



MINUTES OF A MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD IN THE BANQUETING HALL, MALMESBURY ON MONDAY, 18 OCTOBER 2021 AT 14:00

PRESENT:

Executive Mayor, ald T van Essen (chairman)
Deputy Executive Mayor, aldd M S I Goliath

Members of the Mayors 'Committee:

Cir P E Solomons
Ald O M Stemele
Ald R F van der Westhuizen
Aldd M van Zyl

Other councillors:

The Speaker, ald M Rangasamy

Officials:

Municipal Manager, mr J J Scholtz
Director: Financial Services, mr M Bolton
Director: Electrical Services, mr R du Toit
Director: Development Services, ms J S Krieger
Director: Corporate Services, ms M S Terblanche
Snr Manager: Solid Waste and Trade Services, mr J Venter
Manager: Secretarial and Records, ms N Brand

1. OPENING

The Executive Mayor welcomed members and requested ald R F van der Westhuizen to open the meeting with a prayer.

2. APOLOGIES

That **NOTE IS TAKEN** of the apology received from the Director: Civil Engineering Services, mr L D Zikmann.

3. SUBMISSIONS/DEPUTATIONS/COMMUNICATIONS

None

4. MINUTES

4.1 MINUTES OF AN ORDINARY EXECUTIVE MAYOR'S COMMITTEE MEETING HELD ON 15 SEPTEMBER 2021

RESOLUTION

That the minutes of an Ordinary Executive Mayor's Committee Meeting held on 15 September 2021 are approved and signed by the Mayor.

5.1 MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 13 OCTOBER 2021

5.1.1/...

5.1.1 MUNICIPAL MANAGER, ADMINISTRATION AND FINANCES

RESOLUTION that the Executive Mayor approves the recommendations in the relevant minutes.

5.1.2 CIVIL AND ELECTRICAL SERVICES

RESOLUTION that the Executive Mayor approves the recommendations in the relevant minutes.

5.1.3 DEVELOPMENT SERVICES

RESOLUTION that the Executive Mayor approves the recommendations in the relevant minutes.

5.1.4 PROTECTION SERVICES

RESOLUTION that the Executive Mayor approves the recommendations in the relevant minutes.

6. MATTERS ARISING FROM THE MINUTES

None

7. NEW MATTERS

7.1 IMPLEMENTATION OF THE SALARY AND WAGE AGREEMENTS FOR THE PERIOD 1 JULY 2021 TO 30 JUNE 2024 (4/2/3)

The negotiations in respect of the Salary and Wage Agreements for the period 1 July 2021 to 30 June 2024 were completed on 15 September 2021 (agreements attached as Attachment A).

The Municipal Manager stated that Swartland Municipality still stands by a 0% mandate, given the negative economic impact of the Covid-19 pandemic in the Swartland Municipal area. It is also recommended that the latter must be used as a consideration in the exemption application and not only financial affordability. SALGA was not able to negotiate greater flexibility with respect to exemption requirements.

The Municipal Manager confirmed that in the final approval of the operating budget, by the Council in May 2021, provision was made for a 2,8% salary increase. The Municipality is legally obliged to comply with the collective agreements and provision must be made for the total salary increases in the adjusted budget.

RESOLUTION

- (a) That the Executive Mayoral Committee takes note of the Salary and Wage Collective Agreement for the period 1 July 2021 to 30 June 2024 which the municipality is legally bound to implement;
- (b) That Swartland Municipality expresses its discontent regarding Clause 15 of the Collective Agreement dealing with Exemptions, where it has supported a flexible exemption dispensation coupled to an opt out mechanism, but the Exemptions Process is even more stringent although provision was made in Clause 14 for any party (SALGA, IMATU or SAMWU) to the agreement having a right to withdraw from the agreement resulting into new wage negotiations;
- (c) That the Executive Mayoral Committee recommends to Council that approval be granted for the non-pensionable allowance for the three employees who retire between 15 September 2021 and 28 February 2022, to be paid together with the final payment of their salaries and that this approval is also made applicable to employees who are medically boarded (if any) during the aforementioned period;

7.1(d)/...

