



MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON THURSDAY, 25 JULY 2019 AT 10:00

PRESENT:

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

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

Officials:

Municipal Manager, mr J J Scholtz
Director: Electrical Engineering Services, mr R du Toit
Director: Civil Engineering Services, mr L D Zikmann
Director: Financial Services, mr M A C Bolton
Director: Security Services, mr P A C Humphreys
Director: Corporate Services, ms M S Terblanche
Director: Development Services, ms J S Krieger
Committee Official, ms S A Kulsen

1. OPENING

The Speaker welcomed the Executive Mayor, the Deputy Executive Mayor, councillors, officials and the media.

The Director: Development Services, ms J S Krieger, opened the meeting with a bible reading and a prayer at the request of the Speaker.

The Speaker congratulated councillors who had celebrated birthdays recently.

2. APOLOGIES

Apology received from clr V D McQuire.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

3.1 TAKING OF OATH BY CLR E C O'KENNEDY

[read in conjunction with item 7.1.]

Clr E C O'Kennedy was appointed as a councillor on 4 July 2019 by the Independent Electoral Committee in place of mr C B Fortuin. The Speaker welcomed clr O'Kennedy and requested the latter to take the oath.

The Executive Mayor welcomed clr O'Kennedy and confirmed the council committees on which clr O'Kennedy would serve.

3.1/...

The Municipal Manager arranged for the signing of the oath by clr O’Kennedy and welcomed her on behalf of the administration.

RESOLUTION

- (a) That the Council takes note of
 - (i) the resignation of clr C B Fortuin as of 7 June 2019;
 - (ii) the legal procedures which have been completed in filling the DA proportional seat on the Council which was left vacant after the resignation of clr Fortuin;
 - (iii) the election of councillor E C O’Kennedy as confirmed by the IEC on 4 July 2019.

FURTHER RESOLVED

- (b) That note is taken of the taking of the oath by clr E C O’Kennedy;
- (c) That clr O’Kennedy has been appointed to serve on the following Portfolio and other committees in the place of clr C B Fortuin -
 - (1) Portfolio Committee: Municipal Management, Administration and Finances
 - (2) Portfolio Committee: Development Services
 - (3) Municipal Public Accountability Committee (MPAC) (ordinary member)
 - (4) Budget Management Committee (additional member)
 - (5) Undertaker's Forum
- (d) That the chairmanship of the Municipal Public Accountability Committee (MPAC) will be considered by means of a motion at the next council meeting.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 30 MAY 2019

RESOLUTION

(proposed by ald T van Essen, seconded by clr R F van der Westhuizen)

That the minutes of an Ordinary Council Meeting 30 May 2019 are approved and signed by the Speaker, subject to the following amendments:

ITEM 7.3: REVISION OF THE 2017-2022 INTEGRATED DEVELOPMENT PLAN

paragraph 3 of the preamble: Clr D B Philander.. framework for achievement of goals by 2030 (in place of 3030) of the National Development Plan (NDP).

paragraph 5 of the preamble: The matter...(in the absence of one councillor in place of councillors)....

ITEM 7.4: APPROVAL OF THE MULTI YEAR CAPITAL AND OPERATING BUDGETS, REVISED BUDGET RELATED POLICIES, REGULATION(S), PROPERTY RATES, TARIFFS AND OTHER LEVIES FOR 2019/2020, 2020/2021 AND 2021/2022

Paragraph 2 of the preamble: delete the word "voortaan".

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

RESOLUTION

That note is taken of the decisions taken by the Executive Mayor in accordance with his delegated power, in respect of the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR’S COMMITTEE HELD ON 22 MAY 2019

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

RESOLUTION

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

- 6.1 **MINUTES OF A SPECIAL MEETING OF THE TENDER AWARD COMMITTEE HELD ON 9 MAY 2019**
- 6.2 **MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 10 MAY 2019**
- 6.3 **MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 6 JUNE 2019**

7. MATTERS FOR DISCUSSION

- 7.1 **(1) RESIGNATION AS A COUNCILLOR: MR C B FORTUIN; (2) APPOINTMENT OF NEW COUNCILLOR: MS E C O'KENNEDY (17/17/3/2/4)**

[Item 3.1 refers.]

