



Munisipaliteit  
Municipality  
Umasipala

**MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON WEDNESDAY, 31 JANUARY 2018 AT 10:00**

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**PRESENT:**

Speaker, clr M A 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)

Humphreys, F S (ANC)

Maart, E S M (DA)

McQuire, V D (DA)

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: 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, and officials. A special word of welcome was extended to ms Mariaan Roos, as the representative of the Municipality's External Audit Committee, as well as Rev Jacobus Snyders of the *Nederduitse Gereformeerde Kerk, Swartland Moedergemeente*.

Rev Snyders opened the meeting with a scripture reading and a prayer at the request of the Speaker.

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

**2. APOLOGIES**

Apology received from clr L E Mfutwana.

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

**3.1 COMMUNICATION FROM THE EXECUTIVE MAYOR: WATER SITUATION**

The Speaker gave the Executive Mayor, ald T van Essen, the opportunity to update the Council in respect of the water crisis and the way forward – for completeness the presentation is attached as Annexure A.

## 3.1/...

The presentation dealt, inter alia, with the decreased rainfall figures over the last few years (2017 had the lowest rainfall since 1896), together with the low dam levels, withdrawal from the Voëlvlei Dam by farmers and various authorities, and the emergency plans in order to manage the water crisis.

Ald van Essen gave the assurance that the water crisis is managed on a daily basis, and that every Friday a meeting takes place in order to consider the various phases of the disaster management plan.

The Municipality is currently in phase 1, which inter-alia includes:

- Level 6 water restrictions (see item 7.6), which includes strict restrictions on permissible water usage (50 liter per person per day);
- Improved communication, inter alia awareness campaigns and the management of large water consumers;
- Technical interventions, inter alia water pressure and water flow management, the drilling of boreholes at strategic places, interventions in order to access the remaining water under the 12% level in the Voëlvlei Dam.

Ald van Essen explained that the implementation of Phases 2 and 3 can only be avoided if all water users adhere to these heavy restrictions.

#### **FOR INFORMATION**

[Note: That, at the request of clr D B Philander, item 7.6 was dealt with directly after the Executive Mayor's submission, due to the connection between the items.]

#### **7.6 IMPLEMENTATION OF LEVEL 6 WATER RESTRICTIONS (16/11/17)**

The Executive Mayor explained that the City of Cape Town has already implemented level 6B water restrictions. An instruction has been received to lower the use of potable water from 60 liter/person/day to 50 liter/person/day.

#### **RESOLUTION**

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

- (a) That Level 6 water restrictions be implemented with effect from 1 February 2018, in terms of which water consumption is limited to 50 litres per person per day;
- (b) That all other Level 5 measures remain unchanged under Level 6, and no tariff adjustments be made at this stage;
- (c) That a public notice be published in the media in the above-mentioned regard, as well as on the website and social media platform (Facebook), and also be displayed at the municipal libraries and pay-points.

#### **4. MINUTES FOR APPROVAL**

##### **4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 26 OCTOBER 2017**

#### **RESOLUTION**

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

That the minutes of an Ordinary Council Meeting held on 26 October 2017 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 his delegated capacity in the following minutes:

##### **5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 11 OCTOBER 2017, read in conjunction with MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 4 OCTOBER 2017**

- 5.2 **MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 15 NOVEMBER 2017**, read in conjunction with **MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 8 NOVEMBER 2017**
- 5.3 **MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 6 DECEMBER 2017**
- 5.4 **MINUTES OF A SPECIAL MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 15 DECEMBER 2017**

**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 his delegated capacity in the following minutes:

- 6.1 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 4 OCTOBER 2017**
- 6.2 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 19 OCTOBER 2017**
- 6.3 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 16 NOVEMBER 2017**
- 6.4 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 22 NOVEMBER 2017**

**7. MATTERS FOR DISCUSSION**

**7.1 SUBMISSION OF THE DRAFT ANNUAL REPORT: 2016/2017 FINANCIAL YEAR (7/1/1/1)**

The 2016/2017 Annual Report was drawn up in accordance with the format stipulated 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, Act 56 of 2003 (MFMA).

The draft annual report was circulated separately from the agenda, to all councillors.

