL YEAR ENDING 30 JUNE 2022 (8/1/B/1)

Regulation 6(2)(a)(i) of the Municipal Supply Chain Management Regulations determines that an annual report must be submitted to the Council in respect of the implementation of the Supply Chain Management Policy.

The annual report for the period 1 July 2021 to 30 June 2022 was circulated with the agenda.

RESOLUTION

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

- (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 2022 to 30 June 2022 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). It must be noted that payments must still be finalised for the 2021/2022 financial year. To comply with legislation in terms of quarter 4, any differences will be highlighted in the following SCM quarterly report, subject to figures/transaction that would have an impact on the completeness of the financial statements.

8.9/...

8.9 QUARTERLY REPORT I.T.O. SECTION 52 OF THE MFMA FOR THE PERIOD 1 APRIL 2022 TO 30 JUNE 2022 (7/1/2/2-2)

The submission of the quarterly report to the Council is prescribed in Section 52(d) of the Local Government: Municipal Financial Management, Act 56 of 2003 (MFMA).

RESOLUTION

(proposed by cllr E C O'Kennedy, seconded by cllr 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 April to 30 June 2022, bearing in mind that some performance indicators will be affected due to the finalisation of year-end processes.

8.10 REPORTING IN TERMS OF SECTION 15 (3) OF THE MUNICIPAL PROPERTY TAX LEGISLATION ON PROPERTY TAX EXEMPTIONS, REBATES AND REDUCTIONS & "REVENUE FORGONE" FOR THE FINANCIAL YEAR 2021/2022 (5/3/1/3)

Section 15(3) of the Municipal Property Tax Act, 2004 (Act 6 of 2004) determines that the Municipal Manager must report annually to the Council regarding all tax exemptions, discounts and rebates granted in the previous financial year.

The report for the period 1 July 2021 to 30 June 2022 was circulated with the agenda.

RESOLUTION

(proposed by ald J H Cleophas, seconded by ald T van Essen)

That cognisance be taken of the municipal property tax rates exemptions to public benefit organisations/non-governmental organisations, discounts, rebates granted and revenue forgone as per the information substantiated above and in Attachments A to C for the financial year ended 30 June 2022.

**SIGNED
SPEAKER**