



**MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON THURSDAY, 31 OCTOBER 2019 AT 10:00**

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**PRESENT:**

Speaker, cllr M A Rangasamy

Executive Mayor, ald T van Essen

Deputy Executive Mayor, add M S I Goliath

Bekebu, Z (ANC)

Bess, D G (DA)

Daniels, C (DA)

De Beer, J M (DA)

Humphreys, F S (ANC)

Maart, E S M (DA)

McQuire, V D (DA)

Mfutwana, L E (EFF)

O'Kennedy, E C (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: Financial Services, mr M Bolton

Director: Civil Engineering Services, mr L D Zikmann

Director: Development Services, ms J S Krieger

Director: Security Services, mr P A C Humphreys

Director: Corporate Services, ms M S Terblanche

Manager: Secretarial and Record Services, ms N Brand

**1. OPENING**

Ds Jacobus Snyders from the *Nederduitse Gereformeerde Kerk, Swartland Moedergemeente*, opened the meeting with a scripture reading and a prayer at the request of the Speaker.

The Speaker welcomed the Executive Mayor, the Deputy Executive Mayor, aldermen and alderdames, councillors and officials. A special word of welcome was extended to municipal officials who will receive certificates for the successful completion of water and effluent learnerships.

The Speaker congratulated councillors who had recently celebrated their birthdays.

**2. APOLOGIES**

Apology received from cllr C H Papers.

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

**3.1 PRESENTATION OF CERTIFICATES: WATER AND WASTE WATER LEARNERSHIPS**

The Municipal Manager, mr J J Scholtz, explained that the completion of the learnerships in water and waste water management is important for the progress in this field.

The following officials successfully completed the courses and certificates were presented to them by the Municipal Manager.

3.1/...

NQF Level 2

Jeremy Lee Adams  
Wilbur Oswald Ruiters

NQF Level 4

Emile Basson  
Stefaans Faro  
Fundile Mbongo

NQF Level 5

Ernest Peter Alexander  
Wilfred Stephen Barendse  
Randall Marshall Jenneke (abscent)

**FOR INFORMATION**

**3.2 ANNOUNCEMENT OF THE 16 DAY ACTION CAMPAIGN IN RESPECT OF VIOLENCE AGAINST WOMEN AND CHILDREN: 25 NOVEMBER TO 10 DECEMBER**

The Speaker called on add M S I Goliath to announce the Campaign in respect of Violence against Women and Children. Add Goliath stated that she would also like to add Violence against Men and Boys to the campaign.

Add Goliath requested that the white ribbons, which were handed out to councillors, must be worn during the period 25 November to 10 December in support of the campaign. By wearing the white ribbon a pledge is made that violence will not be committed against anyone – a candle was lit by add Goliath as a symbol of the promise.

Cllr F S Humphreys, on behalf of the ANC, stated that they support the campaign and requested that the pledge is practised, daily, in the workplace.

**FOR INFORMATION**

**4. MINUTES FOR APPROVAL**

**4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 29 AUGUST 2019**

**RESOLUTION**

(proposed by add M van Zyl, seconded by cllr P E Solomons)

That the minutes of an Ordinary Council Meeting held on 29 August 2019 are approved and signed by the Speaker.

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

**RESOLUTION**

That note is taken of the decisions made by the Executive Mayor in accordance with his delegated authority in the following minutes:

**5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 21 AUGUST 2019, read in conjunction with MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE MEETING HELD ON 14 AUGUST 2019**

**5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 18 SEPTEMBER 2019, read in conjunction with MINUTES OF A MEETING OF THE PORTFOLIOS COMMITTEE MEETING HELD ON 11 SEPTEMBER 2019**

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

Resolution/...

6./...