**RESOLUTION**

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

- (a) That cognisance be taken of the annual report in respect of the 2016/2017 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 130 of the MFMA, being
  - (i) disclosure of the annual report;
  - (ii) inviting the public to submit representations in connection with the report;
  - (iii) inviting the public and relevant organs of state to attend the special council meeting on 29 March 2018, 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 be authorized in terms of section 79(2)(d) of the Structures Act, 1998 to co-opt advisory members who are not members of the council, including the following:

7.1(c)/...

- the external financial audit committee;
  - two ward committee members to be co-opted on the performance assessment panel;
- (d) That the members of the ward committees also be extended an invitation to attend (1) the MPAC-meeting on the above date and (2) the special council meeting on 29 March 2018;
- (e) 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 29 March 2018.

## **7.2 QUARTERLY REPORT (ARTICLE 52 OF MFMA): OCTOBER - DECEMBER 2017 (7/1/2-2)**

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

The presentation of the report to the Council is one of the Executive Mayor's general responsibilities in order to enlighten the Council in respect of the implementation of the budget and the status of the Municipality's financial matters.

The quarterly report in respect of Quarter 2, as at 31 December 2017, was circulated with the agenda.

The Speaker gave the councillors the opportunity to comment on the submission of the quarterly report. Cllr F S Humphreys voiced her concern, with reference to paragraph 1.2 of the quarterly report, that after an hour was spent on the water crisis during the meeting, the report indicates that there are no problems or risks facing the Municipality.

The Municipal Manager, Mr J J Scholtz, explained that Swartland Municipality, as well as the Western Cape, acknowledges that the water crisis is a great risk and that the impact thereof on the economy will only be felt in a few years time and will also have drastic consequences.

The water crisis, which is being experienced at present, has forced users to think differently about water and the saving and reuse thereof, and it will therefore be necessary for the Council to review the water budget. The adjusted budget indicates a slight shortfall of R25 000 on the R28 million water budget, and therefore it is not necessary to implement additional levies – as in the case of the City of Cape Town.

The Municipal Manager also explained that another challenge is to get any water from alternative sources, eg. borehole water, back into the water network. As a beginning, boreholes will be bored in the areas of Chatsworth and Riverlands.

### **RESOLUTION**

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

That Council takes cognisance of the attached quarterly report, as required by Section 52 of the Municipal Finance Management Act, Act 56 of 2003 regarding 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 2017 to 31 December 2017.

## **7.3 MID-YEAR BUDGETS AND PERFORMANCE EVALUATION (2/4/2)**

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

The Executive Mayor must then, in accordance with section 54(f) of the MFMA, submit the evaluation report to the municipal council by 31 January, annually.

7.3/...

The Mid-Year Budget and Performance Reports are drawn up in accordance with prescriptions of the Municipal Budget and Reporting Regulations (General Notice 393 promulgated in Government Gazette dated 17 April 2009).

The Director: Financial Services dealt with the section 72 report, and stated that this evaluation is a prescribed precursor to the budget adjustment.

#### **RESOLUTION**

(proposed by ald T van Essen, seconded by clr P E Solomons)

That cognizance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2017/18 financial year and more specifically the need to revise the original budget by way of an adjustments budget.

#### **7.4 APPROVAL OF THE 2017/2018 ANNUAL ADJUSTED CAPITAL AND OPERATING BUDGETS (5/1/4)**

The Speaker gave the Executive Mayor, ald T van Essen, the opportunity to deal with the highlights of the budget adjustment with the Council. Ald van Essen focussed on the items which have been adjusted in order to mitigate the water crisis.

Clr D B Philander referred to items in the adjusted budget and stated, on behalf of the ANC caucus, that there is no consultation with all the councillors, and that an apartheid style approach is followed when budgets are drawn up, e.g. an airconditioning system has been installed in the Town Hall, and in Riebeeek Kasteel there is no community hall where the community can meet. This approach does not further economic and spatial development which can make a contribution to the equalization of communities.

The Executive Mayor, confirmed by the Municipal Manager, explained that the adjusted budget must comply with strict legal requirements, and cannot be adjusted for the purposes indicated by clr Philander.