- (d) That the CFO be tasked to fund the shortfall during the January 2022 Adjustment budget process whether by way of savings or additional realistically anticipated revenue streams;
- (e) That it further be noted that implementation of the new collective agreement will require adjustments to the outer years of the current 2021/22-2023/24 MTREF;
- (f) That Council be informed accordingly.

7.2 MANDATE FROM THE MUNICIPAL PERFORMANCE AND RISK AUDIT COMMITTEE (5/15/1/3)

The Performance and Risk Audit Committee serves as an independent advisory body, which is appointed by the Council to fulfil its functions in terms of Section 166 of the Local Government: Municipal Financial Management (Act 56 of 2003) – MFMA.

The charter of the Performance and Risk Audit Committee, which outlines the obligations and responsibilities of the members, was discussed and approved by the members during a meeting held on 24 August 2021.

RESOLUTION

That the Charter of the Performance and Risk Audit Committee is approved by MAYCO and adopted by the Audit Committee members for them to be aware of their responsibilities.

7.3 ACCEPTANCE OF NATIONAL TREASURY PPPFA CIRCULAR 1 OF 2021/22 IN RESPECT OF PREFERENTIAL PROCUREMENT WITH REGARD TO INCOME GENERATING TENDERS (1/1/1-77)

The Municipal Manager presented the background to the National Treasury PPPFA Circular 1 of 2021/22. Although the circular confirms that state organizations are exempt from compliance with preferential procurement formulas in accordance with Regulations 6(1) and 7(1) of the Preferential Procurement Regulations, 2017 in respect of alienation of state assets and other income generating tenders, it is recommended that other formulas are applied.

In the case *CSHELL 271 (Pty) Ltd vs Oudtshoorn Municipality*, the Western Cape High Court determined that the disposal of capital assets is only regulated by Section 14 of the MFMA. This ruling is in line with Section 217 of the Act which deals only with the procurement of goods and services, and not with alienation of capital assets and other income generating tenders.

RESOLUTION

That since the Circular only advises the implementation of the formulae as per Regulations 6(1) and 7(1) and is hence considered a guideline only -

- (a) that National Treasury PPPFA Circular 01 of 2021/22 at this stage only be taken cognizance of, and it not be adopted for implementation given the legal context and uncertainty as to certain aspects as explained herein;
- (b) that the issue be raised with other municipalities at the applicable forums or legal opinion be obtained, if considered necessary by the Municipal Manager.

7.4 AMENDMENT TO THE PREFERENTIAL PROCUREMENT POLICY (8/1/B/1)

On 23 March 2017 the Council approved the Preferential Procurement Policy. The policy was drawn up in line with the Preferential Procurement Regulations of 2017, and must be revised from time to time.

Resolution/...

7.4/...

RESOLUTION that the proposed amendments to council's preferential procurement policy in paragraph 6(3) and 7(3), as presented in appendix a, be approved with immediate effect.

7.5 REPORT IN RESPECT OF THE SUPPLY CHAIN MANAGEMENT POLICY FOR THE PERIOD 1 JULY 2021 TO 30 SEPTEMBER 2021 (8/1/B/2)

A report in respect of the implementation of the Supply Chain Management Policy must be presented to the Executive Mayor, on a quarterly basis, in accordance with paragraph 6(3) of the Municipal Supply Chain Management Regulations.

The report for the period 1 July 2021 to 30 September 2021 was circulated with the agenda.

RESOLUTION

- (a) That cognisance is taken of the Quarterly Report in respect of the implementation of the Supply Chain Management Policy as envisaged by section 6(3) 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 is taken of the services rendered for the period 1 July 2021 to 30 September 2021 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);
- (c) That cognisance is also taken of Covid-19 related emergency purchases below the threshold value of R30 000.00 to the amount of R 95 727.15.

7.6 QUARTERLY REPORT IN RESPECT OF THE PERFORMANCE OF CONTRACTORS (8/1/B/2)

The report in respect of the quarterly performance evaluation of contractors, which is drawn up in accordance with the Supply Chain Management Policy, was presented in compliance with Section 116(2) of the MFMA and the core performance indicator of the Municipal Manager, namely:

"Number of reports on the management of the contracts or agreements (supply chain) and the performance of contractors submitted to mayoral committee."

