



MINUTES OF A MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY ON THURSDAY, 27 JULY 2023 AT 10:00

PRESENT:

Speaker, ald M A Rangasamy
Executive Mayor, ald J H Cleophas
Deputy Executive Mayor, clr J M de Beer

COUNCILLORS:

Bess, D G (DA)	Penxa, B J (ANC)
Booyesen, A M (VF+)	Pieters, C (ANC)
Daniels, C (DA)	Pypers, D C (DA)
Duda, A A (EFF)	Smit, N (DA)
Fortuin, C (ANC)	Soldaka, P E (ANC)
Jooste, R J (DA)	Van Essen, T (DA)
Le Minnie, I S (DA)	Van Zyl, M (DA)
Ngozi, M (ANC)	Vermeulen, G (VF+)
O'Kennedy, E C (DA)	Warnick, A K (DA)
Papier, J R (GOOD)	

Officials:

Municipal Manager, mr J J Scholtz
Director: Civil Engineering Services, mr L D Zikmann
Director: Electrical Engineering Services, mr T Möller
Director: Financial Services, mr M A C Bolton
Director: Corporate Services, ms M S Terblanche
Director: Development Services, ms J S Krieger
Manager: Secretarial and Records, ms N Brand

1. OPENING

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

Pastor De Waal Esterhuizen of the Sofar Gemeente, Malmesbury opened the meeting with a scripture reading and prayer at the invitation of the Speaker.

The Speaker congratulated councillors and officials who had celebrated birthdays recently.

2. APOLOGIES

Apology received from the Director : Protection Services.

RESOLUTION taken that ald B J Stanley was absent without an apology.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

RESOLUTION that note is taken of the communication from the Municipal Manager that the council meeting in August is brought forward to Thursday, 24 August 2023 at 10:00.

That **NOTE IS TAKEN** of the appointment of ms C Arendse as administrative support in the Office of the Speaker.

4. MINUTES FOR APPROVAL

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 25 MAY 2023

RESOLUTION

(proposed by clr N Smit, seconded by clr A K Warnick)

That the minutes of an Ordinary Council Meeting held on 25 May 2023 are approved and signed by the Speaker.

5. REPORTING 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 power in the following minutes:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 17 MAY 2023

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 10 MAY 2023

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 13 JUNE 2023

read in conjunction with

MINUTES OF A PORTFOLIOS COMMITTEE MEETING HELD ON 7 JUNE 2023

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

RESOLUTION

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

6.1 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 15 MAY 2023

6.2 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 17 MAY 2023

6.3 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 25 MAY 2023

6.4 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 5 JUNE 2023

6.5 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 13 JUNE 2023

6.6 MINUTES OF A MEETING OF THE TENDER AWARD COMMITTEE HELD ON 17 JUNE 2023

7. MATTERS ARISING FROM THE MINUTES

None.

8. MATTERS FOR DISCUSSION

8.1 REGULATIONS IN RESPECT OF CODE OF CONDUCT FOR COUNCILLORS (3/1/2)

The Local Government: Municipal Systems Regulations dated 25 May 2001 were recalled on 14 June 2023 by the Minister of Co-operative Governance and Traditional Affairs and replaced with two new regulations.

8.1/...

The Regulations as per Government Gazette, 48786 dated 14 June 2023 are now applicable to all councillors, traditional leaders and Khoi-San leaders subject to section 17 of the Code of Conduct for Councillors as per appendix 7 of the Local Government: Municipal Structures Act, 1998.

One of the stipulations deals with the involvement of councillors in violent riots or labour unrest against the Municipality. Councillors stated that they must act as mediators during unrest and voiced their concern that this may be seen as participating in the unrest.