Clr D B Philander stated that the adjustment of the budget, within the laid down framework, is seen as an opportunity to join hands in the Council in order to equalise communities, because the Executive Mayor extended an invitation for co-operation on a previous occasion.

The Speaker requested that the Executive Mayor and the ANC Caucus arrange a meeting, with a view to future budgets, to discuss proposals in respect of the handling of contributions to the budget.

The Speaker put the matter to the vote and it was decided (in the absence of one councillor) with 16 votes in favour thereof, and 6 councillor abstentions.

#### **RESOLUTION**

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

- (a) That it be noted that the Budget Steering Committee convened after having considered the explanations and motivations provided by the financial staff and other directors;
- (b) That it be noted that the changes in the budget will have no impact on tariffs in respect of the 2017/2018 financial year but will result in an increase in the budgeted surplus from R30 482 818 to a budgeted surplus of R 62 109 553;
- (c) That approval be granted for the roll-over of unspent funds from government grants already approved by Provincial Treasury in respect of the 2016/2017 financial year as indicated in Council's financial statements as on 30 June 2017 and set out in Annexure B;

(d)/...

7.4/...

- (d) That the 2016/2017 Unauthorised Expenditure as stated above be approved as part of this 2017/2018 Adjustment budget as envisaged by Section 32 of the MFMA;
- (e) That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as well as the correction of the differences identified during the verification process of the original budget schedules;
- (f) That the Director: Financial Services adhere to the requirements of the Budget Circulars and Budget Reforms inclusive of attending to the reporting requirements to Provincial and National Treasury;
- (g) That it be noted that the budget was also prepared in the mSCOA format as required by National Treasury;
- (h) That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly;
- (i) That approval be granted to amend the high-level capital and operating budget for 2017/2018 as follows:

	<b>Original Budget 2017/2018</b>	<b>Annual Adjustment Budget</b>
Capital budget	R 81 242 586	R 100 373 122
Operating expenditure	R 664 697 875	R 668 442 676
Operating revenue	R 695 180 693	R 730 552 229
Budgeted Surplus/ (Deficit)	R 30 482 818	R 62 109 553
Capital Grants	R 35 075 916	R 50 690 842
Surplus/ (Deficit)	(R 4 593 098)	R 11 418 711

#### **7.5 COUNCILLOR REMUNERATIONS: 2017/2018 FINANCIAL YEAR (5/10/1)**

Government Notice No 1440, promulgated in Government Gazette 41335 dated 15 December 2017, together with the implications in respect of the increased allowances and fringe benefits for the Municipality, as a Grade 4 local authority, in respect of the 2017/2018 financial year, were circulated with the agenda.

The Municipal Manager gave feedback in respect of steps taken to speed-up the implementation of councillors' allowances. The Municipal Manager also stated that the implementation of allowances and fringe benefits for the 2017/2018 financial year will be discussed during a SALGA working group meeting.

The Speaker brought the matter to the vote and it was decided (in the absence of one councillor) –

#### **UNANIMOUS RESOLUTION**

(proposed by clr V D McQuire, seconded by clr D B Philander)

- (a) That the contents of Government Notice No 1440 as published in Government Gazette 41335 dated 15 December 2017 be noted, as well as the implications of same in respect of the increased allowances and benefits payable in respect of the 2017/18 financial year by the Municipality as a Grade 4 local authority, as explained in Annexure B to this report;
- (b) That cognizance be taken that adequate provision has been made in the 2017/18 operating budget in order to cover the increased allowances and benefits, and that the implementation of same thereof be approved, with retrospective effect from 1 July 2017;

7.5/...

- (c) That approval be granted that the monthly allowance of R300 in respect of data bundles (with specific reference to paragraph 7.3 of the report) be paid to all councillors in terms of the Tools of Trade Policy;
- (d) That the consultation prescripts of the MEC for local government be complied with in order to obtain the latter's approval for the implementation of the amended allowances and benefits, as well as extension of Tools of Trade to councillors as contained in Annexure C to this report;
- (e) That the Municipal Manager ensures that the information required in terms of Paragraph 17 of the Government Notice be submitted to the MEC for local government by no later than 28 February 2018.

## **7.6 IMPLEMENTATION OF LEVEL 6 WATER RESTRICTIONS (16/1/17)**

[Note: See item 3.1.]

