



MINUTES OF AN ORDINARY MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY, ON TUESDAY, 30 JANUARY 2024 AT 10:00

PRESENT:

Speaker, Ald M A Rangasamy
Executive Mayor, Ald J H Cleophas
Executive Deputy Mayor, Cllr J M de Beer

COUNCIL MEMBERS:

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

Officials:

Municipal Manager, Mr J J Scholtz
Director: Protective Services, Mr P A C Humphreys
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
Senior Manager: Public Services and Project Management, Mr J M S Spies
Manager: Secretariat and Records, Ms N Brand

1. OPENING

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

The Executive Mayor, Ald J H Cleophas, opened the meeting with Scripture reading and prayer at the invitation of the Speaker.

The Speaker extended his congratulations to the councillors who recently celebrated their birthdays.

2. LEAVE OF ABSENCE

Leave of absence is granted to Cllrs A M Booyesen, C Daniels, C Fortuin and P E Soldaka, while Cllrs M F Gaika and J R Papier are absent without leave.

3. REPRESENTATIONS/ DECLARATION AND COMMUNICATIONS/ SUBMISSIONS

None.

4. MINUTES FOR RATIFICATION

4.1 MINUTES OF AN ORDINARY BOARD MEETING HELD 26 OCTOBER 2023

Resolution/...

4.1/...

RESOLUTION

(proposal by Cllr N Smit, seconded by Cllr A K Warnick)

That the minutes of an Ordinary Council Meeting held on 26 October 2023 be approved and signed by the Speaker.

4.2 MINUTES OF A SPECIAL BOARD MEETING HELD ON 30 NOVEMBER 2023

RESOLUTION

(proposal by Cllr N Smit, seconded by Cllr A K Warnick)

That the minutes of a Special Council Meeting held on 30 November 2023 be approved and signed by the Speaker.

5. REPORTING REGARDING DELEGATED DECISION-MAKING BY THE EXECUTIVE MAYOR

RESOLUTION

That the Executive Mayor's decisions under delegated authority, as contained in the minutes below, are taken into account:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYORAL COMMITTEE HELD ON 18 OCTOBER 2023

read together with

MINUTES OF PORTFOLIO COMMITTEE MEETINGS HELD ON 11 OCTOBER 2023

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYORAL COMMITTEE HELD ON 15 NOVEMBER 2023

6. REPORTING REGARDING DELEGATED DECISION-MAKING BY THE MUNICIPAL MANAGER

RESOLUTION

That the decisions of the Municipal Manager under delegated authority, as contained in the minutes below, are taken into account:

6.1 MINUTES OF A MEETING OF THE BID EVALUATION COMMITTEE HELD ON 10 OCTOBER 2023

6.2 MINUTES OF A MEETING OF THE BID EVALUATION COMMITTEE HELD ON 30 OCTOBER 2023

6.3 MINUTES OF A MEETING OF THE BID EVALUATION COMMITTEE HELD ON 29 NOVEMBER 2023

7. MATTERS ARISING FROM MINUTES

None.

8. MATTERS FOR DISCUSSION

8.1 SUBMISSION OF DRAFT ANNUAL REPORT: 2022/2023 FINANCIAL YEAR (7/1/1/1)

The 2022/2023 Concept Annual Report has been prepared according to the format as prescribed by MFMA Circular 63 dated 26 September 2012 and is submitted to the Council under section 127 (2) of the Local Government: Municipal Financial Management Act, 2003 (MFMA, Act 56 of 2003).

The annual report includes/...

8.1/...

The annual report includes, among others –

- (1) the financial statements;
- (2) the audit report of the Auditor-General; and
- (3) the annual performance report.

RESOLUTION

(proposal by Cllr N Smit, seconded by Cllr D G Bess)

- (a) That cognizance be taken of the annual report in respect of the 2022/2023 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;
- (b) That cognizance be taken of the following steps to be taken in terms of section 127 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 council meeting on 28 March 2024, 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, after the closing of comments on the annual report, undertake a detailed analysis of the representations received in order to compile the draft oversight report for consideration by the Council on 28 March 2024;
- (d) 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 28 March 2024.

