



MINUTES OF A VIRTUAL MEETING OF THE SWARTLAND MUNICIPAL COUNCIL, HELD ON THURSDAY, 29 APRIL 2021 AT 10:00

PRESENT:

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

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

Officials:

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

1. OPENING

The Speaker welcomed the Executive Mayor, alderdames, aldermen, councillors and officials.

Councillor N Smit opened the meeting with a scripture reading and a prayer at the request of the Speaker.

2. APOLOGIES

Apology received from clr Z Bekebu.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

None.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 30 MARCH 2021

RESOLUTION

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

That the minutes of an Ordinary Council Meeting held on 30 March 2021 are approved and signed by the Speaker.

5. REPORTING IN RESPECT OF THE DECISIONS TAKEN BY THE EXECUTIVE MAYOR IN ACCORDANCE WITH HIS DELEGATED AUTHORITY

RESOLUTION

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

5.1 MINUTES OF AN ORDINARY EXECUTIVE MAYOR'S COMMITTEE MEETING HELD ON 23 MARCH 2021

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 10 MARCH 2021

6. REPORTING IN RESPECT OF THE DECISIONS TAKEN BY THE MUNICIPAL MANAGER IN ACCORDANCE WITH HIS DELEGATED AUTHORITY

RESOLUTION

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

6.1 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 2 MARCH 2021

6.2 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 9 MARCH 2021

6.3 MINUTES OF A TENDER AWARD COMMITTEE MEETING HELD ON 31 MARCH 2021

7. MATTERS FOR DISCUSSION

7.1 RESIGNATION OF CLR C H PAPERS AS COUNCILLOR: CONSEQUENTLY ALSO (1) AS WARD COUNCILLOR AND (2) AS REPRESENTATIVE OF SWARTLAND MUNICIPALITY IN THE WEST COAST DISTRICT MUNICIPALITY (3/3/1/1)

The Municipal Manager explained that, with a view to the upcoming local election, there is consultation at present with the Independent Election Commission (IEC), in respect of a possible by-election for Ward 2 at the end of June 2021.

It was also stated that the vacancy, which has occurred with the resignation of clr C H Papers as a member of the West Coast District Municipality, was accordingly communicated to the IEC, also in respect of the DA candidate list which is now depleted. The DA will therefore be afforded the opportunity to add to the candidate list, before the IEC can confirm their representative to the West Coast District Municipality.

RESOLUTION

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

- (a) That the resignation of Councillor Paper as ward councillor of Ward 2 and as a representative to the West Coast District Council be noted and accepted;
- (b) That cognisance be taken that the IEC was notified of the respective vacancies;
- (c) That further cognisance be taken that the list of candidates of the DA became exhausted and that the IEC was notified to follow due process to declare the name of the next person on the supplementary list submitted by the DA as representative of the Swartland Municipality on the West Coast District Council;
- (d) That the West Coast District Municipality was informed of the actions of the chief election officer in order to inform the IEC;

7.1/...

- (e) That the Municipal Manager reports to Council on the way forward regarding the by-elections in Ward 2 after consultation with the Minister of Local Government and the IEC.

7.2 ADOPTION OF THE OVERSIGHT REPORT IN RESPECT OF THE 2019/2020 ANNUAL REPORT (7/1/1/1)

The Draft Annual Report for the 2019/2020 financial year was presented to the Council on 11 March 2021 in accordance with section 127 of the Municipal Financial Management Act, 2003, where after it was made available to the public and the relevant state organs for comment.

The Municipal Public Accountability Committee, under the chairmanship of clr C Daniels, met respectively on 13 April and 23 April 2021 to consider the comments received in respect of the draft annual report in order to draw up the 2019/2020 Oversight Report.

The recommendations before the Council were brought to the vote by the Speaker and (in the absence of one councillor) decided with 15 votes (DA councillors) and 1 vote (EFF councillor) in favour thereof and the remaining councillors (ANC councillors) abstaining from voting.

