



MINUTES OF A MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD IN THE TOWN HALL, MALMESBURY ON WEDNESDAY, 13 JULY 2022 AT 10:00

PRESENT:

Executive Mayor, ald J H Cleophas (chairman)
Deputy Executive Mayor, clr J M de Beer

Members of the Mayor's Committee:

Clr D G Bess
Ald T van Essen
Clr A K Warnick

Other councillors:

Ald M A Rangasamy (Speaker)

Officials:

Municipal Manager, mr J J Scholtz
Director: Financial Services, mr M A C Bolton
Director: Civil Engineering Services, mr L D Zikmann
Director: Protection Services, mr P A C Humphreys
Director: Development Services, ms J S Krieger
Director: Corporate Services, ms M S Terblanche

1. OPENING

The chairman welcomed members and opened the meeting.

2. APOLOGIES

RESOLUTION that apologies are accepted from clr N Smit and the Director: Electrical Engineering Services, mr R du Toit.

3. SUBMISSIONS/DEPUTATIONS/COMMUNICATIONS

None.

4. MINUTES

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

RESOLUTION

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

That the minutes of an Ordinary Executive Mayor's Committee Meeting held on 15 June 2022 are approved and signed by the Executive Mayor.

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

Resolution/...

4.2/...

RESOLUTION

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

That the minutes of a Special Executive Mayor's Committee Meeting held on 22 June 2022 are approved and signed by the Executive Mayor.

5. MATTERS ARISING FROM THE MINUTES

None.

6. MONTHLY REPORT: MAY 2022

[Note: The performance and financial information in respect of Quarter 4 are included in the section 52 MFMA report, which will be submitted to the Council on 28 July 2022, therefore only additional reports applicable to the relevant directorates will be presented.]

6.1 CIVIL ENGINEERING SERVICES (7/1/2/2-4)

The Director: Civil Engineering Services noted that the high water usage for May is a worrying upshot since the drought. The Municipality also predicts a period of potential failure of its bulk water infrastructure which necessitates active planning over the following ten to fifteen years.

The Director: Civil Engineering Services also stated that the Department of Water Affairs failure to address the water problem, requires that alternative water sources must be sought by the Municipality as urgently needed, in order to accommodate, inter alia, the increase in water users and economic growth. There is also concern that the Berg River project, which will create additional capacity/supply for the Municipality, will not be realised, mainly due to the non-affordability thereof for the farmers who must contribute to the loan.

The Mayor, ald van Essen and the Municipal Manager also voiced their concern in respect of the question, inter alia, with reference to the situation in Chatsworth and Riverlands, and it was therefore

RESOLVED

- (a) That note is taken of the contents of the monthly report from the Director: Civil Engineering Services in respect of May 2022;
- (b) That the establishment of indicators in order to ensure water security for the Swartland, in the long term, is referred to for consideration as part of the IDP process.

6.2 ELECTRICAL ENGINEERING SERVICES (7/1/2/2-6)

Alderman van Essen voiced his concern with respect to the energy usage in certain areas, such as Malmesbury, with reference to the Klipkoppie switchgear which is already 21 years old, and runs the risk of failing as a result of the frequent load shedding. He predicts a greater impact on electricity supply to the town if SASKO (as a result of 'load curtailment') would be excluded from load shedding. Ald van Essen also stated that users are starting to become averse to the payment of availability fees.

RESOLUTION that note is taken of the contents of the monthly report from the Directorate Electrical Engineering Services in respect of May 2022.

6.3 DEVELOPMENT SERVICES (7/1/2/2-5)

The Director: Development Services stated that 102 houses in the De Hoop project have already been handed over, and that the contractor (*Simply Do*) has indicated that Phase 1 (395 structures) will be finished by the end of the year. He also stated that by 21 July 2022 feed back must be given to the Darling *Action Group* in respect of land for a school and the creation of serviced plots.

6.3/...

With reference to the appeal court in respect of erf 1192, Yzerfontein, the Mayor voiced his concern that it appeared that fines for illegal building work were not levied. The Municipal Manager and Director: Development Services indicated that it was the case that fines were levied and undertook to give feedback to the committee in this regard.