8.2 QUARTERLY REPORT (SECTION 52 OF MFMA): OCTOBER TO DECEMBER 2023 (7/1/2/2-2)

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

RESOLUTION

(proposal by Cllr E C O'Kennedy, seconded by Cllr R Jooste)

That cognizance be taken that the quarterly report was tabled at the MPAC on 23 January 2024 and that the MPAC, by way of reporting to the Council, recommends that the Council takes note of the 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 to 31 December 2023.

8.3 MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT OF THE 2023/2024 FINANCIAL YEAR (7/1/2/2-2)

Section 72(1) of the MFMA, Act 56 of 2003 provides that by 25 January of each year, the accounting officer shall evaluate the performance of the Municipality during the first half of the financial year and submit it to the Executive Mayor.

The Executive Mayor shall table the Mid-Year Budget and Performance Report, as prepared in line with the provisions of the Municipal Budget and Reporting Regulations (General Notice 393 as promulgated in the *Gazette* dated 17 April 2009).

8.3/...

RESOLUTION

(proposal by Ald J H Cleophas, seconded by Cllr I S le Minnie)

That cognizance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2023/2024 financial year and more specifically the need to revise the original budget by way of an adjustments budget.

8.4 PROPOSED AMENDMENT TO THE WHEELING RATE FOR 2023/2024 (5/4/1/3)

The implementation of interpretation rates is a novelty for municipalities, and the draft interpretation guidelines were drawn up in May 2023 with limited information available to the Municipality.

Swartland Municipality and Ekurhuleni Metro have been selected as pilot projects to participate in Ernest & Young, SALGA, and GIZ's research on the implementation of wheeling.

Furthermore, under the auspices of the President's National Energy Crisis Committee, various stakeholders are working on a national framework that will be submitted to NERSA for implementation in South Africa.

Meanwhile, municipalities were selected from the surveys by Ernest & Young to develop their own guidelines. During the determination of the 2023/2024 wheeling tariff, the maximum demand charge was erroneously included.

The Speaker brings the matter to vote, and the decision is that the tariffs will be amended (in the absence of six councillors) with 13 councillors in favour and four councillors abstaining from voting.

RESOLUTION

(proposal by Ald T van Essen, seconded by Cllr A K Warnick)

- (a) That the Council take note of the error in the existing wheeling tariff;
- (b) That the amendment of the Wheeling tariff to exclude the demand charge be approved;
- (c) That the amendment of the Wheeling Tariff will have no adverse impact on the budgetted revenue and no impact on the overall budget of Swartland Municipality;
- (d) That the inclusion of the amended Wheeling Tariff in the 2023/2024 Adjustment Budget be approved.

8.5 APPROVAL OF THE 2023/2024 MID-YEAR ADJUSTMENTS CAPITAL AND OPERATING BUDGET (5/1/1/1, 5/1/1/2 – 23/24)

The 2023/2024 Semi-Annual Adjustment Capital and Operating Budget was considered for approval by the Council at an Executive Mayoral Committee meeting held on 24 January 2024 and tabled by the Executive Mayor.

The presentation of the adjustment budget shall be made per section 28 of the MFMA, Act 56 of 2003 after the performance of the Municipality during the first half of the financial year has been evaluated – reference item 8.3.

The Speaker brings the matter to vote, and the 2023/2024 Semi-annual Adjustment Capital and Operating Budget is decided (in the absence of six council members) with 13 council members in favour and four council members abstaining from voting.