**RESOLUTION**

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

- 6.1 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 30 JULY 2019**
- 6.2 **MINUTES OF A MEETING OF THE TENDER AWARDS COMMITTEE HELD ON 27 AUGUST 2019**

**7. MATTERS FOR CONSIDERATION****7.1 DELIMITATION OF WARDS 2019/2020 FOR PURPOSES OF THE 2021 LOCAL GOVERNMENT ELECTIONS (15/1/1; 17/17/1/1)**

The Municipal Delineation Board has been busy since June 2019 with awareness sessions in preparation for the 2021 Local Government Elections. Circular 2/2019, circulated with the agenda, has been received to keep local authorities up to date with the ward delimitation process.

**RESOLUTION**

(proposed by cllr P E Solomons, seconded by alderman R F van der Westhuizen)

That cognisance be taken

- (a) of the content of Circular 2/2019 of the Municipal Demarcation Board regarding the planned programme for the municipal delimitation process;
- (b) that the number of wards and councillors for the Municipality remains unchanged for purposes of the 2021 municipal elections.

**7.2 APPOINTMENT OF MEMBERS OF THE PERFORMANCE AND RISK AUDIT COMMITTEE (11/1/3/1/7; 5/15/1/3)**

In accordance with Section 166 of the Local Government Act: Municipal Financial Management, 2003 (Act 56 of 2003) municipalities are obliged to appoint an audit committee which serves as an independent advisory body.

Furthermore MFMA Circular 65 recommends that members of the audit committee are rotated on a regular basis in order to ensure the independence of the audit committee.

**RESOLUTION**

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

- (a) That cognisance be taken with regards to the composition of the current committee in respect of skills, that Mr G N Lawrence be appointed to serve on the Performance and Risk Audit Committee for three (3) years with effect from 1 November 2019. The appointment should be done in accordance with the remuneration tariff approved by the Executive Mayoral Committee of 19 June 2019;
- (b) That the appointments of Ms M Roos and Mr CB de Jager as members of the Performance Audit Committee be extended from 1 January 2020 to 31 August 2020 and 31 December 2020 respectively as prescribed in clause 14(2)(a) of Local Government: Municipal Planning and Performance Management Regulations of 24 August 2001;
- (c) That the appointment of Mr G N Lawrence to serve on the Performance Audit Committee as well, be approved for the period 1 November 2019 to 31 December 2020.

7.3/...

### 7.3 PROPOSED OUT-OF-HAND ALIENATION OF ERWEN 6055 AND 9967, MALMESBURY (12/2/5/2-8/5)

Since 2007 and 2013, the Municipality has leased Erf 6055 (1585 m<sup>2</sup>) and Erf 9967 (708 m<sup>2</sup>) respectively, to *Siphumeze Educare Centre*. Both properties are zoned Community Zone 1, and Early Learning Development facilities have been installed on the properties by the tenant.

*Siphumeze Educare Centre* has notified the Municipality that they wish to purchase both properties from the Council.

#### RESOLUTION

(proposed by cllr O M Stemele, seconded by cllr E S M Maart)

- (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 6055 (± 1585 m<sup>2</sup> in extent) in Tshwete Street, Malmesbury and Erf 9967 (± 708 m<sup>2</sup> in extent) in Holomisa Street, Malmesbury to be alienated out-of-hand to the Siphumeze Educare Centre, at R7 925,00 (Erf 6055) and R2 793,00 (Erf 9967), excluding VAT;
- (b) That cognizance be taken that the aforementioned properties have at no stage been or are required for the provision of a minimum or any other level of basic municipal services in that it has been earmarked and zoned Community Zone 1 from the outset;
- (c) That the following reasons be recorded for the out-of-hand alienation of the properties concerned, and for not undergoing a competitive process:
  - (i) The Siphumeze Educare Centre as non-profitable institution has successfully operated the childcare facilities on the properties, and is regarded therefore to have the ability and capacity to sustainably operate the facilities;
  - (ii) A priority need (for childcare and education) in the community will be satisfied by making available land in this manner, and Council as such gives effect to its constitutional object to promote social development;
- (d) That the transfer of Erf 9967 shall however be subject thereto that the applicant provides proof to the satisfaction of the Municipality that it is in compliance with the Children Act, Act 38 of 2005, as well as with the building and fire safety requirements of the Municipality;
- (e) That the purchaser shall be responsible for all costs ancillary and incidental to these transactions, including advertisement and transfer costs;
- (f) That the proposed transactions be advertised for public comments and/or objections, and the executive mayor (in consultation with his committee) be authorized to deal with any objections;
- (g) That before the intention is advertised, written confirmation be obtained from the applicant that the conditions as provided for in this report are agreed to;
- (h) That the Director: Corporate Services be authorized to finalise the terms of the deeds of sale, in compliance with the Municipal Asset Transfer Regulations.