RESOLUTION

- (a) That note is taken of the contents of the monthly report from the Directorate Development Services in respect of May 2022;
- (b) That feedback will be given to the committee in respect of the levying of fines for illegal building work.

6.4 PROTECTION SERVICES (7/1/2/2-3)

6.4.1 TRAFFIC AND LAW ENFORCEMENT SERVICES

6.4.2 FIRE FIGHTING SERVICES

The Director: Protection Services stated that the training of the reaction unit is going well, and will be completed by 29 July 2022. The two senior traffic officials in charge of the unit are also undergoing training at the Chrysalis Academy.

He also stated that the canine unit is going exceptionally well, and their services are also being used by other municipalities.

Councillors voiced their concern in respect of specific challenges detailed by the director, such as illegal dumping, land grabs and '*speeding/dicing*', the latter being a problem in Darling especially. The Director: Protection Services stated that the City of Cape Town's draft traffic regulation will be consulted in order to ascertain how the City deals with matters such as '*dicing*' which has the potential for impounding vehicles or confiscating licenses.

It is noted that fines are seldom issued for illegal dumping of refuse, because offenders must be caught in the act, and people are not disposed to report offenders due to the potential for victimisation.

RESOLUTION

- (a) That note is taken of the monthly report from the Directorate Protection Services in respect of May 2022;
- (b) That consideration will be given, as part of the IDP process, to set goals for the writing out of fines for illegal dumping.

7. NEW MATTERS

7.1 RE-INTRODUCTION OF THE MUNICIPAL SPACIAL DEVELOPMENT FRAMEWORK (MSDF) AS PART OF THE IDP (2/1/4/4/1)

The Spatial Development Framework (SDF) was approved by the previous Council on 30 May 2019 and since then no amendments have been introduced. The SDF forms an integral part of the Integrated Development Plan (IDP) and therefore a summary is included in the IDP approved by the Council on 26 May 2022.

The IDP was submitted to the Minister of Local Government and the latter requested that the SDF is again incorporated because only the summary in the IDP is not seen as sufficient.

RESOLUTION (for submission to the Council on 28 July 2022)
(proposed by ald T van Essen, seconded by clr A K Warnick)

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 recommended for re-adoption by Council.

7.2 ACCEPTANCE OF THE REGULATION IN RESPECT OF THE HOLDING OF MEETINGS (1/1)

The draft Regulation in respect of the Holding of Meetings was submitted to the Council on 26 May 2022 in order to initiate the public participation process.

No comments/input were received by the deadline of 1 July 2022.

RESOLUTION (for submission to the Council on 28 July 2022)
(proposed by clr A K Warnick, seconded by clr D G Bess)

- (a) That the following by-law be recommended for approval 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) 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.

7.3 APPOINTMENT OF A DISCIPLINARY PANEL AS RECOMMENDED TO THE COUNCIL (5/15/1/5)

The disciplinary panel was set up in accordance with the *Financial Misconduct Regulations* as an independent advisory body to support the Council in investigations into financial misconduct.

The Municipal Manager stated that the report only envisages appointing the Internal Auditor to the Disciplinary Council, and that a report will be submitted to the committee in due course in respect of the other members whose term of office expires on 31 December 2022.

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

- (a) That 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 Executive Mayoral Committee is requested to consider the comments in 2 above and the following proposals to ensure continuity and further existence of the Disciplinary Board:
 - (i) The appointment of Ms J Erasmus, Manager Internal Audit from 1 June 2022 to 31 May 2025.

7.4 REMUNERATION OF MEMBERS OF THE MUNICIPAL PERFORMANCE AND RISK MANAGEMENT AUDIT COMMITTEE (5/15/1/3)

The Performance and Risk Audit Committee plays an important oversight role and provides a specialised service to the Municipality as an advisory body in respect of financial, risk and performance management.

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

- (a) Hourly rate:
 - (i) That the remuneration payable to the members of the Performance and Risk Audit Committee from 1 July 2022 for the preparation and attendance of audit committee meetings or meetings of the Board is approved, as follows:
 - Chairman: R820.00 per hour (maximum of 8 hours)
 - Members: R700.00 per hour (maximum of 7 hours)

7.4(a)/...