RESOLUTION

(proposal by Ald J H Cleophas, seconded by Cllr N Smit)

- (a) That it be noted that the Budget Steering Committee convened to consider the explanations and motivations provided by the financial staff and other directors in a bid to advise the Executive Mayor on way forward;
- (b) That council takes note of the proposed adjustment (as it relates to Section 19) in respect of the Construction of New Roads in the Swartland and the Malmesbury De Hoop 132/11kV Substation project (**Annexure A-2: Capital Projects to Sec 19**);
- (c) That approval be granted to amend the high-level capital and operating budget for 2023/2024, with an amendment to the 2024/2025 capital budget and no other amendments to the outer years, as follows:

	Original Budget 2023/24	Special Adj Budget 2023/24	Mid-Year Adj Budget 2023/24	Adjustments Budget 2024/25	Original Budget 2025/26
Capital budget	209 052 395	240 803 827	248 689 919	225 529 245	208 303 329
Operating Expenditure	1 071 330 062	1 073 385 062	1 071 352 206	1 174 132 994	1 371 930 505
Operating Revenue	1 192 485 181	1 222 223 458	1 252 422 713	1 311 049 716	1 489 696 468
Budgeted (Surplus)/ Deficit	(121 155 119)	(148 838 396)	(181 070 507)	(136 916 722)	(117 765 963)
Less: Capital Grants and Donations	107 386 943	135 980 220	119 908 999	115 594 000	91 660 000
(Surplus)/ Deficit	(13 768 176)	(12 858 176)	(61 161 508)	(21 322 722)	(26 105 963)

- (d) That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2023/2024 financial year or beyond but will result in an increased budgeted net surplus from R12 858 176 to a budgeted net surplus of R61 161 508;
- (e) That the unauthorised expenditure of R5 556 386 for the 2022/2023 financial year be authorised in this adjustments budget in line with section 32(2)(a)(i) of the Act;
- (f) That the adjusted budget schedules as required by the Budget and Reporting Regulations be approved as set out in (**Annexure C: Budget Report and B-Schedules 2023/24– 2025/26**);
- (g) 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;
- (h) That the Service Delivery Budget Implementation Plan (SDBIP) where appropriate be amended accordingly.

8.6 PROPOSED AMENDMENT OF THE SWARTLAND MUNICIPALITY: MUNICIPAL LAND USE PLANNING BY-LAW (PK 8226 DATED 20 MARCH 2020) (1/1/1/3/14)

The amendment of the Swartland Municipality: Regulation on Municipal Land Use Planning was considered by the Executive Mayoral Committee on 24 January 2024 for recommendation to the Council.

The amendments deal with certain penalties and setting trading hours for home stores.

The Speaker brings proposed amendments to the Regulations to vote; 14 councillors are in favour, and three councillors abstain.

RESOLUTION

(proposal by Cllr A K Warnick, seconded by Ald M van Zyl)

- (a) That the below amendment of the Swartland Municipal: By-law regarding Municipal Land Use Planning (PG 8226 of 25 March 2020) be approved, namely:

Section 96(1): A person may be accused of an offence and is liable upon conviction to a fine or imprisonment or to both a fine and such imprisonment if he or she –

Section 96(1)(a): contravenes or fails to comply with sections 25(1), ~~25(5)~~ 25(4), 30(1), 31(4), 41(1), 69(3), 72(2) of 98(2) (*amendment*);

Section 96(1)(h): Failure to comply with any of the conditions imposed in terms of Schedule 2 to this by-law (*addition*); and

Schedule 2 (Swartland Municipality Development Management Scheme – Residential zone 2: Medium Density (R2), paragraph 1.2.7(g): The trading hours of the house shop will be from 07:00 to 20:00 and may not be extended (*addition*); and

- (b) That, following on in principle approval by the Council, the amendment of the By-law be published for public comment in terms of section 12(3)(b) of the Systems Act, 2000 in both the local media and on the municipal website.

8.7 AMENDMENTS TO THE SUPPLY CHANNEL MANAGEMENT POLICY (8/1/B/2)

During December 2023, amended Supply Chain Management Regulations were promulgated, inter alia, that formal written quotes must be obtained for transactions between R2 000 and R300 000 (including VAT), and a competitive tendering process must be followed for transactions above R300 000 (including VAT).

The Council's Supply Chain Management Policy has been updated accordingly with the amendments as provided for in the Regulations.

