



Munisipaliteit
Municipality
Umasipala

MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY BANQUETING HALL ON THURSDAY, 30 JANUARY 2020 AT 10:00

PRESENT:

Speaker, clr M A Rangasamy

Executive Mayor, alderman T van Essen

Deputy Executive Mayor, alderdame 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)

Mfutwana, L E (EFF)

Penxa, B J (ANC)

Philander, D B (ANC)

Smit, N (DA)

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: Development Services, ms J S Krieger

Director: Corporate Services, ms M S Terblanche

Manager: Secretarial and Records, ms N Brand

1. OPENING

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

The Speaker welcomed the Executive Mayor, Deputy Executive Mayor, aldermen, alderdames, councillors, officials and members of the public.

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

The Speaker requested a moment of silence in remembrance of the recent death of family and friends.

APOLOGIES

Apology received from clrs A M Sneewe and C H Papers.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

None

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2019

Resolution/...

4.1/...

RESOLUTION

(proposed by add M van Zyl, seconded by clr V D McQuire)

That the minutes of an Ordinary Council Meeting held on 31 October 2019 are approved and signed by the Speaker.

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

RESOLUTION

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

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 14 OCTOBER 2019

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 9 OCTOBER 2019

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 20 NOVEMBER 2019

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 14 NOVEMBER 2019

5.3 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 11 DECEMBER 2019

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

RESOLUTION

That note is taken of the decisions taken by the Municipal Manager according to his delegated authority in the following minutes:

6.1 MINUTES OF A MEETING OF THE TENDER AWARD'S COMMITTEE HELD ON 12 NOVEMBER 2019

7. MATTERS FOR DISCUSSION

7.1 SUBMISSION OF THE DRAFT ANNUAL REPORT: 2018/2019 FINANCIAL YEAR (7/1/1/1)

The 2018/2019 Draft Annual Report was drawn up according to the format prescribed in MFMA Circular 63 dated 26 September 2012, and is presented in accordance with Article 127(2) of the Local Government: Municipal Financial Management, 2003 (Act 56 of 2003) – MFMA.

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

The speaker requested councillors to take part in the proposed consultative process and that input, in respect of the evaluation of the draft annual report, must be submitted in writing to the Municipal Manager.

RESOLUTION

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

- (a) That cognisance be taken of the annual report in respect of the 2018/2019 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;

7.1/...

- (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 31 March 2020, 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:
 - (i) the external financial audit committee;
 - (ii) two ward committee members to be co-opted on the performance assessment panel;
- (d) That the two members representing ward committees also be extended an invitation to attend (1) the MPAC-meeting on the above date and (2) the special council meeting on 31 March 2020;
- (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 31 March 2020.

7.2 QUARTERLY REPORT (SECTION 52 OF MFMA): OCTOBER TO DECEMBER 2019 (7/1/2/2-2)

The submission of the quarterly report is prescribed by Section 52(d) of the MFMA.

The presentation of the report to the Council is one of the general responsibilities of the Executive Mayor and is to keep the Council informed in respect of the implementation of the budget and the state of the Municipality's finances.

The quarterly report in respect of Quarter 2 as of 31 December 2019 was circulated with the agenda.

RESOLUTION

(proposed by clr E S M Maart, seconded by ald R F van der Westhuizen)

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 October 2019 to 31 December 2019.

7.3 BIENNIAL BUDGET AND PERFORMANCE EVALUATION (2/4/2)

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

Thereafter the Executive Mayor must present the evaluation report to the municipal council, annually by 31 January, in accordance with Article 54(f) of the MFMA.

The Biennial Budget and Performance Report was drawn up in line with directives from the Municipal Budget and Reporting Regulations (General Notice 393 promulgated in the Government Gazette dated 17 April 2009).

Resolution/...

7.3/...

RESOLUTION

(proposed by add M S I Goliath, seconded by clr N Smit)

That cognizance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2019/20 financial year and more specifically the need to revise the original budget by way of an adjustments budget.