- 7.2 **NERSA APPROVAL OF ELECTRICITY TARIFFS FOR 2019/2020 (16/2/1/2/1)**

The proposed electricity tariffs were submitted to NERSA on 28 May 2019 for approval. Based on the increase of 15.63% by Eskom to municipalities NERSA determined a guideline increase of 13.07% together with other guidelines in respect of specific tariffs and categories.

The Speaker put the matter to the vote and it was decided (in the absence of one councillor) with 15 councillors in favour thereof, and the remaining councillors abstained from voting.

RESOLUTION

(proposed by clr E S M Maart, seconded by ald B J Stanley)

- (a) That the approval of the electricity tariffs by NERSA for 2019/20 be noted.
- (b) That the following reduced tariff increases as determined by NERSA for 2019/20 be approved and accepted for implementation from 1 July 2019:

Tariff	NERSA Increase allowed	Tariff per kWh approved by NERSA
4. Commercial alternative <15A	12.96%	R2.3016
8. Commercial pre-paid	12.90%	R2.3016

- 7.3 **SUBMISSION OF DRAFT AMENDMENT TO THE SWARTLAND MUNICIPALITY: REGULATION IN RESPECT OF MUNICIPAL LAND USAGE PLANNING (PK 7741 DATED 3 MARCH 2017) (1/1)**

The national (SPLUMA) and provincial (LUPA) planning act serves as a basis for the regulations of local government. Since the implementation of the above mentioned legislation, as of 1 July 2015, amendments have been introduced in order to facilitate a measure of standardization for local governments.

It is therefore necessary for the Swartland Municipality to revise the relevant regulations, within the legal framework. After careful revision of the regulation by the Division: Planning in conjunction with legal expert, Mr Danie Nel, and a workshop held with councillors on Friday, 12 July 2019, the draft amendments to the Swartland Municipality: Regulation in respect of Municipal Land Usage Planning were introduced.

The draft/...

7.3/...

The draft regulation was brought to the vote by the Speaker and it was decided (in the absence of one councillor) with 15 councillors in favour thereof, and the remaining councillors abstained from voting.

RESOLUTION

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

- (a) That the draft Municipal Land Use Planning By-Law be submitted to Council for in-principle approval on 25 July 2019; and
- (b) After the in-principle approval by Council, the draft by-law be advertised for public comment in terms of section 12(3)(b) of the Systems Act, 2000 both in the local media and on the municipal website.

7.4 SWARTLAND MUNICIPALITY: DRAFT REGULATION IN RESPECT OF FILMING (1/1)

The existing process for authorising filming in the Swartland municipal area is wordy and time consuming which may give rise to lost opportunities for the Municipality or result in illegal filming taking place.

A discussion followed with respect to the opportunities which the film industry can create, not only in terms of job creation, but also in developing skills and the use of local skills, which must be promoted.

The Municipal Manager outlined the aims of the draft regulation to the Council, and confirmed that the Council can only create a "location" – in terms of land usage processes – within which the activities of the filming industry can legally operate and may not enforce any other requirements, because the film industry *per se* is not a municipal function, but, exclusively the regulation thereof.

The objectives are as follows –

- (1) To support the important role which filming plays in the economy of the Western Cape;
- (2) To safeguard the right to privacy and a safe environment for residents;
- (3) To facilitate the processing of applications for filming, within a framework which is beneficial both administratively and economically, and in accordance the provisions of the Constitution and other legislation.

The approval of the draft regulation was decided by means of a vote (in the absence of one councillor) with 15 councillors in favour thereof, and the remaining councillors abstaining from voting.

RESOLUTION

(proposed by clr P E Solomons, seconded by ald B J Stanley)

- (a) That the draft Swartland Municipality: Filming By-Law be submitted to Council for in-principle approval on 25 July 2019; and
- (b) After the in-principle approval by Council, the draft by-law be advertised for public comment in terms of section 12(3)(b) of the Systems Act, 2000 both in the local media and on the municipal website.

7.5 APPROVAL OF THE "MUNICIPAL COST CONTAINMENT POLICY" AND AMENDMENTS TO THE TRAVEL, ACCOMMODATION AND LIVING COSTS POLICY (5/1/B)

Clr J M de Beer proposed (seconded by add M van Zyl) that the item stands over in order to afford the opportunity to workshop the policy with councillors before council approval is given.

The Municipal Manager confirmed that the Regulations known as the "Municipal Cost Containment Regulations, 2019" were implemented on 1 July. It is therefore a legal requirement which must be dealt with immediately, irrespective of whether or not the Council has approved the relevant policies.