The Speaker brings the matter to vote, and the amendments to the Supply Chain Management Policy are decided by 13 votes in favour and four councillors abstaining.

RESOLUTION

(proposal by Cllr D C Pypers, seconded by Ald M van Zyl)

- (a) That the proposed amendments to Council's Supply Chain Management Policy, as presented in Appendix B, due to the amendments of the Supply Chain Management Regulations (Paragraphs 12, 16-19, 35) be approved with effect from 14 December 2023;
- (b) That the proposed amendments to Council's Supply Chain Management Policy, as presented in Appendix B, in respect of management's oversight responsibilities (Paragraphs 2(6) and 36) be approved with effect from 1 February 2024.

8.8 PROPOSED OUT-OF-HAND DISPOSAL OF PARTS OF PLOTS 2267 AND 2244, RIEBEEK WEST (12/2/5/2-12/1)

A request has been received from Group 35 (Pty) Ltd, the owner of Erf 2106, Riebeeck West, to acquire parts of the adjacent municipal property to their yard. The affected sections are Erf 2244 and Erf 2267, Riebeeck West (±0.9949 ha), currently zoned as public open spaces.

Group 35 Foods plans to expand their plant due to increased production with associated job creation for the community of Riebeeck West.

It is confirmed that the Municipality does not require the land for minimum essential municipal services, and it is proposed that the land be made available to the applicants by way of out-of-hand disposal at a reserve price of R100/m².

RESOLUTION

(proposal by Cllr N Smit, seconded by Cllr 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 portions of Erven 2244 and 2267, Riebeek West (± 0.9949 ha in extent) to be alienated and transferred out of hand to Group 35 (Pty) Ltd for consolidation with Erf 2106, at the amount of R100/m², excluding VAT, subject to the conditions hereinafter;
- (b) That cognizance be taken that the subject properties have at no stage been 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 as above and for not undergoing a competitive process:
- (i) The subject properties qualify as 'non-viable land' in that due to physical constraints they cannot be developed on their own and only becomes functional if alienated to an adjoining owner for usage in conjunction with his or her property, as proposed;
 - (ii) The proposed merging of the subject properties with Erf 2106 and the use of same for commercial purposes, links up with Strategic Goal 2 of the 2023 Integrated Development Plan, namely to unlock economic transformation, and as such to strengthen mobility and economic links and to facilitate the economic potential of Swartland wards (in this instance ward 3);
 - (iii) The properties in their existing shape do not have any economic or other benefit for the Municipality, and only by consolidation with Erf 2106 will contribute to the economic benefit derived from the present use of the Erf 2106 by means of job opportunities created for the community, as motivated by the purchaser;
- (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 subdivision, rezoning) as well as the costs of consolidation and road closure;
 - (ii) Any improvements to the subject properties may only take place with the permission of the Municipality and by taking into account existing servitudes and service installations, amongst which the following, for which costs the purchaser shall be responsible:
 - The formalization of the municipal storm water system over Long Street that will be affected by the proposed consolidation, before discharging and connecting to the existing municipal earth channel, to be designed by a professional engineer and supervised/approved during construction and subject to these plans being submitted to the Civil Engineering Department for approval. Further, to ensure that this portion of the pipe remains functioning effectively in accordance with the storm water by-law;
 - The submission of engineers' reports, which reports are to address the impact of the consolidation and extensions to the factory on the existing municipal services, i.a. access for municipal sewage tankers to the sewage storage tank located on Erf 2106;
 - (iii) Compliance by the purchaser with all conditions that may be imposed as a result of the land use approval, if issued;
 - (iv) Ownership of the land does not exempt the purchaser from any obligations towards other authorities, 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 purchaser that they agree to the conditions as provided for in this report;

- (g) That the Director: Corporate Services be authorized to finalise the conditions of sale, and to sign the deed of sale on the Municipality's behalf.

8.9 PROPOSED DISPOSAL OF BUSINESS PREMISES (ERF 1308) AT ABBOTSDALE (12/2/5/2-1/4)

The disposal of Erf 1308, Abbotsdale, is proposed following interest shown by members of the Abbotsdale community to acquire the property.