- (ii) That the maximum hours per meeting include the attendance, preparation, research and travel time to and from the venue where the meetings are held;
 - (iii) That approval be granted that the above hourly rates be increased annually from 1 July onwards with the percentage adjustment of 5% calculated on the rate payable to the members (not Chairman) rounded to the nearest R5.00, i.e. 5% of R700 = R35 rounded to R35. So the Chairman's hourly rate will change in 2023/24 to R820 + R35 = R855 and other members R700 + R35 = R735. In 2024/25, members' hourly rate will increase from R735 + 5% = R771.25 rounded to R770, so R770. The Chairman's rate increased from R855 + R35 = R890;
- (b) Number of meetings:
- (i) That it is noted that a minimum of four meetings per year will be convened, of which two of the meetings will include Performance Management and the other two Risk Management. Additional meetings that are convened will take place in consultation with the Municipal Manager in order to check the expenditure in this regard;
- (c) Travel expenses:
- (i) That it is noted that travel costs will be paid in accordance with the rate as prescribed in the Travel and Accommodation Policy of the Municipality.

7.5 HUMAN RESOURCE PLAN FOR 2017-2022: EXTENTION TO THE PLAN TO 30 JUNE 2023 (2/B)

The Human Resource Plan is a strategic document in line with various strategies of the Municipality and must therefore run concurrently with the IDP term.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr J M de Beer)

That approval be granted for the extension of the Human Resources Plan by 12 months, ending 30 June 2023, to run alongside the existing IDP.

7.6 CAPE NATURE: PROPOSED MEMORANDUM OF AGREEMENT IN RESPECT OF ILLEGAL LAND OCCUPATION (1/1)

Cape Nature has approached the Municipality for support in the prevention of and quick reaction to illegal occupation of land, which is managed by *Cape Nature*. The proposed Memorandum of Agreement was circulated with the agenda.

Councillors supported the proposed agreement, but requested that the contents (with specific reference to clauses **6.1.7 and 6.1.8**) are inspected in detail in order to ensure that the Municipality is not saddled with the liabilities which rest with the owner, and to ensure that the Municipality has enough authority to act when it appears necessary.

The Director: Financial Services made a suggestion that it must be specifically placed on record that the land is the property of *Cape Nature*, and that the liability and responsibility thereof rests with the institution, and is not given over to the Municipality as a result of the memorandum.

RESOLUTION

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

- (a) That approval be granted for the proposed Memorandum of Agreement to be entered into with CapeNature regarding the unlawful invasion and/or occupation of land, subject thereto that the contents shall be finalized by the Director: Protection Services and Director: Corporate Services;
- (b) That the Municipal Manager be authorized to sign the final agreement on the Municipality's behalf;
- (c) That it be noted that the hourly tariffs in respect of law enforcement services shall apply, as determined annually by Council.

7.7 FRAMEWORK FOR THE DE VLEI AMPHITHEATRE, DARLING (17/9/2/2/3)

The De Vlei Amphitheatre in Darling was built during 2020/2021 and officially opened on 19 October 2021. The purpose of the amphitheatre is to create a space where the community can come together to enjoy art, culture and performances.

Since the opening there have been many requests received from the public to make use of the intercultural space.

The Mayor voiced his concern that use of the amphitheatre, given the fact that it is not fenced, might deteriorate into hosting large functions, which might compromise control within the proposed framework. It must be noted that the facilities have been managed successfully up to now, and that the situation will be monitored.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr D G Bess)

- (a) That the attached framework containing the criteria and application process regarding the use of the De Vlei Amphitheater is approved, and that it is reviewed annually to determine whether the criteria still apply;
- (b) That use applications will also be submitted to the Directorate of Protection Services in order to determine and be able to manage potential risks, where necessary in collaboration with the SAPS;
- (c) That the content of the framework will be communicated to the community in a concise, positive manner (without reference to any punitive measures).