It was accepted that participation by councillors, as leaders of the community, in unrest is in good faith, because the community expects councillors to be in the forefront, and that discretion will be exercised when any infringement of the code of conduct in this connection is investigated.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr D C Pypers)

- (a) That councillors familiarise themselves with the contents of the 2023 Regulations as per Annexure A to the report, and (once again) with the Code of Conduct for Municipal Councillors as per Annexure B to the report;
- (b) That councillors in particular take cognisance of their obligation to register gifts received with the office of the Municipal Manager, and in this regard to provide all the information as stipulated.

8.2 CODE OF CONDUCT FOR COUNCILLORS: DECLARATION OF INTERESTS (3/1/2)

The Code of Conduct for Councillors, referred to in Appendix 7 of the Municipal Structures Act, as well as the Local Government: Municipal Systems Regulations, 2023 stipulate, inter alia, that councillors must declare their interests on an annual basis, including gifts received by a councillor.

RESOLUTION

(proposed by clr I S le Minnie, seconded by clr E C O'Kennedy)

- (a) That councillors take cognisance of the requirements in terms of Item 6 to 8 of the Code of Conduct;
- (b) That councillors take cognisance that the nature or detail of the financial interests of a councillor referred to in Item 8 of the Code of Conduct for Councillors, must be **declared in writing to the Municipal Manager**, including gifts received by such councillor in excess of R1 000,00;
- (c) That cognisance be taken that the declaration referred to in paragraph (b) must be submitted to the Director: Corporate Services by no later than 31 July 2023.

8.3 APPROVAL OF THE REGULATION IN RESPECT OF PROVISION OF ELECTRICITY (1/1)

The draft Regulation in respect of the Provision of Electricity was submitted to the Council in order to initiate the public participation process. No comments or input were received by the closing date of 26 June 2023.

The Regulation in respect of the Provision of Electricity was revised in order, inter alia, to include the regulation of electricity generation equipment and the wheeling of energy.

The Executive Mayor's Committee considered the regulation on 19 July 2023 for submission to the Council.

8.3/...

The Speaker brought the matter to the vote and it was decided with 21 votes in favour of approving the Regulation in respect of the Provision of Electricity with one councillor abstaining from voting.

RESOLUTION

(proposed by ald T van Essen, seconded by clr R J Jooste)

- (a) That the following by-law be adopted by Council, to take effect on date of promulgation in the Provincial Gazette:
 - Swartland Municipality: Electricity Supply By-law;
- (b) That fines for offences of the by-law be determined by the Department of Justice.

8.4 SUBMISSION OF THE 2023/2024 PERFORMANCE AGREEMENT AND PLANS (2/4/2)

The performance agreements and plans for the 2023/2024 financial year were drawn up in agreement with Section 57 of the Local Government Act: Municipal Systems, 2000 (Act 32 of 2000) and serves as a replacement addendum to the appointment contracts of the Municipal Manager and directors.

RESOLUTION

(proposed by clr E C O’Kennedy, seconded by clr I S le Minnie)

That the performance agreements and plans of the Municipal Manager and directors for the 2023/2024 financial year be noted.

8.5 PROPOSED ALIENATION OF A PORTION OF FOURTH AVENUE, MOORREESBURG (12/2/5/5-3/1)

An application has been received from *Hoerikwaggo CC* (Dr J Ferreira), the registered owner of Erwen 2276 and 2282, Moorreesburg for the closure and purchase of a portion of Fourth Avenue, Moorreesburg, which is adjacent to his property.

It has been established that the portion of Fourth Avenue (1693 m²) is not needed for the minimum or any other level of municipal services and therefore can be alienated and transferred. The market value of the relevant property is R88 036.00 (VAT excluded).