The zoning of Erf 1308, located on Jasmine Street (adjacent to the Public Library), Abbotsdale, is Business Zone 1: General Business, which aims to provide business opportunities that promote urban viability and economic growth.

It is proposed to offer Erf 1308, Abbotsdale, for disposal by public tender.

RESOLUTION

(proposal by Cllr I S le Minnie, seconded by Cllr A M Williams)

- (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 property in Abbotsdale, zoned Business Zone 1: General Business:
- Erf 1308, 6 Jasmyn Street, Abbotsdale (318 m² in extent);
- (b) That cognizance be taken that the property to be sold has at no stage been earmarked for the provision of a minimum or any other level of basic municipal services;
- (c) That the reserve price (VAT exclusive) for the property be determined as follows, which reserve price is considered by Council to fairly represent the market value of same:
- Erf 1308 R56 000,00;
- (d) That the purchaser, in addition to the purchase price, shall be responsible for all costs ancillary and incidental to this transaction;
- (e) That the proposed transaction be advertised in the media for public comments and/or potential objections;
- (f) 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 transaction and
 - to finalise a decision regarding the transfer of the asset after all applicable Supply Chain and other legal prescripts have been complied with;
 - (ii) to the Director: Corporate Services to finalise the conditions of sale for tender purposes with all the relevant internal role-players;
- (g) That approval be granted that should the property 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 property when alienation takes place), and provided further that the same suspensive conditions to be included in the deed of sale, shall apply to such transaction.

8.10 APPOINTMENT OF MEMBERS OF THE VALUATION APPEAL BOARD (15/2/21)

The term of members of the Swartland Valuation Appeal Board expires on 31 March 2024.

The appointment of members is regulated by sections 57 and 58 of the Local Government: Municipal Property Tax Act, Act 12 of 2007. The appointment of members is based on the Minister of Local Government.

Written applications from competent and suitably qualified persons with sufficient knowledge and experience in property valuation were invited to serve as chairperson and members of the Swartland Valuation Board of Appeal. A total of five applications were received.

RESOLUTION

(proposal by Ald M van Zyl, seconded by Cllr J M de Beer)

- (a) That Council grant approval that the names of the following persons has to be submitted to the Minister of Local Government for appointment as chairperson and members of the valuation appeal board of Swartland Municipality:
 - (i) Adv W Zybrands : Chairperson
 - (ii) Mr P A Gerber : Valuer/Member
 - (iii) Mr T Retief : Valuer/Member
 - (iv) Mr L Pool : Secundi/Valuer/Member
- (b) That the aforementioned persons be appointed to the Swartland Municipality's Valuation Appeal Board for a term of four years.

8.11 APPOINTMENT OF STAFF IN THE BUILDING CONTROL DEPARTMENT (15/4/1)

Mr B Groeneveld has been appointed Chief: Building Control Officer effective 1 April 2021.

The report seeks to appoint an Acting Building Control Officer to meet the requirements of the National Building Regulations and Standards Act, Act 103 of 1977.

RESOLUTION

(proposal by Ald T van Essen, seconded by Cllr D G Bess)

- (a) That mr M J Jacobs be appointed to perform the functions of Building Control Officer in the absence of Mr B Groeneveld, in accordance with section 5(i) of the National Building Regulations and Building Standards Act nr. 103/1977;
- (b) That the appointment of Ms E Juries be cancelled;
- (c) That Council's Delegation System be updated accordingly.

8.12 CODE OF CONDUCT FOR BOARD MEMBERS: STATEMENT OF INTERESTS (3/1/1)

The Code of Conduct for Councillors in Schedule 7 of the Municipal Structure Act provides, inter alia, that councillors must declare their interests annually, including gifts received by a councillor.

The 2023 Regulations stipulate that the interests must be declared for a calendar year; therefore, council members must declare interests from 1 January 2023 to 31 December 2023.

RESOLUTION

- (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 Wednesday 14 February 2024.

**SIGNED:
SPEAKER**