[Note: The Executive Mayor, ald T van Essen and cllr O M Stemele excused themselves from the council meeting, at 10:55 as per prior arrangement with the Speaker.]

7.4/...

#### 7.4 PROPOSED OUT-OF-HAND ALIENATION OF PORTIONS OF ERWEN 327, 1530 AND 4932, MALMESBURY (15/3/1; 12/2/5/2-8/7)

Mr F J E Roux, the owner of *Constantia Lintels CC*, a factory producing lintels on erf 7677, Malmesbury, has, over the years, expanded the business onto the adjoining municipal property. The improvements on the municipal property include fixed structures and a concrete boundary wall.

Cllr D B Philander, on behalf of the ANC, stated that the latter is not against the economic activity which has been illegally created, but one must guard against setting a precedent by making the land available to mr Roux.

The Municipal Manager explained the risks involved in a protracted court case for both mr Roux and the Municipality, inter alia, 40 job opportunities can be lost if a protracted court case threatens the sustainability of the factory.

The Municipal Manager referred to the improvements made by mr Roux on municipal property which amounts to more than R 200 000.00, which is above the limit of the competency of the Magistrates Court. Taking the matter to the High Court will involve huge costs for both the Municipality and mr Roux.

#### RESOLUTION

(proposed by cllr J M de Beer, seconded by cllr C Daniels)

- (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 portions of Erf 327, 1530 and 4932, Malmesbury (2756 m<sup>2</sup> in extent) to be alienated and transferred out of hand to Mr F J E Roux for consolidation with Erf 7677, Malmesbury, at the amount of R500,00/m<sup>2</sup>, 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, and could thus be regarded surplus;
- (c) That the following reasons be recorded for the out of hand disposal as above and for not undergoing a competitive process:
  - (i) The land concerned qualifies as 'non-viable land' in that, as it has already been built upon, it can effectively not be used for any purpose other than to be consolidated with Erf 7677;
  - (ii) The commercial use of the land links 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 7);
  - (iii) The job opportunities arising from the developed land is regarded 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 (surveying, subdivision, rezoning, consolidation, etc);
  - (ii) The purchaser, at his cost, shall have the exact position surveyed of the existing main municipal sewage pipeline which crosses the land and shall see to the registration of a 3 meters wide servitude over the sewage pipeline which allows for unhindered access by the Municipality to the sewage line and which limits the construction of permanent structures within the servitude area;
  - (iii) The purchaser be indemnified by the purchaser from any claim for damages which may arise from the operation and maintenance of the said sewage pipeline;
  - (iv) The purchaser indemnifies the Municipality for any possible claim that may be instituted against the Municipality as a result of the location of the property and/or construction under the 1 : 100 year flood line of the Diep River;

7.4(d)/...

- (v) The purchaser shall be responsible for water and sewage connections and the payment of the related connection fees, and for payment of actual costs related to an electricity connection, depending on the electricity capacity required;
  - (vi) The services of council attorneys be used to draft the deed of sale and to effect transfer to the purchaser;
  - (vii) The purchaser shall ensure that existing and any future improvements on the consolidated property comply with the applicable land use parameters, and shall submit building plans 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, and to link predetermined target dates as suspensive conditions.