## **7.7 AMENDMENT TO THE ORGANIZATIONAL STRUCTURE FROM 1 FEBRUARY 2018 (2/3)**

Section 66 of the Local Government: Municipal Systems Amendment Act, 2011 stipulates that the Municipal Manager is responsible for developing the organizational structure, including amendments, where after it must be submitted to the Council for approval.

The report circulated with the agenda motivates the amendments to the organizational structure in respect of the Directorate: Security Services and the Directorate Corporate Services respectively.

Clr D B Philander pleaded for equality also in respect of the appointment of women officials in management positions, in the top structure, which must be promoted.

### **RESOLUTION**

(proposed by clr M van Zyl, seconded by clr O M Stemele)

That Council approves the amendments to the organisational structure with regard to Protection Services and Corporate Services for implementation with effect from 1 February 2018.

## **7.8 PROPOSED DECLARATION OF CONSERVATION AREAS: KLIPKOPPIE AND DRIEHOEKSPAD, MALMESBURY (17/11/B, 17/9/2/2/2-2)**

An Environmental Impact Study was undertaken on Erf 946, Chatsworth (7488 m<sup>2</sup>) which was earmarked for the development of sports facilities. The study found that Erf 946 had a high conservation value and is seen as a critical biodiversity area.

As compensation for the loss of the conservation area in Chatsworth, other so-called biodiversity areas must be identified elsewhere. The following areas were identified to be declared as conservation areas and managed in terms of the *National Environmental Management Protected Areas Act, 2003 (NEMPA)* in conjunction with *Cape Nature*:

- Klipkoppie (± 250 ha)
- Driehoekspad (± 67 ha)
- Darling Groenekloof: Erf 2271, Darling (15,3746 ha)
- Darling Renosterveld: Erf 4369, Darling (35,1236 ha)
- Yzerfontein: 26 Erwen, ± 83,9767 ha in extent

In the interim, the Driehoekspad and Klipkoppie have been surveyed as follows:

- Erf 12353 Malmesbury: 60,8057 ha (Driehoekspad)
- Erf 12357 Malmesbury: 19,0860 ha (Klipkoppie)

Clr D B Philander voiced his objection to the establishment of a conservation area within a white area.

[On a point of order clr Fortuin pointed out that white areas no longer exist].

7.8/...

Clr D B Philander continued to refer to former white areas and stated that there will be no economic benefits arising to the previously disadvantaged areas, if funds are continually spent in previously designated white areas. He also inquired if the use of four wheel motorbikes and *paintball* shooting would still be allowed in the conservation area.

The Executive Mayor emphasized that all group areas were scrapped after 1994, and objected to the fact that the ANC still does not view it as such. The off-set areas were identified in order to make up for the loss of biodiversity areas with the establishment of Chatsworth Sports Grounds and the serviced areas made available in Ilinge Lethu – both of these areas being seen as previously disadvantaged areas.

The Executive Mayor stated that nature conservation areas are established to conserve nature for all future generations of South Africans.

Clr D B Philander confirmed his opinion that the DA has misled the Council by only implementing development in certain areas and that other areas in the municipal area are still neglected.

### **RESOLUTION**

(proposed by ald T van Essen, seconded by clr V D McQuire)

- (a) That Swartland Municipality wishes to enter into a Notarial Agreement in terms of section 23(3) of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 1998), as amended, with the Member of the Provincial Executive Council for Local Government, Environmental Affairs and Development Planning to manage the under-mentioned properties or portions thereof according to such terms and conditions as to be contained in the document, the properties being:

Erf 12353 Malmesbury, situated in the Swartland Municipality, Division of Malmesbury, Province of the Western Cape;  
In extent: 60,8057 (Sixty comma Eight Zero Five Seven) hectares  
Held under Title Deed No. (to be confirmed);

Erf 12357 Malmesbury, situated in the Swartland Municipality, Division of Malmesbury, Province of the Western Cape;  
In extent: 19,0860 (Nineteen comma Zero Eight Six Zero) hectares  
Held under Title Deed No. (to be confirmed);

Erf 12355 portion of Erf 327 Malmesbury, situated in the Swartland Municipality, Division of Malmesbury, Province of the Western Cape;  
In extent: 285,6723 (Two Hundred and Eighty Five comma Six Seven Two Three) hectares  
Held under Title Deed No. (to be confirmed).