7.4 APPROVAL OF THE BIENNIAL ADJUSTED CAPITAL AND OPERATING BUDGETS OF THE 2019/2020 – 2021/2022 MULTI-YEAR BUDGET (5/1/1/1, 5/1/1/2, 5/1/4)

The Biennial Adjusted Capital and Operating Budgets were considered for submission to the Council during an Executive Mayor's Committee Meeting held on 22 January 2020.

The presentation of the adjusted budget is made in accordance with Article 28 of the MFMA after the Municipality's performance during the first half of the financial year is evaluated – refer to item 7.3 above.

After various questions were answered by the Director: Financial Services and the Municipal Manager, inter alia, in respect of the wheely-bin project from clr D B Philander, the Speaker brought the matter to the vote and it was decided (in the absence of two councillors) by 15 DA councillors in favour thereof, with five ANC councillors and one EFF councillor who abstained from voting.

RESOLUTION

(proposed by add M van Zyl, seconded by clr D G Bess)

- (a) That the Budget Steering Committee convened after having considered the explanations and motivations provided by the financial staff and other directors;
- (b) That Council grants approval to finance the R 50 000 000 partial financing for the upgrading of the Waste Water Treatment Works of Moorreesburg and Darling from Council's CRR and not an external borrowing, given the municipality's improved financial position but more over to keep the basic basket of goods and services within affordable ranges;
- (c) That Council's cash position be monitored and re-assessed over the next year should there be a need to revisit the funding mix in respect of the two aforementioned projects in a bid to ensure financial sustainability over the longer term.
- (d) That cognizance be taken of the amendments as it relate to Section 19 due to the finance sources of the Sewerage Works Project: Moorreesburg that changed **(Annexure A-3: 2019/20 – 2021/22 Capital Projects ito Sec 19)**;
- (e) That approval be granted to amend the multi-year capital and operating budgets in respect to the 2019/20 – 2021/22 financial years, as follows:

	Original Budget 2019/20	Mid-Year Adj Budget 2019/20	Original Budget 2020/21	Adjusted Budget 2020/21	Original Budget 2021/22	Adjusted Budget 2021/22
Capital budget	143 857 572	140 815 524	166 329 719	196 414 520	123 808 556	142 810 340
Operating Expenditure	749 828 067	757 190 607	776 694 611	771 606 541	842 761 932	838 044 568
Operating Revenue	830 826 697	855 620 406	889 124 743	889 124 743	922 400 717	922 400 717
Budgeted (Surplus)/ Deficit	(80 998 630)	(98 429 799)	(112 430 132)	(117 518 202)	(79 638 786)	(84 356 149)
Less: Capital Grants & Donations	67 161 000	80 451 000	71 936 000	71 936 000	40 439 000	40 439 000
(Surplus)/ Deficit	(13 837 630)	(17 978 799)	(40 494 132)	(45 582 202)	(39 199 786)	(43 917 149)

7.4/...

- (f) That it be noted that the changes to the main budget will have no impact on tariffs in respect of the 2019/2020 financial year or beyond but will result in an increase in the budgeted surplus from R 13 837 630 to a budgeted surplus of R 19 978 799, with any potential changes to the sewerage tariff forming part of the new main budget considerations;
- (g) That the 2018/2019 unauthorised expenditure illustrated under 2.5 (a) be approved as part of this adjustments budget of 2019/2020 in line with section 32(2)(a)(i) of the MFMA;
- (h) That approval be granted for the balance of the 25% discount on property rates to the senior citizens with a monthly income that exceeded the limit of R 12 000 as defined in the 2018/19 approved Property Rates Policy due to the uncertainty that existed with the completion of the rebate form applicable for the 2019-2020 financial year; and that same be credited to the municipal property rates charge with the additional expense of around R 199 500 being insignificant from a total expenditure affordability point of view;
- (i) That the amendments to the budget and related policies as set out in **(Annexure C: Budget / Related Policies and System of Delegations)** hereto, be approved;
- (j) That the final Cost Containment Policy (incorporating the further communications by the National Treasury) inclusive of the System of Delegations supporting same, be approved;
- (k) That Council takes note and approve the additional explanations added to the Water and Electricity tariff structures for purposes of clarity as set out in **(Annexure D: Water and Electricity Tariff Charges)**;
- (l) That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in **(Annexure E: Budget Report and B-Schedules 2019/20 – 2021/22)** inclusive of the corrections to the 2019/20 original budget schedules identified during the verification process;
- (m) That the Director: Financial Services adhere to the requirements of the Budget Circulars and Budget Reforms in the context of the reporting requirements to Provincial and National Treasury;
- (n) That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