## 7.5 PROPOSED ALIENATION OF MUNICIPAL IMMOVABLE PROPERTY (BUSINESS PROPERTY) IN DARLING (12/2/B)

Swartland Municipality owns vacant business property in Darling which is available for alienation. It is proposed that the erwen are sold by means of a public competitive process, and in particular calling for financial proposals.

Cllr A M Sneewe stated that the business properties are not affordable by the underprivileged group, and cllr D B Philander called on the Council to create business opportunities for this group.

### RESOLUTION

(proposed by cllr E S M Maart, seconded by cllr N Smit)

- (a) That in-principle approval be granted by Council in terms of Section 14 of the Municipal Finance Management Act, 2003 and the By-law and Policy relating to the Transfer of Municipal Assets for financial offers to be called by means of public tenders for the disposal of the following vacant immovable properties in Darling:
  - Erf 4205, Bloekomboom Avenue (± 425m<sup>2</sup> in extent)
  - Erf 4254, Bloekomboom Avenue (± 536m<sup>2</sup> in extent)
  - Erf 4279, Bloekomboom Avenue (± 482m<sup>2</sup> in extent)
- (b) That cognizance be taken that the properties to be sold have been identified from the outset for alienation as business sites in terms of its zoning and at no stage have been earmarked for the provision of a minimum or any other level of basic municipal services;
- (c) That the reserve prices (VAT exclusive) for the properties be determined as follows, which reserve prices are considered by Council to fairly represent the market value of same:
  - Erf 4205: R169 600,00
  - Erf 4254: R187 600,00
  - Erf 4279 R192 800,00

(d)/...

7.5/...

- (d) That authorization be given as follows:
- (i) to the Executive Mayoral Committee to
    - to deal with any comments and/or objections received in respect of the proposed transactions; and
    - to evaluate and consider for adoption the offers received in respect of the properties, and to finalise a decision regarding the transfer of the assets;
  - (ii) to the Director: Corporate Services to finalise the conditions of sale for tender purposes with all the relevant internal role-players, as well as Council's attorney;
- (e) That approval be granted that should the properties remain unsold after the competitive process, it be sold out-of-hand on a 'first come first serve' basis at the reserve price or higher, provided that the reserve price corresponds with fair market value (based on the municipal valuation of the properties when alienation takes place), and provided further that the same suspensive conditions to be included in the deed of sale, shall apply to said purchasers.

## 7.6 PROPOSED LEASING OF IMMOVABLE MUNICIPAL PROPERTY: PORTION 35 OF FARM 560 YZERFONTEIN, SITUATED IN YZERFONTEIN HARBOUR (12/2/B)

Portion 35 of the Farm 560 Yzerfontein (1001 m<sup>2</sup> in extent), situated in the Yzerfontein Harbour, is ideally situated for the creation of tourism/recreational activities.

The relevant portion of land is owned by Swartland Municipality and it is proposed that development proposals are called for by means of public tender. Because the successful tenderer may possibly have huge capital outlays it is further proposed that the lease period is set at ten years.

At the request of cllr D B Philander that tourism must be transformed to not only benefit certain groups, the Speaker confirmed that the Council is at present in the process of revising the tourism model and transformation and tourism diversification will be focused on.