RESOLUTION

(proposed by clr C Daniels, seconded by clr E C O'Kennedy)

- (a) That Council, having considered the 2019/2020 Annual Report of Swartland Municipality, adopts the Oversight Report in terms of section 129 of the Municipal Finance Management Act;
- (b) That the 2019/2020 Annual Report of Swartland Municipality be approved without reservations, in terms of section 129 of the MFMA;
- (c) That the minutes of the meetings where the Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government as attached to the report, in terms of section 129(2) of the MFMA;
- (d) That the 2019/2020 Oversight Report of Swartland Municipality be made public in terms of Section 129(3) of the MFMA and be submitted to the Western Cape Legislature in terms of Section 132(2) of the MFMA;
- (e) That, in acceptance of the Oversight Report, the payment of performance bonuses be approved by Council as per paragraph 3.1.2;
- (f) That cognisance be taken that, due to the fact that the comments from Provincial Treasury was not received by the closing date, it will not affect the 2019/2020 Oversight Report.

7.3 APPROVAL OF THE 2020/2021 SPECIAL ADJUSTED OPERATING AND CAPITAL BUDGETS (5/1/1/1, 5/1/1/2)

The 2020/2021 Special Adjusted Capital and Operating Budgets were considered for approval by the Council during a Special Executive Mayor's Committee Meeting held on 22 April 2021.

The Special Adjusted Budget arose mainly due to the additional MIG funds granted to the Swartland Municipality, and additional funds for Library Services from Province.

7.3/...

The matter was brought to the vote by the Speaker and (in the absence of one councillor) decided with 15 votes (DA councillors) and 1 vote (EFF councillor) in favour thereof, and the remaining councillors (ANC councillors) abstaining from voting.

RESOLUTION

(proposed by ald T van Essen, seconded by aldd M van Zyl)

- a) That the Budget Steering Committee convened urgently to consider the explanations and motivations provided by the CFO as it relates to the adjustments;
- b) That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2020/2021 financial year or beyond but will result in an increase in budgeted surplus from R 1 448 054 to a budgeted surplus of R 2 476 054;
- c) That approval be granted to amend the high-level capital and operating budgets for 2020/2021 as follows:

	Original Budget 2020/21	Roll-Over Adj Budget 2020/21	Mid-Year Adj Budget 2020/21	Special Adj Budget 2020/21	Increase / Decrease	Original Budget 2021/22	Original Budget 2022/23
Capital budget	212 435 837	213 132 732	210 663 962	212 204 973	1 541 011	137 639 479	137 710 243
Operating Expenditure	810 670 080	811 033 080	812 208 752	812 407 741	198 989	889 949 652	924 976 102
Operating Revenue	882 786 413	890 266 902	892 883 145	895 651 145	2 768 000	928 907 555	998 866 120
Budgeted (Surplus)/ Deficit	(72 116 333)	(79 233 822)	(80 674 394)	(83 243 405)	(2 569 011)	(38 957 903)	(73 890 018)
Less: Capital Grants, Donations & Development Charges	86 863 600	81 163 089	79 226 340	80 767 351	1 541 011	28 897 050	66 713 153
(Surplus)/ Deficit	14 747 267	1 929 267	(1 448 054)	(2 476 054)	(1 028 000)	(10 060 853)	(7 176 865)

- d) That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in **Annexure C**;
- e) 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;
- f) That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

7.4 QUARTERLY REPORT (SECTION 52 OF MFMA): JANUARY TO MARCH 2021 (7/1/2/2-2)

The submission of the report to the Council is in compliance with the requirements of Section 52(d) of the Municipal Financial Management Act, Act 56 of 2003. It contains the general responsibility of the mayor to submit to the council the financial position as well as the municipality's financial progress, measured against the approved budget for the 3rd quarter as of 31 March 2021.

The report also contains non-financial information in respect of the Municipality's performance measured against the goals set in the Top Level Service Delivery and Budget Implementation Plan for 2020/2021.

7.4/...

RESOLUTION

(proposed by aldd M S I Goliath, seconded by clr P E Solomons)

That Council takes cognisance 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 January 2021 to 31 March 2021.

7.5 APPOINTMENT OF PERSONEL IN BUILDING MANAGEMENT DIVISION (15/4/1)

Mr B Groeneveld was appointed on 1 April 2021 as Head: Building Management Official after the resignation of mr W T Mokwena. The report is in compliance with the requirements of the National Building Regulations and Building Standards Act, Act 103 of 1977 in accordance with which a Building Management Official must be appointed, as well as the appointment of acting building management officials.