7.8 WRITE-OFF OF DEBT FROM DESTITUTE HOUSEHOLDS AND OTHER NON RECOVERABLE DEBT, JUNE 2022 – REAL AMOUNT FOR WRITE-OFF (5/7/3)

The report serves to submit the real amounts written off, to the Executive Mayor's Committee, after current levies and/or interest on the write-off lists of destitute households and other non recoverable debts have been dealt with, as well as the completion of socio economic investigations.

The Director: Financial Services stated that the write offs amount annually to almost R6,5 million, which only amounts to 0,8% of the total levied income per annum. Compared to a neighbouring municipality, where the write offs amount to more than 10%, he does not foresee the risk that the situation, based on the extent of the present write offs, is not sustainable.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr J M de Beer)

- (a) That cognizance is taken that the actual amount written off in respect of indigent households amounted to R 3 315 985,28 and in respect of other irrecoverable debt amounted to R 63 263,47;
- (b) That further cognizance is taken that Swartland Municipality reserves the right to do a reversal of any amount that was written off to the relevant debtor and that all necessary steps will be taken to recover the debt, if it comes to light after the date of this approval that -
 - (i) a household did not comply with the indigent criteria (as determined in Chapter 7: of the Indigent Policy); or
 - (ii) a portion of, or the total debt of a debtor was not correct; or
 - (iii) information came forth that was not known to the Executive Mayoral Committee when the writing off was considered, that would have influenced the decision of the committee;
- (c) That cognizance is taken that if the property is alienated in any way; Swartland Municipality reserves the right to refuse clearance on the property in question in order to first recover the amounts written off. A register is kept in this regard at the Property Rates Division in order to determine if any amounts was written off for the previous two years, in order to recover the write-off amount before clearance is given.

7.9 ANNUAL REPORT IN RESPECT OF THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE FINANCIAL YEAR ENDING 20 JUNE 2022 (8/1/B/1)

Regulation 6(2)(a)(i) of the *Municipal Supply Chain Management Regulations* stipulates that a report must be submitted to the Council annually, 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.

Councillor Warnick requested that repeated departures, especially with respect to instances, which are identified as 'impractical', must be investigated in order to be handled possibly under the relevant tender process, and that specifications must enjoy attention accordingly.

The Director: Financial Services stated that the procurement procedures are very specific in this respect, but that (within the context of the Council's oversight role) note of councillor Warnick's representation is taken, as such, must actually be an appeal to both himself and the directors to prevent the potential misuse of the regulations. He also stated that the departures for the year represented a very small percentage, in comparison with the extent of formal and informal tenders.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr D G Bess)

- (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.

7.10 OUTSTANDING DEBTORS: JUNE 2022 (5/7/1/1)

A complete report in respect of outstanding debtors was circulated with the agenda.

The Director: Financial Services confirmed that feedback would be given to the committee if the write off deviates from the amount stated, after the year end closure.

RESOLUTION

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

That cognizance be taken of the report with reference to the state of the outstanding debtors of Swartland Municipality for June 2022.

7.11 PROGRESS IN RESPECT OF OUTSTANDING INSURANCE CLAIMS (5/14/3/5)

In accordance with the Asset Management Policy outstanding insurance claims must be reported monthly.

The Director: Financial Services brought the enormous increase in insurance premiums to the notice of the councillors, due to the additional assets obtained, which must be insured, including infrastructure of more than R600 million and IT infrastructure of about R7 million. He is of the opinion that the current insurance portfolio is still advantageous to the Municipality, and does not justify using own insurance reserves. He warned once again that necessary caution is exercised by personnel with assets, inter alia, vehicles.

With reference to the safety of infrastructure, it was stated that

- (1) the nature of the asset will be determined if fencing must be replaced, if it is vandalised or removed;
- (2) the potential risks and costs play a decisive role whenever it must be determined if a security firm must be employed in order to secure infrastructure, with reference to the former Standard Bank Building where the replacement value of vandalised assets (which would be reused) was informative for purposes of the insurance claim, and not only the total replacement of the damages.

RESOLUTION

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

- (a) That cognizance be taken of the state of outstanding insurance claims up to and including 31 May 2022 as circulated with the business list;
- (b) That the Director: Protection Services will forward the list to the Mayor of all cases where security arrangements are in place, and what they entail.