### RESOLUTION

(proposed by cllr E S M Maart, seconded by cllr P E Solomons)

- (a) That in-principle approval be granted by Council in terms of Section 14 of the Municipal Finance Management Act, 2003 that tenders with development proposals be invited for the leasing of Portion 35 of Farm 560 Yzerfontein, 1001 m<sup>2</sup> in extent, as indicated on Annexure A to the report), which development proposals are to be within the parameters of Business zone I as well as the promotion of local economic development and tourism;
- (b) That it be noted that the property is not needed to provide the minimum level or any other level of basic municipal services;
- (c) That the term of lease be determined at ten years, to make the lease option viable for prospective lessees, subject to an option to renew on conditions to be agreed upon between the parties within six months before expiry of the lease;
- (d) That authorization be given as follows:
  - (i) to the Municipal Manager
    - to determine a fair and market-related rental to be set as reserve rent amount in conjunction with Council's valuers;
    - to decide whether the competitive bid process shall entail a one- or two-stage bidding process;
    - should the two-stage bidding process be followed, to appoint a committee to consider the development proposals in the first stage;

7.6(d)/...

- (ii) to the Executive Mayoral Committee to deal with any objections that may be forthcoming regarding the proposed leasing of the property and to consider the highest monetary offer for approval if not;
  - (iii) to the Director: Corporate Services to finalise the tender criteria and conditions of lease in co-operation with all the relevant internal role-players, as well as Council's attorney;
- (e) That the proposed leasing of the above-mentioned property be advertised for comment/objections in terms of Council's By-law relating to the Management and Administration of Immovable Property;
- (f) That the development proposal that is adopted, also be advertised for public comment, and the Executive Mayoral Committee be authorized to deal with same before a lease agreement is concluded.

#### **7.7 QUARTERLY REPORT (SECTION 52, MFMA): JULY TO SEPTEMBER 2019 (7/1/2/2-2)**

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

[Note: The Speaker ruled that a fine is given to ald B J Stanley for the use of his cellphone during the meeting and he requested that ald Stanley leave the council meeting.]

Cllr N S Zatu enquired, with reference to the Municipal Public Accountability Committee (MPAC) meeting of Tuesday 29 October 2019 which was postponed due to a lack of a quorum, whether the Council can approve the section 52 MFMA report because the MPAC had not had the opportunity of fulfilling its oversight role.

Cllr Zatu objected to the fact that since the resignation of cllr Fortuin, the MPAC has not had a chairman.

The Municipal Manager confirmed that the establishment of the MPAC was organized by means of a circular. The approval of the section 52 MFMA report is however a legal requirement in accordance with the MFMA and must be complied with. The legal requirement thus takes precedence over the request in accordance with the circular and the Council cannot do anything other than to accept the section 52 MFMA report.

Cllr F S Humphreys objected to the fact that the Council accepts the section 52 MFMA report without the necessary MPAC oversight.

#### **RESOLUTION**

(proposed by alderlady M van Zyl, seconded by alderlady M S I Goliath)

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 July 2019 to 30 September 2019.

#### **7.8 AMENDMENT TO (1) IDP AND BUDGET SCHEDULE AND (2) 2020 MEETING SCHEDULE (2/1/4/4/1; 3/4/2/1)**

The IDP and Budget Schedules and the 2020 meetings schedule were approved on 29 August 2019 respectively, with a mandate to the Executive Mayor's Committee to inform the Council thereof if any amendments to the schedules are necessary after consultation with the roleplayers.

The amended IDP and Budget Schedules and the 2020 meetings schedule were circulated with the agenda.

Resolution/...



7.8/...

**RESOLUTION**

(proposed by cllr P E Solomons, seconded by alderman R F van der Westhuizen)

- (a) That the amended time schedule for the 3rd revision of the 2017-2022 IDP and the compilation of the annual budget be approved;
- (b) That a copy of the amended time schedule be submitted to the Provincial Treasury and the Department of Local Government;
- (c) That the amended meeting schedule for 2020 be accepted;
- (d) That the dates be published bi-annually in the local media for public cognisance, as well as on the municipal website;
- (e) That the amended meeting schedule be forwarded to the West Coast District Municipality, SALGA and the Provincial Department of Local Government.

As this is the last council meeting of the year the Speaker thanked all parties for their hard work during the year and wished councillors and officials a blessed Festive Season.

**SIGNED:  
SPEAKER**