RESOLUTION

(proposed by clr D C Pypers, seconded by clr D G Bess)

- (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 of Fourth Avenue, Moorreesburg (1693m² in extent) to be alienated and transferred out-of-hand to Hoerikwaggo CC, the owner of erven 2275 and 2282, Moorreesburg at R88 036.00, excluding VAT, for consolidation with said erven;
- (b) That cognizance be taken that the property is not required for the provision of a minimum or any other level of basic municipal services;
- (c) That the following reasons be recorded for the out-of-hand alienation of the portion of land concerned, and for not undergoing a competitive process:
 - (i) The property qualifies as ‘non-viable’ asset in that due to physical constraints it cannot be developed sensibly as a separate entity within the development parameters for Transport zone 2, and therefore only becomes functional if alienated to an adjoining owner for usage in conjunction with his or her property, as proposed;
 - (ii) Transfer of the property to an individual or entity releases the Municipality from its maintenance obligation, as well as limits the risks of potential land invasion or misuse (e.g. illegal dumping);
- (d) That the following conditions of sale shall apply to the transaction:

8.5(d)/...

- (i) The portion of Fourth Avenue, Moorreesburg be closed and application be made for exemption of subdivision and consolidation in terms of Section 34 of the Land-Use Planning By-law;
 - (ii) The zoning of the portion of Fourth Avenue, Moorreesburg shall vest as Residential, in terms of Section 9(h) of the Land-Use Planning By-law;
 - (iii) 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 the costs of consolidation;
- (e) That the proposed transaction be advertised in the media for comments and/or potential objections, and that the Executive Mayor be authorized to deal with any forthcoming objections in consultation with his committee;
 - (f) That before the intention is advertised, written confirmation first be obtained from Hoerikwaggo CC that the entity 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.

8.6 PROPOSED ALIENATION OF UNREGISTERED ERF 12857, MALMESBURY (12/2/5/2-8/5)

Swartland Municipality is the owner of unregistered Erf 12857, Malmesbury which is situated within the De Hoop housing project and zoned as community zone 1: Place of Education.

There is apparently a great need for child care facilities in the area and therefore interest has been shown in obtaining Erf 12857, Malmesbury for this purpose. It is therefore proposed that Erf 12857, Malmesbury is made available by means of a public competitive process for the alienation and establishment of an Early Childhood Development Centre.

RESOLUTION

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

- (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 that unregistered Erf 12875, Malmesbury (1001 m² in extent) be offered for disposal by means of a public competitive process (which may include a two phase bid process) for disposal to institutions with proven experience in Early Childhood Development;
- (b) That cognizance be taken that the property to be sold has been identified from the outset for disposal for community purposes (place of education) 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 subsidized price below be determined as reserve price (VAT exclusive) for the property in terms of the competence thus granted by paragraph 15.2.2 of the Municipal Asset Transfer Policy:
 - Unregistered Erf 12875, Malmesbury R16 000.00 (20% x R80 000,00);
- (d) That the purchaser shall, in addition to the selling-price, also be responsible for all costs ancillary and incidental to this transaction, including transfer costs;
- (e) That the proposed transaction be advertised for public comments and/or objections, and the executive mayor (in consultation with his committee) be authorized to deal with any objections;
- (f) That authorization be given as follows:
 - (i) to the Executive Mayoral Committee

- to deal with any comments and/or objections received in respect of the proposed transaction; and
 - to finalise a decision regarding the transfer of the asset, after all Supply Chain and other legal prescripts have been complied with;
- (ii) to the Director: Corporate Services to finalise the evaluation criteria and conditions of sale for tender purposes with all the relevant internal role-players, with due consideration of the applicable conditions in the Municipal Asset Transfer Policy, including that a suitable reversionary clause must be registered against the property.

8.7 **CONTRACTS WITH FUTURE BUDGETRY IMPLICATIONS: CLOSURE OF A WATER SERVICE AGREEMENT WITH THE DEPARTMENT OF WATER AFFAIRS AND SANITATION (5/2/1)**

Swartland Municipality already indicated in 2020 their desire to obtain an allocation from the *Berg River Voëlvelei Augmentation Scheme* (BRVAS) which is at present being implemented by the *Trans Caledon Tunnel Authority* (TCTA) and the National Department of Water Affairs.

The Director: Civil Engineering Services dealt with the report and stated that the allocation has since then been increased from 0.66 to 1.66 million m³/year. A Water Service Agreement with the Department of Water Affairs and Sanitation is required in order to confirm the allocation which will place future financial obligations on the Municipality which do not form part of the approved 2023/2024 multi year budgets.