7.5 INVESTIGATION INTO FRUITLESS AND WASTED EXPENDITURE IN TERMS OF ARTICLE 32 OF MFMA (5/15/15)

A report in respect of investigations into unauthorized, irregular or fruitless and wasted expenditure is made on a quarterly basis to the Council.

The report circulated with the agenda contains detailed information in respect of three instances in which official vehicles were damaged in accidents. In all the cases the drivers acknowledged guilt and contributed to the excesses of the insurance claims.

RESOLUTION

(proposed by add M van Zyl, seconded by ald R F van der Westhuizen)

- (a) That the content of the Records of Decision (RoD) of the Disciplinary Board as per Annexures A to this report be noted regarding the fruitless and wasteful expenditure investigations;
- (b) That the recommendations of the Disciplinary Board as contained in Annexure A to the report be approved and implemented regarding the following:

7.5/...

- (i) The write off of R15 000 for the difference in what the officials can afford and are willing to pay towards the actual excess payment to the insurance company.
- (ii) Consideration should be given to establishing measures/ criteria to ease payment by officials, taking into account previous accident records and traffic fines. Officials must be held accountable when they damage the municipality's assets to prevent a non-caring attitude from occurring.

7.6 REVISION OF THE SUPPLY CHAIN MANAGEMENT POLICY (8/1/B/2)

The Supply Chain Policy is revised on an annual basis in order to keep up to date with the latest legal requirements and relevant regulations. The amendments were made in order to be in line with the cost cutting regulations.

The revised policy was circulated with the agenda.

The Speaker brought the matter to the vote and it was decided (in the absence of two councillors) by 15 DA councillors in favour thereof, with five ANC councillors and one EFF councillor who abstained from voting.

RESOLUTION

(proposed by clr O M Stemele, seconded by clr P E Solomons)

That the proposed amendments to the Swartland Municipality's Supply Chain Management Policy in Paragraph 35(5), as presented in Appendix A, be approved with immediate effect.

7.7 SUBMISSION OF DRAFT REGULATION IN RESPECT OF MUNICIPAL LAND USAGE PLANNING (1/1)

Since the inception of the Regulation in respect of Municipal Land Usage Planning (PK 7741 dated 3 March 2017), the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) have proposed a number of amendments to the standard regulation.

The practical application of the regulation since 2017 has brought to light shortcomings and the latter has been thoroughly revised in conjunction with the consultant, Munstel, in order to introduce the relevant amendments.

A public participation process was followed after the submission of the draft regulation to the municipal council on 25 July 2019.

The comments received from DEA&DP were thoroughly considered and – where relevant – included in the regulation.

The proposed regulation was circulated with the agenda.

The Speaker brought the matter to the vote and it was decided (in the absence of two councillors) by 15 DA councillors in favour thereof, with five ANC councillors and one EFF councillor who abstained from voting.

RESOLUTION

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

- (a) That cognisance be taken of DEA&DP's comment;
- (b) That the amended Swartland Municipality: Municipal Land Use Planning By-Law be adopted;
- (c) That the by-law be published in the Provincial Gazette in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) to take effect from date of publication;
- (d) That the by-law be placed on the municipal website after promulgation;

7.7/...