7.12 APPROVAL OF THE PUBLIC PARTICIPATION PROCESS IN RESPECT OF THE 4TH GENERATION DRAFT INTEGRATED WASTE MANAGEMENT PLAN FOR PUBLIC AND DEA&OP COMMENT (16/4/B)

The 3rd Generation Integrated Waste Management Plan was approved by the former Council on 25 May 2022 in accordance with the stipulations of the *National Environmental Management: Waste Act, 2008 (Act 59 of 2008)*, inter alia, that the plan must be reviewed every five years.

The draft 4th Generation Integrated Waste Management Plan was drawn up by JPCE Consulting Engineers and a management summary was circulated with the agenda.

RESOLUTION

(proposed by ald T van Essen, seconded by clr D G Bess)

- (a) That cognizance be taken that the Municipality is in the process of drawing up the 4th Generation Integrated Waste Management Plan;
- (b) That approval be granted for the draft 4th Generation Integrated Waste Management Plan to be published for public participation for comment/input from the public and the Department of Environmental Affairs and Development Planning;
- (c) That the 4th Generation Integrated Waste Management Plan be presented to the Council for consideration and approval, taking into account the consideration of comments/inputs received during the public participation process;
- (d) That consideration will be given to workshopping the content of the waste management plan with councillors, given its importance.

7.13 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURES: APPOINTMENT OF A SERVICE PROVIDER FOR TRAINING AND RESIDENCY OF THE LAW ENFORCEMENT REACTION UNIT (8/1/B/2)

The Municipality received funding to create a Law Enforcement Reaction Unit and 20 officials were appointed by means of a recruiting and selection process.

City of Cape Town's Metro Police Training Academy, in conjunction with *Chrysalis Academy* are the only service providers in the Western Cape, which can provide the relevant training to the officials involved.

Resolution/...

7.13/...

RESOLUTION

(proposed by clr A K Warnick seconded by clr D G Bess)

- (a) That the Executive Mayoral Committee take note of the deviation from the prescribed procurement procedures in terms of clause 36 (2) of the Supply Chain Management Policy;
- (b) That further notice be taken of the action of the Municipal Manager not to invite tenders but to approve the acceptance of the quotation for the appointment of Chrysalis Academy to the amount of R 318 795,00 (VAT Incl.);
- (c) That the reasons for the deviation from the prescribed procurement process be recorded as:
 - (i) Chrysalis Academy is the only service provider in the Western Cape that can provide the required training and lodging;
- (d) That the expenditure was allocated to mSCOA vote 9/233-490-852 and that there was sufficient funding available for the order in the amount of R 318 795, 00 including VAT;
- (e) That the Manager: Financial Statements and Control be requested to include the above reasons as a note to the financial statements, when same are compiled.

7.14 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURES: PURCHASE OF SHOT GUN RUBBER BULLETS (8/1/B/2)

The Swartland Traffic and Law Enforcement Services supported the SAPS between 13 and 17 June 2022 during the protest action in Darling.

The behaviour of ±500 protesters was of such a nature that teargas and rubber bullets were used to keep control and the ammunition stock was insufficient.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr D G Bess)

- (a) That the Executive Mayoral Committee take note of the deviation from the prescribed procurement procedures in terms of clause 36 (2) of the Supply Chain Management Policy;
- (b) That further notice be taken of the action of the Municipal Manager to approve the payment of R 43 412.50 to Brussels Gunstock Makers for the emergency purchase of Shotgun Rubber Bullets for Traffic and Law Enforcement;
- (c) That the reasons for the deviation from the prescribed procurement processes be recorded as follows:
 - (i) This was an emergency situation with Law Enforcement running out of shotgun bullets;
 - (ii) Brussels Gunstock Makers PTY (LTD) was the only service provider in this instance who was able to provide Shotgun Rubber Bullets on a public holiday and during the protest action;
- (d) The amount of R 43 412.50 (VAT Included) was paid from vote number 9/233-1004-3473 (Consumables Firearms) in the 2021/22 budget;
- (e) That the Manager: Financial Statements and Control, in terms of the Supply Chain Management Policy be instructed to include the aforementioned reasons as a note to the financial statements, when the statements are compiled.