- (b) That Madelaine Sophia Terblanche (ID 6410021047083) in her capacity as Director: Corporate Services be and is hereby authorised to sign the relevant documents on behalf of the Swartland Municipality which may be necessary.

### **7.9 PROPOSED OUT-OF-HAND ALIENATION OF ERF 331, ABBOTSDALE (15/3/1, 12/2/5/2-1/1)**

Clr D B Philander asked, with reference to items 7.9 to 7.11, why in some cases a public auction is not considered rather than an out-of-hand alienation.

The Municipal Manager explained the requirements according to legislation and also the municipal regulation, referred to in the report, which must be adhered to before an out-of-hand alienation can be considered. An important consideration is that the relevant land can only be of use if it is alienated to an adjoining owner.

The Municipal Manager/...



7.9/...

The Municipal Manager also pointed out that after approval by the Council an additional administrative process is followed, which includes a public participation process where the intention of the Council is advertised in the local press.

Clr Z Bebeku inquired by which means, other than a public participation process, it is established whether any other adjoining owners are interested in the relevant land, before the out-of-hand alienation is considered.

On enquiry from clr F S Humphreys, the Municipal Manager stated that the municipal valuation roll is used to determine a market related price.

An application has been received from the owner of Erf 332, Abbotsdale to purchase Erf 331, Abbotsdale (79 m<sup>2</sup> in extent) from the Council in order to consolidate the two erwen. The consolidation of the above mentioned erwen will facilitate access to Erf 332.

## **RESOLUTION**

(proposed by clr V D McQuire, seconded by clr A M Sneewe)

- (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 Erf 331, Abbotsdale (79 m<sup>2</sup> in extent) to be alienated and transferred out of hand to mr J Robertson for consolidation with Erf 332, Abbotsdale, at the amount of R4 740,00, excluding VAT;
- (b) That cognizance be taken that said land is not required for the provision of a minimum or any other level of basic municipal services, since the shape of same will not sensibly contribute towards extending Hoog Street, and no need exists for such extension;
- (c) That the following reasons be recorded for the out of hand alienation as above and for not undergoing a competitive process:
  - (i) The land concerned qualifies as 'non-viable land' in that due to physical constraints it cannot be developed on its own and only becomes functional if alienated to an adjoining owner for usage in conjunction with his or her property, as proposed;
  - (ii) The disposal of same to the purchaser will enable him to develop his property more sensibly and to ease access thereto;
  - (iii) Due to its shape, Erf 331 cannot be utilized sensibly to extent High Street, and the maintenance of this property by the purchaser will benefit the Municipality;
- (d) That the transaction shall be subject to the following conditions:
  - (i) 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 (rezoning, consolidation);
  - (ii) The services of council attorneys be used to draft the deed of sale and to effect transfer to the purchaser;
  - (iii) Any improvements on the consolidated property shall have to comply with the applicable land use parameters, and building plans shall be submitted to the Municipality in terms of the By-law regarding the Submission of Building Plans (PN 56818 dated 22 May 2015);
- (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, written confirmation first be obtained from the purchaser that he agrees to the conditions as provided for in this report;

(g)/...

7.9/...

- (g) That the Director: Corporate Services be authorized to finalise and sign the deed of sale.

**7.10 PROPOSED OUT-OF-HAND ALIENATION OF UNREGISTERED ERF 5481, MOORREESBURG (15/3/1, 12/2/5/2-9/2)**

In 2012 the Council approved the out-of-hand alienation of vacant portions of Groendeweide, Alfa and Sixth Streets, Moorreesburg (Hooikraal) ±1,3797ha in extent to B & S Trust.

The development envisaged by B & S Trust on erven 3952, 5564-6501, 5607-5611 was not realized, and the portions of road were not transferred to B & S Trust. In the interim permission was granted in September 2014 to amend the General Plan H32(2301) with the creation of erf 5481 (above mentioned portions of road).

The B & S Trust, which is still the owner of the adjacent land, has now reapplied to purchase Erf 5481 in order to include this land, as a private road with manned accesses, in the proposed development of Erven 5564-5611 Hooikraal, Moorreesburg.