RESOLUTION that cognisance is taken of the quarterly report on the performance of contractors for the period 1 July 2021 to 30 September 2021.

7.7 DRAFT ENVIRONMENTAL MANAGEMENT PLAN FOR THE PRESERVATION AND CONSERVATION AREAS IN DARLING, MALMESBURY AND YZERFONTEIN (17/11/1/1/1)

Swartland Municipality is the owner of various preservation and conservation areas within the municipal area, which must be preserved and administered by an environmental management plan.

The Western Cape Government has delegated the competency for the management and conservation of local nature reserves to Cape Nature. The environmental management plan, supported by Cape Nature, strives to preserve the biodiversity and eco-systems thereof and to create access to opportunities for the relevant role players.

7.7/...

RESOLUTION

- (a) That the Executive Mayoral Committee approves the summary of the draft management plan for protected and conservation areas in Darling Malmesbury and Yzerfontein – attached marked “A”;
- (b) That the full EMP document be presented for decision making as soon as Cape Nature’s comments be finalized;
- (c) That the Executive Mayoral Committee takes cognizance of the stakeholder engagement challenges due to Covid 19 pandemic;
- (d) That an internal committee from all Departments be established to fulfill the managing authority administrative role related to the DMY Complex;
- (e) That the internal committee be responsible inter alia to determine and protect the short terms goals in the EMP;
- (f) That the current and future budget allocation for environmental management issues be managed by the internal committee.

7.8 OUTSTANDING DEBTORS: SEPTEMBER 2021 (5/7/1/1)

A complete list of outstanding debtors was circulated with the agenda.

RESOLUTION that cognizance be taken of the report with reference to the state of the outstanding debtors of Swartland Municipality for September 2021.

7.9 PROGRESS IN RESPECT OF OUTSTANDING INSURANCE CLAIMS (5/14/3/5)

In accordance with the Asset Management Policy outstanding insurance claims must be reported monthly.

RESOLUTION that cognizance be taken of the progress with outstanding insurance claims for the period ending 30 September 2021.

7.10 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURES: URGENT REPAIRS TO THE REFUSE REMOVAL TRUCK, CK 21988 (8/1/B/2)

The Municipality uses a compactor truck, CK 21988, in Riebeek West and Riebeek Kasteel to provide solid waste services. The hydraulic system did not function effectively and it was determined that the hydraulic pump needed replacing.

The truck is due to be replaced in the 2024/2025 financial year and it was regarded as necessary to repair the hydraulic system.

RESOLUTION

- (a) That the Executive Mayoral Committee take note of the deviation from the prescribed procurement procedures in terms of clause 36 (2) of the Supply Chain Management Policy;
- (b) That the action of the Municipal Manager be condoned with regards to the repair of the waste removal truck CK21988 by HD Transmissions for the amount of R 38 190.38 excluding VAT;
- (c) That the reason for the deviation from the prescribed procurement process be recorded as follows:
 - (i) The truck would be left out of service for an extended period of time;
 - (ii) This will result in a failure in the waste removal services capacity and public health risks;
 - (iii) The repair works to the truck therefore is handled as an emergency.

- (d) That the expenditure will be allocated mSCOA Code: 9/241-1253-709 and that there is sufficient funding available for the quoted amount of R 38 190.38 excluding VAT;
- (e) That the Manager: Financial Statements and Control be instructed to include the above reason as a note to the financial statements when compiled.

7.11 CLOSURE OF OFFICES ON DECEMBER 17 2021 (2/6)

In respect of the 2019/2020 financial year, Swartland Municipality has received, for the eighth time, a clean audit. In keeping with decisions taken in previous years, it is recommended that Friday 17 December 2021 is declared a holiday as a reward to the personnel for their contribution to a clean audit.