The prescribed process in accordance with Section 33 of the Local Government: Municipal Financial Management, Act 56 of 2003 was thus followed through and there was only one comment received which the allocation from BRVAS supported.

RESOLUTION

(proposed by ald T van Essenseconded by clr R J Jooste)

That, in carrying out Section 33 of the Municipal Financial Management Act –

- (a) that the Council takes note that in order to secure an allocation from the BRVAS the DWS requires that a WSA be concluded;
- (b) that the Council takes note that the conclusion of the Water Supply Agreement will impose a financial obligation on the Municipality which does not form part of the approved 2023/2024 multi-year budget and further that:
 - (i) the indicative unit capital cost is R 4.60/m³ with planned completion in 2026/2027 and a 20-year repayment period;
 - (ii) the unit capital cost of R 4.60/m³ is subject to adjustment according to the final implementation cost of the Berg/Voëlvelei Augmentation Scheme;
 - (iii) the annual repayment for Swartland Municipality is calculated at R7,636,000 with the allocation of 0.66 million m³/annum and the indicative unit capital cost of R 4.60/m³;
- (c) that the Council notes that comments in accordance with section 33(1)(b)(iii) and (iv) of the Municipal Finance Management Act (MFMA) were only received from Mr Peter King in which he has expressed his support of the BRVAS and the conclusion of the WSA and that:
 - (i) that no further action results with consideration of the comments of Mr Peter King in accordance with section 33 (1)(b) of the MFMA;
- (d) that the Council approves that the Water Supply Agreement as attached to the report be concluded with the Department of Water and Sanitation subject to:
 - (i) payments in terms of the Water Supply Agreement will only be made once the raw water abstraction license has been amended to include the allocation Berg/Voëlvelei Augmentation Scheme;
- (e) that the Municipal Manager be authorised to sign the Water Supply Agreement.

8.8 REPORTING IN RESPECT OF SECTION 15(3) OF MUNICIPAL PROPERTY RATES AND TAXES ACT IN RESPECT OF TAX EXEMPTIONS, TAX REDUCTIONS AND REBATES AND “REVENU FORGONE” FOR THE 2022/2023 FINANCIAL YEAR (5/3/1/3)

In accordance with section 15(3) of the Municipal Property Rates and Taxes Act (Act 6 of 2004) the Municipal Manager is obliged to report annually to the Council in respect of all taxation, exemptions, discounts and rebates which were conceded during the previous financial year.

The report in respect of the period 1 July 2022 to 30 June 2023 was circulated with the agenda.

RESOLUTION

(proposed by ald J H Cleophas, seconded by ald T van Essen)

That cognisance be taken of the municipal property tax rates exemptions to public benefit organisations/non-governmental organisations, discounts, rebates granted and revenue forgone as per the information substantiated above for the financial year ended 30 June 2023.

8.9 QUARTERLY REPORT (SECTION 52 OF MFMA): APRIL TO JUNE 2023 (7/1/2/2-2)

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

RESOLUTION

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

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 April to 30 June 2023.

8.10 ANNUAL REPORT IN RESPECT OF THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY (8/1/B/2)

Regulation 6(2)(a)(i) of the *Municipal Supply Chain Management Regulations* stipulates that a report must be submitted annually to the Council in respect of the implementation of the Supply Chain Management Policy.

The annual report for the period 1 July 2022 to 30 June 2023 was circulated with the agenda.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr N Smit)

(a) That cognisance is 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 is taken of the services rendered for the period 1 April 2023 to 30 June 2023 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). It must be noted that payments must still be finalised for the 2022/2023 financial year. To comply with legislation in terms of quarter 4, any differences will be highlighted in the following SCM quarterly report, subject to figures/transactions that would have an impact on the completeness of the financial statements.

**SIGNED
SPEAKER**