RESOLUTION

(proposed by clr J M de Beer, seconded by ald B J Stanley)

- (a) That cognisance be taken that article 28 (4) of the Act 103 of 1977, stipulates that a council may delegate any power conferred upon it, other than the appointment of Chief Building Control Officer:
- therefore it is recommended that the appointment of Mr.B Groeneveld as Chief Building Control Officer, in accordance with Section 5(i) of the National Regulations and Building Standards Act, No.103 of 1977, be confirmed as from 1 April 2021;
- (b) That further approval be granted that both Ms. E Juries and Mr B Keulder be appointed to perform the functions of Building Control Officer in the absence of Mr. Groeneveld, in accordance with Section 5(i) of the National Regulations and Building Standards Act No. 103 of 1977. Ms. E Juries and Mr B Keulder have the relevant Diploma in Building and Quantity Surveying.

7.6 PROPOSED OUT-OF-HAND ALIENATION OF MUNICIPAL COMMONAGE (PORTION RESTANT ERF 551) IN DARLING (12/2/5/2-3/2)

An application has been received from the owner of Darling Romery, situated on Erf 4373, Darling to obtain a portion of the adjoining Restant Erf 551, Darling (commonage ±354 m² in extent). The land is needed for additional space in order to accommodate the movement/turning of heavy vehicles on the site.

The report aims to get approval from the Council to alienate, out-of-hand, the relevant portion of Restant Erf 551, Darling to CLB Properties (Pty)(Ltd), the owner of Erf 4373, and transfer it for consolidation with the above mentioned property.

RESOLUTION

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

- (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 (± 354 m² in extent) of Remainder Erf 551, Darling to be alienated and transferred out of hand to CLB Eiendomme (Pty) Ltd for consolidation with Erf 4373, at the amount of R14 200,00, excluding VAT;
- (b) That cognizance be taken that said portion of land (being part of the municipal commonage) is presently not zoned and has been or is at no stage required for the provision of a minimum or any other level of basic municipal services;

7.6/...

- (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 consolidation of said portion with Erf 4373 will meaningfully round off the existing border of Erf 4373;
 - (iii) The proposed merging of the said land with Erf 4373 and the use 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);
 - (iv) The property in its existing shape does not have any economic or other benefit for the Municipality, and only by consolidation with Erf 4373 will contribute to the economic benefit derived from the present use of the Erf 4373 by means of job opportunities created for the community;
- (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 (including rezoning) as well as the costs of consolidation;
 - (ii) No permanent structures may be erected on the specific portion and it must effectively be protected, because a bulk water pipe belonging to the West Coast District Municipality (which is protected by means of a servitude) crosses the property;
 - (iii) Ownership of the land does not exempt the purchaser from any obligations towards other authorities, such as Transnet and the West Coast District Municipality, and it therefore does not deprive the latter or any other authorities from any rights pertaining to the specific portion of land;
- (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 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.

7.7 ANC MOTION IN RESPECT OF CONTENTIOUS VIOLATION OF THE CODE OF CONDUCT FOR COUNCILLORS AND/OR THE REGULATION (3/1/6)

[The Speaker, ald M A Rangasamy left the meeting for the duration of the discussion]

In respect of the appointment of an acting Speaker -

RESOLUTION

(proposed by ald O M Stemele, seconded by ald T van Essen)

- (a) That, because the Speaker is implicated in the motion received from the ANC, clr N Smit was appointed as acting Speaker in accordance with section 41 of the Local Government Act, Municipal Structure, Act 117 of 1998.

7.7/...

The acting Speaker tabled the item and requested the Executive Mayor, ald T van Essen to scrap the motion.

The motion contains the accusation that the Speaker was involved in the recruitment of safety ambassadors in accordance with a provincial programme. The contentious actions by the Speaker boil down to interference in the administration and resultant violation of the Code of Conduct for Councillors.

Clr D B Philander, Chief Whip of the ANC, proposed that the matter is referred to the disciplinary committee.

Ald O M Stemele confirmed that, in order to instigate an investigation, a mandate must be obtained from the Council by a vote.

The acting Speaker brought the proposal by ald T van Essen that the item be scrapped, and therefore not to instigate an investigation, to the vote and (in the absence of one councillor) decided with 14 votes (DA councillors) in favour thereof and six councillors abstaining from voting.

RESOLUTION

(proposed by ald T van Essen, seconded by O M Stemele)

That the motion received from the ANC in respect of asserted violation of the Code of Conduct for Councillors by the Speaker, is scrapped from the agenda

**SIGNED
SPEAKER**