- (e) That admission of guilt fines (with reference to section 96 of the by-law) be determined with the Department of Justice in terms of sections 56 and 341 of the Criminal Procedure Act, 1977.

7.8 SUBMISSION OF THE DRAFT REGULATION IN RESPECT OF FILMING (1/1)

The draft Regulation in respect of Filming, with the aim of managing and regulating filming within the municipal boundaries, was submitted to the municipal council on 25 July 2019.

A public participation process was followed and the draft regulation was workshopped with role players in the industry by the Division: Planning in conjunction with the consultant, Munstel, in order to ensure workability of the regulation.

The proposed regulation was circulated with the agenda.

The Speaker brought the matter to the vote and it was decided (in the absence of two councillors) by 15 DA councillors in favour thereof, with five ANC councillors and one EFF councillor who abstained from voting.

RESOLUTION

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

- (a) That the Swartland Municipality: Filming By-Law be adopted;
- (b) That the by-law be published in the Provincial Gazette in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) to take effect from date of publication, subject to the following further amendment:

CHAPTER 1, Paragraph 2(5): This by-law does not apply to private filming studios licensed pursuant to the Businesses Act, Act 71 of 1991 in respect of filming activities that take place on appropriately zoned land within the jurisdictional area of the municipality.

- (c) That the by-law be placed on the municipal website after promulgation;
- (d) That admission of guilt fines (with reference to section 14 of the by-law) be determined with the Department of Justice in terms of sections 56 and 341 of the Criminal Procedure Act, 1977.

7.9 MOTION FROM THE ANC IN RESPECT OF MUNICIPAL PUBLIC ACCOUNTABILITY COMMITTEE (MPAC) (3/2/2)

The motion from the ANC was included in the agenda and dealt with various aspects in respect of the MPAC.

Clr N S Zatu presented the functions of the MPAC and stated that it is important to appoint a chairman to ensure the transparency, accountability and oversight role of the MPAC.

Clr F S Humphreys requested that a professional councillor from amongst the members of the MPAC is appointed.

The proposal by clr O M Stemele (seconded by clr B J Penxa) in respect of the recommendation under item 7.10 was recalled by the Speaker, because item 7.9 still needed to be dealt with.

RESOLUTION

That note is taken of the motion received from the ANC in respect of matters pertaining to the Municipal Public Accountability Committee (MPAC).

7.10 MOTION FROM THE DA IN RESPECT OF MUNICIPAL PUBLIC ACCOUNTABILITY COMMITTEE (MPAC): CHAIRMANSHIP (3/2/2)

A motion dated 17 January 2020 was received from the DA caucus in respect of the appointment of a chairman and vice chairman for MPAC because the post became vacant with the resignation of clr C B Fortuin in June 2019.

RESOLUTION

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

- (a) That cllr C Daniels be appointed chairman and cllr E C O-Kenney as deputy chair of the Municipal Public Accountability Committee (MPAC) with immediate effect;
- (b) Although the MPAC as well as the Portfolio Committee: Municipal Manager, Administration and Finance, chaired by cllr C Daniels, are section 79 committees in terms of the Local Government: Municipal Structures Act, 117 (Act 117 of 1998), cllr Daniels will only receive one remuneration in terms of the Remuneration of Public Office Bearers Act, 1998 (Act 20 of 1998).

7.11 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 which exceed R 1000,00 in value.

The Speaker, with reference to the investigation into wheely bins for households in the Swartland Municipal area – which is supported by the latter – declared that -

The Speaker, clr M A Rangasamy, (1) is the owner of a business called Bin-to-Bin, which cleans wheely bins and (2) the owner of various properties in his own name and in a trust.

RESOLUTION

(proposed by clr P E Solomons, seconded by clr D B Philander)

- (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 12 February 2020.

**SIGNED:
SPEAKER**