7.5/...

The Municipal Manager also confirmed that the contents of the policy are mainly in line with those of the Regulations.

Although SALGA is of the opinion that the correct procedures were not followed in respect of the promulgation of the Regulations, the Municipal Manager confirmed that it is still a legal obligation until such time as a verdict is obtained in this regard. The National Treasury has also undertaken to issue a circular in respect of the interpretation of "Municipal Cost Containment Regulations, 2019", but the Regulations must be complied with in the interim.

The Municipal Manager also stated that the Regulations also have an impact on other policies, e.g. the Travel and Living Costs policy, the Supply Chain Management Policy, the Overtime policy, etc. The Municipal Manager referred to the impact of the "cost containment measures" on telephone usage (graphs circulated with the agenda) which were approved by the municipal council in March 2016 and which had a positive outcome.

The Executive Mayor stated that it is important that the Council must be aware of the impact of the Regulations on other policies, e.g. councillors who travel far in order to attend council meetings, cannot regard these as official kilometres.

The Director: Financial Services, supported by the Municipal Manager, stated that it is important that the Council actually approves the policy and that a workshop will be arranged as soon as the circular from the National Treasurer, explaining the interpretation of the Regulations, is received.

[Clr O M Stemele requested, on behalf of the DA, that the meeting adjourn for 5 minutes in order to give the DA caucus the opportunity to discuss the item]

The Speaker gave clr J M de Beer the opportunity to withdraw the proposal and –

UNANIMOUS DECISION

(proposed by clr J M de Beer, seconded by clr D B Philander)

- (a) It is recommended that the Municipal Cost Containment Policy (Annexure A) is approved as it will deliver a range of benefits to the municipality such as the following:
 - More effective, efficient and economical utilisation of municipal resources;
 - Eliminate wastage of public resources on non-service delivery items; and
 - More efficient, reliable and cost effective delivery of services.
- (b) Implementation of appropriate oversight mechanisms (Annexure B) to monitor cost containment measures in order to comply with section 62(1)(a) and 78(1)(b) of the MFMA to ensure that reasonable steps are taken for public resources to be used effectively, efficiently, economically and in the best interests of the local community.
- (c) Approval of the amendments to the Travel, Accommodation and Subsistence Policy (Annexure C) for the alignment with the Municipal Cost Containment Regulations.
- (d) That a workshop is arranged to discuss the impact of the Regulations on all other Council policies and to clarify any consequences of the Regulations.

7.6/...

7.6 ANNUAL REPORT: IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE FINANCIAL YEAR ENDING 30 JUNE 2019 (8/1/B/2)

Regulation 6(2)(a)(i) of the *Municipal Supply Chain Management Regulations* stipulates 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 2018 to 30 June 2019 was circulated with the agenda.

The Municipal Manager, at the request of the Speaker, dealt with the questions from clr D B Philander in respect of the awarding of both informal and formal tenders, as well as the departures approved in accordance with delegated authority.

On a point of order by the Executive Mayor, according to rule 44(2)(b) of the regulation in respect of Rules for the Holding of Meetings, the latter requested that clr Philander's behaviour is addressed.

The Speaker confirmed, in respect of the above mentioned, that debate during the council meeting will be allowed, but that clr D B Philander is given a warning that derogatory remarks (eg. that the post of the Director: Development Services was rigged) and behaviour towards the administration must cease and that any discriminatory remarks will not be tolerated.

Clr Z Bebeku (by way of explanation) stated that the role of the ANC as the opposition party is to hold the ruling party accountable.

RESOLUTION

(proposed by clr P E Solomons, seconded by ald R F van der Westhuizen)

- (a) That cognisance be 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 be taken of the services rendered for the period 1 April 2019 to 30 June 2019 with reference to the exceptions where it is impractical to test the market and therefore justified a deviation from the procurement processes in terms of paragraph 2(6) of the Supply Chain Management Policy (Annexure D).

7.7 QUARTERLY REPORT (ARTICLE 52 OF MFMA): APRIL TO JUNE 2019 (7/1/2/2-2)

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

The Director: Financial Services confirmed that the information in the Article 52 quarterly report is only an interim result, because the final results in respect of the 2018/2019 financial year will only be available at the end of August.

RESOLUTION

(proposed by clr D G Bess, seconded by clr N Smit)

That cognisance be taken 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 2019 to 30 June 2019.

**SIGNED
SPEAKER**