RESOLUTION

- (a) That, as a result of obtaining a eighth clean audit, approval be granted that the offices close for the day on Friday, 17 December 2021;
- (b) That this is a once-off reward and should not create an expectation with regards to following years;
- (c) That notices will be placed at all pay points in the municipal area and on the website to give notice of the closing of the offices;
- (d) That, with this reward, overtime for time worked on the day will be paid at the Saturday tariff.

7.12 APPLICATION FOR LEAVE BY THE MUNICIPAL MANAGER AND DIRECTORS AND APPOINTMENT OF AN ACTING MUNICIPAL MANAGER (4/8/3)

The report, together with the schedule, aims to obtain approval from the Executive Mayor's Committee for leave of the Municipal Manager, and to indicate which directors are available to deputise.

RESOLUTION

- (a) Dat die aansoek om verlof van die Munisipale Bestuurder vir die volgende dae in beginsel goedgekeur word, naamlik:
 - 20 Desember 2021 – 7 Januarie 2022 (14 dae), met inbegrip daarvan dat dit weens omstandighede mag verander, na oorlegpleging met die Uitvoerende Burgemeester;
- (b) Dat daar kennis geneem word dat die Direkteur: Siviele Ingenieursdienste gedurende voormelde tydperk sal waarneem as Munisipale Bestuurder, en indien, om welke rede ookal die Direkteur: Siviele Ingenieursdienste nie beskikbaar is nie, die Direkteur: Finansiële Dienste sal waarneem;
- (c) Dat die gesinsverantwoordelikhedsverlof van die Munisipale Bestuurder van 4 tot 6 Oktober 2021 – weens die sterfte van sy skoonpa goedgekeur word.

7.13 LEASE OF MUNICIPAL LAND IN KORINGBERG (12/2/4-7/1)

The Koringberg Primary School operates from a prefab building, which was erected on a portion of Erf 182, Koringberg. The five year lease (5) expired on 30 June 2021.

Resolution/...

7.13/...

RESOLUTION

- (a) That approval be granted that portion of Erf 182, Koringberg (in extent $\pm 3913\text{m}^2$) be leased to the Western Cape Education Department for a further term of five (5) years for education purposes, with effect from 1 July 2021;
- (b) That the tariff of R1763.88 per month plus VAT, escalating at 8% per annum, be approved;
- (c) That the current conditions of lease remain applicable.

7.14 LEASE AGREEMENT: YZERFONTEIN CLINIC (17/9/2/R)

On 15 September 2021 the Executive Mayor's Committee approved the lease of the facilities at the Yzerfontein Community Hall to the Department of Transport and Public Works.

After the approval, a letter was received from the Department Head requesting that the Municipality reconsider the rental of R1211,12 (VAT excluded) per month.

RESOLUTION

- (a) That a lease agreement be entered into with the Department of Public Works for the lease of the facilities at the Yzerfontein Community Hall for a further period of 36 months, under the following amended financial terms:
 - (i) That the tariff of R1155.00 per month plus VAT, escalating at 5.5% per annum, be approved.

7.15 NECESSARY CHANGES TO THE MPAC (MUNICIPAL PUBLIC ACCOUNTABILITY COMMITTEE) OF SWARTLAND MUNICIPALITY WITH REFERENCE TO THE "LOCAL GOVERNMENT: MUNICIPAL STRUCTURES AMENDMENT ACT, 2021 (ACT 3 OF 2021)" (1/1/1/5; 3/2/2)

The Municipal Manager enlightened the committee with respect to the Revised Local Government Amendment Act: Municipal Structures, 2021 (Act 3 of 2021) (Government Gazette 44647 dated 1 June 2021) and its impact on the functioning of the Municipal Public Accountability Committee (MPAC).

RESOLUTION

- (a) That the Executive Mayoral Committee take note of the Amendment Act and its implications;
- (b) That the functions of an MPAC as set out in section 79A (3) (a) - (e) be incorporated as functions of the MPAC of Swartland Municipality and that the amended "Terms of Reference" be submitted to the Council in due course;
- (c) That all other aspects of the MPAC remain the same as previously approved; and
- (d) That the MPAC's work schedule be adjusted accordingly to accommodate their roles and functions.

**(SGD) T VAN ESSEN
EXECUTIVE MAYOR**