**RESOLUTION**

(proposed by clr M van Zyl, seconded by clr C H Papers)

- (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 Erf 5481, Moorreesburg (± 1,3797 ha) to be alienated and transferred out-of-hand to B & S Trust to be incorporated into the proposed development of Erven 5564 to 5611, Moorreesburg, at the amount of R83 000,00, excluding VAT;
- (b) That cognizance be taken that said portion of land currently presents unmade public streets, which is not 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 portion of land concerned qualifies as 'non-viable land' in that due to physical constraints it cannot be developed on its 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 development would unlock housing opportunities, which links with Strategic Goal 3.5 of the 2017-2022 Integrated Development Plan, namely to spatially help enable sustainable development;
  - (iii) The maintenance of the said property as private road will financially benefit the Municipality;
- (d) That the transaction shall be subject to the following conditions:
- (i) 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;
  - (ii) The process to close the public street must be finalized successfully;
  - (iii) The services of council attorneys be used to draft the deed of sale and to effect transfer to the purchaser;
  - (iv) The proposed development on the land concerned shall comply with the applicable land use parameters, and building plans be submitted to the Municipality in terms of the By-law regarding the Submission of Building Plans (PN 56818 dated 22 May 2015);
- (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)/...

7.10/...

- (f) That before the intention is advertised, 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.

#### **7.11 PROPOSED OUT-OF-HAND ALIENATION OF A PORTION OF ERF 2716, YZERFONTEIN (15/4/1, 12/2/5/2-14/2)**

The owner of erf 2789, Yzerfontein envisages developing a shopping centre (about 2520 m<sup>2</sup> in extent) on the property.

During the course of 2016 the Council purchased Erf 2716 (4728 m<sup>2</sup> in extent), from Yzerfontein Property Developers (Pty) Ltd for an amount of R1.6 million because the portion of land was earmarked for the upgrading of the Main/Buitenkant Streets intersection. After the design of the proposed road was completed the Municipality had a left over portion of ±1147 m<sup>2</sup> available between the shopping centre and the proposed road.

Because the owner of Erf 2789 is not in a position to provide the required 101 parking bays on his property, application has been made to purchase a portion of Erf 2716 (± 1147 m<sup>2</sup> in extent), in order to address the shortfall in the requirement of 4 parking bays per 100m<sup>2</sup>.

#### **RESOLUTION**

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

- (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 of Erf 2176, Yzerfontein (1147 m<sup>2</sup> in extent) to be alienated and transferred out of hand to Yzerfontein Place (Pty) Ltd for consolidation with Erf 2789, Yzerfontein, at the amount of R458 800,00, excluding VAT;
- (b) That cognizance be taken that said land is regarded as surplus since it is not required for the upgrade of the Main/Buitekant Street intersection, and is thus not 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 land concerned qualifies as 'non-viable land' in that due to physical constraints it cannot be developed on its 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 consolidation of the said land with Erf 2789 and the development 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 development and job opportunities arising from the development of the land is regarded exceptionally beneficial to the community concerned, and it is not regarded to be in the interest of the municipality or of the community in general to follow a competitive process;
- (d) That the transaction shall be subject to the following conditions:
  - (i) 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 (rezoning, consolidation);
  - (ii)/...

7.11(d)/...

- (ii) The services of council attorneys be used to draft the deed of sale and to effect transfer to the purchaser;
- (iii) Any improvements on the consolidated property shall have to comply with the applicable land use parameters, and building plans shall be submitted to the Municipality in terms of the By-law regarding the Submission of Building Plans (PN 56818 dated 22 May 2015);
- (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, written confirmation first be obtained from the purchaser that he agrees 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.

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

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

### RESOLUTION

- (a) That councillors again take cognisance that any changes in the nature or detail of the financial interests of a councillor referred to in Item 7 of the Code of Conduct for Councillors, must be **declared in writing to the Municipal Manager annually**, including gifts received by such councillor in excess of R1 000.00;
- (b) That cognisance be taken that any changes to the particulars referred to in paragraph (a) must be submitted to the Director: Corporate Services by no later than 7 February 2018.

**SIGNED:  
SPEAKER**